

EN BANC

[G.R. No. 158708, August 18, 2010]

JUSTINA MANIEBO, PETITIONER, VS. HON. COURT OF APPEALS AND THE CIVIL SERVICE COMMISSION, RESPONDENTS.

DECISION

BERSAMIN, J.:

We consider herein the last plea for clemency of the petitioner herein, an employee of a local government unit, who was dismissed from the service after her dishonesty in presenting herself as holding a civil service eligibility was discovered. The Civil Service Commission (CSC) meted the ultimate penalty on her. The Court of Appeals (CA) found her petition for review defective, and dismissed it, in effect upholding the CSC's action.

By petition for review on *certiorari*, therefore, the petitioner appeals the resolutions dated September 5, 2002, January 8, 2003, and June 5, 2003,^[1] all issued by the Court of Appeals (CA) in CA-GR SP No. 72555 entitled *Justina Maniebo v. Civil Service Commission*.

Antecedents^[2]

On July 1, 1994, the Mayor of the Municipality of Puerto Galera, Oriental Mindoro issued a promotional permanent appointment to the petitioner as Cashier III in the Office of the Municipal Treasurer because she appeared to possess the qualifications for the position, including the Career Service (Professional) Eligibility appearing in line 18 of her Personal Data Sheet showing her to have passed with a rating of 74.01% the Career Service (Professional) examination given in Calapan, Oriental Mindoro on July 17, 1983.

When the report of her rating was verified against the Masterlist of Eligibles, however, it was discovered that the petitioner had actually failed in the examination for obtaining a rating of only 60%.

The CSC Regional Office (CSCRO) No. IV subsequently held a preliminary investigation that resulted in the finding that a *prima facie* case of falsification existed against the petitioner. Accordingly, on October 28, 1997, CSCRO No. IV formally charged her with possession of spurious report of rating, falsification, grave misconduct, and dishonesty.

On November 7, 1997, the petitioner filed her answer, which CSCRO No. IV considered unsatisfactory. Thus, CSCRO set the case for hearing.

During the November 22, 1999 hearing, the Hearing Officer allowed the petitioner to comment verbally or to file her objection to the evidence formally offered against

her. Instead, her counsel requested the Hearing Officer to mark her supporting documents as her evidence, and for her to be allowed to testify for herself.

In her direct testimony, the petitioner denied knowledge of the falsified nature of her Career Service (Professional) eligibility rating. She asserted that the rating had come from the CSC through the mails. She insisted that she did not on any occasion approach any personnel of the CSC, or anybody else connected with the CSC in order to procure the passing grade of 74.01%.

CSCRO No. IV then rendered its decision on December 16, 1999, viz:

WHEREFORE, this Office finds respondent Justina Maniebo, Cashier III, Office of the Municipal Treasurer, Municipal Government of Puerto Galera, Oriental Mindoro, guilty of Possession of Spurious Report of Rating, Falsification, Grave Misconduct. Accordingly, respondent Maniebo is hereby meted the penalty of DISMISSAL from the service.^[3]

On February 4, 2000, the petitioner appealed to the CSC,^[4] which affirmed the decision of CSCRO No. IV through its Resolution No. 02-0433 dated March 20, 2002,^[5] disposing thus:

WHEREFORE, premises considered, the appeal of Justina M. Maniebo is hereby DISMISSED for lack of merit. Accordingly, the Decision of the Civil Service Commission Regional Office No. IV dated December 16, 1999 is AFFIRMED.

On August 20, 2002, the petitioner sought reconsideration, but the CSC denied her motion through Resolution No. 02-1028.^[6]

The petitioner next appealed to the CA.^[7]

Ruling of the CA

In the CA, the petitioner raised the following issues,^[8] to wit:

- a) Whether the CSC committed grave error in not considering good faith on the part of the petitioner in the determination of the appealed decision; and
- b) Whether the CSC was correct in imposing the penalty of dismissal in view of the circumstances obtaining in the case.

She attached to the petition for review the following annexes:

- a) Certified true copy of CSC Resolution No. 02-1028 dated August 5, 2002 denying the petitioner's motion for reconsideration (Annex A);^[9]
- b) Original copy of the notice of appeal dated August 23, 2002 filed in the CSC (Annex B);^[10]
- c) Photocopy of the petitioner's appeal dated January 31, 2000 to the CSC (Annex C);^[11]
- d) The petitioner's affidavit of merit dated August 2002 (Annex D).^[12]

In its assailed resolution dated September 5, 2002,^[13] the CA dismissed the petition for review due to the petitioner's failure to accompany it with the requisite certified true copies of the material portions of the record, stating:

For failure to accompany the petition for review with the requisite certified true copies of the material portions of the record referred to therein, i.e., the preliminary investigation and charge for possession of spurious report of rating, the answer, the decision dated December 16, 1999 of Civil Service Commission Regional Office No. IV, Civil Service Commission Resolution No. 02-0433 dated March 20, 2002, and other supporting papers and the evidences submitted, the Court Resolved to DENY DUE COURSE and, consequently, to DISMISS the petition pursuant to Section 7, Rule 43 of the 1997 Rules of Civil Procedure.

SO ORDERED.

The petitioner filed a *motion for reconsideration*,^[14] in which her counsel, Atty. Al Harith D. Sali, even undertook to submit the required certified copies of the material portions within ten days from October 23, 2002. She explained in her motion that her counsel had failed to submit the required certified copies, due to her failure to turn over said copies to her counsel because of the distance between her home in Puerto Galera, Oriental Mindoro and the office of her counsel in Fairview, Quezon City.

Following its receipt of the comment of the Office of the Solicitor General on December 12, 2002,^[15] the CA denied the *motion for reconsideration* in the assailed resolution dated January 8, 2003,^[16] viz:

Acting on the motion of the petitioner for a reconsideration of the Resolution dated September 5, 2002, which dismissed the petition for failure to append thereto the requisite certified true copies of the material portions of the record referred to therein, as well as the Comment interposed thereto filed by the Office of the Solicitor General, and considering that the aforesaid motion failed to allege the date of receipt of a copy of the assailed Resolution to determine the timeliness of the filing of the said motion and no efforts (sic) was exerted to rectify or

supply the procedural errors the petition suffered even within the requested period of ten (10) days, the Court Resolved to DENY the aforesaid motion for reconsideration.

SO ORDERED.

On February 5, 2003, the petitioner filed a so-called *motion for reconsideration* that was signed by another lawyer, Atty. Joventino V. Diamante (allegedly as collaborating counsel), although Atty. Al Harith D. Sali remained as counsel.^[17]

In its third assailed resolution dated June 5, 2003,^[18] the CA denied the petitioner's *motion for reconsideration*, which was in reality as *second motion for reconsideration* that was prohibited under Rule 52, Sec. 2 of the *Rules of Court*.

Hence, this appeal by petition for review on *certiorari*.

Issues

The petitioner claims:^[19]

I.

WHETHER THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN DISMISSING THE PETITIONER'S PETITION FOR REVIEW FOR FAILURE TO ATTACH CERTIFIED COPY OF THE ANNEXES WHEN THE RULES AND JURISPRUDENCE DO NOT REQUIRE THAT ALL ANNEXES ATTACHED TO THE PETITION SHOULD BE CERTIFIED.

II.

WHETHER THE COURT OF APPEALS ERRED IN DISMISSING THE PETITION BASED ON ALLEGED TECHNICALITY WHICH WAS NOT SANCTIONED BY JURISPRUDENCE.

Ruling

The petition has no merit.

A

The petitioner argues that her submission of a certified true copy of CSC Resolution 02-1028 in her petition before the CA constituted a substantial compliance with Section 6, Rule 43 of the *Rules of Court*. She averred that rules of procedure should be liberally construed to afford litigants the opportunity to prove their claims and prevent a denial of justice due to legal technicalities; that she had already lost her job due to the immediate execution of the decision pending appeal, that to require her to secure certified true copies of all the annexes to the petition would be too burdensome for her and would contravene the constitutionally guaranteed free access to the courts and quasi-judicial bodies and adequate legal assistance; and

that it was already settled that under Section 6, Rule 43 of the *Rules of Court*, only the copies of the assailed judgments or final orders of the lower courts needed to be certified.^[20] She insisted that the dismissal of her appeal due to technicalities would constitute a deprivation of property without due process of law because what was at stake herein was her right to employment.

In its comment,^[21] the CSC insisted that the CA justifiably denied due course to the petition, considering that Section 7, Rule 43 of the *Rules of Court* expressly stated that the failure of the petitioner to file the required certified true copies of the material portions of the record referred to in the petition was sufficient ground for its dismissal; and that the subsequent *motions for reconsideration* were also rightly denied because the petitioner exerted no effort to furnish the required certified copies within the requested period of ten days.

The petitioner's plea for liberality is undeserving of acceptance.

The CA did not commit any error, least of all a reversible one. Its dismissal was founded on the correct application of the applicable rule. Indeed, Section 6, Rule 43 of the *Rules of Court* expressly lists down the pleadings and other matters that a petition for review should contain, thus:

Section 6. *Contents of the petition.* -- The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) **be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers;** and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein. (2a)

The rule clearly requires the petition for review to be accompanied by "a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers." The requirement is intended to immediately enable the CA to determine whether to give due course to the appeal or not by having all the material necessary to make such determination before it. This is because an appeal under Rule 43 is a discretionary mode of appeal, which the CA may either dismiss if it finds the petition to be patently without merit, or prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration; or may process by requiring the respondent to file a comment on the petition, not a motion to dismiss, within 10 days from notice.^[22]

The petitioner was not entitled to a liberal construction of the rules of procedure. Although her petition cited decisions of the Court declaring that only the copies of the decisions or final orders assailed on appeal needed to be certified,^[23] it is