

## EN BANC

[ G.R. NO. 152884, September 30, 2005 ]

**DERICK D. WOODEN, PETITIONER, VS. CIVIL SERVICE COMMISSION, CORAZON ALMA G. DE LEON, THELMA P. GAMINDE AND JOSE F. ERESTAIN, JR., RESPONDENTS.**

### D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

Before us is a petition for review on *certiorari* of the Decision,<sup>[1]</sup> dated March 13, 2001, of the Court of Appeals (CA) in CA-G.R. SP No. 54612 affirming Resolution No. 990299, dated January 29, 1999, of the Civil Service Commission (CSC) which dismissed petitioner Derick D. Wooden from service for dishonesty thru falsification of public document as well as Resolution No. 991572, dated July 30, 1999, which denied his motion for reconsideration; and of the CA Resolution dated March 13, 2002 denying petitioner's motion for reconsideration.

The factual background of the case is as follows:

Sometime in the School Year 1990-1991, petitioner, who was then a fourth year student in Bachelor of Secondary Education (BSED) at Saint Louis University (SLU), applied for graduation. His application was approved subject to completion of a two-course, six-unit deficiency in the summer term of 1991 or by May 1991. Later, he was appointed as Staff Coordinator of "Louisian Educator '91", the annual of the College of Education, SLU.<sup>[2]</sup>

On March 24, 1991, petitioner joined the graduation rites of the College of Education, SLU.<sup>[3]</sup> Thereafter, he enrolled and completed his two-course, six-unit deficiency in the summer term of 1991 or by May 1991.<sup>[4]</sup> On June 11, 1991, he was employed as Substitute Teacher at the SLU Laboratory High School.<sup>[5]</sup> He was a member of the teaching staff until the end of school year 1991-1992, or April 30, 1992.<sup>[6]</sup>

Meanwhile, sometime in September 1991, petitioner filed his application for the Professional Board Examinations for Teachers (PBET), stating therein that he graduated in March 1991. His application was approved on September 20, 1991.<sup>[7]</sup>

Sometime in late October or early November 1991, upon petitioner's application for his transcript of records, SLU informed him that a reevaluation of his scholastic records revealed that he needed to complete a three-unit English subject.

On November 10, 1991, petitioner took the scheduled PBET.<sup>[8]</sup> Subsequently, petitioner enrolled in SLU, under protest, and completed the three-unit subject deficiency in the second semester of school year 1991-1992.<sup>[9]</sup>

On June 8, 1992, the results of the PBET were released. Petitioner passed the PBET with a rating of 76.38%.<sup>[10]</sup>

On June 6, 1997, petitioner submitted his duly accomplished Personal Data Sheet (PDS) in connection with his appointment as Teacher I of Guinzadan National High School, Bauko, Mountain Province. He indicated in Item No. 17 of the PDS that he finished his BSED from SLU with inclusive dates of attendance from 1987 to 1991; and in Item No. 18, he indicated the PBET date of examination as 1992<sup>[11]</sup>

On September 25, 1997, the CSC – Cordillera Administrative Region filed against petitioner a Formal Charge for Dishonesty and Falsification, docketed as Adm. Case No. 97-69, which reads:

That on June 6, 1997, Derick D. Wooden, submitted his Personal Data Sheet wherein in item no. 17, he answered that he finished Bachelor of Secondary Education (BSED) from St. Louis University with inclusive dates of attendance from 1987-1991; He applied for the PBET Examination by misrepresenting in his application form that he graduated from the Course BSED in March 1991; His Official Transcript of Records show however, that he graduated with the Degree of Bachelor of Secondary Education as of March 28, 1992; Said act is violative of Civil Service Law and Rules and other related laws.<sup>[12]</sup>

In his Answer<sup>[13]</sup> dated November 12, 1997, petitioner alleged that: he keeps on being confused on the actual date of his graduation because in the School Year 1990-1991 his application to join the graduation rites in March, 1991 was approved, although he has some deficiencies to be completed in the Summer of 1991; since his application for graduation was approved, he was appointed as Staff Coordinator of the annual of the College of Education of SLU, the "Louisian Educator '91;" he joined the graduation rites/commencement exercises held on March 24, 1991; he was also featured in the same annual of the College of Education of SLU, the "Louisian Educator '91;" he honestly believed all the time that he graduated in March 1991 although with some deficiencies to be completed in May, 1991; he completed his deficiencies in the summer of May, 1991.

On February 5, 1998, petitioner filed his Memorandum<sup>[14]</sup> reiterating his allegations in his Answer and maintaining that "he was not too technical on the meaning of graduation with no intent whatsoever of causing prejudice to anyone or even the government and without taking undue advantage thereof which he believes he has not done"; and for this, he "humbly apologizes for any inconvenience the same may have caused and that he fervently prays that he be excused therefrom."<sup>[15]</sup>

In her Investigation Report <sup>[16]</sup> dated September 23, 1998, Atty. Maria Elnora D. Puday, Hearing Officer of the CSC-Cordillera Administrative Region, recommended that petitioner be found guilty of dishonesty and falsification based on the following findings:

After a careful evaluation of the records, we find no merit to the contention of good faith of Derick Wooden. It is a fact that not all whose names and pictures appear in an annual of a certain College are

considered graduates. This is so because annuals are prepared before the graduation and candidates for graduation are the ones (though not mandatory) advised to subscribe. Further, in the Graduation Programme (Annex 'B'), Derick Wooden is listed below the caption May, 1991 meaning he is not yet a graduate as of March 1991 because he has to complete some deficiencies. Thus stating March 1991 as his year of graduation is clear misrepresentation of material fact on the part of Wooden because without the said misrepresentation, he should not have been allowed to take the PBET Examination. The Official Transcript of Record is the best evidence to prove that one is a graduate of a certain course and school.

Admittedly, respondent honestly believed and knew that he had some deficiencies to be completed in May, 1991 and that it was only in the latter part of the first semester of School Year 1991-1992, when he applied for a copy of his Transcript of Records, when he was informed of his three-unit deficiency. His application for PBET was processed on September 20, 1991.

The personal data sheet required of every applicant for a government position is not a mere ceremonial requirement. It is a public document where the applicant represents his true name and other personal circumstances, his education, qualifications, experience and training, civil service eligibility and other relevant information to guide the appointing authority in the assessment and evaluation of his qualifications for appointment to particular position...

When an applicant fills up his information sheet, he does so under an undertaking, that the matters represented therein are true and correct. That is the essence of his oath. (CSC Resolution No. 973740 Briones, Rolando A. Re: Dishonesty; Falsification of Official Document).<sup>[17]</sup>

On January 29, 1999, the CSC issued Resolution No. 990299<sup>[18]</sup> finding that there is substantial evidence that petitioner committed an act of misrepresentation of a material fact constituting dishonesty, thus:

Respondent's defense that he made a mistake in judgment when he stated in his application that he graduated in March, 1991 and this was not intentionally done because of his confusion due to circumstances surrounding his graduation; and, that, he was suffering from a "mental lapse" as regard to the date of his graduation which still exists even at the present time, is not tenable nor would it serve as an exculpatory circumstance.

With such unforgettable experiences clearly described by herein respondent in his pleadings, it is improbable that he would be continuously suffering from mental lapses. He could recall details but not the specific date of his graduation from college.

As early as the first semester of School Year 1991-1992, respondent was

informed that he lacked units in an English subject, hence, he was then aware that he could not graduate for a Bachelor's degree in March of 1991. It was for this reason that he later enrolled in the second semester of the school year 1991-1992. From that moment on, he has knowledge that he was not qualified to take the PBET examination. It has also been observed that in item 18 of his PDS respondent did not specifically enter the date he took the PBET examination. Said concealment or suppression on his part appears to be deliberate. Obviously, it was made to cover up his deficiency in education when he took the test.<sup>[19]</sup>

Consequently, petitioner was declared guilty of dishonesty thru falsification of public document and dismissed from service with the accessory penalties thereof. In addition, his PBET eligibility was cancelled.<sup>[20]</sup> Petitioner moved for reconsideration<sup>[21]</sup> but was denied in Resolution No. 991572 dated July 13, 1999.<sup>[22]</sup>

Undaunted, petitioner elevated his case to the CA, which on March 13, 2001 affirmed the CSC.<sup>[23]</sup> Petitioner's motion for reconsideration<sup>[24]</sup> was denied in the Resolution dated March 13, 2002.<sup>[25]</sup>

Hence, the present petition anchored on the following grounds:

1. RESPONDENTS ERRED IN CONCLUDING THAT PETITIONER COMMITTED THE GRAVE OFFENSE OF DISHONESTY WHEN HE INDICATED MARCH 1991 AS HIS DATE OF GRADUATION IN HIS PBET APPLICATION FORM AND WHEN HE INDICATED 1987-1991 AS INCLUSIVE DATES OF ATTENDANCE IN HIS PERSONAL DATA SHEET.
2. RESPONDENTS ERRED IN IMPOSING THE SUPREME PENALTY OF DISMISSAL FROM THE SERVICE WITH THE ACCESSORY PENALTY OF PERPETUAL DISQUALIFICATION.
3. THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE ERRONEOUS CONCLUSIONS OF RESPONDENTS.<sup>[26]</sup>

Petitioner takes exception from the appellate court's affirmance of the factual findings of the CSC. He asserts that the CSC's findings are based entirely on speculations, surmises or conjectures. He contends that the only basis of the finding that he committed an act of dishonesty was the CSC's conclusion that at the time he applied for the PBET, he knew that he was not qualified which, he argues, is far from the truth for at that time, he already completed during the summer term the deficiencies noted by the SLU evaluators on his application for graduation during the school year 1990-1991. The condition for his graduation in March 1991 to take the two-course, six-unit deficiency was then complied with and for all intents and purposes, SLU's conferment upon petitioner of the degree on March 1991 was made effective.

Petitioner insists that the entry he made that his date of graduation was March 1991 is a truthful statement for he was conferred his degree, albeit conditional, by SLU on March 24, 1991. He maintains that upon his completion of the noted deficiencies,

the effect thereof is retroactive. Furthermore, he claims that at the time he accomplished his PBET application form he was qualified or at the very least believed in good faith that he was so qualified. In any event, he submits that the penalty of dismissal is too harsh and begs for leniency.

Prefatorily, it must be stated that in petitions for review on *certiorari*, only questions of law may be raised by the parties and passed upon by this Court.<sup>[27]</sup> As a general rule, factual findings of administrative agencies, such as the CSC, that are affirmed by the CA, are conclusive upon and generally not reviewable by this Court.<sup>[28]</sup>

However, this Court has recognized several exceptions to this rule, to wit: (1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; **(4) when the judgment is based on a misapprehension of facts;** (5) when the findings of facts are conflicting; (6) when in making its findings, the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and **(11) when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.**

<sup>[29]</sup> Exceptions (4) and (11) find application here.

Petitioner is charged with dishonesty thru falsification of his PDS. Dishonesty is defined as "intentionally making a false statement in any material fact, or practicing or attempting to practice any deception or fraud in securing his examination, registration, appointment or promotion."<sup>[30]</sup> It is also understood to imply a "disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray"<sup>[31]</sup>

Thus, dishonesty, like bad faith, is not simply bad judgment or negligence. Dishonesty is a question of intention. **In ascertaining the intention of a person accused of dishonesty, consideration must be taken not only of the facts and circumstances which gave rise to the act committed by the petitioner, but also of his state of mind at the time the offense was committed, the time he might have had at his disposal for the purpose of meditating on the consequences of his act, and the degree of reasoning he could have had at that moment.**<sup>[32]</sup>

The intent to falsify or misrepresent is in-existent at the time petitioner applied for the PBET when he indicated "March 1991" under "Date Graduated" since he in fact attended the graduation rites on March 24, 1991. Petitioner should not be faulted for his mistake or confusion in the interpretation of the term "graduated". Whether he should have indicated "May" in his PBET application should not be expected of him because his answer that he graduated "March 1991" was based on the honest belief, albeit mistaken, that once he completed his course deficiencies, which in fact he did in 1991 or several months prior to his application for the PBET, the actual