

EN BANC

[G.R. No. 139794, February 27, 2002]

MARTIN S. EMIN, PETITIONER, VS. CHAIRMAN CORAZON ALMA G. DE LEON, COMMISSIONERS THELMA P. GAMINDE AND RAMON P. ERENETA, JR., OF THE CIVIL SERVICE COMMISSION, RESPONDENTS.

DECISION

QUISUMBING, J.:

This is a petition to review the decision dated October 30, 1998 of the Court of Appeals in CA-G.R. S.P. No. 46549, affirming Civil Service Commission Resolution Nos. 96-3342 and 97-4049 finding petitioner Martin Emin, guilty of dishonesty, grave misconduct and conduct prejudicial to the best interest of the service, and dismissing him from the service as Non-Formal Education (NFE) Supervisor of the Department of Education, Culture and Sports (DECS), Kidapawan, Cotabato.

The facts are as follows:

Sometime in the year 1991, appointment papers for a change of status from provisional to permanent under Republic Act No. 6850 of teachers were submitted to the Civil Service Field Office-Cotabato at Amas, Kidapawan, Cotabato. Attached to these appointment papers were photocopies of certificates of eligibility of the teachers.

Director Gantungan U. Kamed noticed that the certificates of eligibility were of doubtful authenticity. He called the Head Civil Service Field Officer. While the certificates seemed to be authentic, the signature of Civil Service Commission Director Elmer R. Bartolata and the initials of the processors of said certificates were clearly forgeries. Director Kamed initially forwarded five (5) appointments to Civil Service Regional Office No. XII for verification of their R.A. 6850 eligibilities and for appropriate action through an indorsement letter dated September 26, 1991. The appointment papers of the same nature subsequently submitted to the Field Office were likewise forwarded to the CSRO No. XII.

Upon verification of the records of CSRO No. XII, it was found that said applications for civil service eligibility under R.A. 6850 were disapproved. However, the certificates of eligibility they submitted were genuine as their control number belonged to the batch issued to CSRO No. XII by the CSC Central Office. But the records showed that these certificates were never issued to any one.

Two separate investigations^[1] were conducted by Director Cesar P. Buenaflor of Regional Office No. 12 of the Civil Service Commission in Cotabato City: (1) on how the R.A. 6850 certificates were issued/released from the Office, and (2) on how the teachers got said certificates. The teachers concerned were asked to report to the

Office and bring the original copies of their certificates of eligibility. On several dates, the teachers appeared and gave their sworn statements pointing to petitioner as the person who gave them the R.A. 6850 certificates of eligibility they had attached to their appointments for a fee. Upon finding a *prima facie* case, petitioner was formally charged with dishonesty, grave misconduct and conduct prejudicial to the best interest of the service.^[2]

In his sworn letter dated April 8, 1992 to the CSC Regional Director, petitioner denied the accusation.^[3] He filed a motion to dismiss, dated June 5, 1992,^[4] but the motion was denied on July 8, 1992.

During the hearing, the six teachers cited in the charge sheet, namely: Eufrocina Sicam, Ma. Elisa Sarce, Lilia Millondaga, Merla Entiero, Lourdes Limbaga and Florida P. Alforjas were presented as witnesses for the prosecution. Felixberta Ocho and Araceli G. Delgado who were also holders of fake certificates of eligibility were likewise presented as witnesses.

Alforjas and Delgado identified petitioner and a certain Teddy Cruz as the persons who facilitated their applications for R.A. 6850 eligibility. The other witnesses corroborated Alforjas' and Delgado's testimonies. They all identified petitioner as the person who helped them obtain the fake certificates of eligibility.

On June 29, 1994, Director Buenaflor submitted a report^[5] to the Chairman of the Civil Service Commission. The CSC found that there was sufficient evidence to warrant the conviction of petitioner. On May 14, 1996, the Civil Service Commission in its resolution decreed:

WHEREFORE, Martin S. Emin is hereby found guilty of Grave Misconduct. Accordingly, the penalty of dismissal from the service including all its accessory penalties is imposed upon him.^[6]

Not satisfied with the abovesited resolution, the petitioner filed a motion for reconsideration,^[7] but it was denied.

On January 16, 1998, petitioner elevated the case to the Court of Appeals, but it was dismissed for failure to comply with Section 5, Rule 43 of the 1997 Rules of Civil Procedure.^[8]

However, the CA granted petitioner's motion for reconsideration^[9] and time to amend his petition.^[10] In his amended petition, he raised before the CA the twin issues of (1) whether the CSC had original jurisdiction over the administrative cases against the public school teachers; and (2) whether petitioner was accorded due process.^[11]

Finding the petition unmeritorious, the appellate court ruled on the appeal, thus:

WHEREFORE, premises considered, the petition (appeal) is DISMISSED, hereby affirming public respondents' assailed appealed resolutions (Resolution No. 963342, dated May 14, 1996; and Resolution No. 974049, dated October 14, 1997).

SO ORDERED.^[12]

Petitioner is now before us raising the following issues:

- I. WHETHER OR NOT THE COURT OF APPEALS ERRED IN FINDING THAT THE CIVIL SERVICE COMMISSION HAS ORIGINAL JURISDICTION OVER ADMINISTRATIVE CASES AGAINST PUBLIC SCHOOL TEACHERS.
- II. WHETHER OR NOT THE COURT OF APPEALS ERRED IN NOT FINDING THAT THE PETITIONER WAS NOT ACCORDED HIS RIGHT TO DUE PROCESS.
- III. WHETHER OR NOT THE COURT OF APPEALS ERRED IN FINDING THAT THERE WAS SUFFICIENT GROUND TO DISMISS THE PETITIONER FROM SERVICE.
- IV. WHETHER OR NOT THE COURT OF APPEALS ERRED IN NOT ADMITTING THE NEWLY DISCOVERED EVIDENCE.^[13]

Notwithstanding petitioner's formulation, we find that the issues to be resolved are: (1) whether or not the CSC has original jurisdiction over the present case; and (2) whether or not petitioner was accorded due process.

Petitioner avers that as a teacher, original jurisdiction over the administrative case against him is lodged with a committee and not with the CSC, as provided for by Republic Act 4670 otherwise known as the "*Magna Carta* for Public School Teacher," specifically, Section 9 thereof, which provides:

Sec. 9. Administrative Charges.- Administrative charges against a *teacher* shall be heard initially by a committee composed of the corresponding School Superintendent of the Division or a duly authorized representative who should at least have the rank of a division supervisor, where the teacher belongs, as chairman, a representative of the local, or, in its absence, any existing provincial or national teacher's organization and a supervisor of the Division, the last two to be designated by the Director of Public Schools within thirty days from the termination of the hearings: Provided, however, That where the school superintendent is the complainant or an interested party, all the members of the committee shall be appointed by the Secretary of Education.

For public respondent CSC, the Office of the Solicitor General maintains that original jurisdiction over the present case is with the CSC pursuant to the Constitution and P.D. 807 (Civil Service Law) which provide that the civil service embraces every branch, agency, subdivision, and instrumentality of the government, including government-owned or controlled corporations whether performing governmental or proprietary function.

We find merit in petitioner's contention that R.A. 4670 is good law and is applicable to this case. R.A. 4670 has not been expressly repealed by the general law P.D. 807, nor has R.A. 4670 been shown to be inconsistent with the presidential decree.

[14] Section 2 thereof specified those who are covered by the term "teacher" as follows:

SEC. 2. Title – Definition. - This Act shall be known as the "Magna Carta for Public School Teachers" and shall apply to all public school teachers except those in the professorial staff of state colleges and universities.

As used in this Act, the term "teacher" shall mean all persons engaged in classroom teaching, in any level of instruction, on full-time basis, including guidance counselors, school librarians, industrial arts or vocational instructors, *and all other persons performing supervisory and/or administrative functions in all schools, colleges and universities operated by the Government or its political subdivisions*; but shall not include school nurses, school physicians, school dentists, and other school employees.

Petitioner is the Non-Formal Education Supervisor of the DECS, in Kidapawan, Cotabato, in-charge of the out-of-school programs.^[15] The 1993 Bureau of Non-formal Education Manual^[16] outlines the functions of a NFE Division Supervisor which include, "... (5) implementation of externally assisted NFE programs and projects; (6) monitoring and evaluation of NFE programs and projects... (8) supervision of the implementation of NFE programs/projects at the grassroots level."^[17] Clearly, petitioner falls under the category of "all other persons performing supervisory and/or administrative functions in all schools, colleges and universities operated by the government or its political subdivisions."

Under Section 2 of R.A. 4670, the exclusions in the coverage of the term "teachers" are limited to: (1) public school teachers in the professorial staff of state colleges and universities; and (2) school nurses, school physicians, school dentists, and other school employees under the category of "medical and dental personnel". Under the principle of *ejusdem generis*, general words following an enumeration of persons or things, by words of a particular and specific meaning, are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same kind or class as those specifically mentioned.^[18] Too, the enumeration of persons excluded from the coverage of the term "teachers" is restricted, limited and exclusive to the two groups as abovementioned. Where the terms are expressly limited to certain matters, it may not by interpretation or construction be extended to other matters.^[19] *Exclusio unius est inclusio alterius*. Had Congress intended to exclude an NFE Division Supervisor from the coverage of R.A. 4670, it could have easily done so by clear and concise language.

As petitioner is covered by R.A. 4670, it is the Investigating Committee that should have investigated his case conformably with Section 9 of R.A. 4670, now being implemented by Section 2, Chapter VII of DECS Order No. 33, S. 1999, otherwise known as the DECS Rules of Procedure.^[20]

However, at this late hour, the proceedings conducted by the public respondent CSC can no longer be nullified on procedural grounds. Under the principle of estoppel by laches, petitioner is now barred from impugning the CSC's jurisdiction over his case.

But we must stress that nothing herein should be deemed as overriding the