

## EN BANC

[ G.R. No. 144464, November 27, 2001 ]

**GILDA G. CRUZ AND ZENAIDA C. PAITIM, PETITIONER, VS. THE  
CIVIL SERVICE COMMISSION, RESPONDENT.**

### DECISION

**KAPUNAN, J.:**

Assailed in the instant petition is the decision of the Court of Appeals upholding Resolution No. 981695 of the Civil Service Commission for allegedly being contrary to law and jurisprudence.

The facts are as follows:

On September 9, 1994, the Chairperson of the Civil Service Commission (CSC), received a letter from a private individual, Carmelita B. Esteban, claiming that, during the examinations for non-professional in the career civil service, given by the Civil Service Commission, on July 30, 1989 in Quezon City, Zenaida C. Paitim, the Municipal Treasurer of Norzagaray, Bulacan, falsely pretending to be the examinee, Gilda Cruz, a co-employee in the said office, took the examinations for the latter. Carmelita Esteban requested the CSC to investigate the matter, appending to said letter, pictures purporting to be those of Gilda Cruz and Zenaida Paitim.

On September 20, 1994, Erlinda A. Rosas, Director IV of the Commission, issued a Memorandum to Eliseo Gatchalian, the Director of the Management Information Office of the Commission, requesting the latter to furnish her with the picture seat plan of the room where Gilda G. Cruz was during the said examination, to ascertain the veracity of the letter-complaint. Eliseo S. Gatchalian did furnish Erlinda Rosas with certified true copies of the picture seat plans of the rooms where Gilda G. Cruz was assigned not only in the 1989 but also in the 1987 and 1988 career service (sub-professional) examinations. On November 8, 1994, Erlinda Rosas thereby wrote a Memorandum to Civil Service Commissioner Thelma P. Gaminde, dated November 8, 1994, declaring that based on the record, she found a *prima facie* case against Zenaida Paitim and Gilda G. Cruz.

On the basis of said memorandum, a fact finding investigation was conducted. On March 31, 1995, a "Formal Charge" for "Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of the Service" signed by Bella Amilhasan, Director IV of the Civil Service Commission Regional Office No. 3 was filed against Gilda Cruz and Zenaida C. Paitim, with the Civil Service Commission, docketed as Administrative Case No. D3-95-052, which reads as follows:

#### FORMAL CHARGE

MESDAMES:

This Office has found after a fact finding investigation that a prima facie case exists against you for DISHONESTY, GRAVE MISCONDUCT and CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE, committed as follows:

"That Gilda Cruz applied to take the July 30, 1989 Career Service Subprofessional examination. A verification of our records revealed that the picture of Cruz pasted in the Picture Seat Plan of the said examination held at Room 21 of the Ramon Magsaysay Elementary School, Quezon City, bears no resemblance to the pictures of Cruz as appearing in the picture seat plans of the previous Career Service Subprofessional Examinations which she took last July 26, 1987 and July 31, 1988 respectively. It would appear that the purported picture of Cruz pasted in the Picture Seat Plan of the said July 30, 1989 examination is the picture of a different person. Further verification showed that this picture belongs to a certain Zenaida Paitim, Municipal Treasurer of Norzagaray, Bulacan who apparently took the said examination on behalf of Cruz and on the basis of the application bearing the name and personal circumstances of Cruz."

WHEREFORE, Gilda Cruz and Zenaida Paitim are hereby directed to answer in writing and under oath within five (5) days from receipt hereof. To support your Answer, you may submit supporting documents/sworn statements.

In your Answer, you should state whether you elect to have a formal investigation or waive your right to said investigations should your Answer be found not satisfactory.

You are advised that you are entitled to the assistance of a counsel.

By Authority of the Commission:  
(Sgd.) Della A. Amilhasan  
Director IV<sup>[1]</sup>

The petitioners filed their Answer to the charge entering a general denial of the material averments of the "Formal Charge." They also declared that they were electing a formal investigation on the matter. The petitioners subsequently filed a Motion to Dismiss averring that if the investigation will continue, they will be deprived of their right to due process because the Civil Service Commission was the complainant, the Prosecutor and the Judge, all at the same time.

On July 17, 1995, Director Bella A. Amilhasan issued an order denying the motion.  
<sup>[2]</sup> The subsequent motion for reconsideration of said order was likewise dismissed.

Dulce J. Cochon, Attorney III of the CSC was thereby directed to conduct the formal administrative investigation of petitioners' case.

On November 16, 1995, Dulce J. Cochon issued an "Investigation Report and Recommendation" finding the Petitioners guilty of "Dishonesty" and ordering their

dismissal from the government service, the decretal portion of which reads as follows:

WHEREFORE, foregoing premises considered, this Office recommends the dismissal from the service with all its accessory penalties of respondents Zenaida Paitim and Gilda Cruz, both employees of the Municipality of Norzagary, Bulacan for the offenses of Dishonesty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service. Furthermore, this Office recommends the filing of criminal charges against them that shall serve as a deterrent to all possible plans of making a mockery to the sanctity of Civil Service Law and Rules as well as the constitutional mandate that 'A public office is a public trust. (Idem. *Supra.*)<sup>[3]</sup>

The aforesaid "Investigation Report and Recommendation" was then forwarded, to the Civil Service Commission for its consideration and resolution.

On July 1, 1998, the Civil Service Commission issued Resolution No. 981695 finding the petitioners guilty of the charges and ordered their dismissal from the government service. The decretal portion reads as follows:

WHEREFORE, Zenaida Paitim and Gilda Cruz are hereby found guilty of Dishonesty. Accordingly, they are imposed the penalty of dismissal from the service with all its accessory penalties. The Civil Service (Subprofessional) Eligibility of Gilda Cruz is also cancelled.

Let a copy of this Resolution, as well as other relevant documents, be furnished the Office of the Ombudsman for whatever action it may take under the premises."<sup>[4]</sup>

Petitioners then went up to the Court of Appeals assailing the resolution of the CSC.

On November 29, 1999, the Court of Appeals dismissed the petition before it. The motion for reconsideration was, likewise, denied on August 9, 2000.

Hence, this petition.

In the instant petition, petitioners raised the following assignment of errors:

## I

THE COURT OF APPEALS GRAVELY AND SERIOUSLY ERRED IN HOLDING THAT PETITIONERS' CONSTITUTIONAL RIGHT TO DUE PROCESS WAS NOT VIOLATED IN ADMINISTRATIVE CASE NO. D3-95-052 WHERE RESPONDENT COMMISSION ACTED AS THE INVESTIGATOR, THE COMPLAINANT, THE PROSECUTOR, AND THE JUDGE, ALL AT THE SAME TIME, AGAINST PETITIONERS. IN SO DOING, RESPONDENT COMMISSION COMMITTED A MOCKERY OF ADMINISTRATIVE JUSTICE AND THE COURT OF APPEALS SANCTIONED IT.

## II

THE COURT OF APPEALS GRAVELY AND SERIOUSLY ERRED IN RULING THAT RESPONDENT COMMISSION HAS ORIGINAL JURISDICTION TO