

TWENTIETH DIVISION

[CA-G.R. SP NO. 07688, December 17, 2014]

**JULIUS M. GALLEG0, PETITIONER, VS. CIVIL SERVICE
COMMISSION, RESPONDENT.**

D E C I S I O N

QUIJANO-PADILLA, J.:

This is a Petition for Review under Rule 43 of the Rules of Court seeking to annul and set aside the Civil Service Commission (CSC)'s Resolution No. 1300653^[1] dated April 8, 2013, which denied petitioner Julius M. Gallego's motion for reconsideration and upheld the CSC Decision No. 120719^[2] dated October 17, 2012.

The Antecedents

On July 26, 2009, petitioner Julius M. Gallego (Gallego) took the Career Service Examination Paper and Pencil Test conducted by the CSC at Catarman National High School, Catarman, Northern Samar. About 30 minutes after the examination started at 8:00 o'clock in the morning, Ariel Javier (Javier), the designated chief examiner for special operations, visited Room No. 10 where Gallego was assigned. He caught Gallego copying vocabulary terms, together with the letters and answers that he chose, from the test booklet to a white mailing envelope that contained Gallego's examination notice. Javier confiscated the white envelope.

On July 28, 2009, the CSC Regional Office No. VIII (CSCRO No. VIII) issued a show-cause notice directing Gallego and the test administrators namely: Magdalena Cuanico (room examiner), Janeth Aliposa (proctor), and Helena Alumbres (supervising examiner) to show cause why they should not be administratively charged.

Gallego submitted his Affidavit dated August 6, 2009 while the others who were notified did not submit any comment. Gallego explained in his affidavit that he was in good faith when he copied the vocabulary terms and the corresponding answers he made in the white envelope. The terms were not familiar to him and he intended to counter-check their meanings at home after the examination. He also said that the test administrators never informed the examinees before the examination that copying test items from the test booklet was prohibited. As proof of his good faith, Gallego averred that he copied the items openly and in plain view of the room examiner and proctors.

After investigating, the CSCRO No. VIII formally charged Gallego for his act that allegedly amounted to unauthorized reproduction of examination-related materials punishable under Republic Act (RA) 9416,^[3] otherwise known as the Anti-Cheating Law.

The formal investigation commenced on March 18, 2010 but Gallego failed to appear during the hearing. Subsequently, an Order dated November 26, 2010 was issued for the continuation of the hearing on February 11, 2011. Gallego was duly notified but he still failed to appear. The prosecution presented its evidence *ex-parte* and thereafter, formally offered its evidence. The continuation of the formal investigation was then set on March 11 and 28, and April 28, 2011 for Gallego to present his evidence; however, he still failed to appear on such dates.

On August 15, 2011, the CSCRO No. VIII rendered a Decision finding Gallego guilty of the charge. He was penalized with dismissal from the government service with all the accessory penalties. Gallego moved for reconsideration but his motion was denied. He then raised the matter to the CSC through a Petition for Review but the CSC dismissed his petition. It sustained the CSCRO No. VIII's findings, albeit modified the penalty imposed to perpetual disqualification from holding public office and barred Gallego from taking any civil service examination. The dispositive portion of the CSC's decision reads, *viz.*:

WHEREFORE, the instant motion for reconsideration of Julius M. Gallego is hereby DENIED. Accordingly, CSC Decision No. 12-0719 dated October 18, 2012, modifying the Resolution of the Civil Service Commission Regional Office (CSCRO) No. VIII, Palo, Leyte, finding Gallego guilty of Serious Dishonesty and Grave Misconduct in violation of R.A. No. 9416, and imposing on him the penalty of perpetual disqualification from holding public office, and bar from taking any civil service examination, STANDS.

SO ORDERED.^[4]

Gallego moved for reconsideration but the CSC remained steadfast in its ruling. Hence, this petition for review advancing the following issues, to wit:

I.

WHETHER OR NOT PETITIONER SHOULD BE HELD LIABLE FOR VIOLATION OF REPUBLIC ACT 9416 OTHERWISE KNOWN AS "ANTI-CHEATING LAW";

II.

WHETHER OR NOT PETITIONER SHOULD BE IMPOSED WITH THE PENALTY OF PERPETUAL DISQUALIFICATION FROM HOLDING OFFICE, AND BARRED FROM TAKING ANY CIVIL SERVICE EXAMINATION.

On the first issue, Gallego contended that there was mis-appreciation of facts by the CSC when it ruled that his act of copying about four (4) vocabulary terms in his white envelope containing his notice of examination amounted to cheating. Gallego reiterated that his purpose in doing so was not to cheat, but only to counter-check his answers after the exam. He found the terms strange and difficult to understand so he wrote these on the envelope as he could no longer rely on his memory. Gallego highlighted that as evidence of his good faith, he just openly scribbled those words in the view of the proctor and the room examiner who did not stop him from doing so. He claimed that the examinees were not informed beforehand that such act was prohibited; and also pointed that Mr. Javier should not have allowed him to