



Republic of the Philippines
Supreme Court
Manila

EN BANC

CIVIL SERVICE COMMISSION,
Complainant,

A.M. No. SB-12-19-P
[Formerly OCA IPI No. 10-26-SB-P]

Present:

- versus -

HERMINIGILDO L. ANDAL,
Security Guard II, Sandiganbayan,
Quezon City,
Respondent.

SERENO, *CJ*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
*PERALTA,
*BERSAMIN,
DEL CASTILLO,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN, and
JARDELEZA, *JJ*.

Promulgated:

NOVEMBER 18, 2014

X

X

RESOLUTION

PER CURIAM:

At bench is an administrative case involving respondent Herminigildo L. Andal, employed as permanent Security Guard II of the Sandiganbayan.¹ The investigating officer, Sandiganbayan Associate Justice Roland B. Jurado, found him guilty of dishonesty for allowing another person to take his 2000 Civil Service Professional Examination-Computer Assisted Test

* On Official leave.

¹ *Rollo*, p. 235; Certification issued by the Administrative Division of the Sandiganbayan.

(CSPE-CAT). Justice Jurado recommended that respondent be meted out the principal penalty of suspension from office for one year, and the accessory penalties of being barred from taking any civil service examination and disqualification from promotion.

The antecedent facts are as follows:

On 20 December 2006, the Civil Service Commission (CSC) issued Resolution Nos. 062255² and 071493³ affirming the Decision dated 25 May 2005⁴ of the Civil Service Commission-National Capital Region (CSC-NCR). The CSC-NCR dismissed respondent from government service after finding him guilty of dishonesty by allowing another person to take his CSPE-CAT.

On appeal, the Court of Appeals (CA) issued a Decision setting aside the judgment of the CSC for want of jurisdiction. The CA held that the case against a security guard of the Sandiganbayan was cognizable by the Supreme Court, which had administrative supervision over all the courts and personnel thereof. In a Decision dated 16 December 2009, docketed as G.R. No. 185749, we affirmed the judgment of the CA.⁵

Thereafter, on 24 July 2012, the Supreme Court *en banc* issued a Resolution re-docketing the case as an administrative matter.⁶ In the same Resolution, the Court resolved to refer this case to then Presiding Justice of the Sandiganbayan, Justice Francisco H. Villaruz, Jr. for investigation, report and recommendation.

On 22 October 2012, Justice Villaruz, Jr. requested the Court to assign the investigation of this case to a senior Justice of the Sandiganbayan. As reason, he adduced that an administrative investigation would take a toll on his functions at a time when some programs in the Sandiganbayan needed his immediate attention.⁷

Appreciating the merit of the request, and considering also that Justice Villaruz, Jr. had compulsorily retired on 8 June 2013, the Office of the Court Administrator (OCA) recommended that Justice Villaruz, Jr. be relieved of the duty of conducting the investigation of this case; and that A.M. No. SB-12-19-P be referred instead to the then most senior justice of the Sandiganbayan, Justice Gregory S. Ong.⁸

² Id. at 200-208.

³ Id. at 242-247.

⁴ Id. at 293-296.

⁵ Id. at 5-16.

⁶ Id. at 387.

⁷ Id. at 425-426.

⁸ Id. at 466.

In our Resolution dated 10 December 2013, the Court adopted the recommendations of the OCA. However, due to the administrative case against Justice Gregory S. Ong, then pending before this Court, we directed the Sandiganbayan to refer the instant case for investigation, report and recommendation to the most senior justice after Justice Ong.⁹ Hence, on 15 January 2014, the current Presiding Justice of the Sandiganbayan, Justice Amaparo M. Cabotaje-Tang, referred A.M. No. SB-12-19-P to Justice Roland B. Jurado for his investigation, report, and recommendation.¹⁰

On 17 January 2014, Justice Jurado conducted a preliminary conference on the case. This proceeding was followed by the parties' submission of judicial affidavits, formal offers of evidence and memoranda. Then, on 27 February 2014, he submitted before this Court his Investigation Report and Recommendation.¹¹

Petitioner CSC claimed that respondent had applied for the CSPE-CAT scheduled for 24 January 2000 and that it appeared that he passed the test with a rating of 81.08%.¹² But based on the differing photographs in the Picture Seat Plan (PSP) and his Civil Service Application Form, the CSC averred that he had not taken the test himself.

Respondent admitted¹³ that he could not have taken the test on 24 January 2000, since he was in the province nursing an alcohol hangover. As his defense, he maintained that he had not authorized another person to take the test for him. Respondent alleged that the impersonation was perpetrated by a group of employees who disliked him for revealing their drinking sprees and doping sessions to their superiors. He further narrated that in 2007, he learned from his co-employee, Larry Lincallo, that the impersonator was Emmerson Nucom, the latter's high school classmate. Aggrieved, respondent executed a Complaint-Affidavit¹⁴ in 2012 charging Nucom with impersonation before the CSC.

Justice Jurado disbelieved the claims of respondent. The investigating officer appreciated that the employees who had an axe to grind would naturally ensure that respondent flunked the test. As regards the claim of unauthorized impersonation, the investigating officer held that it "defies reason that another person would simply take the examination on respondent's behalf without having been instructed to do so or without examinee's knowledge, for how then would such person know the examinee's personal circumstances which are essential preliminary questions in the civil service examinations?"¹⁵

⁹ Id/ at 471-472.

¹⁰ Id. at 470-473, 479.

¹¹ Id. at 481-500.

¹² Id. at 315.

¹³ Id. at 502.

¹⁴ Id. at 440-445.

¹⁵ Id. at 516.

Moreover, Justice Jurado disregarded the circumstance that respondent had filed an impersonation case against Nucom. For the investigating officer, the five-year hiatus between knowledge of the identity of the impersonator in 2007 and the execution of the Complaint-Affidavit in 2012 belied the authenticity of the claim that respondent was aggrieved by the impersonation.

Thus, Justice Jurado sided with petitioner and found respondent guilty of dishonesty. But the investigating officer did not dismiss but only suspended him. Justice Jurado counted in favor of respondent the following as mitigating circumstances: “(1) Andal has satisfactorily served the judiciary for almost fifteen years without any infraction in the performance of his duties; (2) respondent had good performance ratings; and (3) respondent never took advantage of the ‘acquired eligibility’ as a tool for promotion and never benefited from it.”¹⁶ Justice Jurado also took note of the fact that respondent was a family man, and that the latter’s loss of his job might cause him to turn to extreme measures to satisfy the needs of his family.

The recommendation of the investigating officer reads thus:¹⁷

WHEREFORE, in view of all the foregoing, the undersigned investigating Justice finds respondent **HERMINIGILDO L. ANDAL** guilty of **DISHONESTY** under Rule IV Section 52 (A) (1) of the Revised Uniform Rules on Administrative Cases in the Civil Service Rules. Accordingly, it is hereby recommended that in view of the existence of mitigating circumstances, respondent be meted the penalty of suspension from office for one (1) year instead of dismissal from service. Further, pursuant to Sections 57 and 58 of the said rules, the accessory penalties of being barred from taking any civil service examination and disqualification for promotion are also recommended.

RULING OF THE COURT

After a judicious examination of the records, we partially adopt the above recommendation.

Justice Jurado’s Investigation Report and Recommendation is supported by the evidence on record showing that respondent did not take the CSPE-CAT of 24 January 2000. Firstly, by claiming that he was nursing a hangover on the day of examination, respondent was effectively admitting that he did not take the test; and logically, he did not earn for himself the 81.08% passing rate. Secondly, the pictures in his Civil Service Application Form and PSP are entirely different.¹⁸ In other words, it cannot be doubted that another person took the test under his name.

¹⁶ Id. at 517-518.

¹⁷ Id. at 518.

¹⁸ Id. at 316-317.

Despite this established fact, respondent still tries to refute the charge of dishonesty by claiming that the actual examinee impersonated him and took the test without his knowledge. Indeed, to be found guilty of dishonesty, there must be substantial evidence that respondent intentionally made false statements or practiced deception in securing his permanent employment with the Sandiganbayan.¹⁹

Substantial evidence, which is the quantum of proof required in this administrative case, is that amount of relevant evidence that a reasonable mind might accept as adequate to justify a conclusion.²⁰ This standard is satisfied in the present case so long as there is *reasonable ground* to believe that respondent is responsible for the misconduct complained of, even if the evidence may not be overwhelming or even preponderant.²¹

Here, we agree with Justice Jurado that the impersonation theory of respondent, claimed to be perpetrated by his officemates, is incredible.

First, the claim of respondent is self-serving and uncorroborated by any witness. Second, it is more reasonable to believe that the employees who had an axe to grind against him would rather have him fail than pass the test. Third, as Justice Jurado aptly pointed out, it defies reason that the actual examinee would take the test for the benefit of another without any recompense. Fourth, even assuming *arguendo* that respondent had an unauthorized impersonator, he should have alerted the CSC or the Sandiganbayan as soon as he received the passing grade.

Respondent's scheme of passing the blame to the actual examinee is old hat. In *Donato, Jr. v. Civil Service Commission Regional Office No. 1*,²² we have already dealt with the same issue and explained that persons being impersonated actually consent to the impersonation:

The picture of Donato pasted over the name of Gil Arce in the PSP during the Career Service Sub-professional Examination on August 5, 1990 is indicative of the fact that respondent Arce did not personally take the said examination but Donato in his behalf. This is so because as a matter of procedure, the room examiners assigned to supervise the conduct of examination closely examine the pictures submitted by the examinees. An examinee is not allowed by the examiners to take the examination if he does not look like the person in the picture he submitted and affixed in the PSP. Obviously, the person whose picture is pasted on the PSP was the one who took the examination for and in behalf of Arce. In the offense of impersonation, there are always two persons involved. The offense cannot prosper without the active participation of both persons. Further, by engaging or colluding with another person to take the test

¹⁹ *Office of the Court Administrator v. Bermejo*, 572 Phil. 6 (2008).

²⁰ Rules of Court, Rule 134, Sec. 5.

²¹ *Jallorina v. Taneo-Regner*, A.M. No. P-11-2948, 23 April 2012, 670 SCRA 301.

²² 543 Phil. 731, 743-744 (2007).

in his behalf and thereafter by claiming the resultant passing rate as his, clinches the case against him. In cases of impersonation, the Commission has consistently rejected claims of good faith, for "*it is contrary to human nature that a person will do (impersonation) without the consent of the person being impersonated.*" (Citations omitted and emphasis in the original)

In *Office of the Court Administrator v. Bermejo*,²³ this Court also rejected the respondent's claim of impersonation seeing that the actual examinee – as in this case – was not present to defend himself.

All told, the facts of this case cannot support the conclusion that respondent was completely innocent of dishonesty in obtaining his eligibility for permanent employment with the Sandiganbayan. Respondent, who admitted that he did not take the test, took credit for his false rating. Worse, after knowing that another person had taken the test on his behalf, he did not even attempt to earn his eligibility on his own accord. Basic honesty would have required transparency and uprightness in the actions of an employee of the judiciary.

By perpetrating his false eligibility and letting it remain on record, respondent concealed and distorted the truth in a matter of fact relevant to his office.²⁴ His actions thus speak of his disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; and lack of fairness and straightforwardness.²⁵

Nevertheless, Justice Jurado recommended that because of the attendant circumstances, respondent should only be meted out the principal penalty of suspension from office for one year, after which, the latter should return to the government service. Justice Jurado further recommends that respondent should be barred from taking any civil service examination and must be disqualified from promotion.

The recommendations of Justice Jurado are conflicting. By ruling that respondent falsely obtained his civil service eligibility, and by barring respondent from taking any civil service examination, it logically follows that respondent no longer holds a basic qualification to hold his permanent position in the judiciary.²⁶ Therefore, the recommended penalty cannot simply be a one-year suspension, but removal from government service.

Contrary to the recommendation of Justice Jurado, the reduced penalty of suspension cannot be justified by the alleged mitigating circumstances of

²³ Supra note 19.

²⁴ *Civil Service Commission v. Cayobit*, G.R. No. 145737, 3 September 2003, 410 SCRA 357.

²⁵ *Re: Rita S. Chulyao*, A.M. No. P-07-2292, 28 September 2010, 631 SCRA 413.

²⁶ See Executive Order No. 292, Book II, Title I, Subtitle A, Chapter 5, Section 21 (7); and Section 27 on Permanent Status of Employees in the Civil Service.

satisfactory performance, length of service and non-utilization of the acquired eligibility.

Dishonesty cannot be tolerated from government officials or employees, even when official duties are performed well.²⁷ First-time offenders found guilty of grave dishonesty involving falsification of their civil service examination results already merit the penalty of dismissal from service.²⁸ Thus, as in the case of the respondent in *Civil Service Commission v. Ramoneda-Pita*,²⁹ the mitigating circumstance of length of service was not considered, since the act of falsifying eligibility does not satisfy the high standards demanded of a court employee. It is likewise erroneous to appreciate that “respondent never took advantage of the ‘acquired eligibility’ as a tool for promotion and never benefited from it,”³⁰ given that respondent enjoyed his permanent position without the requisite eligibility.

Accordingly, this Court maintains its exacting standards for those who seek to be employed in its fold. While we recognize that respondent stands to lose his source of support for himself and his family, the Court cannot turn a blind eye to what is clearly a transgression of the law.³¹ Dishonesty is a malevolent act that has no place in the judiciary. Thus, similar to the fate of prior employees who falsified their eligibility requirement, we castigate the grave offense of respondent by imposing upon him the penalty of dismissal from service.³²

WHEREFORE, respondent Herminigildo L. Andal is hereby found **GUILTY** of dishonesty. He is **DISMISSED** from the service with forfeiture of all his retirement benefits, except the value of his accrued leave credits, if any, and with prejudice to re-employment in the government or any of its subdivisions, instrumentalities, or agencies including government-owned or controlled corporations. Let a copy of this Resolution be attached to his records.

SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice

²⁷ *Villordon v. Avila*, A.M. No. P-10-2809, 10 August 2012, 678 SCRA 247.

²⁸ Civil Service Commission Memorandum Circular No. 19-99 (1999), Rule IV, Sec. 52.

²⁹ A.M. No. P-08-2531, 11 April 2013, 696 SCRA 151.

³⁰ *Rollo*, pp. 517-518.

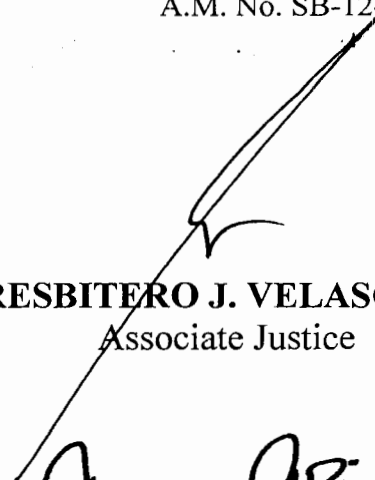
³¹ *Civil Service Commission v. Sta. Ana*, 436 Phil. 1 (2002).

³² *CSC v. Hadji Ali*, A.M. No. SCC-08-11-P, 18 June 2013, 698 SCRA 699; *Clavite-Vidal v. Aguam*, A.M. No. SCC-10-13-P, 26 June 2012, 674 SCRA 470; *Re: Rita S. Chulyao*, supra note 25; *Civil Service Commission v. Dasco*, 587 Phil. 558 (2008).






ANTONIO T. CARPIO
Associate Justice



PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice




ARTURO D. BRION
Associate Justice

(On leave)
DIOSDADO M. PERALTA
Associate Justice

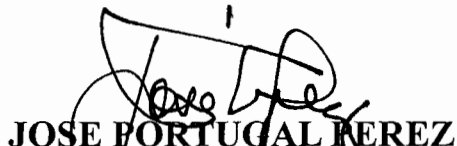
(On leave)
LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice




MARTIN S. VILLARAMA, JR.
Associate Justice




JOSE PORTUGAL PEREZ
Associate Justice



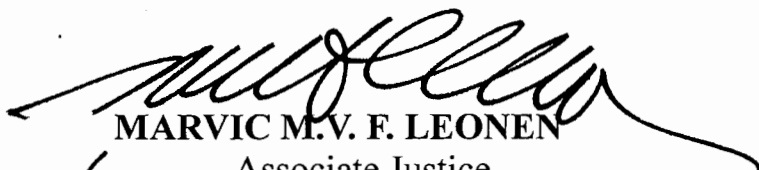
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Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

