



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

JOSE L. DIAZ,
 Petitioner,

G.R. No. 203217

Present:

CARPIO, J.*
 LEONARDO-DE CASTRO,**
Acting Chairperson,
 DEL CASTILLO,***
 TIJAM, and
 GESMUNDO, JJ.****

- versus -

THE OFFICE OF THE
 OMBUDSMAN,
 Respondent.

Promulgated:

JUL 02 2018

[Signature]

X-----X

DECISION

TIJAM, J.:

This is a Petition for Review¹ of the September 15, 2011 Decision² of the Court of Appeals (CA) in CA-G.R. SP No. 107595 which affirmed the Decision³ dated June 26, 2007 of the Office of the Ombudsman in OMB C-A-05-0324-G dismissing petitioner from the civil service for dishonesty, and

*Designated additional Member per Raffle dated April 23, 2018 *vice* Associate Justice Francis H. Jardeleza.,

**Designated Acting Chairperson per Special Order No. 2559 dated May 11, 2018; On official leave.

***Designated Acting Chairperson per Special Order No. 2562 dated June 20, 2018.

****Designated Acting Member per Special Order No. 2560 dated May 11, 2018.

¹ *Rollo*, pp. 16-35.

² Penned by Associate Justice Jose C. Reyes, Jr. (now a Member of this Court) and concurred in by Associate Justices Antonio L. Villamor and Ramon A. Cruz. *Id.* at 39-50.

³ *Id.* at 80.

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the CA's August 22, 2012 Resolution⁴ which denied petitioner's motion for reconsideration.

The Facts

On June 27, 2005, the General Investigation Bureau A (GIB-A)⁵ of the Office of the Ombudsman filed a Complaint⁶ against several personnel of the Veterinary Inspection Board (VIB) of the City of Manila for violations of Section 3 (e) and (i) of Republic Act No. 3019, Article 220 of the Revised Penal Code for Illegal Use of Public Funds or Property and for Grave Misconduct, Dishonesty and Conduct Prejudicial to the Best Interest of the Service under the Uniform Rules on Administrative Cases in the Civil Service (URACCS). Among those charged were petitioner as the City Government Division Head III of the VIB and Rodrigo R. Reyes (Reyes) as Mechanic III.

The Complaint alleged that on November 18, 1998, petitioner received from the Public Recreation Bureau of the City of Manila "one (1) unit Jeep Yellow, CJ-81 Engine No. 406Y18."⁷ On December 29, 1998, a Work Order for the replacement of the Jeep's engine was issued and engine number (no.) 406Y18 was replaced by engine no. 13T-4990303. Engine no. 406Y18 was consequently decommissioned. Meanwhile, per the Inventory and Inspection Report of Unserviceable Property dated August 31, 1999 and signed by petitioner, the Toyota Land Cruiser with plate no. SCB-995 was declared "unserviceable."⁸ In a letter dated July 9, 2001, approved by petitioner, the Personal Assistant of the Chairperson of the Appraisal/Disposal Committee and Sub-Committee on Canvass and Bidding of the Office of the City Mayor was authorized to withdraw said Toyota Land Cruiser for disposal at the dumping area in Arroceros, Manila for being unserviceable. This notwithstanding, the VIB's "Gasoline Fuel Supplies Ledger Card Withdrawals" revealed that 4,555 liters of gasoline were withdrawn for the vehicle with plate no. SCB-995 from January 1999 to December 2001 while 6,500 liters were withdrawn for the vehicle with engine number 406Y18 from May 2001 to December 2003, or a total of 11,055 liters of gasoline for a period of five (5) years.⁹

The Supplies Ledger Cards (SLC) identified petitioner and Reyes among the VIB officials responsible for the gasoline withdrawals for the period February 1999 to March 2003. According to the GIB-A, petitioner,

⁴ Penned by Associate Justice Jose C. Reyes, Jr. (now a Member of this Court) and concurred in by Associate Justices Ramon A. Cruz and Isaias P. Dicedican *vice* Associate Justice Antonio L. Villamor. *Id.* at 52.

⁵ As a nominal complainant and officially represented by Atty. Maria Olivia Elena A. Roxas, Graft Investigation and Prosecution Officer II. *Id.* at 84.

⁶ *Id.* at 84-93.

⁷ *Id.* at 84.

⁸ *Id.* at 85.

⁹ *Id.* at 85-86.

who was already receiving transportation allowance, caused the request for the purchase and withdrawal of the gasoline despite the fact that engine no. 406Y18 had been decommissioned in December 1998 and the vehicle with plate no. SCB-995 had been declared unserviceable since August 31, 1999.¹⁰

The same SLC showed petitioner withdrawing gasoline for a vehicle with plate no. PPR-691, which he acknowledged as his personal vehicle.¹¹

In his Counter-Affidavit, petitioner denied the charges for being malicious and unfounded. He countered that the vehicle with engine no. CJ-8 406Y18 bearing plate no. SCB-995 was used by VIB from 1999 up to December 2003 despite the fact that it was already reported as unserviceable on August 31, 1999. He explained that this was because said engine was replaced by engine no. 4990303 purchased on December 1, 1998. He added that the same vehicle was finally declared unserviceable in December 2003 and was actually taken out from the VIB premises only on August 18, 2004 after it was sold at a public auction. He denied knowledge of gasoline withdrawals for his personal vehicle bearing plate no. PPR-691, arguing that his signature did not appear on the SLC and no evidence was presented to prove that he had requested for fuel.¹²

Reyes echoed petitioner's allegations as regards the vehicle with plate no. SCB-995.¹³

The Ombudsman's Ruling

On June 26, 2007, the Office of the Ombudsman rendered the Joint Decision finding petitioner and Reyes guilty of dishonesty under Section 52(A)(1), Rule IV of the URACCS, the dispositive portion of which reads:

WHEREFORE, after finding substantial evidence, this Office hereby finds respondents [petitioners] JOSE L. DIAZ and RODRIGO R. REYES, City Government Head III and Mechanic III, respectively, of Veterinary Inspection Board, guilty of DISHONESTY. Accordingly, they are meted the penalty of Dismissal from the Service, pursuant to Section 52 (A-1), Rule IV of the Uniform Rules on Administrative Cases in the Civil Service (CSC Resolution No. 991936), with cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for re-employment in the government Service.

...

The Hon. ALFREDO S. LIM, City Mayor of Manila City is hereby directed to implement this Joint-Decision, imposing the administrative

¹⁰ Id. at 86-91.

¹¹ Id. at 46 and 86.

¹² Id. at 137-138.

¹³ Id. at 142.

penalty of dismissal from the service upon respondents [petitioners] JOSE L. DIAZ and RODRIGO R. REYES, and submit proof of compliance thereof to this office.

SO ORDERED.¹⁴

The charges against the other officials were dismissed for lack of substantial evidence.¹⁵

Giving weight to the SLC, the Ombudsman held that there was substantial evidence that petitioner and Reyes used government gasoline for personal use. According to the Ombudsman, the SLC showed that petitioner made a total withdrawal of 390 liters of gasoline worth ₱6,653.40 for his personal vehicle and that Reyes made gasoline withdrawals for the vehicle with engine no. 408Y18 amounting to ₱78,520.87. The Ombudsman held that petitioner and Reyes cannot claim that engine no. 406Y18 and the vehicle with plate no. SCB-995 were still being used from 1999 to 2003, considering that engine no. 408Y18 was already replaced by engine no. 4990303 as early as December 1998 and on July 9, 2001, petitioner had authorized the withdrawal of the vehicle with plate no. SCB-995 from the VIB.¹⁶

Their Joint Motion for Reconsideration having been denied in the Ombudsman's June 25, 2008 Joint Order, petitioner and Reyes filed a petition for review¹⁷ before the CA, praying for the reversal of the Ombudsman's ruling.¹⁸

The CA's Ruling

In the assailed Decision¹⁹ dated September 15, 2011, the CA denied the petition for review, disposing as follows:

WHEREFORE, the petition is **DENIED** for lack of merit. The Joint Decision dated June 26, 2007 and the Joint Order dated February 25, 2008 of the Office of the Ombudsman in OMB C-A-05-0324-G and OMB C-A-05-0325-G are hereby **AFFIRMED**.

SO ORDERED.²⁰

The CA found that the Ombudsman's findings were supported by substantial evidence. It rejected petitioner's claim that the SLC were untrustworthy for being hearsay and for having been prepared with ill

¹⁴ Id. at 41.

¹⁵ Id.

¹⁶ Id. at 42.

¹⁷ Id. at 53-77.

¹⁸ Id. at 39 and 42.

¹⁹ Id. at 39-50.

²⁰ Id. at 50.

motives, holding that as public records, they constituted *prima facie* evidence of the facts stated therein.²¹

The CA likewise noted that based on the records, the vehicle with plate no. SCB-995 was already declared unserviceable on August 31, 1999, while engine no. 8406Y18 could be found in the storeroom of the Slaughterhouse Operation and Maintenance Division. The appellate court gave no weight to petitioner and Reyes' claim that they merely continued to use the vehicle with plate no. SCB-995 after replacing its engine, holding that this was belied by petitioner's own letter dated July 9, 2001 which authorized the withdrawal of said vehicle from the VIB for disposal at the dumping area.²²

Like the Ombudsman, the CA rejected petitioner and Reyes' allegation that the vehicle with plate no. SCB-995 and engine no. 406Y18 were among the unserviceable properties auctioned off and withdrawn from the VIB's premises in August 2004, noting that the documents they presented to support such claim did not specify said vehicle.²³

The CA also held that contrary to their claim, petitioner and Reyes were not denied due process because they were able to explain their side when they submitted their Counter-Affidavits with supporting documents.²⁴

The Motions for Reconsideration²⁵ filed by petitioner and Reyes were denied in the assailed Resolution²⁶ of August 22, 2012. The CA refused to consider their length of service as a mitigating circumstance because they committed a series of violations over a number of years.

Hence, this petition.

Petitioner argues that the Ombudsman's findings, as sustained by the CA, were not supported by substantial evidence. On the supposition that he is guilty, he posits that the supreme penalty of dismissal was too harsh considering that he has been in government service for 22 years and this was his first offense.²⁷

The Court's Ruling

The petition lacks merit.

²¹ Id. at 45-46.

²² Id. at 46-47.

²³ Id. at 47.

²⁴ Id. at 48.

²⁵ Id. at 166-175 and 221-225.

²⁶ Id. at 52.

²⁷ Id. at 20, 23 and 30.

It must be emphasized at the outset that a petition for review under Rule 45 is limited only to questions of law because the Court is not a trier of facts.²⁸ It is not the Court's function to analyze or weigh all over again evidence already passed upon in the proceedings below.²⁹ While there are recognized exceptions³⁰ to this rule, none of them are present in this case.

The factual findings of the Office of the Ombudsman are generally accorded great weight and respect, if not finality, by the courts because of their special knowledge and expertise over matters falling under their jurisdiction. When supported by substantial evidence, their findings of fact are deemed conclusive.³¹

More than a mere scintilla of evidence, substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine otherwise.³² The requirement is satisfied where there is reasonable ground to believe that the respondent is guilty of the act or omission complained of, even if the evidence might not be overwhelming.³³ Applying this standard of proof, the Court finds no cogent reason to overturn the Ombudsman's conclusions, as affirmed by the CA.

Indeed, the SLC showed gasoline withdrawals from 1999 to 2003 for vehicles with engine no. 406Y18 and plate numbers SCB-995 and PPR-691.³⁴

However, engine no. 406Y18 was already decommissioned as of 1998. This is reflected in the Report of Waste Materials, indorsed by petitioner on December 29, 1998 to the Appraisal/Disposal and Sub-Committee on Canvass and Bidding, indicating that the item could be found in the storeroom of the Slaughterhouse Operation and Maintenance Division.³⁵

²⁸ *Miro v. Mendoza Vda, de Erederas, et al.*, 721 Phil. 772, 785 (2013). *Office of the Ombudsman v. Atty. Bernardo*, 705 Phil. 524, 534 (2013).

²⁹ *Miro v. Mendoza*, supra at 785.

³⁰ (1) when the conclusion is a finding grounded entirely on speculation, surmises and conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is a grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the findings set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) when the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by evidence on record. (*Office of the Ombudsman v. Atty. Bernardo*, supra at 534-535)

³¹ *Office of the Deputy Ombudsman for Luzon v. Dionisio*, G.R. No. 220700, July 10, 2017. *Office of the Ombudsman v. Mallari*, 79 Phil. 224, 249 (2014).

³² *Office of the Ombudsman v. Bernardo*, supra at 534.

³³ *Office of the Deputy Ombudsman for Luzon v. Dionisio*, supra note 31.

³⁴ *Rollo*, pp. 85-89.

³⁵ *Id.* at 46, 85 and 95.

Likewise, the vehicle with plate no. SCB-995, a Toyota Land Cruiser, was already declared “unserviceable” on August 31, 1999, as evidenced by the Inventory and Inspection Report of even date which was signed by petitioner himself.³⁶ In fact, in a letter dated July 9, 2001 addressed to the VIB’s security personnel, petitioner authorized the withdrawal of said vehicle by the Appraisal/Disposal and Sub-Committee on Canvass and Bidding, for disposal at the latter’s dumping area in Arroceros, Manila.³⁷

Furthermore, petitioner had acknowledged that the vehicle with plate no. PPR-691 was his personal property.³⁸ The Ombudsman also found and petitioner himself admitted that he was already receiving transportation allowance during the period covered by the subject gasoline withdrawals.³⁹

The foregoing circumstances ineluctably justify the Ombudsman’s finding that petitioner committed dishonesty.

The Court cannot sustain petitioner’s objections to the SLC. While petitioner maintains that these Ledger Cards had been prepared with ill motive,⁴⁰ no evidence of malice or instance of spite had been presented or alleged by him. Furthermore, that the SLC were not prepared or signed by him will not divest said documents of probative value. Being public documents, they are *prima facie* proof of their contents.⁴¹

As the CA noted, this Court, in *Tecson v. Commission On Elections (supra)*, held:

The trustworthiness of public documents and the value given to the entries made therein could be grounded on (1) the sense of official duty in the preparation of the statement made, (2) the penalty which is usually affixed to a breach of that duty, (3) the routine and disinterested origin of most such statements, and (4) the publicity of record which makes more likely the prior exposure of such errors as might have occurred.⁴²

Absent evidence to the contrary, the SLC are presumed to have been regularly prepared by accountable officers who enjoy the legal presumption of regularity in the performance of their functions.⁴³ Petitioner has not offered proof that sufficiently overcomes these presumptions. In fact, even as he questions the SLC, petitioner confirmed that his office indeed used the vehicle with plate no. SCB 995 and engine no. 406Y18 for the period 1999

³⁶ Id. at 85 and 97.

³⁷ Id. at 47 and 99.

³⁸ Id. at 46.

³⁹ Id. at 90 and 137.

⁴⁰ Id. at 29.

⁴¹ *Herce, Jr. v. Municipality of Cabuyao, Laguna*, 511 Phil. 420, 431 (2005). *Tecson v. The Commission on Elections*, 468 Phil. 421 (2004).

⁴² *Tecson v. The Commission on Elections*, supra at 473.

⁴³ See *Herce v. Municipality of Cabuyao, Laguna*, supra at 431-432.

to December 2003,⁴⁴ as indicated in the SLC,⁴⁵ thereby lending credence to said documents.

Furthermore, the Court finds implausible petitioner's claim that his office continued to use the vehicle with plate no. SCB-995 even if it had been declared "unserviceable" on August 31, 1999.⁴⁶

Petitioner alleged that the continued use of said vehicle was made possible by the replacement of its engine with another purchased on December 1, 1998.⁴⁷ If the engine had been replaced after December 1, 1998, it makes no sense for petitioner to consider said vehicle as unserviceable on August 31, 1999 under the Inventory and Inspection Report of Unserviceable Property he issued on even date.

Petitioner's disclaimer⁴⁸ of his signature on the August 31, 1999 Inventory and Inspection Report cannot be sustained. The signature appears similar to his other signatures which appear on record and which he had not disputed. Petitioner also previously confirmed the same Report in his Counter-Affidavit, declaring that the vehicle with plate no. SCB-995 "was already reported as unserviceable per (said Report)."⁴⁹ Thus, petitioner's belated repudiation of his signature deserves scant consideration.

The Court also finds it curious that while petitioner alleged in his Counter-Affidavit that the VIB was able to continue to use said vehicle because of the engine replacement,⁵⁰ his petition makes no mention of such engine change and attributes the continued use of the vehicle merely to the "imaginative and innovative technical skills of (VIB's) mechanics."⁵¹ Along with the foregoing observations, this serves to show that petitioner has been less than forthright with the Court in his submissions.

Petitioner averred that although he authorized the withdrawal of the subject vehicle for disposal on July 9, 2001, the vehicle was not taken out of the VIB's premises until 2004 after it was auctioned off together with other unserviceable items. In support of this claim, petitioner submitted the Certification of the Chairman of the Appraisal & Disposal Committee that a public bidding of unserviceable and scrap properties was conducted on August 11, 2004. Petitioner also submitted his August 18, 2004 letter, addressed to the VIB's security guard, authorizing the withdrawal of the unserviceable properties by the winning bidder. However, as the CA

⁴⁴ *Rollo*, p. 137.

⁴⁵ *Id.* at 85-89.

⁴⁶ *Id.* at 31 and 137.

⁴⁷ *Id.* at 96 and 137.

⁴⁸ *Id.* at 31.

⁴⁹ *Id.* at 137.

⁵⁰ *Id.*

⁵¹ *Id.* at 19 and 31.

correctly pointed out, neither of these documents showed that the subject vehicle was among the items purchased at the public bidding or authorized to be withdrawn from the VIB in 2004.

In fine, what remains of petitioner's defense is a bare denial. Juxtaposed to the GIB-A's evidence, it cannot overturn the Ombudsman's finding, as affirmed by the CA, that petitioner committed acts of dishonesty.

In the case of *Balasbas v. Monayao*⁵², the Court explained:

Dishonesty is defined as the concealment or distortion of truth in a matter of fact relevant to one's office or connected with the performance of his duty. It implies a 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.

As the evidence shows, the questioned gasoline withdrawals by petitioner were made through deception. He made it appear that gasoline thus withdrawn was used for a government vehicle despite the fact that said vehicle was already declared "unserviceable." Notwithstanding the fact that he was already receiving transportation allowance, he was also able to obtain fuel, purchased with government funds, for his personal vehicle, which clearly indicates a disposition to defraud. Thus, the finding of guilt against petitioner, for the administrative offense of dishonesty under Section 52 (A) (1),⁵³ Rule IV of the URACCS, must stand.

Section 52 (A)(1), Rule IV of the URACCS supports the penalty of dismissal imposed on the petitioner. His actions constituted a grave offense which cannot be mitigated by the length of his government service or the fact that it was his first offense. As the CA acutely observed, petitioner committed a series of violations over a number of years while in government service.

Jurisprudence is replete with cases declaring that a grave offense cannot be mitigated by the public employee's length of service or the fact that he is a first-time offender.⁵⁴ In *Medina v. Commission on Audit*,⁵⁵ the Court held:

⁵² 726 Phil. 664, 674-675 (2014). *Gupilan-Aguilar, et al. v. Office of the Ombudsman, et al.*, 728 Phil. 210, 232 (2014).

⁵³ **Section 52. Classification of Offenses.** – Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on the gravity or depravity and effects on the government service.

A. The following are grave offenses with their corresponding penalties:

1. Dishonesty
1st offense – Dismissal

xxxx

⁵⁴ *Medina v. Commission on Audit, et al.*, 567 Phil. 649, 664 (2008). *Chairman Duque III v. Veloso*, 688 Phil. 318 (2012). *Civil Service Commission v. Cortez*, 474 Phil. 670 (2004).

⁵⁵ *Medina v. Commission on Audit*, supra at 665.

Also, in *Concerned Employees v. Nuestro*, a court employee charged with and found guilty of dishonesty for falsification was meted the penalty of dismissal notwithstanding the length of her service in view of the gravity of the offense charged.

To end, it must be stressed that dishonesty and grave misconduct have always been and should remain anathema in the civil service. They inevitably reflect on the fitness of a civil servant to continue in office. **When an officer or employee is disciplined, the object sought is not the punishment of such officer or employee but the improvement of the public service and the preservation of the public's faith and confidence in the government.** (Emphasis ours.)

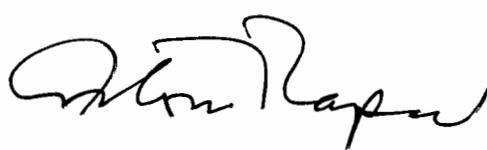
As regards the accessory penalties imposed by the Ombudsman and the CA, namely, "cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for re-employment in the government service," the same are consistent with Section 58(a),⁵⁶ Rule IV of the URACCS.

WHEREFORE, the Petition for Review is **DENIED**. The Decision dated September 15, 2011 and Resolution dated August 22, 2012 in CA-G.R. SP No. 107595 are **AFFIRMED**.

SO ORDERED.


NOEL GIMENEZ TIJAM
Associate Justice

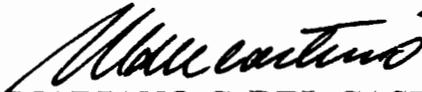
WE CONCUR:

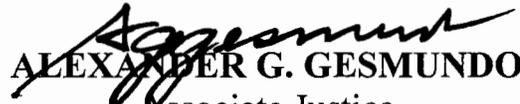

ANTONIO T. CARPIO
Senior Associate Justice

⁵⁶ Section 58. *Administrative Penalties Inherent in Certain Penalties.*

a. The penalty of dismissal shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service, unless otherwise provided in the decision.

(On official leave)
TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson


MARIANO C. DEL CASTILLO
Associate Justice
Acting Chairperson


ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIANO C. DEL CASTILLO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Senior Associate Justice
(per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)