



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**CIVIL SERVICE COMMISSION
and THE OFFICE OF THE
SOLICITOR GENERAL,**
Petitioners,

G.R. No. 224651

Present:

*CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,
REYES, J. JR., and
LAZARO-JAVIER, JJ.*

- versus -

EDGAR B. CATA CUTAN,
Respondent.

x-----x

EDGAR B. CATA CUTAN,
Petitioner,

G.R. No. 224656

- versus -

**CIVIL SERVICE COMMISSION
and THE OFFICE OF THE
SOLICITOR GENERAL,**
Respondents.

Promulgated:

03 JUL 2019

x-----x

HM Cabalagong

✓

DECISION

REYES, J. JR., J.:

These two consolidated Petitions for Review assail the July 31, 2015 Decision¹ and the April 22, 2016 Resolution² of the Court of Appeals-Cebu City (CA) in CA-G.R. CEB-SP No. 07624. The assailed decision partly granted the appeal of Edgar B. Catacutan (Catacutan) from the April 12, 2013 Decision³ of the Civil Service Commission (CSC) in Case No. 130369 and found him guilty only of Simple Neglect of Duty. In turn, the CSC affirmed the finding of the Office of the Solicitor General (OSG) that Catacutan, a public servant in its ranks, had committed Gross Neglect of Duty and Conduct Prejudicial to the Best Interest of the Service in connection with the performance of his duties as Administrative Officer V.

The Facts

As Administrative Officer V at the OSG, Catacutan was tasked, among others, to affix bar codes to all incoming documents at the Docket Management Service (DMS) for further transmission to the different departments within the organization. Among these documents are those pertaining to special proceeding cases requiring OSG intervention, such as declaration of nullity of marriage and annulment of marriage, which are routed to the legal department for appropriate action.

In March 2010, the Regional Trial Court (RTC), Branch 31, Agoo, La Union had declared a marriage null and void⁴ and, in a June 25, 2010 Order,⁵ denied the motion for reconsideration filed by the OSG in behalf of the State. A copy of this order had reached the DMS on July 5, 2010. By law, the OSG had until July 20, 2010 to file an appeal with the CA. However, the assigned lawyer, Associate Solicitor Jose Covarrubias (A/S Covarrubias), failed to timely file said appeal because the copy of the subject order was transmitted to him only on August 6, 2010.

This lapse led to a request⁶ for an investigation into Catacutan's possible accountability, as well as that of Rommel C. Gutierrez (Gutierrez),

¹ Penned by Associate Justice Germano Francisco D. Legaspi, with Associate Justices Pamela Ann Abella Maxino and Jhosep Y. Lopez, concurring; *rollo* (G.R. No. 224651), pp. 34-42.

² *Id.* at 43-47.

³ The decision was signed by Chairman Francisco T. Duque III and Commissioner Robert S. Martinez, *id.* at 139-148.

⁴ FC Case No. A-934, entitled *William Y. Ninobla v. Josephine Buera-Ninobla*.

⁵ *Rollo* (G.R. No. 224656), p. 49.

⁶ *Via* a Joint Affidavit dated September 16, 2010 signed by Assistant Solicitor Roman Del Rosario and Associate Solicitors Ma. Christina Lim, Julie Mercurio, Sharone Rodriguez, Aristotle Mejia and Jose Covarrubias, *rollo* (G.R. No. 224651), p. 142.

Administrative Officer I, to whom the bar coded documents are transmitted for digital scanning and for further transmission.⁷ The request alleged that the subject trial court order was bar coded on August 5, 2010 at 3:16 p.m., and then encoded and scanned at 5:39 p.m. on the same day.⁸

The Ruling of the OSG

The OSG Administrative Disciplinary Committee docketed the request as an administrative case.⁹ Upon its recommendation, the Solicitor General formally charged Catacutan with Gross Neglect of Duty and Conduct Prejudicial to the Best Interest of the Service, and imposed a 90-day preventive suspension.

Responding to the charges, Catacutan admitted that he inadvertently filed the subject order among the documents classified as “Ordinary,” and professed that he, unaware of its urgent nature, placed a bar code on it belatedly on July 9, 2010. He apologized for this omission, but claimed the lapse to be a mere oversight and an honest mistake.¹⁰ He explained his official duty to be limited to bar coding incoming documents in civil cases and transmitting them to the scanner who, in turn, transmits them to the corresponding legal divisions. He lamented that by reason of the huge volume of the documents that he had to bar code on a daily basis, a sorter has in fact been designated to classify incoming and inbound documents either as “Rush” or “Ordinary” according to their content.

In its January 24, 2011 Decision,¹¹ the OSG found Catacutan guilty of the charges and imposed the supreme penalty of dismissal from the service with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits and perpetual disqualification from reemployment in the government. The OSG did not reconsider, hence, Catacutan appealed to the CSC.

The Ruling of the CSC

The CSC affirmed the OSG’s findings and the sanctions imposed on Catacutan. Its April 12, 2013 Decision¹² disposed of the appeal as follows:

WHEREFORE, the appeal of Edgar B. Catacutan, Administrative Officer V, Office of the Solicitor General (OSG), is hereby **DISMISSED**.

⁷ Counter Affidavit (Gutierrez), id. at 62-63.

⁸ Supra note 6, at 143.

⁹ Adm. Case No. 09-10-02.

¹⁰ Counter Affidavit (Catacutan), *rollo* (G.R. No. 224651), pp. 60-61.

¹¹ Id. at 68-78. Signed by Solicitor General Jose Anselmo I. Cadiz, disposing as follows:

WHEREFORE, respondent is hereby found guilty of gross neglect of duty and conduct prejudicial to the best interest of the service, and is hereby meted the penalty of DISMISSAL with all its accessory penalties. By this token, respondent’s request for the lifting of his preventive suspension, being academic, is merely noted.

SO ORDERED.

¹² Id. at 139-148. The decision was signed by Chairman Francisco T. Duque III and Commissioner Robert S. Martinez.

Accordingly, the Decision dated January 24, 2011 issued by former Solicitor General Jose Anselmo I. Cadiz finding Catacutan guilty of Gross Neglect of Duty and Conduct Prejudicial to the Best Interest of the Service and imposing upon him the penalty of dismissal from the service with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits and perpetual disqualification from [reemployment] in the government service, and the Resolution dated February 24, 2011, denying his motion for reconsideration, are **AFFIRMED**.¹³

The Ruling of the CA

Catacutan refuted the uniform finding and conclusion of the OSG and the CSC before the CA which, on July 31, 2015, rendered the assailed Decision finding him to have committed only simple neglect of duty as the omission was characterized by mere inadvertence. Accordingly, it ordered that Catacutan be suspended from service for four months without pay until reinstatement to his former position, but without backwages pending appeal. The disposition reads:

WHEREFORE, the petition for review of Edgar B. Catacutan is **PARTLY GRANTED**. The assailed Decision dated April 12, 2013 of the Civil Service Commission is **MODIFIED** insofar as Edgar B. Catacutan is hereby found guilty of Simple Neglect of Duty and penalized with suspension for four (4) months without pay. After Catacutan served his suspension, the Office of the Solicitor General and the Civil Service Commission are ordered to **REINSTATE** Catacutan to his former position before he was dismissed from service. Catacutan is, however, not entitled to [backwages] pending his appeal.

SO ORDERED.¹⁴

The CA appeared to have attributed to Catacutan the duty to ascertain the level of urgency attached to the subject trial court order, as well as the duty to inform both Gutierrez and A/S Covarrubias of the arrival thereof – both of which he did fail to perform albeit unintentionally. It found no evidence that Catacutan, after bar coding the document, willfully and intentionally showed lack of care for it, and that inasmuch as the subject document did not have the “Rush” marking on its face, he had the right to treat it as an ordinary document which he still managed to process four days from receipt. Moreover, it dropped the charge of conduct prejudicial to the best interest of the service on the ground that records do not show how the omission of Catacutan has tarnished the image and integrity of the agency.

¹³ Id. at 148.

¹⁴ *Rollo* (G.R. No. 224656), pp. 15-16.

Both parties sought reconsideration, but the CA denied their motions.¹⁵ Hence, these petitions.

The Issues

In G.R. No. 224651, petitioners CSC and OSG assign the following error:

THE HONORABLE [CA] ERRED ON A QUESTION OF LAW IN MODIFYING THE DECISION OF THE CIVIL SERVICE COMMISSION DATED [APRIL 12, 2013] AND IN DENYING PETITIONERS' MOTION FOR RECONSIDERATION, BY DECLARING THAT RESPONDENT IS ONLY GUILTY OF SIMPLE NEGLIGENCE OF DUTY WITH A PENALTY OF SUSPENSION, INSTEAD OF GROSS NEGLIGENCE OF DUTY AND CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE, WHICH IS PUNISHABLE BY DISMISSAL FROM THE SERVICE WITH ALL ITS ACCESSORY PENALTIES.¹⁶

In G.R. No. 224656, petitioner Catacutan assigns the following errors:

I.

THE HONORABLE COURT *A QUO* COMMITTED REVERSIBLE ERROR OF LAW IN RULING THAT PETITIONER IS GUILTY OF SIMPLE NEGLIGENCE OF DUTY DESPITE THE FACT THAT THE HONORABLE COURT *A QUO* ITSELF APTLY FOUND OUT THAT PETITIONER PERFORMED HIS DUTY AS BARCODER OF THE DMS SECTION OF THE OSG UP TO ITS VERY LETTERS.

II.

THE HONORABLE COURT *A QUO* COMMITTED REVERSIBLE ERROR OF LAW IN RULING THAT IT IS THE DUTY OF PETITIONER TO ASCERTAIN THE URGENCY OF EACH AND EVERY DOCUMENT THAT PETITIONER RECEIVES FROM THE MAIL SORTER/CLASSIFIER DESPITE THE FACT THAT ASCERTAINING THE URGENCY OF THE DOCUMENT IS THE SOLE DUTY OF THE MAIL SORTER AND NOT THAT OF PETITIONER, AS CLEARLY STATED IN PETITIONER'S JOB DESCRIPTION MANUAL.¹⁷

The Court's Ruling

The Court finds no merit in both petitions.

¹⁵ Resolution dated April 22, 2016, *supra* note 2.

¹⁶ *Rollo* (G.R. No. 224651), p. 17.

¹⁷ *Rollo* (G.R. No. 224656), pp. 31-32.

In administrative proceedings for the enforcement of disciplinary sanctions on erring public servants, the quantum of evidence necessary to justify an affirmative finding is mere substantial evidence.¹⁸ Yet when the Court is invited to pass judgment on issues in a petition for review, it is not bound to try the facts anew and, instead, will only pore over the pertinent records to determine whether the findings below have substantial basis in evidence. However, we are impelled to address a crucial matter ahead of the main issues propounded by herein petitioners in G.R. No. 224651.

It is notable that the CSC and the OSG are now, for the first time, putting forth an argument that has not been principally addressed in the proceedings below. In their Petition in G.R. No. 224651, as well as in their Comment in G.R. No. 224656, they allege Catacutan to have deliberately and intentionally concealed the subject document for reasons supposedly known only to him which, thus, negates the finding that his omission and failure to inform Gutierrez and A/S Covarrubias of the arrival of the trial court order was a mere oversight.¹⁹ They add that the deliberate concealment of the document is not only the gist of gross neglect of duty, but is also the basis to hold Catacutan liable for conduct prejudicial to the best interest of the service.²⁰ They insist that Catacutan may not evade liability for either offense by theoretically assuming the job of a mere bar coder and, in effect, put to naught his promotion to his current post when the ranks within the OSG was recently professionalized by law.²¹

We decline to give due course to this issue because, *first*, the allegation pertains to an infraction different from the violations for which Catacutan has been cited and to which he has been able to offer counter-evidence earlier in the proceedings. *Second*, the Court is bound by the fundamental rule that precludes higher courts from entertaining matters neither alleged in the pleadings nor raised in the proceedings below, but ventilated for the first time only in a motion for reconsideration or on appeal. Indeed, when a party deliberately adopts a certain theory and the case is decided upon that theory in the tribunal below, he or she will not be permitted to change the same on appeal lest it cause unfairness to the adverse party.²²

In other words, a judgment that goes beyond the issues and purports to adjudicate something on which the court did not hear the parties, is not only irregular, but also extrajudicial and invalid. This is based on the fundamental tenets of fair play.²³ An exception to this rule is viable only when the change in theory will not require the presentation of additional evidence on both

¹⁸ See *Rodriguez-Angat v. Government Service and Insurance System*, 765 Phil. 213, 228 (2015).

¹⁹ *Rollo* (G.R. No. 224651), pp. 17-22; *rollo* (G.R. No. 224656), pp. 317-318.

²⁰ *Rollo* (G.R. No. 224651), p. 17.

²¹ *Id.* at 304-308.

²² *Maxicare PCIB CIGNA Healthcare v. Contreras*, 702 Phil. 688, 696-697 (2013); and *Bote v. Spouses Veloso*, 700 Phil. 78, 88 (2012), citing *Carantes v. Court of Appeals*, 167 Phil. 232, 240 (1977).

²³ *Bote v. Spouses Veloso*, *id.*, citing *Mon v. Court of Appeals*, 471 Phil. 65, 73-74 (2004).

sides.²⁴ In which case, the Court will not hesitate to declare Catacutan guilty of another offense if and when the records disclose a substantial justification therefor.

However, we find no substantial proof to support the hypothesis that Catacutan did conceal the copy of the subject trial court order deliberately and intentionally as belatedly alleged by the OSG and the CSC. It is a conclusion or inference made by the OSG and the CSC based only on the contents of Gutierrez's affidavit filed before the OSG Administrative Disciplinary Committee at the inception of these proceedings.

The said affidavit materially states that Catacutan received the trial court order on July 9, 2010, attached a bar code to it and immediately placed it in a box "intended for the purpose"; that Catacutan failed to inform Gutierrez of its existence as required by regular office procedures; that when Gutierrez came across the document on August 5, 2010, he immediately scanned the same as part of his job, but noticed that the 15-day period to file an appeal had already lapsed; and that the following day, he called Catacutan's attention to it, but the latter claimed that he did not notice the urgent nature of the document on account of the volume of documents he needed to bar code on the day it arrived.²⁵

A fleeting look at this piece of evidence reveals no express and categorical imputation of deliberateness and intentionality of concealment on the part of Catacutan. Neither has this allegation been raised in the formal complaint nor put forth in the proceedings below. Yet to our mind, what can be inferred from Gutierrez's statement, as well as from the circumstances surrounding the incident, is that Catacutan has been negligent in the performance of his duties.

The gravity of negligence or the character of neglect in the performance of duty is certainly a matter of evidence and will direct the proper sanction to be imposed. On one hand, gross neglect of duty is understood as the failure to give proper attention to a required task or to discharge a duty, characterized by want of even the slightest care, or by conscious indifference to the consequences insofar as other persons may be affected, or by flagrant and palpable breach of duty.²⁶ It is the omission of that care which even inattentive and thoughtless men never fail to give to their own property. In cases involving public officials, there is gross negligence when a breach of duty is flagrant and palpable. Under the law, this offense warrants the supreme penalty of dismissal from service.²⁷ Simple neglect of duty, on the other hand, is characterized by failure of an employee or official to give proper attention to a task expected of him or her,

²⁴ *Canlas v. Tabil*, 616 Phil. 915, 923 (2009).

²⁵ *Supra* note 7.

²⁶ *Office of the Court Administrator v. Umblas*, A.M No. P-09-2649, August 1, 2017, 833 SCRA 502, 511; and *Civil Service Commission v. Rabang*, 572 Phil. 316, 322-323 (2008), citing *Golangco v. Atty. Fung*, 535 Phil. 331, 341 (2006).

²⁷ *Civil Service Commission v. Rabang*, *id.* at 323, citing *Golangco v. Fung*, *id.*

signifying a disregard of a duty resulting from carelessness or indifference.²⁸ This warrants the penalty of mere suspension from office without pay.

We agree with the CA that the records substantially support the finding that Catacutan's omission was only by mere inadvertence, and that he is, therefore, liable only for simple neglect of duty. We do not subscribe, however, to the appellate court's premise that it was also Catacutan's prime duty to ascertain the nature of the subject trial court order and to inform the scanner and the assigned solicitor of the arrival thereof. This, because the said duties respectively belong in the first instance to the assigned sorter and the assigned scanner.

The statements contained in the affidavits of Gutierrez and Catacutan, taken together with the latter's Job Description Manual,²⁹ provide a seamless outline of the manner by which incoming and inbound documents are processed and routed within the OSG organization. At the front line is the mail sorter who receives all mail matters and classifies them into either "Ordinary" or "Rush." In organizational parlance, a document marked "Rush" is one requiring immediate and urgent attention and treatment. By institutionalized practice at the OSG, the likes of the subject trial court order are considered as such and are treated with utmost urgency. After having been marked, the documents are turned over to Catacutan who affixes the bar code and transmits the same to Gutierrez for scanning – *i.e.*, creation of a digital copy – and for further routing to the various departments within the organization so that they could be properly acted upon.

Contrary to the preliminary finding of the OSG, Catacutan's record of official activities reveals that the subject trial court order was received by the DMS on July 5, 2010³⁰ on which he affixed a bar code not on August 5, 2010, but, rather, on July 9, 2010 at 10:53 a.m.³¹ for further transmittal to "Lorenzo M. Tañada Div., Jose III Covarrubias." It was then scanned by Gutierrez on August 5, 2010 at 3:16 p.m.³²

Although containing important communication affecting the appellate process, the subject trial court order does not bear the word "Rush" on its face to signify its urgent nature and priority.³³ In the established process flow of incoming and inbound documents at the DMS, this is certainly a

²⁸ *Office of the Ombudsman v. PS/Supt. Espina*, 807 Phil. 529, 543 (2017); *Office of the Ombudsman v. De Leon*, 705 Phil. 26, 38 (2013), citing *Republic v. Canastillo*, 551 Phil. 987, 996 (2007).

²⁹ *Rollo* (G.R. No. 224656), p. 266. Catacutan's Job Description Manual enumerates his duties as follows:

1. Receives classified inbound documents from receiving clerk and mail sorters;
2. Matches the inbound document with the E-CMT and CMT databases;
3. Prints and attaches [bar code] stickers to inbound documents;
4. Refers unmatched documents to the Investigative Officer of the appropriate section for verification;
5. Transmits matched documents to the Encoder of the appropriate section; [and]
6. Performs such other duties as may be assigned from time to time.

³⁰ *Id.* at 50.

³¹ Bar Code 10-047742-0006, *id.* at 53.

³² *Id.*

³³ *Id.* at 49.

loophole principally attributable to the mail sorter³⁴ who is primarily expected to determine the nature and character thereof. This might lend credence to Catacutan's claim that he merely relied on the lack of a "Rush" mark on the document which is why he was impelled to treat it as an ordinary document as he did – bar coding the same only four days from the supposed sorting and only after he has processed all urgent documents that were received by the DMS that day.³⁵ Thus, he bids for complete exoneration and advocates the notion that he could not be expected to determine the importance of the subject trial court order because he has not been trained to read and understand the content of documents of that kind. We find this claim to be incredible.

Catacutan has been in service at the OSG Docket Division for 17 long years. He started his career in 1994 as Records Officer, and was later promoted to Stenographic Reporter I. He was promoted to Stenographic Reporter II when the Docket Division installed the computerized docket management system.³⁶ As Stenographic Reporter II, his task already included receiving and segregating documents from the Docket Receiving Section and the Administrative Division, particularly in the special proceedings section pertaining to marital annulment and nullity cases. Thus, at one point in his career, he has assumed the duties of the mail sorter. He was likewise engaged in finding and encoding documents and pleadings pertaining to old and current cases for referral to the handling division, and in recording pleadings and documents in the distribution books for routing to the appropriate divisions.

Catacutan has been greatly immersed in the said tasks since the year 2000, initially performing satisfactorily with an equivalent point score of 7 according to his performance evaluation form.³⁷ Needless to say, meritorious promotions in government service precede exemplary performance. Thus, when he was appointed in 2008 to his current permanent post as Administrative Officer V, it is by no other reason than by his meritorious performance – considering that it was a remarkable movement of nine salary grades from a clerical position to a supervisory post requiring a bachelor's degree and a second-level eligibility.³⁸

In this light, it is difficult to ascribe credibility to Catacutan's self-serving claim that he could not be expected to assess the nature of the subject trial court order immediately when he processed the same for bar coding. That the one-page document consists only of roughly 30 words, with the heading that identifies it to be an order emanating from the court, certainly militates against his proffered ignorance especially considering that it is of the same character or similar to documents he has been processing in

³⁴ A certain Edsel Camazo, *rollo* (G.R. No. 224651), p. 71; also referred to as "Edsel/Edcel Camazo/Camazo" in some parts of the *rollo*.

³⁵ See also Answer and Supplemental Answer, *rollo* (G.R. No. 224656), pp. 134-139.

³⁶ *Rollo* (G.R. No. 224651), pp. 178-179.

³⁷ Performance Evaluation Form, *id.* at 252.

³⁸ *Id.* at 178.

all his years of service. Indeed, even on its face and without the practical marking that would have otherwise put him on notice of its urgency, he may, even at a cursory glance, instantaneously determine the document's inherent value to the institution that he serves. As Administrative Officer V occupying a supervisory position, he does not perform mere mechanical tasks and, hence, is reasonably expected to be more prudent in the discharge of his functions as far as to the extent of performing a check on the work processes of the mail sorter before him. Regrettably, that did not happen in this case.

In sum, the Court finds that the character of negligence hereby attributed to Catacutan falls short of being gross to otherwise warrant the supreme penalty of dismissal from the service. The CA aptly found that Catacutan's neglect was neither so odious and brazen, nor willful and intentional, as to demonstrate a conscious indifference to the consequences of his omission.³⁹ Indeed, we find that the simple neglect of duty for which he is hereby sanctioned consists in his failure to give proper attention to the task required of him, impressing upon this Court that at the time of the incident he was performing his duty carelessly.

Finally, we find basis in holding Catacutan likewise liable for conduct prejudicial to the best interest of the service.

Conduct prejudicial to the best interest of the service is not defined by the Civil Service Law and its rules, but is so inclusive as to put within its ambit any conduct of a public officer that tarnishes the image and integrity of his public office.⁴⁰

The OSG, an independent and autonomous body attached to the Department of Justice, acts as the government's chief counsel. Its central function is to represent the government in all criminal proceedings before the Court and the CA, as well as in civil actions and special proceedings in which the state must intervene as a matter of public policy or for the protection of the general welfare.⁴¹ Annulment and nullity of marriage are among such actions in which the state, through the OSG, takes part. In this light, it is not difficult to see that the simple negligence herein ascribed to Catacutan, as an institutional officer, has caused the state to lose its right to appeal the subject annulment order, thereby frustrating its constitutional mandate to protect the fundamental sanctity of the marital institution – a consequence too great to be countenanced and overlooked.

Indeed, conduct prejudicial to the best interest of the service is not inconsistent with a finding of negligence, because the underlying act may or may not be characterized by corruption or a willful intent to violate the law,

³⁹ *Rollo* (G.R. No. 224656), pp. 13-14.

⁴⁰ *Cruz v. Pandacan Hiker's Club, Inc.*, 776 Phil. 336, 344 (2016).

⁴¹ ADMINISTRATIVE CODE (1987), Book IV, Title III, Chapter 12.

or to disregard established rules.⁴² *Catipon v. Japson*⁴³ provides a resumé of acts held to constitute this administrative offense:

[T]he following acts or omissions have been treated as [conduct prejudicial to the best interest of the service]: misappropriation of public funds; abandonment of office; failure to report back to work without prior notice; failure to safe keep public records and property; making false entries in public documents; falsification of court orders; a judge's act of brandishing a gun, and threatening the complainants during a traffic altercation; a court interpreter's participation in the execution of a document conveying complainant's property which resulted in a quarrel in the latter's family; selling fake Unified Vehicular Volume Program exemption cards to his officemates during office hours; a CA employee's forging of receipts to avoid her private contractual obligations; a Government Service Insurance System (GSIS) employee's act of repeatedly changing his IP address, which caused network problems within his office and allowed him to gain access to the entire GSIS network, thus putting the system in a vulnerable state of security; a public prosecutor's act of signing a motion to dismiss that was not prepared by him, but by a judge; and a teacher's act of directly selling a book to her students in violation of the Code of Ethics for Professional Teachers.

Catacutan's carelessness and negligence in the performance of his duties as Administrative Officer V at the OSG, resulting in the forfeiture of the state's right to appeal from an annulment decree, could also well be placed in the above roster of acts amounting to conduct prejudicial to the best interest of the service.

Under Section 55⁴⁴ of CSC Memorandum Circular No. 19, Series of 1999 which governs the instant administrative proceedings, the penalty to be meted out to Catacutan should be that corresponding to the most serious charge and the rest will be treated as merely aggravating circumstances. Simple neglect of duty is a less grave offense punishable by suspension of one month and one day to six months; whereas conduct prejudicial to the best interest of the service, a grave offense, is punishable by suspension of six months and one day to one year. In either case, a second offense shall warrant dismissal from service.⁴⁵ Hence, in view of the lack of mitigating and aggravating circumstances properly pleaded and proved, Catacutan should be imposed the penalty of suspension from service for eight months, taking into account the offense of simple neglect of duty as an aggravating circumstance.

⁴² *Catipon v. Japson*, 761 Phil. 205, 222 (2015).

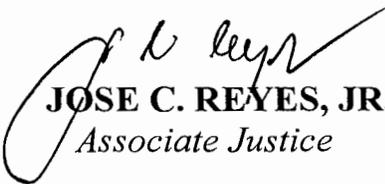
⁴³ *Id.* at 221-222.

⁴⁴ Section 55. *Penalty for the most serious offense.* If the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge or count, and the rest shall be considered as aggravating circumstances.

⁴⁵ CSC Memorandum Circular No. 19 (1999), Section 52.

WHEREFORE, the Petitions in G.R. No. 224651 and in G.R. No. 224656 are **DENIED**. The July 31, 2015 Decision and the April 22, 2016 Resolution of the Court of Appeals-Cebu City in CA-G.R. CEB-SP No. 07624, finding Edgar B. Catacutan, Administrative Officer V at the Office of the Solicitor General, guilty only of Simple Neglect of Duty, is **MODIFIED** to include Conduct Prejudicial to the Best Interest of the Service. Accordingly, he is hereby meted the penalty of eight (8) months suspension from office for said offenses.

SO ORDERED.



JOSE C. REYES, JR.
Associate Justice

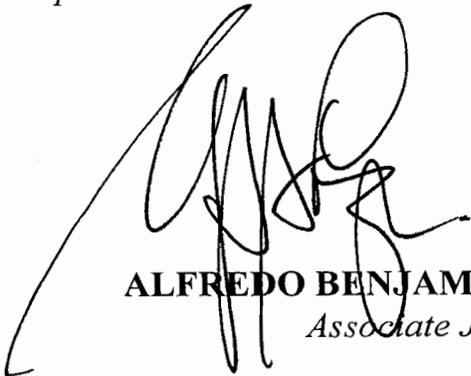
WE CONCUR:



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



ESTELA M. BERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



AMY C. LAZARO-JAVIER
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.



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division 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.



LUCAS P. BERSAMIN
Chief Justice