



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ROSA C. GONZALBO-
MACATANGAY,

Petitioner,

G.R. No. 239995

Present:

GESMUNDO, C.J.,
Chairperson,
HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

- versus -

HONORABLE CIVIL SERVICE
COMMISSION,

Respondent.

Promulgated:

JUN 15 2022

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DECISION

HERNANDO, J.:

This Petition for Review on *Certiorari*¹ assails the August 10, 2017 Decision² and the May 9, 2018 Resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 142681, which affirmed the Decision No. 150001 dated January 5, 2015⁴ and the Resolution No. 1501179 dated September 28, 2015⁵ of respondent Civil Service Commission (CSC), Central Office, which in turn affirmed the Decision No. 140195 dated June 19, 2014⁶ of the CSC National Capital Region (CSC-NCR) that dismissed petitioner Rosa C. Gonzalbo-

¹ *Rollo*, pp. 9-21.

² *Id.* at 22-28. Penned by Associate Justice Jhosep Y. Lopez (now a Member of this Court), and concurred in by Associate Justices Ramon M. Bato, Jr. and Samuel H. Gaerlan (now a Member of this Court).

³ *Id.* at 29-31.

⁴ *Id.* at 32-36. Penned by Commissioner Nieves L. Osorio, and concurred in by Chairperson Francisco T. Duque III and Commissioner Robert S. Martinez.

⁵ *CA rollo*, pp. 143-146. Penned by Commissioner Robert S. Martinez, and concurred in by Commissioner Nieves L. Osorio.

⁶ *Rollo*, 37-39. Penned by Director IV Lydia Alba-Castillo.

Macatangay from service for being found guilty of the administrative offense of Conviction of a Crime Involving Moral Turpitude.

The Factual Antecedents

Petitioner held the position of Secretary in the Passport Division of the Department of Foreign Affairs (DFA).⁷

On September 5, 2002, Marites L. Calivara (Marites) filed a complaint-affidavit before the CSC alleging that during the existence of Marites' marriage with Modesto Macatangay, Jr. (Modesto), Modesto contracted a second marriage with petitioner on February 3, 1997.⁸ This prompted Marites to file a criminal case for Bigamy before the Regional Trial Court (RTC) of Lucena City.⁹

Upon arraignment, petitioner and Modesto pleaded guilty, resulting to their conviction for the crime of Bigamy.¹⁰ The RTC Decision became final and executory on October 8, 2002.¹¹

In her counter-affidavit, petitioner alleged that: (a) Modesto introduced the idea of marriage when she became pregnant with his child; (b) she has no knowledge of Modesto's previous existing marriage when she agreed to marry him; (c) she eventually learned about Modesto's previous existing marriage with Marites sometime in April 1996; (d) she became uncertain about her child, which drove her to marry Modesto on February 3, 1997—her lawyer friend, however, advised her that her marriage to Modesto is illegal; (e) on September 27, 1999, the Regional Trial Court (RTC), Makati City rendered a decision in a civil case declaring petitioner and Modesto's marriage void; and, (f) on August 16, 1999, Modesto filed before the RTC, Labo, Camarines Norte a petition for declaration of nullity of his marriage with Marites.¹²

The CSC-NCR, through a Formal Charge,¹³ indicted petitioner for the administrative offense of Conviction of a Crime Involving Moral Turpitude.

Petitioner added that in July 29, 2004, the RTC, Labo, Camarines Norte rendered a decision declaring Marites and Modesto's marriage null and void.¹⁴ Subsequently, on September 4, 2004, petitioner and Modesto contracted

⁷ Id. at 22.

⁸ Id. at 22-23.

⁹ Id. at 23.

¹⁰ Id. at 23, 33.

¹¹ Id. at 23.

¹² Id. at 33-34.

¹³ Id. at 46-47.

¹⁴ Id. at 34.

marriage in Tokyo, Japan.¹⁵ Petitioner also claimed that the complaint violates the prohibition against multiplicity of suits and the doctrine of *res judicata*.¹⁶

Ruling of the CSC-NCR

In its June 19, 2014 Decision,¹⁷ the CSC-NCR found petitioner guilty of the administrative offense of Conviction of a Crime Involving Moral Turpitude; she is meted the penalty of dismissal from service, along with the imposable accessory penalties. It is well-settled that the crime of Bigamy involves moral turpitude.¹⁸ Having been convicted thereof pursuant to her plea of guilt and the trial court's decision, there is no doubt that administrative liability attaches.¹⁹

The dispositive portion of the decision reads:

WHEREFORE, Rosa C. Gonzalbo is hereby found **GUILTY** of the administrative offense of Conviction of a Crime Involving Moral Turpitude, and is meted the penalty of **DISMISSAL** from the service. The accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and bar from taking civil service examinations are likewise imposed.

x x x x²⁰

Aggrieved, petitioner elevated the case to the CSC Proper by filing a motion for reconsideration that was treated as a petition for review.²¹

Ruling of the CSC Proper

In its January 5, 2015 Decision,²² the CSC Proper affirmed the ruling of the CSC-NCR. It added that petitioner's invocation of the length of her service for 20 years and outstanding performance is unavailing—the administrative offense of Conviction of a Crime Involving Moral Turpitude is punishable with dismissal from service, an indivisible penalty which is not susceptible of mitigation.²³

¹⁵ Id.

¹⁶ Id.

¹⁷ Id. at 37-39.

¹⁸ Id. at 38.

¹⁹ Id.

²⁰ Id. at 38-39.

²¹ Id. at 24.

²² Id. at 32-36.

²³ Id. at 36.

Petitioner moved for reconsideration, but it was denied by the CSC Proper in its September 28, 2015 Resolution.²⁴ Thus, petitioner filed a petition for review before the CA.

Ruling of the Court of Appeals

In its August 10, 2017 Decision,²⁵ the CA affirmed the ruling of the CSC. Indeed, the Rules Implementing the Administrative Code of 1987 and the Revised Rules on Administrative Cases in Civil Service allow the application of mitigating, aggravating, or alternative circumstances in the imposition of proper penalties.²⁶ However, the appellate court held that the mitigating circumstances raised by petitioner cannot be considered because her offense is considered a grave offense, where the imposable penalty is dismissal from service upon first commission.²⁷

Petitioner moved for reconsideration but it was denied by the CA in its May 9, 2018 Resolution.²⁸ Hence, this Petition before this Court.

The Petition

Petitioner argues that the CA erred in not considering the mitigating circumstances present in her case.²⁹ Even if the penalty of dismissal is indivisible, the mitigating circumstances should have been considered, such that suspension may have been determined as the proper penalty.³⁰ She also cites cases where this Court imposed a lighter penalty on government employees who were found guilty of committing administrative offenses punishable with dismissal from service.³¹ In those cases, the government employees raised the circumstances of first offense and length of service.³² Petitioner also posits that it was not her fault and that she was a victim herself.³³ She had no criminal intent in marrying Modesto—everything was done for the welfare of her child.³⁴

²⁴ CA *rollo*, pp. 143-146.

²⁵ *Rollo*, pp. 22-28.

²⁶ *Id.* at 26.

²⁷ *Id.* at 26-27.

²⁸ *Id.* at 29-31.

²⁹ *Id.* at 12-17.

³⁰ *Id.* at 13.

³¹ *Id.* at 13-16.

³² *Id.*

³³ *Id.* at 15-16.

³⁴ *Id.* at 15.

Also, she was an outstanding employee during her time with the DFA.³⁵ Petitioner also claims that her right to speedy disposition of cases was violated because the case was pending in the CSC for more than a decade.³⁶

The CSC (through the Office of the Solicitor General), in its Comment,³⁷ argues that it did not err in not applying the mitigating circumstances in penalizing petitioner. The penalty of dismissal is indivisible; thus, it cannot be lowered by mitigating circumstances.³⁸ The CSC also cannot graduate the penalties under its rules and apply a lesser penalty here.³⁹ The circumstances of length of service and first offense cannot be considered on serious offenses such as in the instant case.⁴⁰ The same goes for outstanding performance as all civil servants are expected of such.⁴¹ The CSC also insists that petitioner had knowledge of Modesto's existing marriage; she never even raised good faith and lack of criminal intent as a defense in the criminal case.⁴² Notwithstanding petitioner's plea for leniency, the fact that she was convicted by the trial court stays.⁴³

Petitioner filed a Reply,⁴⁴ and reiterated the arguments in her Petition.

Issue

The issue boils down to whether the imposition of the penalty of dismissal is proper.

Our Ruling

The Petition is not meritorious. The Court affirms the CA ruling; the imposition of the penalty of dismissal from service is proper.

At the outset, the Court notes that petitioner does not contest that: she is guilty of the administrative offense of Conviction of a Crime Involving Moral Turpitude; and that the crime of Bigamy, which she was convicted of in a criminal case before the trial court, is a crime involving moral turpitude. What she assails is the CSC's imposition of the penalty of dismissal from service upon the finding of her administrative guilt.

³⁵ Id. at 16.

³⁶ Id. at 12.

³⁷ Id. at 57-70.

³⁸ Id. at 62.

³⁹ Id. at 62-63.

⁴⁰ Id. at 64.

⁴¹ Id.

⁴² Id. at 64-65.

⁴³ Id. at 65.

⁴⁴ Id. at 75-82.

Considering that the administrative case against petitioner was initiated on July 1, 2003,⁴⁵ the applicable rules would be CSC Resolution No. 991936, or the Uniform Rules on Administrative Cases in the Civil Service⁴⁶ (URACCS), which was enacted in 1999.

The URACCS provide that the administrative offense of Conviction of a Crime Involving Moral Turpitude is a grave offense that is punishable with dismissal from service upon first commission.⁴⁷ The Rules further provide that aggravating, mitigating, and alternative circumstances attendant to the offense may be appreciated in determining the penalties to be imposed:⁴⁸

SECTION 53. *Extenuating, Mitigating, Aggravating, or Alternative Circumstances.* — In the determination of the penalties to be imposed, mitigating, aggravating and alternative circumstances attendant to the commission of the offense shall be considered.

The following circumstances shall be appreciated:

- a. Physical illness
- b. Good faith
- c. Taking undue advantage of official position
- d. Taking undue advantage of subordinate
- e. Undue disclosure of confidential information
- f. Use of government property in the commission of the offense
- g. Habituality
- h. Offense is committed during office hours and within the premises of the office or building
- i. Employment of fraudulent means to commit or conceal the offense
- j. Length of service in the government
- k. Education, or
- l. Other analogous circumstances

Nevertheless, in the appreciation thereof, the same must be invoked or pleaded by the proper party, otherwise, said circumstances shall not be considered in the imposition of the proper penalty. The Commission, however, in the interest of substantial justice may take and consider these circumstances.

In the case of *Bangko Sentral ng Pilipinas v. Bool*⁴⁹ (BSP), the Court clarified that nowhere in the URACCS and the Revised Rules on Administrative Cases in the Civil Service⁵⁰ state that mitigating, aggravating, or alternative

⁴⁵ See Formal Charge (*rollo*, pp. 46-47).

⁴⁶ CSC Resolution No. 991936, Uniform Rules on Administrative Cases in the Civil Service (1999). These Rules were amended by: (a) CSC Resolution No. 1101502 (Revised Rules on Administrative Cases in the Civil Service), which took effect in 2011; and, (b) CSC Resolution No. 1701077 (2017 Rules on Administrative Cases in the Civil Service), which took effect in 2017.

⁴⁷ Id. Sec. 52, Rule IV.

⁴⁸ Id. Sec. 53, Rule IV.

⁴⁹ G.R. No. 207522, April 28, 2021.

⁵⁰ CSC Resolution No. 1101502, Revised Rules on Administrative Cases in the Civil Service (2011).

circumstances should not be considered when the prescribed penalty for the administrative offense is an indivisible penalty such as dismissal from service.⁵¹ Citing the case of *Duque III v. Veloso*,⁵² the Court further ruled in *BSP* that modifying circumstances can also be applied to “indivisible penalties, such as dismissal, as long as there is clear proof, under specific legal and jurisprudential standards, that the facts of the case justify the mitigated, aggravated, or alternated penalty.”⁵³

Thus, the Court agrees with petitioner that mitigating circumstances may be appreciated in her case. The question now is whether those mitigating circumstances she invokes (*i.e.*, length of service, first commission, and outstanding performance) can rightly be applied.

The Court rules in the negative. The CA is correct in not appreciating the mitigating circumstances petitioner invokes. The facts of the instant case do not justify the mitigation of the prescribed penalty.

Case law provides that length of service is an alternative circumstance that can either be mitigating or aggravating, depending on the facts of the case.⁵⁴ It is not a “magic word” that will automatically be considered as mitigating when invoked.⁵⁵ It also cannot be considered as a mitigating circumstance when the offense committed is found to be serious.⁵⁶

The Court affirms that petitioner’s length of service cannot be applied as a mitigating circumstance. The administrative offense of Conviction of a Crime Involving Moral Turpitude is a grave offense, punishable by dismissal from service.⁵⁷ Bigamy cannot be taken lightly as its commission reflects the person’s character.⁵⁸ It involves moral turpitude as settled in jurisprudence.⁵⁹ Petitioner flagrantly disregarded the law in marrying Modesto despite her knowledge of his prior and existing marriage; as the appellate court aptly observed, this “shows her moral depravity and cast[s] serious doubt on her fitness and integrity to continue in the public service.”⁶⁰ This is not reflective of what a public servant should be. It is expected that a public servant shall at all times exhibit the highest sense of discipline and integrity not only in the performance of

⁵¹ *Bangko Sentral ng Pilipinas v. Bool*, supra.

⁵² 688 Phil. 318 (2012).

⁵³ *Bangko Sentral ng Pilipinas v. Bool*, supra.

⁵⁴ *Id.*, citing *Civil Service Commission v. Cortez*, 474 Phil. 670, 686 (2004).

⁵⁵ *Id.*, citing *id.* at 685-686.

⁵⁶ *Id.*

⁵⁷ CSC Resolution No. 991936, Uniform Rules on Administrative Cases in the Civil Service (1999). Sec. 52. Rule IV.

⁵⁸ *Rollo*, p. 26.

⁵⁹ See *So v. Lee*, B.M. No. 3288, April 10, 2019.

⁶⁰ *Rollo*, p. 26.

duties, but also in the personal and private dealings with people.⁶¹ The CA is correct in holding that petitioner's length of service cannot outweigh her commission and conviction of Bigamy.

Petitioner's invocation of first offense and outstanding performance in service fails to convince. First, the URACCS clearly state that the offense of Conviction of a Crime Involving Moral Turpitude is punishable with dismissal from service upon first commission. The Court thus cannot consider this as the Rules are clear in stating that a first-time offender shall be dismissed from service. Second, first offense and outstanding performance are not provided in Section 53 of the URACCS as circumstances that may be appreciated. Her invocation of these has no basis under the Rules.

The Court notes that the cases⁶² cited by petitioner are not applicable to her case. Those cases do not involve Conviction of a Crime Involving Moral Turpitude. The public officers therein were convicted of Grave Misconduct or Simple Misconduct, which are different offenses from petitioner's charge. While the Court in those cases appreciated mitigating circumstances in not imposing the penalty of dismissal, mitigation of penalties is done on a case-by-case basis depending on the charge and on the factual circumstances.⁶³ Hence, it is not automatic that the penalty of dismissal will not be imposed just because the Court mitigated the penalty on a different case.

Finally, on petitioner's allegation that her right to speedy disposition of cases is violated, the Court finds that the requisites for its proper invocation as provided in *Cagang v. Sandiganbayan*⁶⁴ were not complied with. The right must be timely raised through the filing of an appropriate motion upon lapse of procedural periods.⁶⁵ Here, there is no showing that petitioner invoked the right earlier while the proceeding was still pending with the CSC. It might be the case that petitioner invoked the right for the first time before this Court, which is already too late.

Considering the foregoing, the imposition of the penalty of dismissal from service upon petitioner is proper.

WHEREFORE, the Petition is **DENIED**. The August 10, 2017 Decision and the May 9, 2018 Resolution of the Court of Appeals in CA-G.R. SP No. 142681 are **AFFIRMED**.

⁶¹ See *Rodil v. Posadas*, A.M. No. CA-20-36-P, August 3, 2021.

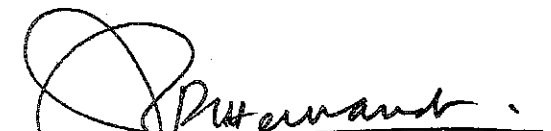
⁶² *Rollo*, pp. 13-16. The cases cited by petitioner are as follows: (a) *Civil Service Commission v. Belagan*, 483 Phil. 601 (2004), involving grave misconduct; (b) *Civil Service Commission v. Nierras*, 569 Phil. 37 (2008), involving simple misconduct through sexual harassment; and, (c) *Pat-og, Sr. v. Civil Service Commission*, 710 Phil. 501 (2013), involving grave misconduct.

⁶³ *Bangko Sentral ng Pilipinas v. Bool*, supra note 49.

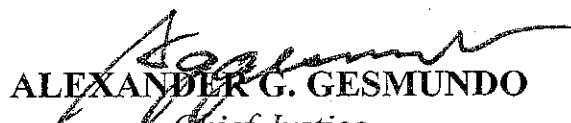
⁶⁴ 837 Phil. 815 (2018).


⁶⁵ *Id.* at 881-882.


SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson


RODIL V. ZALAMEDA
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

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


ALEXANDER G. GESMUNDO
Chief Justice