

MALACAÑANG
Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 54

IMPOSING UPON VELMA DALUPING, THEN BUREAU DIRECTOR OF THE DEFUNCT OFFICE FOR NORTHERN CULTURAL COMMUNITIES, THE PENALTIES OF CANCELLATION OF CIVIL SERVICE ELIGIBILITY, FORFEITURE OF LEAVE CREDITS AND RETIREMENT BENEFITS, IF ANY, AS WELL AS PERPETUAL DISQUALIFICATION FOR RE-EMPLOYMENT/REINSTATEMENT IN THE GOVERNMENT SERVICE, AS ACCESSORY PENALTIES TO DISMISSAL FROM THE SERVICE FOR A CAUSE.

This refers to the administrative case filed by the Civil Service Commission (CSC) against Velma Daluping, then Bureau Director of the defunct Office for Northern Cultural Communities (ONCC), for violation of Civil Service Law and Rules for impersonating a certain Virginia A. Kidang during the Civil Service Career Professional Examination. For want of jurisdiction on the person of respondent, who is a presidential appointee, the case was referred by the CSC to the Presidential Anti-Graft Commission (PAGC).

The antecedent facts are as follows:

On January 4, 1994, the CSC, through its NCR Director, formally charged respondent, then an employee and later appointed as Director IV, Bureau of Cultural Affairs, of the ONCC, with dishonesty and grave misconduct for allegedly taking the CSC Professional Examination given on July 30, 1989 at Bo. Obrero Elementary School in Quezon City for Virginia Kidang, the supposed examinee. The CSC earlier found Kidang guilty of dishonesty and misconduct.

Instead of an answer, respondent filed on July 6, 1994 an omnibus motion to quash the formal charge and/or hold the investigation in abeyance. The said motion, on the other hand, was denied by the CSC in its Resolution No. 974583 dated December 11, 1997. The motion for reconsideration was similarly denied in Resolution No. 981966 dated July 20, 1998. Undaunted, respondent elevated the case to the Court of Appeals (CA) by way of petition for review, *inter alia* contending that the CSC has not acquired disciplinary jurisdiction to commence and hear the case.

In the meantime, the CSC proceeded with its investigation sans the presence of respondent, who failed to appear despite due notice. On October 19, 2000, the CSC issued an order finding respondent guilty of dishonesty and grave

misconduct and meted upon her the penalty of dismissal from the service with all its accessory penalties. The CSC ruled as follows:

“A careful comparison shows that the person whose picture was attached to the Personal Data Sheet of Virginia A. Kidang and the person’s picture appearing in the Picture Seat Plan used in the Civil Service Career Professional Examination on July 30, 1989 at Bo. Obrero Elementary School are different individual. Kidang, whose picture was attached to the PDS has long and rectangular face and her cheekbone are quite prominent, whereas the face of the person whose picture was attached to the PSP is round and the cheekbones not distinguished. Moreover, the Commission has already ruled in CSC Resolution No. 842294 dated April 20, 1994 that it was not Kidang who took the examination. In Resolution No. 942294, the Commission found Kidang guilty of the charge of Dishonesty and Grave Misconduct for letting another person take the examination on her behalf. Hence, the main issue to be resolved in the instant case is to determine who took the examination.

A careful examination shows that the person whose picture was attached to the Picture Seat Plan (Exhibit A) is not Kidang but Velma Daluping. This is evidenced by the picture attached to the Personal Data Sheet (Exhibit D) of Velma C. Daluping. Undoubtedly, the person who took the examination for Kidang and the person who filled up the Personal Data Sheet are one and the same since the person in the picture in the PDS of Daluping is exactly the same person in the picture pasted on the PSP. Thus, from the evidence submitted, it is indubitable that it was Daluping who took the examination on behalf of Kidang.”

On April 30, 2001, the CA set aside CSC Resolution Nos. 981966 and 974583 for want of jurisdiction. It ruled that the CSC could not initiate administrative proceedings against respondent who is a presidential appointee. On the basis thereof, the CSC forwarded the records of the case to the PAGC.

A notice of hearing was served upon the respondent but the same was returned by the PAGC Serving Officer because the former has transferred to another place somewhere in the Visayas upon learning that she has a pending charge before the PAGC. On the other hand, the CSC did not appear on the scheduled hearing of the case. As a result, the PAGC resolved the case based on the records submitted by the CSC.

Quoted hereunder are the findings of the PAGC, as recited in its resolution dated May 24, 2002, *to wit*:

“Thus the issue is: Whether or not the evidence on record constitutes substantial evidence to hold the respondent liable under Section 4 (c) of Republic Act No. 6713 otherwise known as Code of Conduct and Ethical Standards for Public Officials and Employees?

Section 4 (c) of Republic Act No. 6713 states:

‘(c) Justness and sincerity. – Public officials and employees shall remain true to the people at all times. They must act with justness and sincerity x x x. They shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs public policy, public order, public safety and public interest x x x.’ (emphasis supplied)

As defined by Section 5, Rule 133 of the Rules of Court substantial evidence is ‘that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion’.

The records of this case clearly establish through testimonial and documentary evidence that Velma C. Daluping impersonated Virginia A. Kidang when the former took the Civil Service Career professional Examination in the latter’s stead on 30 July 1989 at Room 17, Bo. Obrero Elementary School, Manila. Such act is contrary to law (CSC Law and Rules, Article 178 of the Revised Penal Code), good morals, good customs, public policy and public interest.

Granting that the Civil Service Commission does not have disciplinary jurisdiction over respondent Velma C. Daluping, it is a natural reaction of an innocent individual to present evidence to support his or her claim of innocence in any investigation. In addition, an innocent individual faces any investigation steadfastly. As a saying goes. ‘(t)he innocent is as bold as a lion, while the guilty flees even if no one pursues him’.

Hence, this Commission finds substantial evidence to hold respondent Velma C. Daluping liable for the violation of Republic

Act No. 6713, Section 4, paragraph (c). For the penalty to be meted out, Section 11 of Republic Act No. 6713 provides:

'(a) Any public official or employee, regardless of whether or not he holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine not exceeding the equivalent of six (6) months' salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency.' (emphasis supplied)

The gravity of the offense committed by respondent Daluping deserves the penalty of removal from public office to enable the government to get rid of an unfit public employee.'

Based on the foregoing, the PAGC recommended the dismissal of respondent from the service with all its accessory penalties.

After careful review of the records of this case, this Office affirms *in toto* the findings of the PAGC.

From the records, it is clear that respondent impersonated Kidang during the Civil Service Career Professional Examination held last July 30, 1989. Her picture appeared in the Picture Seat Plan used in the said examination. Moreover, Moreover, the CSC had already ruled in its Resolution No. 842294 dated April 20, 1994 that Kidang did not took the examination held on said date.

The ONCC was abolished under Republic Act No. 8371 and in its stead created the National Commission on Indigenous Peoples (NCIP). An inquiry with the NCIP revealed that respondent had availed herself of early retirement on February 4, 2001 and correspondingly received her retirement benefits. The question now is whether or not this Office can still impose the penalties recommended by the PAGC despite the retirement from the government service of respondent.

The case of respondent is nothing novel. This issue had already been resolved by this Office in Administrative Order No. 20 dated October 25, 2001 wherein former Immigration Commissioner Edgardo L. Mendoza, who was found guilty of misconduct, was meted the accessory penalties of cancellation of civil service eligibility, etc., despite having resigned from the government service to run for public office. We held:

“Although as a rule, the retirement or acceptance of resignation of a public official leaves nothing in the way of the dismissal of the administrative case filed against him, because an administrative proceeding is predicated on the holding of an office or position in the government (Diamalon vs. Quintillan, Adm. Case No. 116, Aug. 29, 1969, 29 SCRA 347), the better and more recent principle is that enunciated in the case of People vs. Valenzuela. (L-63950-60, April 15, 1985, 135 SCRA 712, citing Perez vs. Abiera, Adm. Case No. 223-J, June 11, 1975, 64 SCRA 302) herein below pertinently quoted:

‘It was not intent of the Court in the case of Quintillan to set down a hard and fast rule that the resignation or retirement of a respondent judge as the case may be renders moot and academic the administrative case pending against him; nor did the Court mean to divest itself of jurisdiction to impose certain penalties short of dismissal from the government service should there be a finding of guilt on the basis of evidence. In other words, the jurisdiction that was Ours at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased to be in office during the pendency of his case. The Court retains its jurisdiction either to pronounce the respondent official innocent of the charges or declare him guilty thereof. A contrary rule would be fraught with injustices and pregnant with dreadful and dangerous implications. For what remedy would the people have against a judge or any other public official who resorts to wrongful and illegal conduct and unscrupulous magistrate from committing abuses and other condemnable acts knowing fully well that he would soon be beyond the pale of the law and immune to all administrative penalties? If only for reasons of public policy, this Court must assert and maintain its jurisdiction over members of the judiciary and other officials under its supervision and control for acts performed in office which are inimical to the service and prejudicial to the interests of litigants and the general public. If innocent. Respondent official merits vindication of his name and integrity as he

leaves the government which he served well and faithfully; if guilty, he deserves to receive the corresponding censure and penalty proper and imposable under the situation.'

In the case at bar, respondent's resignation was accepted in the thick of the administrative investigation of the case against him, which certainly did not divest the PCAGC of jurisdiction to decide the case on the merit, as in fact it found respondent guilty of the charge and recommended his dismissal from the service. Concededly, however, respondent's connection with the government having been cut off by virtue of his resignation, the imposition upon him of the penalty of dismissal from the service would be plain supererogation or vain superfluity.

Be that as it may, the government is not left without recourse against respondent who should be made to account for his transgression. And the remedy therefor is, as succinctly and trenchantly stated by the Secretary of Justice in his Opinion No. 30 dated February 17, 1978, to impose upon respondent, who was found guilty of the charge and recommended dismissed from the service, the penalties incident to dismissal for cause, whenever applicable, to wit: (1) cancellation of Civil Service eligibility; (2) forfeiture of leave credits; (3) forfeiture of retirement benefits; and (4) disqualification for reinstatement or re-employment.

From the foregoing, it is clear that the retirement of respondent from the government service is not a hindrance to impose the penalties recommended by the PAGC. However, the penalty imposed should be modified in that, instead of dismissal, respondent should suffer the accessory penalties to dismissal from the service. Under Section 58 of CSC Resolution No. 991936 dated August 31, 1999, the penalty of dismissal from the service shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service. In addition thereto, the penalty of forfeiture of leave credits shall be imposed upon respondent following the Department of Justice Opinion No. 30 dated February 17, 1978. Since respondent had already received her retirement benefits, the same should be returned to the government, including, but not limited, to those received from the Government Service Insurance System and the Home Mutual Development Fund or PAGIBIG, if any.

WHEREFORE, and as recommended by the Presidential Anti-Graft Commission, respondent Velma C. Daluping, then Bureau Director of the defunct

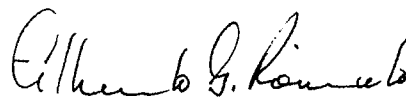
Office for Northern Cultural Committee, is hereby found guilty of violating Section 4(c) of Republic Act No. 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees, and ordered to suffer the accessory penalties of cancellation of Civil Service eligibility, forfeiture of leave credits and retirement benefits, if any, as well as perpetual disqualification for reemployment/reinstatement in the government service. The respondent is directed to return all her retirement benefits, including, but not limited, to those received from the Government Service Insurance System and the Home Development Mutual Fund or PAGIBIG.

The National Commission on Indigenous Peoples is ordered to implement and monitor faithful compliance of this administrative order by the respondent.

Done in the City of Manila, Philippines, this **8th** day of **January**, in the year of Our Lord, two thousand and **three**

Manila, Philippines,

By authority of the President:


ALBERTO G. ROMULO
Executive Secretary