Republic of the Philippines
Supreme Court
Manila

EN BANC

LIGHT RAIL TRANSIT AUTHORITY, represented by its Administrator MELQUIADES A. ROBLES,	**G.R. No. 192074**
Petitioner,	Present:
	SERENO, *C.J.*,
	CARPIO,
	VELASCO, JR.,
	LEONARDO-DE CASTRO,
	BRION,
	PERALTA,
	BERSAMIN,
	DEL CASTILLO,
-versus-	VILLARAMA, JR.,
	PEREZ,
	MENDOZA,
	REYES,
	PERLAS-BERNABE, and
	LEONEN, *JJ.*
AURORA A. SALVAÑA	**Promulgated:**
Respondent.	JUNE 10, 2014

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DECISION

LEONEN, *J.*:

An administrative agency has standing to appeal the Civil Service Commission's repeal or modification of its original decision. In such instances, it is included in the concept of a "party adversely affected" by a decision of the Civil Service Commission granted the statutory right to appeal:

We are asked in this petition for review[1] filed by the Light Rail Transit Authority (LRTA), a government-owned and -controlled corporation, to modify the Civil Service Commission's finding that respondent was guilty only of simple dishonesty.

This case developed as follows:

On May 12, 2006, then Administrator of the Light Rail Transit Authority, Melquiades Robles, issued Office Order No. 119, series of 2006.[2] The order revoked Atty. Aurora A. Salvaña's designation as Officer-in-Charge (OIC) of the LRTA Administrative Department. It "direct[ed] her instead to handle special projects and perform such other duties and functions as may be assigned to her"[3] by the Administrator.

Atty. Salvaña was directed to comply with this office order through a memorandum issued on May 22, 2006 by Atty. Elmo Stephen P. Triste, the newly designated OIC of the administrative department. Instead of complying, Salvaña questioned the order with the Office of the President.[4]

In the interim, Salvaña applied for sick leave of absence on May 12, 2006 and from May 15 to May 31, 2006.[5] In support of her application, she submitted a medical certificate[6] issued by Dr. Grace Marie Blanco of the Veterans Memorial Medical Center (VMMC).

LRTA discovered that Dr. Blanco did not issue this medical certificate. Dr. Blanco also denied having seen or treated Salvaña on May 15, 2006, the date stated on her medical certificate.[7]

On June 23, 2006, Administrator Robles issued a notice of preliminary investigation. The notice directed Salvaña to explain in writing within 72 hours from her receipt of the notice "why no disciplinary action should be taken against [her]"[8] for not complying with Office Order No. 119 and for submitting a falsified medical certificate.[9]

Salvaña filed her explanation on June 30, 2006.[10] She alleged that as a member of the Bids and Awards Committee, she "refused to sign a

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1 *Rollo*, pp. 8-35.
2 Id. at 61.
3 Id. at 13.
4 Id. at 14.
5 Id. at 13-14.
6 Id. at 63.
7 Id. at 65.
8 Id. at 67.
9 Id. at 66-67.
10 Id. at 68-71.

resolution"[11] favoring a particular bidder. She alleged that Office Order No. 119 was issued by Administrator Robles to express his "ire and vindictiveness"[12] over her refusal to sign.

The LRTA's Fact-finding Committee found her explanation unsatisfactory. On July 26, 2006, it issued a formal charge against her for Dishonesty, Falsification of Official Document, Grave Misconduct, Gross Insubordination, and Conduct Prejudicial to the Best Interest of the Service.[13]

On August 5, 2006, "Salvaña tendered her irrevocable resignation."[14] None of the pleadings alleged that this irrevocable resignation was accepted, although the resolution of the Fact-finding Committee alluded to Administrator Robles' acceptance of the resignation letter.

In the meantime, the investigation against Salvaña continued, and the prosecution presented its witnesses.[15] Salvaña "submitted a manifestation dated September 6, 2006, stating that the Committee was biased and that [Administrator] Robles was both the accuser and the hearing officer."[16]

On October 31, 2006, the Fact-finding Committee issued a resolution "finding Salvaña guilty of all the charges against her and imposed [on] her the penalty of dismissal from . . . service with all the accessory penalties."[17] The LRTA Board of Directors approved the findings of the Fact-finding Committee[18]

Salvaña appealed with the Civil Service Commission. "In her appeal, [she] claimed that she was denied due process and that there [was] no substantial evidence to support the charges against her."[19]

On July 18, 2007, the Civil Service Commission modified the decision and issued Resolution No. 071364. The Civil Service Commission found that Salvaña was guilty only of simple dishonesty. She was meted a penalty of suspension for three months.[20]

LRTA moved for reconsideration[21] of the resolution. This was denied

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11 Id. at 68.
12 Id.
13 Id. at 74-75.
14 Id. at 17.
15 Id.
16 Id., *citing* manifestation, *rollo*, pp. 72-73.
17 Id., *citing* resolution, *rollo*, pp. 76-88.
18 Id. at 90.
19 Id. at 17.
20 Id. at 91-100.
21 Id. at 101-129.

in a resolution dated May 26, 2008.[22] LRTA then filed a petition for review with the Court of Appeals.[23]

On November 11, 2009, the Court of Appeals[24] dismissed the petition and affirmed the Civil Service Commission's finding that Salvaña was only guilty of simple dishonesty. The appellate court also ruled that Administrator Robles had no standing to file a motion for reconsideration before the Civil Service Commission because that right only belonged to respondent in an administrative case.[25] LRTA moved for reconsideration[26] of this decision but was denied.[27]

Hence, LRTA filed this present petition.

Petitioner argues that it has the legal personality to appeal the decision of the Civil Service Commission before the Court of Appeals.[28] It cites *Philippine National Bank v. Garcia*[29] as basis for its argument that it can be considered a "person adversely affected" under the pertinent rules and regulations on the appeal of administrative cases.[30] It also argues that respondent's falsification of the medical certificate accompanying her application for sick leave was not merely simple but serious dishonesty.[31]

Respondent agrees with the ruling of the Court of Appeals that petitioner had no legal personality to file the appeal since it was not the "person adversely affected" by the decision. She counters that Administrator Robles had no authority to file the appeal since he was unable to present a resolution from the Board of Directors authorizing him to do so.[32] She also agrees with the Civil Service Commission's finding that she was merely guilty of simple dishonesty.[33]

In its reply,[34] petitioner points out that it presented a secretary's certificate[35] dated July 17, 2008 and which it attached to the petitions before the Civil Service Commission, Court of Appeals, and this court. It argues that the certificate authorizes the LRTA and its Administrator to file the

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22 Id. at 130-137.
23 Id. at 138-152.
24 Per Sixth Division of the Court of Appeals. The decision was penned by Associate Justice Sixto C. Marella, Jr. and concurred in by Associate Justice Jose L. Sabio, Jr. and Associate Justice Arcangelita M. Romilla-Lontok.
25 *Rollo*, pp. 37-57.
26 Id. at 227-234.
27 Id. at 58-59.
28 Id. at 21-23.
29 437 Phil. 289 (2002) [Per J. Panganiban, Third Division].
30 *Rollo*, pp. 21-23.
31 Id. at 23-31.
32 Id. at 253-255.
33 Id. at 255-258.
34 Id. at 265-270.
35 Id. at 265, *citing* secretary's certificate, *rollo*, p. 60.

necessary motion for reconsideration or appeal regarding this case, and this authorization has yet to be revoked.[36]

Both parties filed their respective memoranda before this court on May 23, 2012[37] and December 6, 2012.[38]

The legal issues that will determine the results of this case are:

1. Whether the LRTA, as represented by its Administrator, has the standing to appeal the modification by the Civil Service Commission of its decision

2. Whether Salvaña was correctly found guilty of simple dishonesty only

We grant the petition.

The parties may appeal in administrative cases involving members of the civil service

It is settled that "[t]he right to appeal is not a natural right [or] a part of due process; it is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law."[39] If it is not granted by the Constitution, it can only be availed of when a statute provides for it.[40] When made available by law or regulation, however, a person cannot be deprived of that right to appeal. Otherwise, there will be a violation of the constitutional requirement of due process of law.

Article IX (B), Section 3 of the Constitution mandates that the Civil Service Commission shall be "the central personnel agency of the Government."[41] In line with the constitutionally enshrined policy that a public office is a public trust, the Commission was tasked with the duty "to

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36 Id. at 265-266.
37 Id. at 272-294.
38 Id. at 313-340.
39 *Bello v. Fernando*, 114 Phil. 101, 103 (1962) [Per J. Reyes, J.B.L., En Banc], *citing Aguilar v. Navarro*, 55 Phil. 898 (1931) [Per J. Villamor, En Banc]; *Santiago v. Valenzuela*, 78 Phil. 397 (1947) [Per J. Feria, En Banc].
40 *Spouses De la Cruz v. Ramiscal*, 491 Phil. 62, 74 (2005) [Per J. Chico-Nazario, Second Division]. *See also United States v. Yu Ten*, 33 Phil. 122 (1916) [Per J. Johnson, En Banc]; *Phillips Seafood (Philippines) Corporation v. Board of Investments*, G.R. No. 175787, February 4, 2009, 578 SCRA 69, 76 [Per J. Tinga, Second Division]; *Republic v. Court of Appeals*, 372 Phil. 259 (1999) [Per J. Buena, Second Division].
41 *See also* mandate of Civil Service Commission in Presidential Decree No. 807, otherwise known as the Civil Service Decree, promulgated on October 6, 1975.

set standards and to enforce the laws and rules governing the selection, utilization, training, and discipline of civil servants."[42]

Civil servants enjoy security of tenure, and "[n]o officer or employee in the Civil Service shall be suspended or dismissed except for cause as provided by law and after due process."[43] Under Section 12, Chapter 3, Book V of the Administrative Code, it is the Civil Service Commission that has the power to "[h]ear and decide administrative cases instituted by or brought before it directly or on appeal."

The grant of the right to appeal in administrative cases is not new. In Republic Act No. 2260 or the Civil Service Law of 1959, appeals "by the respondent"[44] were allowed on "[t]he decision of the Commissioner of Civil Service rendered in an administrative case involving discipline of subordinate officers and employees."[45]

Presidential Decree No. 807, while retaining the right to appeal in administrative cases, amended the phrasing of the party allowed to appeal. Section 37, paragraph (a), and Section 39, paragraph (a), of Presidential Decree No. 807 provide:

> Sec. 37. *Disciplinary Jurisdiction*. - (a) The Commission shall decide upon appeal all administrative cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days' salary, demotion in rank or salary or transfer, removal or dismissal from office.
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> Sec. 39. *Appeals*. - (a) Appeals, where allowable, **shall be made by the party adversely affected by the decision** within fifteen days from receipt of the decision unless a petition shall be decided within fifteen days. (Emphasis supplied)

Additionally, Section 47, paragraph (1), and Section 49, paragraph (1), of the Administrative Code provide:

> SECTION 47. *Disciplinary Jurisdiction*.—(1) The Commission shall decide upon appeal all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days' salary, demotion in rank or salary or transfer, removal or dismissal from office.
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> SECTION 49. *Appeals*.—(1) Appeals, where allowable, **shall be made by the party adversely affected by the decision** within

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42 Pres. Dec. No. 807 (1975), art. II, sec. 2.
43 Pres. Dec. No. 807 (1975), art. IX, sec. 36.
44 Rep. Act No. 2260 (1959), sec. 36.
45 Rep. Act No. 2260 (1959), sec. 36.

> fifteen days from receipt of the decision unless a petition for reconsideration is seasonably filed, which petition shall be decided within fifteen days….(Emphasis supplied)

The phrase, "person adversely affected," was not defined in either Presidential Decree No. 807 or the Administrative Code. This prompted a series of cases[46] providing the interpretation of this phrase.

The first of these cases, *Paredes v. Civil Service Commission*,[47] declared:

> Based on [Sections 37 (a) and 39 (a) of Presidential Decree No. 807], **appeal to the Civil Service Commission in an administrative case is extended to the party adversely affected by the decision, that is, the person or the respondent employee who has been meted out the penalty of suspension for more than thirty days; or fine in an amount exceeding thirty days salary demotion in rank or salary or transfer, removal or dismissal from office.** The decision of the disciplining authority is even final and not appealable to the Civil Service Commission in cases where the penalty imposed is suspension for not more than thirty days or fine in an amount not exceeding thirty days salary.[48] (Emphasis supplied)

This ruling was repeated in *Mendez v. Civil Service Commission*[49] where this court stated that:

> A cursory reading of P.D. 807, otherwise known as "The Philippine Civil Service Law" shows that said law does not contemplate a review of decisions exonerating officers or employees from administrative charges.
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> . . . .
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> **By inference or implication, the remedy of appeal may be availed of only in a case where the respondent is found guilty of the charges filed against him. But when the respondent is exonerated of said charges, as in this case, there is no occasion for appeal**.[50] (Emphasis supplied)

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46 *Paredes v. Civil Service Commission*, G.R. Nos. 88177 and 89530, December 4, 1990, 192 SCRA 84, 98 [Per J. Paras, En Banc]; *Mendez v. Civil Service Commission*, G.R. No. 95575, December 23, 1991, 204 SCRA 965 [Per J. Paras, En Banc]; *Magpale v. Civil Service Commission*, G.R. No. 97381, November 5, 1992, 215 SCRA 398 [Per J. Melo, En Banc]; *Navarro v. Civil Service Commission and Export Processing Zone Authority*, G.R. Nos. 107370-71, September 16, 1993, 226 SCRA 522 [Per J. Bellosillo, En Banc]; *University of the Philippines v. Civil Service Commission*, G.R. No. 108740, December 1, 1993, 228 SCRA 207 [Per J. Regalado, En Banc]; *Del Castillo v. Civil Service Commission*, 311 Phil. 340 (1995) [Per J. Kapunan, En Banc].

47 G.R. Nos. 88177 and 89530, December 4, 1990, 192 SCRA 84 [Per J. Paras, En Banc].

48 Id. at 98.

49 G.R. No. 95575, December 23, 1991, 204 SCRA 965 [Per J. Paras, En Banc].

50 Id. at 965-968.

The same ratio would be reiterated and become the prevailing doctrine on the matter in *Magpale, Jr. v. Civil Service Commission*,[51] *Navarro v. Civil Service Commission and Export Processing Zone*,[52] *University of the Philippines v. Civil Service Commission*,[53] and *Del Castillo v. Civil Service Commission*.[54]

In these cases, this court explained that the right to appeal being merely a statutory privilege can only be availed of by the party specified in the law. Since the law presumes that appeals will only be made in decisions prescribing a penalty, this court concluded that the only parties that will be adversely affected are the respondents that are charged with administrative offenses. Since the right to appeal is a remedial right that may only be granted by statute, a government party cannot by implication assert that right as incidental to its power, since the right to appeal does not form part of due process.[55]

In effect, this court equated exonerations in administrative cases to acquittals in criminal cases wherein the State or the complainant would have no right to appeal.[56] When the Civil Service Commission enacted the Uniform Rules on Administrative Cases in the Civil Service, or the URACCS, on September 27, 1999, it applied this court's definition. Thus, Section 2, paragraph (l), Rule I, and Section 38, Rule III of the URACCS defined "party adversely affected" as follows:

> Section 2. *Coverage and Definition of Terms*.
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> . . . .
>
> (l) PARTY ADVERSELY AFFECTED refers to the respondent against whom a decision in a disciplinary case has been rendered.

For some time, government parties were, thus, barred from appealing exonerations of civil servants they had previously sanctioned. It was not until the promulgation by this court of *Civil Service Commission v. Dacoycoy*[57] on April 29, 1999 that the issue would be revisited.

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51 G.R. No. 97381, November 5, 1992, 215 SCRA 398 [Per J. Melo, En Banc].

52 G.R. Nos. 107370-71, September 16, 1993, 226 SCRA 522 [Per J. Bellosillo, En Banc].

53 G.R. No. 108740, December 1, 1993, 228 SCRA 207 [Per J. Regalado, En Banc].

54 311 Phil. 340 (1995) [Per J. Kapunan, En Banc].

55 *See Angara v. Electoral Commission*, 63 Phil. 139 (1936) [Per J. Laurel, En Banc] on its discussion of incidental powers by government instrumentalities that are necessarily implied even in the absence of a constitutional provision.

56 *See People v. Velasco*, 394 Phil. 517, 554 (2000) [Per J. Bellosillo, En Banc] wherein this court stated:

> ". . . . as mandated by our Constitution, statutes and cognate jurisprudence, an acquittal is final and unappealable on the ground of double jeopardy, whether it happens at the trial court level or before the Court of Appeals."

57 366 Phil. 86 (1999) [Per J. Pardo, En Banc].

Civil Service Commission v. Dacoycoy **and** ***Philippine National Bank v. Garcia***

In *Civil Service Commission v. Dacoycoy,*[58] an administrative complaint for habitual drunkenness, misconduct, and nepotism was filed against the Vocational School Administrator of Balicuatro College of Arts and Trade in Allen, Northern Samar. The Civil Service Commission found Dacoycoy guilty, but the Court of Appeals overturned this finding and exonerated Dacoycoy of all charges. The Civil Service Commission then appealed the ruling of the appellate court. This court, in addressing the issue of the Commission's standing, stated that:

> Subsequently, the Court of Appeals reversed the decision of the Civil Service Commission and held respondent not guilty of nepotism. Who now may appeal the decision of the Court of Appeals to the Supreme Court? Certainly not the respondent, who was declared not guilty of the charge. Nor the complainant George P. Suan, who was merely a witness for the government. **Consequently, the Civil Service Commission has become the party adversely affected by such ruling, which seriously prejudices the civil service system. Hence, as an aggrieved party, it may appeal the decision of the Court of Appeals to the Supreme Court.** By this ruling, we now expressly abandon and overrule extant jurisprudence that "the phrase 'party adversely affected by the decision' refers to the government employee against whom the administrative case is filed for the purpose of disciplinary action which may take the form of suspension, demotion in rank or salary, transfer, removal or dismissal from office" and not included are "cases where the penalty imposed is suspension for not more than thirty (30) days or fine in an amount not exceeding thirty days salary" or "when the respondent is exonerated of the charges, there is no occasion for appeal." **In other words, we overrule prior decisions holding that the Civil Service Law "does not contemplate a review of decisions exonerating officers or employees from administrative charges" enunciated in *Paredes v. Civil Service Commission; Mendez v. Civil Service Commission; Magpale v. Civil Service Commission; Navarro v. Civil Service Commission and Export Processing Zone Authority* and more recently *Del Castillo v. Civil Service Commission***.[59] (Emphasis supplied; citations omitted)

In his concurring opinion, then Chief Justice Puno summed up the rationale for allowing government parties to appeal, thus:

> In truth, the doctrine barring appeal is not categorically sanctioned by the Civil Service Law. For what the law declares as "final" are decisions of heads of agencies involving suspension for not more than thirty (30) days or fine in an amount not exceeding thirty (30) days salary.

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58 Id.

59 Id. at 104-105.

> But there is a clear policy reason for declaring these decisions final. These decisions involve minor offenses. They are numerous for they are the usual offenses committed by government officials and employees. To allow their multiple level appeal will doubtless overburden the quasi-judicial machinery of our administrative system and defeat the expectation of fast and efficient action from these administrative agencies. **Nepotism, however, is not a petty offense. Its deleterious effect on government cannot be over-emphasized. And it is a stubborn evil. The objective should be to eliminate nepotic acts, hence, erroneous decisions allowing nepotism cannot be given immunity from review, especially judicial review.** It is thus non sequitur to contend that since some decisions exonerating public officials from minor offenses cannot be appealed, ergo, even a decision acquitting a government official from a major offense like nepotism cannot also be appealed.[60] (Emphasis supplied)

The decision in *Dacoycoy* would be reiterated in 2002 when this court promulgated *Philippine National Bank v. Garcia*.[61] *Philippine National Bank* categorically allowed the disciplining authority to appeal the decision exonerating the disciplined employee.

In that case, the bank charged Ricardo V. Garcia, Jr., one of its check processors and cash representatives, with gross neglect of duty when he lost □7 million in connection with his duties. Both the Civil Service Commission and the Court of Appeals reversed the bank and exonerated Garcia from all liability.

This court, however, upheld Philippine National Bank's right to appeal the case. Citing *Dacoycoy*, this court ruled:

> **Indeed, the battles against corruption, malfeasance and misfeasance will be seriously undermined if we bar appeals of exoneration. After all, administrative cases do not partake of the nature of criminal actions, in which acquittals are final and unappealable based on the constitutional proscription of double jeopardy.**
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> **Furthermore, our new Constitution expressly expanded the range and scope of judicial review. Thus, to prevent appeals of administrative decisions except those initiated by employees will effectively and pervertedly erode this constitutional grant.**
>
> Finally, the Court in *Dacoycoy* ruled that the CSC had acted well within its rights in appealing the CA's exoneration of the respondent public official therein, because it has been mandated by the Constitution to preserve and safeguard the integrity of our civil service system. In the same light, herein Petitioner PNB has the standing to appeal to the CA the exoneration of Respondent Garcia. After all, it is the aggrieved party

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60 Id. at 116-117.

61 437 Phil. 289 (2002) [Per J. Panganiban, Third Division].

> which has complained of his acts of dishonesty. Besides, this Court has not lost sight of the fact that PNB was already privatized on May 27, 1996. Should respondent be finally exonerated indeed, it might then be incumbent upon petitioner to take him back into its fold. It should therefore be allowed to appeal a decision that in its view hampers its right to select honest and trustworthy employees, so that it can protect and preserve its name as a premier banking institution in our country.[62] (Emphasis supplied)

Thus, the Civil Service Commission issued Resolution No. 021600 published on December 29, 2002, which amended the URACCS, to allow the disciplining authority to appeal the decision exonerating the employee:

> Section 2. *Coverage and Definition of Terms*. –
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> . . . .
>
> (l) **PARTY ADVERSELY AFFECTED** refers to the respondent against whom a decision in a disciplinary case has been rendered or to the disciplining authority in an appeal from a decision exonerating the said employee.

Subsequent decisions continued to reiterate the rulings in *Dacoycoy* and *Philippine National Bank*.

In *Constantino-David v. Pangandaman-Gania*,[63] this court explained the rationale of allowing the Civil Service Commission to appeal decisions of exonerations as follows:

> That the CSC may appeal from an adverse decision of the Court of Appeals reversing or modifying its resolutions which may seriously prejudice the civil service system is beyond doubt. In *Civil Service Commission v. Dacoycoy*[,] this Court held that the CSC may become the party adversely affected by such ruling and the aggrieved party who may appeal the decision to this Court.
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> The situation where the CSC's participation is beneficial and indispensable often involves complaints for administrative offenses, such as neglect of duty, being notoriously undesirable, inefficiency and incompetence in the performance of official duties, and the like, where the complainant is more often than not acting merely as a witness for the government which is the real party injured by the illicit act. In cases of this nature, a ruling of the Court of Appeals favorable to the respondent employee is understandably adverse to the government, and unavoidably the CSC as representative of the government may appeal the decision to this Court to protect the integrity of the civil service system.

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62 Id. at 295-296, *citing Tecson v. Sandiganbayan*, 376 Phil. 191 (1999) [Per J. Quisumbing, Second Division].

63 456 Phil. 273 (2003) [Per J. Bellosillo, En Banc].

> The CSC may also seek a review of the decisions of the Court of Appeals that are detrimental to its constitutional mandate as the central personnel agency of the government tasked to establish a career service, adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness and courtesy in the civil service, strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability. Nonetheless, the right of the CSC to appeal the adverse decision does not preclude the private complainant in appropriate cases from similarly elevating the decision for review.[64]

Then in *Civil Service Commission v. Gentallan*,[65] this court declared:

> At the outset, it should be noted that the Civil Service Commission, under the Constitution, is the central personnel agency of the government charged with the duty of determining questions of qualifications of merit and fitness of those appointed to the civil service. Thus, the CSC, as an institution whose primary concern is the effectiveness of the civil service system, has the standing to appeal a decision which adversely affects the civil service. We hold, at this juncture, that CSC has the standing to appeal and/or to file its motion for reconsideration.[66]

The right to appeal by government parties was not limited to the Civil Service Commission.

In *Pastor v. City of Pasig*,[67] this court ruled that the City of Pasig had standing to appeal the decision of the Civil Service Commission reinstating a city employee to her former position, despite the city government having reassigned her to another unit.

In *Geronga v. Varela*,[68] this court ruled that the Mayor of Cadiz City had the right to file a motion for reconsideration of a decision by the Civil Service Commission exonerating a city employee on the ground that "as the appointing and disciplining authority, [he] is a real party in interest."[69]

In *Department of Education v. Cuanan*,[70] this court ruled that the Department of Education "qualifie[d] as a party adversely affected by the

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64 Id. at 291-292, *citing Philippine National Bank v. Garcia*, 437 Phil. 289 (2002) [Per J. Panganiban, Third Division].

65 497 Phil. 594 (2005) [Per J. Quisumbing, En Banc].

66 Id. at 600-601, *citing Civil Service Commission v. Tinaya*, 491 Phil. 729, 735 (2005) [Per J. Sandoval-Gutierrez, En Banc]; *Lazo v. Civil Service Commission*, G.R. No. 108824, September 14, 1994, 236 SCRA 469, 472 [Per J. Mendoza, En Banc]; *See also Abella, Jr. v. Civil Service Commission*, 485 Phil. 182, 195-196 (2004) [Per J. Panganiban, En Banc].

67 431 Phil. 843 (2002) [Per J. Mendoza, En Banc].

68 570 Phil. 39 (2008) [Per J. Austria-Martinez, En Banc].

69 Id. at 49.

70 594 Phil. 451 (2008) [Per J. Austria-Martinez, En Banc].

judgment, who can file an appeal of a judgment of exoneration in an administrative case."[71]

There are, however, cases, which sought to qualify this right to appeal.

In *National Appellate Board v. Mamauag*,[72] an administrative complaint for grave misconduct was filed by Quezon City Judge Adoracion G. Angeles against several members of the Philippine National Police (PNP). The Central Police District Command (CPDC) of Quezon City, upon investigation, dismissed the complaint. Dissatisfied, Judge Angeles moved for a reinvestigation by then PNP Chief Recaredo Sarmiento II.

PNP Chief Sarmiento issued a decision finding the accused police officers guilty of the offenses charged. Some were meted the penalty of suspension while others were dismissed from service. Upon motion for reconsideration by Judge Angeles, Chief Sarmiento modified his ruling and ordered the dismissal of the suspended police officers.

One of the officers, Police Inspector John Mamauag, appealed the decision with the National Appellate Board of the National Police Commission. The National Appellate Board, however, denied the appeal. Mamauag appealed the denial with the Court of Appeals. The Court of Appeals reversed the decision of the National Appellate Board and ruled that it was the Philippine National Police, not Judge Angeles, which had the right to appeal the decision of PNP Chief Sarmiento, as it was the party adversely affected. The National Appellate Board then appealed this decision with this court.

This court, while citing *Dacoycoy*, declared that Judge Angeles, as complainant, had no right to appeal the dismissal by CPDC of the complaint against Mamauag. It qualified the right of government agencies to appeal by specifying the circumstances by which the right may be given, thus:

> ***However, the government party that can appeal is not the disciplining authority or tribunal which previously heard the case and imposed the penalty of demotion or dismissal from the service. The government party appealing must be one that is prosecuting the administrative case against the respondent.*** Otherwise, an anomalous situation will result where the disciplining authority or tribunal hearing the case, instead of being impartial and detached, becomes an active participant in prosecuting the respondent. Thus, in *Mathay, Jr. v. Court of Appeals*, decided after *Dacoycoy*, the Court declared:

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71 Id. at 459.

72 504 Phil. 186 (2005) [Per J. Carpio, First Division].

> To be sure, when the resolutions of the Civil Service Commission were brought before the Court of Appeals, the Civil Service Commission was included only as a nominal party. As a quasi-judicial body, the Civil Service Commission can be likened to a judge who should "detach himself from cases where his decision is appealed to a higher court for review."
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> In instituting G.R. No. 126354, the Civil Service Commission dangerously departed from its role as adjudicator and became an advocate. Its mandated function is to "hear and decide administrative cases instituted by or brought before it directly or on appeal, including contested appointments and to review decisions and actions of its offices and agencies," not to litigate.[73] (Emphasis supplied)

The ruling in *National Appellate Board* was applied in *Montoya v. Varilla*,[74] *Pleyto v. PNP-CIDG*,[75] and *Ombudsman v. Liggayu*.[76]

The present rule is that a government party is a "party adversely affected" for purposes of appeal provided that the government party that has a right to appeal must be the office or agency prosecuting the case.

Despite the limitation on the government party's right to appeal, this court has consistently upheld that right in *Dacoycoy*. In *Civil Service Commission v. Almojuela*,[77] we stated that:

> More than ten years have passed since the Court first recognized in *Dacoycoy* the CSC's standing to appeal the CA's decisions reversing or modifying its resolutions seriously prejudicial to the civil service system. Since then, the ruling in *Dacoycoy* has been subjected to clarifications and qualifications but the doctrine has remained the same: the CSC has standing as a real party in interest and can appeal the CA's decisions modifying or reversing the CSC's rulings, when the CA action would have an adverse impact on the integrity of the civil service. As the government's central personnel agency, the CSC is tasked to establish a career service and promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service; it has a stake in ensuring that the proper disciplinary action is imposed on an erring public employee, and this stake would be adversely affected by a ruling absolving or lightening the CSC-imposed penalty. Further, a decision that declares a public employee not guilty of the charge against him would have no other appellant than the CSC. To be sure, it would not be appealed by the public employee who has been absolved of the charge against him; neither would the complainant appeal the decision, as he

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73 Id. at 200.
74 595 Phil. 507 (2008) [Per J. Chico-Nazario, En Banc].
75 563 Phil. 842 (2007) [Per J. Chico-Nazario, Third Division].
76 G.R. No. 174297, June 20, 2012, 674 SCRA 134 [Per J. Peralta, Third Division].
77 G.R. No. 194368, April 2, 2013, 694 SCRA 441 [Per J. Brion, En Banc].

> acted merely as a witness for the government. We thus find no reason to disturb the settled *Dacoycoy* doctrine.[78] (Citations omitted)

Indeed, recent decisions showed that this court has allowed appeals by government parties. Notably, the government parties' right to appeal in these cases was not brought up as an issue by either of the parties.

In *Civil Service Commission v. Yu*,[79] this court allowed the Civil Service Commission to appeal the Court of Appeals' decision granting the reinstatement of a government employee whose appointment had been revoked by the Commission.

In *National Power Corporation v. Civil Service Commission and Tanfelix*,[80] the National Power Corporation had previously filed an administrative complaint against one of its employees, Rodrigo Tanfelix, resulting in his dismissal from service. When the Civil Service Commission exonerated Tanfelix and the Court of Appeals affirmed the exoneration, the National Power Corporation was allowed to appeal.

These cases, however, allowed the disciplining authority to appeal only from a decision **exonerating** the said employee. In this case, respondent was not exonerated; she was found guilty, but the finding was modified. This court previously stated that:

> If the administrative offense found to have been actually committed is of lesser gravity than the offense charged, the employee cannot be considered exonerated if the factual premise for the imposition of the lesser penalty remains the same.[81]

Dacoycoy, Philippine National Bank, and the URACCS failed to contemplate a situation where the Civil Service Commission modified the penalty from dismissal to suspension. The erring civil servant was not exonerated, and the finding of guilt still stood. In these situations, the disciplinary authority should be allowed to appeal the modification of the decision.

The LRTA had standing to appeal the modification by the Civil Service Commission of its decision

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78 Id. at 465-466.
79 G.R. No. 189041, July 31, 2012, 678 SCRA 39 [Per J. Perlas-Bernabe, En Banc].
80 G.R. No. 152093, January 24, 2012, 663 SCRA 492 [Per J. Abad, En Banc].
81 *Civil Service Commission v. Cruz*, G.R. No. 187858, August 9, 2011, 655 SCRA 214, 234 [Per J. Brion, En Banc].

The employer has the right "to select honest and trustworthy employees."[82] When the government office disciplines an employee based on causes and procedures allowed by law, it exercises its discretion. This discretion is inherent in the constitutional principle that "[p]ublic officers and employees must, at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives."[83] This is a principle that can be invoked by the public as well as the government office employing the public officer.

Here, petitioner already decided to dismiss respondent for dishonesty. Dishonesty is a serious offense that challenges the integrity of the public servant charged. To bar a government office from appealing a decision that lowers the penalty of the disciplined employee prevents it from ensuring its mandate that the civil service employs only those with the utmost sense of responsibility, integrity, loyalty, and efficiency.

Honesty and integrity are important traits required of those in public service. If all decisions by quasi-judicial bodies modifying the penalty of dismissal were allowed to become final and unappealable, it would, in effect, show tolerance to conduct unbecoming of a public servant. The quality of civil service would erode, and the citizens would end up suffering for it.

During the pendency of this decision, or on November 18, 2011, the Revised Rules on Administrative Cases in the Civil Service or RACCS was promulgated. The Civil Service Commission modified the definition of a "party adversely affected" for purposes of appeal.

> Section 4. *Definition of Terms*. –
>
> . . . .
>
> k. PARTY ADVERSELY AFFECTED refers to the respondent against whom a decision in an administrative case has been rendered or to **the disciplining authority in an appeal from a decision reversing or modifying the original decision.** (Emphasis supplied)

Procedural laws have retroactive application. In *Zulueta v. Asia Brewery*:[84]

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82 *Philippine National Bank v. Garcia*, 437 Phil. 289, 296 (2002) [Per J. Panganiban, Third Division].
83 CONST. (1987), Art. XI, Sec. 1.
84 406 Phil. 543 (2001) [Per J. Panganiban, Third Division].

> As a general rule, laws have no retroactive effect. But there are certain recognized exceptions, such as when they are remedial or procedural in nature. This Court explained this exception in the following language:
>
> > It is true that under the Civil Code of the Philippines, "(l)aws shall have no retroactive effect, unless the contrary is provided. But there are settled exceptions to this general rule, such as when the statute is CURATIVE or REMEDIAL in nature or when it CREATES NEW RIGHTS.
> >
> > . . . .
> >
> > On the other hand, remedial or procedural laws, i.e., those statutes relating to remedies or modes of procedure, which do not create new or take away vested rights, but only operate in furtherance of the remedy or confirmation of such rights, ordinarily do not come within the legal meaning of a retrospective law, nor within the general rule against the retrospective operation of statutes.
>
> Thus, **procedural laws may operate retroactively as to pending proceedings even without express provision to that effect**. **Accordingly, rules of procedure can apply to cases pending at the time of their enactment**. In fact, statutes regulating the procedure of the courts will be applied on actions undetermined at the time of their effectivity. Procedural laws are retrospective in that sense and to that extent.[85] (Emphasis supplied)

Remedial rights are those rights granted by remedial or procedural laws. These are rights that only operate to further the rules of procedure or to confirm vested rights. As such, the retroactive application of remedial rights will not adversely affect the vested rights of any person. Considering that the right to appeal is a right remedial in nature, we find that Section 4, paragraph (k), Rule I of the RACCS applies in this case. Petitioner, therefore, had the right to appeal the decision of the Civil Service Commission that modified its original decision of dismissal.

Recent decisions implied the retroactive application of this rule. While the right of government parties to appeal was not an issue, this court gave due course to the appeals filed by government agencies before the promulgation of the Revised Rules on Administrative Cases in the Civil Service.

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[85] Id. at 551, *citing Frivaldo v. Commission on Elections*, 327 Phil. 521, 754-755 (1996) [Per J. Panganiban, En Banc]; *Hosana v. Diomano*, 56 Phil. 741 (1927) [Per J. Villa-Real, En Banc]; *Guevarra v. Laico*, 64 Phil. 144 (1937) [Per J. Villa-Real, En Banc]; *China Insurance & Surety Co. v. Far Eastern Surety & Insurance. Co.*, 63 Phil. 320 (1936) [Per J. Recto, En Banc]; *Sevilla v. Tolentino*, 66 Phil. 196 (1938) [Per J. Abad Santos, En Banc]; *Tolentino v. Alzate*, 98 Phil. 781 (1956) [Per J. Bautista Angelo, En Banc]; *Gregorio v. CA*, 135 Phil. 224 (1968) [Per J. Fernando, En Banc]; *Del Rosario v. Court of Appeals*, 311 Phil. 589 (1995) [Per J. Puno, Second Division]; *MRCA, Inc. v. Court of Appeals*, 259 Phil. 832 (1989) [Per J. Grino-Aquino, First Division]; *People v. Sumilang*, 77 Phil. 764 (1946) [Per J. Feria, En Banc].

In *Civil Service Commission v. Clave*,[86] the Government Service and Insurance System (GSIS) found one of its employees, Aurora M. Clave, guilty of simple neglect of duty. The Civil Service Commission affirmed the GSIS's findings. The Court of Appeals, however, while affirming the Civil Service Commission, reduced the penalty. Both the GSIS and the Civil Service Commission were given standing to appeal the decision of the Court of Appeals.

In *GSIS v. Chua*,[87] the GSIS dismissed Heidi R. Chua for grave misconduct, dishonesty, and conduct prejudicial to the best interest of service. The Civil Service Commission affirmed the GSIS, but the Court of Appeals, while affirming the findings of the Commission, modified the penalty to simple misconduct. The GSIS was then allowed to bring an appeal of the modification of the penalty with this court.

Thus, we now hold that the parties adversely affected by a decision in an administrative case who may appeal shall include the disciplining authority whose decision dismissing the employee was either overturned or modified by the Civil Service Commission.

The offense committed was less serious dishonesty, not simple dishonesty

Dishonesty has been defined "as the 'disposition to lie, cheat, deceive, or defraud; untrustworthiness, lack of integrity' . . . ."[88] Since the utmost integrity is expected of public servants, its absence is not only frowned upon but punished severely.

Section 52, Rule IV of the URACCS provides:

> Section 52. *Classification of Offenses*. – Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.
>
> A. The following are grave offenses with their corresponding penalties:
>
> 1. Dishonesty - 1st Offense - Dismissal

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86 G.R. Nos. 194645 and 194665, March 6, 2012, 667 SCRA 556 [Per Curiam, En Banc].
87 G.R. No. 202914, September 26, 2012, 682 SCRA 118 [Per J. Brion, Second Division].
88 *Office of the Ombudsman v. Torres*, 567 Phil. 46, 57 (2008) [Per J. Nachura, Third Division], *citing* Black's Law Dictionary, 6th Ed. (1990).

. . . .

In *Remolona v. Civil Service Commission*,[89] this court explained the rationale for the severity of the penalty:

> It cannot be denied that dishonesty is considered a grave offense punishable by dismissal for the first offense under Section 23, Rule XIV of the Rules Implementing Book V of Executive Order No. 292. And the rule is that dishonesty, in order to warrant dismissal, need not be committed in the course of the performance of duty by the person charged. **The rationale for the rule is that if a government officer or employee is dishonest or is guilty of oppression or grave misconduct, even if said defects of character are not connected with his office, they affect his right to continue in office. The Government cannot tolerate in its service a dishonest official, even if he performs his duties correctly and well, because by reason of his government position, he is given more and ample opportunity to commit acts of dishonesty against his fellow men, even against offices and entities of the government other than the office where he is employed; and by reason of his office, he enjoys and possesses a certain influence and power which renders the victims of his grave misconduct, oppression and dishonesty less disposed and prepared to resist and to counteract his evil acts and actuations.** The private life of an employee cannot be segregated from his public life. Dishonesty inevitably reflects on the fitness of the officer or employee to continue in office and the discipline and morale of the service.[90] (Emphasis supplied)

However, on April 4, 2006, the Civil Service Commission issued Resolution No. 06-0538 or the Rules on the Administrative Offense of Dishonesty.

Resolution No. 06-0538 recognizes that dishonesty is a grave offense punishable by dismissal from service.[91] It, however, also recognizes that "some acts of Dishonesty are not constitutive of an offense so grave as to warrant the imposition of the penalty of dismissal from the service."[92]

Recognizing the attendant circumstances in the offense of dishonesty, the Civil Service Commission issued parameters "in order to guide the disciplining authority in charging the proper offense"[93] and to impose the proper penalty.

The resolution classifies dishonesty in three gradations: (1) serious; (2) less serious; and (3) simple. Serious dishonesty is punishable by

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89 414 Phil. 590 (2001) [Per J. Puno, En Banc].
90 Id. at 600-601.
91 Civil Service Commission, Resolution No. 06-0538 (2006), Third Whereas Clause.
92 Civil Service Commission, Resolution No. 06-0538 (2006), Fourth Whereas Clause.
93 Civil Service Commission, Resolution No. 06-0538 (2006).

dismissal.[94] Less serious dishonesty is punishable by suspension for six months and one day to one year for the first offense and dismissal for the second offense.[95] Simple dishonesty is punishable by suspension of one month and one day to six months for the first offense, six months and one day to one year for the second offense, and dismissal for the third offense.[96]

The medical certificate respondent submitted to support her application for sick leave was falsified. The question remains as to whether this act could be considered serious dishonesty, less serious dishonesty, or simple dishonesty.

According to the Civil Service Commission's finding in its resolution:

> In the instant case, the prosecution was able to establish that the medical certificate submitted by Salvaña was spurious or not genuine as the physician-signatory therein, Dr. Blanco[,] testified that she did not examine/treat the appellant nor did she issue a medical certificate on May 15, 2006 since she was on sick leave of absence on that particular day. Worthy [of] mention is that the appellant never bothered to submit any evidence, documentary or otherwise, to rebut the testimony of Blanco.
>
> Thus, the Commission rules and so holds that the appellant is liable for Dishonesty but applying the aforementioned CSC Resolution No. 06-0538, **her dishonest act would be classified only as Simple Dishonesty as the same did not cause damage or prejudice to the government and had no direct relation to or did not involve the duties and responsibilities of the appellant. The same is true with the falsification she committed, where the information falsified was not related to her employment**.[97] (Emphasis supplied)

In *Cuerdo v. Commission on Audit*,[98] this court previously ruled that "it is the general policy of this Court to sustain the decisions of administrative authorities 'not only on the basis of the doctrine of separation of powers but also for their presumed knowledgeability and even expertise in the laws they are entrusted to enforce.'"[99] The same case also stated that:

> . . . . we reaffirmed the oft-repeated rule that findings of administrative agencies are generally accorded not only respect but also finality when the decision and order . . . are not tainted with unfairness or arbitrariness that would amount to abuse of discretion or lack of jurisdiction. The findings of facts must be respected, so long as they are supported by substantial evidence even if not overwhelming or preponderant.[100]

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94 Civil Service Commission, Resolution No. 06-0538 (2006), Sec. 2(a).
95 Civil Service Commission, Resolution No. 06-0538 (2006), Sec. 2(b).
96 Civil Service Commission, Resolution No. 06-0538 (2006), Sec. 2(c).
97 *Rollo,* p. 99, Civil Service Commission Resolution No. 071364 (2007).
98 248 Phil. 886 (1988) [Per J. Sarmiento, En Banc].
99 Id. at 891.
100 Id.

Petitioner insists that respondent committed serious dishonesty when she submitted the falsified medical certificate. Under Section 3 of Resolution No. 06-0538, serious dishonesty comprises the following acts:

> Section 3. Serious Dishonesty. – The presence of any one of the following attendant circumstances in the commission of the dishonest act would constitute the offense of Serious Dishonesty:
>
> a. The dishonest act causes serious damage and grave prejudice to the government.
>
> b. The respondent gravely abused his authority in order to commit the dishonest act.
>
> c. Where the respondent is an accountable officer, the dishonest act directly involves property, accountable forms or money for which he is directly accountable and the respondent shows an intent to commit material gain, graft and corruption.
>
> d. The dishonest act exhibits moral depravity on the part of the respondent.
>
> e. **The respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment**.
>
> f. The dishonest act was committed several times or in various occasions.
>
> g. The dishonest act involves a Civil Service examination, irregularity or fake Civil Service eligibility such as, but not limited to, impersonation, cheating and use of crib sheets.
>
> h. Other analogous circumstances. (Emphasis supplied)

Simple dishonesty, on the other hand, comprises the following offenses:

> Section 5. The presence of any of the following attendant circumstances in the commission of the dishonest act would constitute the offense of Simple Dishonesty:
>
> a. The dishonest act did not cause damage or prejudice to the government.
>
> b. The dishonest act had no direct relation to or does not involve the duties and responsibilities of the respondent.

> c. **In falsification of any official document, where the information falsified is not related to his/her employment**.
>
> d. That the dishonest act did not result in any gain or benefit to the offender.
>
> e. Other analogous circumstances. (Emphasis supplied)

This court previously ruled that "[f]alsification of an official document, as an administrative offense, is knowingly making false statements in official or public documents."[101]

Respondent, in her defense, states that she merely relied on her Health Maintenance Organization's (HMO) advice that it was going to issue her a medical certificate after she had gone to the hospital complaining of hypertension.[102] She maintains that she did not know that her medical certificate was falsified. We do not find this defense credible.

Respondent knew that she was not examined by Dr. Blanco, the medical certificate's signatory. She knew that she would not be able to fully attest to the truthfulness of the information in the certificate. Despite this, she still submitted the certificate in support of her application for leave.

The Civil Service Commission, however, found that the medical certificate was falsified. Dr. Blanco repudiated the certificate. Respondent did not present any evidence to defend its validity. Her application for sick leave, therefore, should not have been granted since it was unaccompanied by the proper documents. The Commission correctly found respondent guilty of dishonesty.

However, it would be wrong to classify this offense as simple dishonesty.

By law, all employees in the civil service are entitled to leave of absence for a certain number of days, with or without pay.[103] Under Section 1, Rule XVI of the Omnibus Rules Implementing Book V of the Administrative Code, government employees are entitled to 15 days of sick leave annually with full pay.

The grant of sick leave with pay is an exception to the principle of "no work, no pay," i.e., entitlement to compensation only upon actual service

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[101] *Office of the Ombudsman v. Torres*, 567 Phil. 46, 58 (2008) [Per J. Nachura, Third Division], *citing* Civil Service Commission, Resolution No. 991936 (1999), Rule IV, Sec. 52 (A) (1) and (6).

[102] *Rollo*, p. 318.

[103] ADMINISTRATIVE CODE, Book V, Title I, Subtitle A, Chapter 9, Sec. 60.

rendered. As such, applications for leave must be properly filled out and filed accordingly. Section 16, Rule XVI of the Omnibus Rules Implementing Book V of the Administrative Code provides the rules for an application for sick leave:

> SECTION 16. All applications for sick leaves of absence for one full day or more shall be on the prescribed form and shall be filed immediately upon the employee's return from such leave. Notice of absence, however, should be sent to the immediate supervisor and/or to the office head. Application for sick leave in excess of five days shall be accompanied by a proper medical certificate.

Respondent's application for sick leave, if approved, would allow her to be absent from work without any deductions from her salary. Being a government employee, respondent would have received her salaries coming from government funds.

Since her application for sick leave was supported by a false medical certificate, it would have been improperly filed, which made all of her absences during this period unauthorized. The receipt, therefore, of her salaries during this period would be tantamount to causing damage or prejudice to the government since she would have received compensation she was not entitled to receive.

This act of causing damage or prejudice, however, cannot be classified as serious since the information falsified had no direct relation to her employment. Whether or not she was suffering from hypertension is a matter that has no relation to the functions of her office.

Given these circumstances, the offense committed can be properly identified as less serious dishonesty. Under Section 4 of Resolution No. 06-0538, less serious dishonesty is classified by the following acts:

> Section 4. The presence of any one of the following attendant circumstances in the commission of the dishonest act would constitute the offense of Less Serious Dishonesty:
>
> a. **The dishonest act caused damage and prejudice to the government which is not so serious as to qualify under the immediately preceding classification**.
>
> b. The respondent did not take advantage of his/her position in committing the dishonest act.
>
> c. Other analogous circumstances. (Emphasis supplied)

We hold, therefore, that respondent Atty. Aurora A. Salvaña is guilty

of less serious dishonesty.

A final note

The records showed that respondent tendered her irrevocable resignation on August 5, 2006. Petitioner's acceptance of respondent's resignation was not mentioned in any of the pleadings. However, the resolution by the Fact-finding Committee stated that "[o]n 16 August 2006, the Office of the Administrator received the resignation."[104] On the issue of whether respondent's resignation mooted its proceedings, it concluded that:

> [I]n the response of the Administrator to the letter of resignation filed by Respondent there was no unconditional acceptance of the same. In fact it was specified therein that her resignation is *"without prejudice to any appropriate action on any malfeasance or misfeasance committed during her tenure[."]* There can [sic] be no other conclusion from the above that her resignation does not prevent the administration from proceeding with any charge/s appropriate under the circumstances.[105] (Emphasis in the original)

Resignation from public office, to be effective, requires the acceptance of the proper government authority. In *Republic v. Singun*,[106] this court stated:

> Resignation implies an expression of the incumbent in some form, express or implied, of the intention to surrender, renounce, and relinquish the office and the acceptance by competent and lawful authority. **To constitute a complete and operative resignation from public office, there must be: (a) an intention to relinquish a part of the term; (b) an act of relinquishment; and (c) an acceptance by the proper authority**.
>
> . . . .
>
> **In our jurisdiction, acceptance is necessary for resignation of a public officer to be operative and effective. Without acceptance, resignation is nothing and the officer remains in office.** Resignation to be effective must be accepted by competent authority, either in terms or by something tantamount to an acceptance, such as the appointment of the successor. A public officer cannot abandon his office before his resignation is accepted, otherwise the officer is subject to the penal provisions of Article 238 of the Revised Penal Code. The final or conclusive act of a resignation's acceptance is the notice of acceptance. The incumbent official would not be in a position to determine the acceptance of his resignation unless he had been duly notified therefor.[107]

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104 *Rollo*, p. 78.
105 Id. at 84.
106 572 Phil. 140 (2008) [Per J. Carpio, First Division].
107 Id. at 150-151, *citing Gamboa v. Court of Appeals*, 194 Phil. 624 (1981) [Per J. Guerrero, First Division]; *Reyes v. Atienza*, 507 Phil. 653 (2005) [Per J. Tinga, Second Division]; Martin and Martin, ADMINISTRATIVE LAW, LAW ON PUBLIC OFFICERS AND ELECTION LAW 200 (1987); *Re: Administrative*

(Emphasis supplied)

If there was evidence to show that petitioner did not, in fact, accept respondent's resignation, her resignation would have been ineffective. Respondent's continued absence from her post would have been deemed abandonment from her office, of which she could be criminally charged.

Although the response of Administrator Robles was not attached to the record, it can be concluded from the resolution of the Fact-finding Committee that he accepted the resignation, albeit with the qualification that it be "without prejudice to any appropriate action on any malfeasance or misfeasance committed during her tenure."[108]

The qualified acceptance of Administrator Robles, however, did not affect the validity of respondent's resignation. Section 1, Rule XII of the Civil Service Commission Memorandum Circular No. 40, series of 1998, as amended by Civil Service Commission Memorandum Circular No. 15, series of 1999, requires:

> Sec. 1. Resignation. The following documents shall be submitted to the Commission for record purposes:
>
> a. The voluntary written notice of the employee informing the appointing authority that he is relinquishing his position and the efffectivity date of said resignation; and,
>
> b. The acceptance of resignation in writing by the agency head or appointing authority which shall indicate the date of effectivity of the resignation.
>
> An officer or employee under investigation may be allowed to resign pending decision of his case without prejudice to the continuation of the proceedings until finally terminated.

The qualification placed by Administrator Robles on his acceptance does not make respondent's resignation any less valid. The rules and regulations allow the acceptance of resignations while the administrative case is pending provided that the proceedings will still continue.

We also note that the unauthorized absences were incurred after the issuance of Office Order No. 119. At respondent's refusal to comply, she was administratively charged, which prompted her resignation from office. If there were irregularities in the issuance of Office Order No. 119, what respondent should have done would be to occupy the new position and then

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Case for Falsification of Official Documents and Dishonesty against Randy S. Villanueva, 556 Phil. 512 (2007) [Per Curiam, En Banc].

108 *Rollo*, p. 84.

file the proper remedies. She should not have defied the orders of her superiors.

Because of her resignation on August 5, 2006, any modification as to the service of her suspension became moot. Her permanent employment record, however, must reflect the modified penalty. Considering that she is also a member of the Bar, this court furnishes the Office of the Bar Confidant with a copy of this decision to initiate the proper disciplinary action against respondent.

WHEREFORE, the petition is **GRANTED**. The decision dated November 11, 2009 of the Court of Appeals in CA-G.R. SP. No. 104225 and Resolution No. 071364 dated July 18, 2007 of the Civil Service Commission is **AFFIRMED** with the **MODIFICATION** that respondent, Atty. Aurora A. Salvaña, is found guilty of Less Serious Dishonesty. The Civil Service Commission is **DIRECTED** to attach a copy of this decision to respondent's permanent employment record.

Let a copy of this decision be given to the Office of the Bar Confidant to initiate the proper disciplinary action against respondent Atty. Aurora A. Salvaña.

SO ORDERED.

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

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.

MARIA LOURDES P. A. SERENO
Chief Justice