

UY, Allan Y.

Re: Dishonesty and
Grave Misconduct

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RESOLUTION NO. 990298

Allan Y. Uy of Parañaque, Metro Manila, appeals the Order dated September 8, 1998 of the Regional Director, Civil Service Commission-National Capital Region (CSC-NCR). Said Order denied Uy's request for said Office to desist from further investigating the case against him. Said case was filed by concerned employees of the Philippine Atmospheric Geophysical and Astronomical Services Administration (PAGASA).

Pertinent portions of said Order read as follows:

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"After a careful evaluation of the motion, the same is found without merit in accordance with CSC MC 38 s. 1993 which provides as follows:

'An officer or employee under administrative investigation may be allowed to resign pending decision of his case but it shall be without prejudice to the filing of any administrative/criminal case against him for any act committed while still in the service.'

"The Commission has consistently ruled that the jurisdiction of the disciplining authority is not lost as a result of retirement or resignation of the employee provided the acts or omissions which constitute an offense was done while he was still employed in the

government service.

"Furthermore, pursuant to CSC Resolution No. 98-0683 dated March 31, 1998, Sec. 21 of the Uniform Rules of Procedure in the Conduct of Administrative Investigation, the instant motion shall be considered as an answer and shall be evaluated as such."

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In his appeal, Uy alleges as follows:

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"That on the issue of jurisdiction of this Office over the instant case, in spite of the citations quoted from CSC Resolutions Nos. 93-1524 and 95-5181 and CSC MC 38 s. 1993 to apparently justify or give a seeming color of validity to the assumption of jurisdiction by CSC over this case, it is respectfully maintained that the Civil Service Commission has no jurisdiction to take cognizance of this case.

"xxx while it is admitted that the Honorable CSC has jurisdiction to take cognizance over Administrative cases against terminated/resigned/separated or retired government officials and employees, the same is only true if such administrative investigation and/or case was initiated and/or filed while such government official or employee is still in the government service. In this case, the jurisdiction of CSC will continue even after the employment relationship of the respondent government official or employee was already severed later on.

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"xxx undersigned never questioned the power vested in the Commission to take cognizance of, investigate, hear and resolve issues and complaint(s) involving or against government official or employee. That what was being assailed in this case is the

jurisdiction of this Commission to take cognizance of a complaint filed/initiated/investigated after the subject official or employee's employment relationship with the government has already been severed. In this particular case, it should be noted that herein respondent's resignation was duly accepted by his Office and took effect last June 6, 1997. That as a matter of fact he was already issued an Ombudsman Clearance and a Certification of Clearance from his Office duly signed by Director Amadore and concerned officers of PAGASA including Ms. Lu Zervoulakos, while the investigation in this case was only initiated after August 15, 1997, a time when the respondent-appellant have long ceased to a government employee.

"The latter resolution clearly showed and as categorically stated therein 'It is well settled that the Civil Service Commission, pursuant to its mandate to enforce Civil Service Law and rules (sic) may institute disciplinary proceedings against any government official and employee x x x.' A reading of the same thereofre shows that the authority or jurisdiction of this Commission cover only government officials and employees and definitely not over persons whose employment with the government was already severed at the time the administrative action/investigation was initiated or filed.

"The interpretations being adopted by the CSC-NCR to give a seeming color of validity to its insistence in claiming jurisdiction over this case directly runs counter to the opinion of the then Ombudsman, Justice Condrado Vasquez ²¹/₂₁

"Thus, the Hon. Justice Vasquez in his comment to a CSC request in connection with the resignation of Atty. Espiritu Gonzalez, who at that time has already a pending Administrative Case ²¹/₂₁ run the risk of being administratively charged for other offenses punishable by summary dismissal ²¹/₂₁

'I hereby freed him from the rigors of an administrative investigation, the possibility of being preventively suspended without pay, suffering the ignominy of dismissal, forfeiture of benefits and deprivation of opportunity for

reinstatement in the public service.xxx.'

"Moreso Book V of the Revised Administrative Code of 1987 governing the CSC affairs, powers, functions and jurisdiction does not vest said Commission with the power to take cognizance of complaints or to initiate motu proprio administrative actions against private individuals whose employment relationship with the government was already severed at the time when such complaint or action was initiated"

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"That prior to the filing of the anonymous complaint and letter request for investigation by Ms. Zervoulakos with the Civil Service Commission, an anonymous administrative complaint was already filed with the Office of the Ombudsman against herein respondent-appellant for substantially almost the same charges which after conducting a fact-finding investigation, dismissed the said complaint for being moot and academic.

"The Office of the Ombudsman in dismissing said case, gave as one of its reason the resignation of respondent-appellant.

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"xxx This only shows that in such cases, said employees cannot be charged anymore administratively since the CSC, have already lost its jurisdiction over them. It would have been different had a valid complaint been filed and/or an administrative investigation conducted prior to the employee's retirement/resignation or separation from government service.

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Records show that effective June 6, 1997, Uy resigned as Weather Specialist II of PAGASA. Subsequently, an anonymous complaint dated July 10, 1997 was filed against him for Falsification of

Official Documents. Thereafter, Lu R. A. Zervoulakos, Chief, Human Resource Management Section, PAGASA, forwarded said complaint to CSC-NCR for investigation.

After finding a **prima facie** case against Uy, the CSC-NCR formally charged him on February 17, 1998. However, instead of filing his answer, Uy filed a motion to dismiss on the grounds that the complaint is anonymous and that it was improperly instituted inasmuch as the CSC-NCR has no jurisdiction when it took cognizance of the instant case because the respondent is no longer in the service when said complaint was filed. Said motion to dismiss was denied by the CSC-NCR. Hence, Uy moved for the reconsideration but the same was denied.

In **Resolution No. 97-0223 dated January 14, 1987 (Belagan, Allyson)**, this Commission ruled, thus:

"It is noted that the act complained of was allegedly committed by Belagan while still in the service. The fact that he is already out of the service would not relieve him of administrative liability. This is clear from the provisions of CSC MC 38, s. 1993, Chapter VI Second Paragraph of which reads as follows:

'An officer or employee under administrative investigation may be allowed to resign pending decision of his case but it shall be without prejudice to the continuation of the proceeding against him. It shall also be without prejudice to the filing of any administrative/criminal case against him for any act committed while still in the service. (Underscoring supplied)'

"Such being the case, the investigation against Belagan must continue until its termination."

Clearly, the resignation of a government official or employee should not serve as an instrument to evade liability for acts committed while he was still in the service. This is so, even if the complaint or formal charge against him was filed after the approval of his resignation. In other words, resignation cannot be used as a tool to evade probable conviction and imposition of corresponding penalty should there be a

finding of guilt on the basis of the substantial evidence. In this case, the Commission, through its Regional Office, acquired jurisdiction over this person upon receipt and acknowledgment of said formal charge as manifest in his filing of Motion to Dismiss.

WHEREFORE, the appeal of Allan Y. Uy is hereby dismissed. Accordingly, the CSC-NCR is directed to proceed with the formal investigation of the case until its termination pursuant to the Uniform Rules of Procedure in the Conduct of Administrative Investigation.

Quezon City, January 29, 1999

(Sgd) THELMA P. GAMINDE
Commissioner

(Sgd) CORAZON ALMA G. DE LEON
Chairman

(Sgd) JOSE F. ERESTAIN, JR.
Commissioner

Attested by:

(Sgd) ARIEL G. RONQUILLO
Director III