



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

REPUBLIC OF THE PHILIPPINES (Department of Education), **G.R. No. 209052**

Petitioner, Present:

PERLAS-BERNABE, S.A.J.,
Chairperson
 LAZARO-JAVIER,
 M. LOPEZ,
 ROSARIO, and
 LOPEZ,* J. Y., JJ.

- versus -

EULALIA T. MANEJA,
Respondent.

Promulgated:

JUN 23 2021

X-----X

DECISION

M. LOPEZ, J.:

Dismissal from the service imposed by the Civil Service Commission Regional Office (CSCRO) cannot be executed pending appeal with the Civil Service Commission Proper (CSC). Premature execution of the decision ordering the employee's dismissal from the service entitles the employee to the payment of backwages even though the employee is not fully exonerated on appeal.

ANTECEDENTS

* Designated additional member *per* Special Order No. 2822 dated April 7, 2021.

On October 29, 2001, Lyn Galarrita Cutamora (Cutamora) authorized in writing Eulalia T. Maneja (Maneja), a Secondary School Teacher at the Macabalan National High School in Macabalan, Cagayan de Oro City, to process Cutamora's salary loan application with the Manila Teachers Mutual Aid System (MTMAS), amounting to ₱68,000.00. Maneja processed Cutamora's loan and a check amounting to ₱13,021.00, the net proceeds of the loan, was issued. Maneja did not deliver the check to Cutamora. Instead, she deposited it to her own account with the Oro Credit Cooperative without Cutamora's endorsement, and afterwards appropriated the amount without her consent.¹

Thereafter, on June 26, 2002, Cutamora filed a complaint against Maneja before the CSCRO No. 10, Carmen, Cagayan de Oro City (CSCRO No. X), for Violation of Article 315, paragraph 1(b), Fixing of Teacher's Loan in any Lending Institutions like MTMAS, GSIS, etc., and Engaging in Check Rediscounting. Later, the CSCRO No. X filed a formal charge for dishonesty against Maneja.²

On June 25, 2003, CSCRO No. X promulgated its Decision³ finding Maneja guilty of dishonesty and imposing the penalty of dismissal, to wit:

WHEREFORE, premises considered, Maneja is hereby found **GUILTY** as charged. Accordingly, she is meted out the penalty of **dismissal** from the service with all its accessory penalties of forfeiture of retirement benefits, cancellation of eligibility and bar from future entrance in the government service.

Let copies of this decision be furnished the Department of Education, Regional Office No. [X], the Resident Auditor therein, the Principal of the Macabalan National High School, the Civil Service Field Office for Misamis Oriental.

SO ORDERED.⁴ (Emphases in the original.)

Maneja's motion for reconsideration was denied on October 21, 2003⁵ prompting her to file an appeal with the CSC. Meanwhile, the CSCRO No. X's decision was implemented thereby dismissing Maneja from the service effective December 2003.⁶

Pending Maneja's appeal, on April 4, 2006, the CSC adopted Resolution No. 06-0538⁷ which classified the offense of dishonesty into serious, less serious, and simple dishonesty and provided corresponding penalties.

¹ *Rollo*, p. 28.

² *Id.*

³ *Id.* at 41-47.

⁴ *Id.* at 47.

⁵ *Id.* at 48-52.

⁶ *Id.* at 29.

⁷ Rules on the Administrative Offense of Dishonesty, Section 1.

On June 12, 2007, the CSC issued Resolution No. 071120⁸ modifying the CSCRO No. X's decision by finding Maneja liable for the lower offense of Simple Dishonesty and imposing the penalty of three (3) months suspension, thus:

WHEREFORE, the appeal of Eulalia T. Maneja is hereby **PARTLY GRANTED**. Accordingly, the Civil Service Commission Regional Office No. X Decision dated June 25, 2003 finding her guilty of Dishonesty and meting on her the penalty of dismissal from the service with all its accessory penalties is **MODIFIED** to the extent that Maneja is liable for the lower offense of Simple Dishonesty for which she is hereby meted the penalty of three (3) months suspension.⁹ (Emphases in the original.)

Subsequently, Maneja filed a motion for the payment of back salaries and other emoluments due her office from the time she was dismissed from the service with the CSCRO No. X which forwarded it to the CSC.¹⁰ Initially, the CSC denied Maneja's motion through Resolution No. 07-1908 dated October 2, 2007. However, upon reconsideration, the CSC issued Resolution No. 08-1518 dated July 24, 2008 granting Maneja's claim for backwages. The CSC ruled that Maneja had the right to continue rendering work at the Department of Education (DepEd) and she should not have been deprived of her salary during the pendency of her appeal from the CSCRO No. X Decision, thus:

WHEREFORE, the motion for reconsideration of Eulalia T. Maneja is hereby **GRANTED**. Accordingly, she is entitled to receive her salaries and other emoluments of her position as Secondary School Teacher from December 2003 until her reinstatement in the service deducting therefrom the penalty of three (3) months suspension from the service.¹¹ (Emphases in the original.)

Thereafter, Maneja moved for the issuance of a writ of execution with the CSC, which the CSC granted on March 3, 2009 through Resolution No. 090330.¹² The DepEd, represented by Division Schools Superintendent-

⁸ *Rollo*, pp. 59-68.


⁹ *Id.* at 68.

¹⁰ *Id.* at 30.

¹¹ *Id.*

¹² *Id.* at 72-76. The dispositive portion reads:

WHEREFORE, the Motion for Execution of Eulalia T. Maneja is hereby **GRANTED**. Accordingly[,] the Regional Director, Department of Education, Regional Office No. X and the Schools Division Superintendent, Division of Cagayan de Oro City, Department of Education, Regional Office No. X are directed to immediately implement Civil Service Commission Resolution No. 08-1518 dated July 24, 2008 declaring Maneja entitled to receive her salaries and other emoluments of her position as Secondary School Teacher from December 2003 until her reinstatement in the service deducting therefrom the penalty of three (3) months suspension from the service. The refusal or failure of the said officials to implement the said Resolution will constrain the Commission to cite them in indirect contempt and file administrative charges against them pursuant to Section 83 of the URACCS. Furthermore, pursuant to Section 81 of the Uniform Rules on Administrative Cases in the Civil Service, the Civil Service Commission Regional Office No. X is directed to monitor the immediate implementation of CSC Resolution No. 08-1518 and to submit a report of compliance to the Commission within fifteen (15) days from receipt thereof. (*Id.* at 76; emphases in the original.)



Cagayan de Oro City, Myrna S. Motoomull, filed a motion for reconsideration but was denied on April 20, 2010 in CSC Resolution No. 100788.¹³

Aggrieved, the DepEd assailed the denial of its motion before the Court of Appeals-Cagayan de Oro City (CA) through a Petition for Review under Rule 43 of the Rules of Court docketed as CA-G.R. SP No. 03637-MIN.¹⁴ The DepEd faulted the CSC for downgrading the charge from Dishonesty to Simple Dishonesty and for awarding backwages to Maneja.¹⁵

On August 29, 2013, the CA rendered its Decision¹⁶ dismissing The DepEd's petition for lack of merit. The CA ruled that the CSC issued Resolution No. 06-0538 pursuant to its rule-making power provided in Presidential Decree No. 807¹⁷ and Executive Order No. 292 (EO No. 292);¹⁸ thus, it did not err when it downgraded the offense charged from Serious Dishonesty to Simple Dishonesty.¹⁹ On the grant of backwages, the CA held that it was proper because the June 25, 2003 Decision of CSCRO No. X ordering Maneja's dismissal was prematurely executed – it was still subject to review by the CSC.²⁰

Hence, this Petition.²¹ DepEd claims that CSC Resolution No. 06-0538 is invalid for expanding the singular offense of Dishonesty²² under EO No. 292. Too, the grant of backwages has no basis because Maneja was not exonerated, she voluntarily stopped working and never reported to her office,

¹³ Id. at 86-90.

¹⁴ Id. at 27.

¹⁵ Id. at 31.

¹⁶ Id. at 27-40. Penned by Associate Justice Oscar V. Badelles, with the concurrence of Associate Justices Romulo V. Borja and Edward B. Contreras. The dispositive portion reads, thus:

WHEREFORE, for lack of merit, the Petition under consideration is hereby
DIMISSED.

SO ORDERED. (Id. at 39; emphases in the original.)

¹⁷ Entitled "PROVIDING FOR THE ORGANIZATION OF THE CIVIL SERVICE COMMISSION IN ACCORDANCE WITH PROVISIONS OF THE CONSTITUTION, PRESCRIBING ITS POWERS AND FUNCTIONS AND FOR OTHER PURPOSES," signed on October 6, 1975.

SEC. 9. *Powers and Functions of the Commission.* The Commission shall administer the Civil Service and shall have the following powers and functions:

x x x x

(b) Prescribe, amend and enforce suitable rules and regulations for carrying into effect the provisions of this Decree. These rules and regulations shall become effective thirty days after publication in the Official Gazette or in any newspaper of general circulation[.]

x x x x

¹⁸ Entitled "INSTITUTING THE 'ADMINISTRATIVE CODE OF 1987,'" signed on July 25, 1987. Book V, Title I-A, Chapter 3, Section 12 (2) provides:

SEC. 12. *Powers and Functions.*—The Commission shall have the following powers and functions:

x x x x

(2) Prescribe, amend and enforce rules and regulations for carrying into effect the provisions of the Civil Service Law and other pertinent laws[.]

¹⁹ *Rollo*, pp. 35-36.

²⁰ Id. at 36-38.

²¹ Id. at 10-21.

²² Book V, Title I-A, Chapter 7, Section 46 (b) (1) of the "Administrative Code of 1987," provides:

SEC. 46. *Discipline: General Provisions.*— x x x.

(b) The following shall be grounds for disciplinary action:

(1) Dishonesty[.]

and she failed to file a money claim first with the Commission on Audit (COA) for payment of backwages.²³

RULING

The petition is unmeritorious.

Foremost, we find no error when the CA ruled that CSC Resolution No. 06-0538 was a valid exercise of the CSC's rule-making power. In *Trade and Investment Development Corporation of the Philippine. v. Civil Service Commission (TIDCO)*,²⁴ we had the occasion to discuss the rule-making powers of the CSC, viz.:

The 1987 Constitution created the CSC as the central personnel agency of the government mandated to establish a career service and promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service. **It is a constitutionally created administrative agency that possesses executive, quasi-judicial and quasi-legislative or rule-making powers.**

While not explicitly stated, the CSC's rule-making power is subsumed under its designation as the government's "central personnel agency" in Section 3, Article IX-B of the 1987 Constitution. The original draft of Section 3 empowered the CSC to "promulgate and enforce policies on personnel actions, classify positions, prescribe conditions of employment except as to compensation and other monetary benefits which shall be provided by law." This, however, was deleted during the constitutional commission's deliberations because it was redundant to the CSC's nature as an administrative agency[.]

x x x x

The 1987 Administrative Code then spelled out the CSC's rule-making power in concrete terms in Section 12, Book V, Title I-A, which **empowered the CSC to implement the civil service law and other pertinent laws, and to promulgate policies, standards and guidelines for the civil service.**

The CSC's rule-making power as a constitutional grant is an aspect of its independence as a constitutional commission. It places the grant of this power outside the reach of Congress, which cannot withdraw the power at any time. x x x.

x x x x

But while the grant of the CSC's rule-making power is untouchable by Congress, the **laws that the CSC interprets and enforces fall within the prerogative of Congress.** As an administrative agency, the CSC's quasi-legislative power is subject to the same limitations applicable to other administrative bodies. **The rules that the CSC formulates must not**

²³ Id. at 15-19.

²⁴ 705 Phil. 357 (2013).

override, but must be in harmony with, the law it seeks to apply and implement.²⁵ (Emphases supplied and citations omitted.)

Relatively, Section 46 (b) (1), Book V, Title I-A, Chapter 7 of EO No. 292 lists Dishonesty as a ground for disciplinary action. No corresponding penalty was prescribed for this offense in the law. Hence, the CSC, as the central personnel agency of the government, in the exercise of its rule-making powers, is obliged to put into effect this provision by providing for its proper penalty. Accordingly, it issued Resolution No. 99-1936 or the “Uniform Rules on Administrative Cases in the Civil Service” (URACCS), penalizing the offense of Dishonesty with dismissal from the service in the first offense.²⁶

Thereafter, realizing that not all acts of dishonesty warrant the ultimate punishment of dismissal from the service, and in light of the Court decisions reducing the penalty of dismissal from the service to suspension,²⁷ the CSC issued Resolution No. 06-0538, classifying the offense of Dishonesty with the corresponding penalties, thus:

SEC. 2. Classification of Dishonesty – The classification of the offense of Dishonesty and their corresponding penalties are as follows:

- a. **Serious Dishonesty** punishable by dismissal from the service.
- b. **Less Serious Dishonesty** punishable by suspension from six (6) months and one (1) day to one (1) year for the first offense and dismissal from the service for the second offense.
- c. **Simple Dishonesty** punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense; six (6) months and one (1) day to one (1) year suspension for the second offense; and dismissal from the service for the third offense.

Evidently, CSC Resolution No. 06-0538 is in consonance with our pronouncement in *TIDCO*.²⁸ It did not override, but is in harmony with Section 46 (b) (1), Book V, Title I-A, Chapter 7 of EO No. 292 – the law which the CSC seeks to enforce. Therefore, contrary to DepEd’s assertion, CSC Resolution No. 06-0538 is a valid exercise of the CSC’s rule-making powers.

²⁵ Id. at 370-372.

²⁶ CSC Resolution No. 99-1936. Rule IV, Section 52 [A] [1].

²⁷ The whereas clauses of CSC Resolution No. 06-0538 provide:

x x x x

WHEREAS, the Commission finds that some acts of Dishonesty are not constitutive of an offense so grave to warrant the imposition of the penalty of dismissal from the service;

WHEREAS, a number of decisions of the Court of Appeals and the Supreme Court on appeals from resolutions of the Civil Service Commission on Dishonesty cases, in consideration of attendant circumstances of the dishonest acts committed, have modified the penalty of dismissal from the service to suspension;

WHEREAS, the Commission recognizes the need to provide a classification for the offense of Dishonesty in order to impose the corresponding penalty based on the circumstances of the case.

²⁸ *Supra* note 24.

Moving on to Maneja's entitlement to backwages, we sustain its grant by the CSC as affirmed by the CA.

In *Civil Service Commission v. Cruz (Cruz)*,²⁹ we explained the conditions for backwages to be awarded when dismissal from the service was **immediately executed** but the employee was later ordered reinstated by the CSC. The government employee must not only be found innocent of the charges; his suspension must likewise, be shown to be unjustified. *Cruz* relied on the pronouncements in *Bangalisan v. Hon. CA (Bangalisan)*,³⁰ *Jacinto v. CA (Jacinto)*,³¹ and *De la Cruz v. Court of Appeals (Dela Cruz)*³² where the Court declared that payment of salaries corresponding to the period when an employee is not allowed to work may be decreed if: (1) he is found innocent of the charges which caused the suspension, **and** (2) when the suspension is unjustified.

Nevertheless, we hold that the conditions laid down in *Cruz* do not apply in this case. In *Cruz*, the penalty of dismissal from the service was decreed by the General Manager of the City of Malolos Water District, with the approval of its Board. In *Bangalisan*, the dismissal from the service of petitioners was ordered by then Secretary of the Department of Education, Culture and Sports. The subsequent cases of *Jacinto* and *Dela Cruz* involved similar factual circumstances as *Bangalisan*. **In these cases, the immediately executed dismissal from the service were decisions of heads of office.** Under EO No. 292, decisions of Secretaries and heads of instrumentalities imposing dismissal from the service are executory when confirmed by the Secretary concerned.³³ This is enforced by the URACCS, the governing rules when Maneja committed her offense, where the CSC adopted the wordings of EO No. 292.³⁴

In this case, the dismissal from the service of Maneja was decided by the CSCRO No. X. There is a difference in the authority who imposed the dismissal from the service. **This distinction is material because it determines the legality of the immediate execution.**

²⁹ 670 Phil. 638 (2011).

³⁰ 342 Phil. 586, 598 (1997).

³¹ 346 Phil. 656, 678-679 (1997).

³² 364 Phil. 786, 797-798 (1999).

³³ EO No. 292, Book V, Title I-A, Chaptre: 7, Section 47 (2).

SEC. 47. Disciplinary Jurisdiction. --- x x x.

(2) The Secretaries and heads of agencies and instrumentalities, provinces, cities and municipalities shall have jurisdiction to investigate and decide matters involving disciplinary action against officers and employees under their jurisdiction. Their decisions shall be final in case the penalty imposed is suspension for not more than thirty days or fine in an amount not exceeding thirty days' salary. In case the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department and finally to the Commission and pending appeal, **the same shall be executory except when the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary concerned.** (Emphasis supplied.)

³⁴ URACCS, Section 43, provides:

SEC. 43. *Filing of Appeals.* --- x x x.

In case the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department head and finally to the Commission Proper. **Pending appeal, the same shall be executory except where the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary concerned.** (Emphasis supplied.)

The CSC is composed of a Chairman and two Commissioners.³⁵ Under the CSC’s jurisdiction are the CSCROs.³⁶ Section 12 (11), Chapter 3, Title I-A, Book V of EO No. 292³⁷ provides that the CSC has the power to review decisions and actions of its offices and agencies attached to it. The same provision states that the CSC’s decisions, orders, or rulings shall be final and **executory**. Hence, it is the CSC’s decision that becomes executory, not the CSCROs’. This does not mean that the CSCRO’s decisions do not become executory in all instances. The URACCS declare that the CSCROs’ decisions are immediately executory after 15 days from receipt of the decision, unless a motion for reconsideration is timely filed.³⁸

To be sure, the URACCS distinguishes between the decisions of the CSCROs, and the decisions of the Secretaries and heads of agencies, thus:

SEC. 5. *Jurisdiction of the Civil Service Commission Proper.* — The Civil Service Commission Proper shall have jurisdiction over the following cases:

A. Disciplinary

1. **Decisions of Civil Service Regional Offices** brought before it on petition for review;
2. **Decisions of heads of departments, agencies, provinces, cities, municipalities and other instrumentalities**, imposing penalties exceeding thirty days suspension or fine in an

³⁵ EO No. 292, Book V, Title I-A, Chapter 3, Section 10.

SEC. 10. Composition.—The Commission shall be composed of a Chairman and two Commissioners x x x.

³⁶ EO NO. 292, Section 16, provides:

SEC. 16. Offices in the Commission. — The Commission shall have the following offices:

x x x x

(15) The Regional and Field Offices. — The Commission shall have not less than thirteen (13) Regional offices each to be headed by a Director, and such field offices as may be needed, each to be headed by an official with at least the rank of an Assistant Director. Each Regional Office shall have the following functions:

- (a) Enforce Civil Service law and rules, policies, standards on personnel management within their respective jurisdiction[s];
- (b) Provide technical advice and assistance to government offices and agencies regarding personnel administration; and
- (c) Perform such other functions as may be delegated by the Commission.

x x x x

³⁷ EO No. 292, Book V, Title I-A, Chapter 3, section 12, provides:

SEC. 12. Powers and Functions.—The Commission shall have the following powers and functions:

x x x x

(11) Hear and decide administrative cases instituted by or brought before it directly or on appeal, including contested appointments, and **review decisions and actions of its offices** and of the agencies attached to it. Officials and employees who fail to comply with such decisions, orders, or rulings shall be liable for contempt of the Commission. **Its decisions, orders, or rulings shall be final and executory**. Such decisions, orders, or rulings may be brought to the Supreme Court on certiorari by the aggrieved party within thirty (30) days from receipt of a copy thereof. (Emphases supplied.)

x x x x

³⁸ URACCS, Section 80, provides:

SEC. 80. *Execution of Decision.* — The decisions of the Commission Proper or its Regional Offices shall be immediately executory after fifteen (15) days from receipt thereof, unless a motion for reconsideration is seasonably filed, in which case the execution of the decision shall be held in abeyance.



amount exceeding thirty days salary brought before it on appeal[.] (Emphases supplied.)

x x x x

Further, the URACCS specified that it is the decision of the heads of offices which becomes executory depending on the penalty imposed and the filing of a motion for reconsideration or appeal, to wit:

SEC. 7. *Jurisdiction of Heads of Agencies.* — Heads of Departments, agencies, provinces, cities, municipalities and other instrumentalities shall have original concurrent jurisdiction, with the Commission, over their respective officers and employees.

A. Disciplinary

1. Complaints involving their respective personnel. Their decisions shall be final in case the penalty imposed is suspension for not more than thirty days or fine in an amount not exceeding thirty (30) days salary.

Decisions of Heads of Agencies imposing a penalty of removal shall be executory only after confirmation by the Department Secretary concerned. (Emphasis supplied.)

x x x x

SEC. 37. *Finality of Decisions.* — A decision rendered by heads of agencies whereby a penalty of suspension for not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days' salary is imposed, shall be final and executory. However, if the penalty imposed is suspension exceeding thirty (30) days, or fine in an amount exceeding thirty (30) days salary, **the same shall be final and executory after the lapse of the reglementary period for filing a motion for reconsideration or an appeal and no such pleading has been filed.** (Emphasis supplied.)

No similar provision, *i.e.*, whether the penalty is removal or otherwise, is found in the URACCS regarding the instance when the decision of the CSCRO will be executory other than in Section 80,³⁹ where no motion for reconsideration is filed.

Clearly, effects of decisions of the CSCROs are different from those of the heads of offices. Specifically, decisions of Secretaries and heads of agencies imposing removal are executory upon confirmation of the Secretary concerned while decisions of the CSCROs imposing dismissal from the service are executory only when no motion for reconsideration or appeal is filed.

Applying this rule here, Maneja timely filed a motion for reconsideration of the CSCRO No. X's decision penalizing her with dismissal. When the motion was denied, she filed an appeal before the CSC within the

³⁹ *Id.*



reglementary period. Thus, CSCRO No. X's decision never became executory. Consequently, its implementation of Maneja's dismissal was illegal and has no basis in law.

To reiterate, in *Cruz*,⁴⁰ *Bangalisan*,⁴¹ *Jacinto*,⁴² and *Dela Cruz*,⁴³ the decisions of the disciplining authority were properly immediately executed. In stark contrast, the decision of the CSCRO No. X here was prematurely executed pending Maneja's appeal with the CSC. Ultimately, the conditions in *Cruz* do not apply here because the decision implemented was not executory.

We find that the ruling in *Abellera v. City of Baguio (Abellera)*,⁴⁴ is applicable in this case. The CA correctly applied *Abellera* in affirming the grant of backwages to Maneja, viz.:

On the legal issue of respondent's entitlement to back salaries, petitioner, citing the case of *Castro v. Honorable Secretary Gloria in his capacity as Secretary of the Department of Education, Culture and Sports*, argues that respondent is not entitled to the payment of backwages considering that she was not completely exonerated.

Petitioner's argument would have been correct if the order of dismissal was not prematurely executed.

The Supreme Court in *Abellera v. City of Baguio, et al.*, had the occasion to declare that premature execution of a decision dismissing an employee from government service could serve as basis for an award of back salaries.

In the said case, *Abellera*, a cashier in the Baguio City Treasurer's Office, was ordered dismissed from the service after being found guilty of dishonesty and gross negligence. *Even before the period to appeal expired*, the City of Baguio dismissed him from the service. On appeal, however, the penalty imposed on him was reduced "to two months suspension, without pay" although the appealed decision was affirmed "in all other respects."

When the issue of *Abellera*'s entitlement to back salaries reached the Supreme Court, the High Court considered the illegality of *Abellera*'s suspension – *i.e.*, from the time he was dismissed up to the time of his actual reinstatement – to be a sufficient ground to award him back salaries.

The rule on payment of back salaries during the period of suspension of a member of the civil service who is subsequently ordered reinstated, is already settled in this jurisdiction. Such payment of salaries corresponding to the period when an employee is not allowed to work may be decreed **not only** if he is found innocent of the charges which caused his suspension (Sec. 35, RA 2260), but also when the suspension is unjustified.

⁴⁰ *Supra* note 29.

⁴¹ *Supra* note 30.

⁴² *Supra* note 31.

⁴³ *Supra* note 32.

⁴⁴ 125 Phil. 1033 (1967).

In the present case, upon receipt of the [Civil Service Commissioner's] decision x x x finding [Abellera] guilty, but even before the period to appeal had expired, [the Baguio City officials] dismissed [Abellera] from the service and another one was appointed to replace him. **[Abellera's] separation x x x before the decision of the Civil Service Commissioner had become final was evidently premature.** [The Baguio City officials] should have realized that [Abellera] still had the right to appeal the Commissioner's decision to the Civil Service Board of Appeals within a specified period, and the possibility of that decision being reversed or modified. As it did happen on such appeal x x x the penalty imposed by the Commissioner was reduced x x x to only 2 months suspension. And yet, by [the Baguio City officials'] action, [Abellera] was deprived of work for more than 2 years. **Clearly, Abellera's second suspension from office [i.e., from the time he was dismissed up to his actual reinstatement] was unjustified, and the payment of the salaries corresponding to said period is, consequently, proper.** (emphases and underscoring in the original)

Here, despite the pendency of respondent's appeal with the Commission, the June 25, 2003 Decision of the CSCRO X dismissing him from the service was still implemented. Evidently, the execution of the decision was premature since the same had not yet attained finality as it was still subject to review by the Commission. As a general rule, there can be no execution until and unless the judgment has become final and executory.

Considering the pendency of respondent's appeal with the Commission, prudence dictates that petitioner should not have caused the execution of the order of dismissal. As aptly pointed out by the Commission in its Resolution No. 08-1518 dated July 24, 2008, *viz*:

The CSCRO No. X Decision dated June 25, 2003 did not attain finality as would warrant its execution by the DepEd. Based on the record, CSCRO No. X Decision dated October 21, 2003 was received by Maneja on November 6, 2003. On the other hand, Maneja's Petition or appeal to the CSCRO No. X Decision dated October 21, 2003 was filed on November 17, 2003 before the Commission Proper. Counting November 6 to November 17, the period that lapsed is only eleven (11) days, thus, within the reglementary period of fifteen (15) days of filing appeals pursuant to *Section 43 of the Uniform Rules on Administrative Cases in the Civil Service*, x x x.

Thus, the DepEd should not have executed the penalty of dismissal from the service. **Moreover, the decisions of the Regional Offices are not ipso facto executory.** [Emphasis supplied.] The finality of a decision of Regional Offices requires a collegial action by the Commission Proper. Thus, in the absence of any Resolution from the Commission declaring the finality of the Regional Office's decision or action, the same is not final and executory. This is the Commission's ruling in *CSC Resolution No. 00-1240 dated May 24, 2000* x x x[.]⁴⁵ (Emphases, italics and underscoring in the original; citations omitted.)

Here, as in *Abellera*,⁴⁶ CSCRO No. X's decision was hastily executed pending Maneja's appeal resulting in her dismissal despite the decision not

⁴⁵ *Rollo* pp. 36-38.

⁴⁶ *Supra* note 44.

being executory. Therefore, her suspension from December 2003 up to her actual reinstatement, is unjustified and without basis warranting the grant of backwages covering that period, notwithstanding the fact that she was not fully exonerated from her offense of Dishonesty.

In a last attempt to convince the Court to deny backwages to Maneja, the DepEd contends that she failed to file a money claim for backwages first with the COA thereby amounting to non-exhaustion of administrative remedies. This argument holds no water.

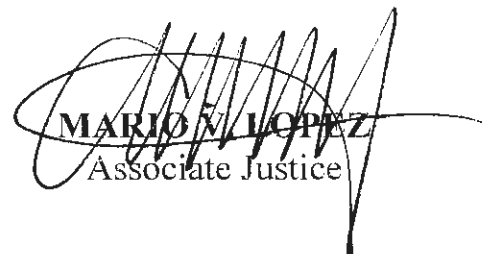
We note that DepEd belatedly raised this issue. In its petition, DepEd claimed that the CA failed to rule on this issue which was raised in its Motion for Reconsideration.⁴⁷ A perusal of the records reveals, however, that the issue was not mentioned in DepEd's Motion for Reconsideration.⁴⁸ It is settled that no question will be entertained on appeal unless it has been raised in the proceedings below. Points of law, theories, issues and arguments not brought to the attention of the lower court, administrative agency or quasi-judicial body need not be considered by a reviewing court as they cannot be raised for the first time at that late stage. Basic considerations of fairness and due process impel this rule. Any issue raised for the first time on appeal is barred by estoppel.⁴⁹

At any rate, we did not require the filing of money claim with the COA when backwages were granted to reinstated government employees in *Cruz*, *Balingasan*, *Jacinto*, and *Dela Cruz*. It follows that Maneja need not be required to go through that procedure. More importantly, Maneja's claim for backwages is not yet final – she has no claim against the government during the pendency of this case.

In sum, CSC Resolution No. 06-0538 does not contradict EO No. 292 and is a valid exercise of the CSC's rule-making powers. Further, Maneja's dismissal was unjustified due to the premature execution of CSCRO No. X's decision. Accordingly, Maneja is entitled to backwages.

FOR THESE REASONS, the petition is **DENIED**. The Decision dated August 29, 2013 of the Court of Appeals-Cagayan de Oro City in CA-G.R. SP No. 03637-MIN is **AFFIRMED**.

SO ORDERED.


MARIO N. LOPEZ
Associate Justice

⁴⁷ Rollo, p. 18.

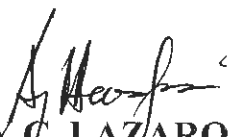
⁴⁸ Id. at 77-83.

⁴⁹ *Rebadulla v. Rep. of the Phils.*, 824 Phil. 982, 994 (2018).

WE CONCUR:



ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



AMY C. LAZARO-JAVIER
Associate Justice



RICARDO R. ROSARIO
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice