

MARCELO, Maila M.

Re: Dishonesty; Grave Misconduct:
Examination Irregularity

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RESOLUTION No. 990239

Maila M. Marcelo of Sta. Cruz, Manila, was formally charged by the Civil Service Commission-National Capital Region (CSC-NCR) with Dishonesty and Grave Misconduct. This case arose from the alleged possession and use of a calculator during the examination proper of the Career Service Professional Examination on December 01, 1996 at Ernesto Rondon High School, Project 6, Quezon City.

The formal charge reads, as follows:

"x x x. The said investigation established a prima facie case for the following fact that:

1. You applied for the aforesaid examination and were assigned at Room 05, of the said school;

1)

1. You took the said examination on December 01, 1996 as scheduled; and

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1. During the examination proper, the examination proctor and examiner, respectively, caught you using a calculator.

6.

"Considering that using calculators during Civil Service Examinations constitute the administrative offenses of Dishonesty and Grave Misconduct, therefore, you should be charged accordingly."

Respondent was directed to submit her answer to the formal charge within five (5) days from receipt thereof. In a letter dated February 5, 1997, the Respondent stated, as follows:

"I received your letter address (sic) to me charging me of dishonesty. I'am (sic) very sorry sir, that I committed as (sic) honest mistake in the first place this is the first time that I participated such examination and secondly I never know of any rules and regulation regarding this please reconsedered (sic) your stand regarding this Sir. Thank's"

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A formal investigation of the case was scheduled on October 15, 1997 at the CSC-NCR Office and respondent was given due notice. Respondent failed to appear during the scheduled date despite said notice. Hence, the hearing of the case proceeded **ex parte**. She was again notified of the subsequent hearings set for the case but she again did not appear. Therefore, she was considered to have waived her right to cross-examine the witnesses for the prosecution and to present evidence on her behalf pursuant to Section 13 of the Uniform Rules of Procedure in the Conduct of Administrative Investigations.

The documentary evidence submitted to support the cases against the respondent are the following:

1. A handwritten statement, dated December 01, 1996, signed by the respondent, which reads as follows:

"I, Maila M. Marcelo of 629 LPI Bldg. T. Mapua St., Sta. Cruz, Manila. I use the calculator start number 151 up to 155, they the structorn (sic) she talked me why to use the calculator. That my first timer examination. I sorry"

2. Picture Seat Plan (Exhibit "A") to prove that the respondent took the December 01, 1996 Career Service Professional Examination at E. Rondon High School.

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2. Picture of the respondent as appearing in the PSP (Exhibit "A - 1"), likewise to prove that the respondent actually took the aforementioned examination.

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2. Signature of the respondent appearing in the PSP (Exhibit "A -2") which was presented for the same purpose as aforementioned.

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2. Remarks written in the PSP which read: "Exam. No. 261359 Maila M. Marcelo was caught using Casio calculator. SE confiscated same." (Exhibit "A - 3") to prove that respondent was caught using a calculator during the examination.

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The following witnesses were also presented:

1. Ms. Helen C. Dultra, the designated Room Examiner/Proctor, who testified that an examinee with the name Ms. Maila M. Marcelo took the said examination as appearing in the Picture Seat Plan and the Examination Attendance Sheet.
2. Ms. Roma Gamuyao, designated Supervising Examiner, who testified that Examinee No. 261359 with the name Maila Marcelo was caught using a calculator during the said examination.

After a careful perusal of the records, the Commission finds substantial evidence to hold respondent Maila M. Marcelo guilty of Dishonesty and Grave Misconduct.

On the Examiner's Manual for the Career Service Examination for Professionals/Subprofessionals, room examiners are given the following instructions for the Admission of Examinees:

"5. Direct examinees to clear their chairs/tables of their personal belongings, including calculators, books and all other written or printed matter. Examinees are not allowed to use calculators or reference materials during the examination. Examinees who have WACTH CALCULATORS must not use/wear them during the examination." (Underscoring supplied)

Based on the afore-quoted instructions, the possession and use of a calculator during the examination is prohibited. The use thereof is tantamount to using reference materials.

Moreover, the WHEREAS Clause in **CSC Resolution 98-1109 dated May 19, 1998** provides as follows:

"WHEREAS, the Commission, in the conduct of said examination has noted that examinees resort to the use of answer key, crib sheet, codigo or similar materials containing answers to the civil service examination. The said examinees, caught in

possession of said answer key, among others, before or during said examinations were subsequently charged with Dishonesty (Examination Irregularity through Cheating) with the corresponding penalty of dismissal from the service;" (italics supplied)

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The phrase "similar materials", as stated in the above-quoted resolution, is construed to include calculators and any other electronic gadget or device with or without memory bank which could provide answers to questions in Civil Service Examinations. This is so because the said examination contains mathematical problems and other items which need computations. Used in the proper way, said devices "contain answer to the civil service examination". Hence, examinees using them shall have undue advantage over those who do not.

The Commission finds the respondent's contention that she does not know any rule or regulation prohibiting the use of calculator, without merit. As provided in the Examiner's Manual, room examiners are specifically instructed to read aloud the following rules for taking the test:

" X X X

"3. Work on your own. Do not communicate with your seatmates, nor use any aids like books, dictionaries, calculators, etc. in answering the questions. Anybody who is caught violating this rule will be disqualified from taking this test and other future Civil Service Examinations."

As a standard operation procedure in test administration, room Examiners read the above-quoted rules within the hearing distance of the examinees. In the absence of evidence to the contrary, public function is presumed to have been regularly performed. Hence, respondent's claim of innocence is not at all

believable.

The Commission also gives credence to the admission of the respondent herself (handwritten statement dated December 01, 1996 and letter dated February 5, 1997). Interestingly, the respondent never denied the contents of the said confessions. Neither did she allege that she was forced to make such confessions. In **People vs. Montiero, (246 SCRA 786)**, the Supreme Court ruled as follows:

"We reiterate the rule that a confession constitutes evidence of high order since it is supported by the strong presumption that no person of normal mind would deliberately and knowingly confess to a crime unless prompted by truth and his conscience. It is admissible until the accused successfully proves that it was given as a result of violence, intimidation, threat, or promise of a reward or leniency."

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WHEREFORE, Maila M. Marcelo is hereby found guilty of Dishonesty. Accordingly, she is meted out the penalty of dismissal from the service including all its accessory penalties. Since the respondent is not in the government service, the penalty of dismissal is deemed implemented. She is also perpetually barred from entering the government and from taking any civil service examination in the future.

Quezon City, Jan 21, 1999

THELMA P. GAMINDE

Commissioner

CORAZON ALMA G. DE LEON
Chairman

JOSE F. ERESTAIN, JR.
Commissioner

Attested by:

ARIEL G. RONQUILLO
Director III

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