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In sum, the trial court correctly ruled that Revenue Regulations Nos. 9-2003 and 22-2003 are void insofar as they empower the BIR to periodically review or re-determine the current net retail prices of cigarettes for purposes of updating their tax classification every two years or earlier consistent with the Court's pronouncements in *British American Tobacco v. Camacho*. Consequently, the upward reclassification of Astro and Memphis in Annex "A" of Revenue Regulations No. 22-2003 is invalid.

WHEREFORE, the petition is *DENIED*.

SO ORDERED.

Chico-Nazario, Velasco, Jr., Nachura, and *Peralta, JJ.,* concur.

EN BANC

[G.R. No. 179452. June 11, 2009]

CIVIL SERVICE COMMISSION, *petitioner, vs.* **LARRY M. ALFONSO,** *respondent.*

SYLLABUS

1. POLITICAL LAW; CIVIL SERVICE COMMISSION; POWERS AND FUNCTIONS; CONSTRUED. — As the central personnel agency of the government, the CSC has jurisdiction to supervise the performance of and discipline, if need be, all government employees, including those employed in government-owned or controlled corporations with original charters such as PUP. Accordingly, all PUP officers and employees, whether they be classified as teachers or professors pursuant to certain provisions of law, are deemed, first and foremost, civil servants accountable to the people and answerable to the CSC in cases of complaints lodged by a citizen against them as public servants. Admittedly, the CSC has appellate jurisdiction over disciplinary cases decided by government departments, agencies

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and instrumentalities. However, a complaint may be filed directly with the CSC, and the Commission has the authority to hear and decide the case, although it may opt to deputize a department or an agency to conduct the investigation. Specifically, Sections 9(j) and 37(a) of P.D. 807, otherwise known as the Civil Service Law of 1975, provide: SECTION 9. Powers and Functions of the Commission. – The Commission shall administer the Civil Service and shall have the following powers and function: x x x (j) Hear and decide administrative disciplinary cases **instituted directly with it** in accordance with Section 37 **or brought to it on appeal***;* x x x Section 37. Disciplinary Jurisdiction. — (a) 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. **A complaint may be filed directly with the Commission by a private citizen against a government official or employee in which case it may hear and decide the case or it may deputize any department or agency or official or group of officials to conduct the investigation.** The results of the investigation shall be submitted to the Commission with recommendation as to the penalty to be imposed or other action to be taken.

2. ID.; ID.; ID.; JURISDICTION; ACTIVE PARTICIPATION IN THE PROCEEDINGS BARS IMPUNITY OF THE COMMISSION'S AUTHORITY; RATIONALE. — Equally significant is the fact that he had already submitted himself to the jurisdiction of the CSC when he filed his counter-affidavit and his motion for reconsideration and requested for a change of venue, not from the CSC to the BOR of PUP, but from the CSC-Central Office to the CSC-NCR. It was only when his motion was denied that he suddenly had a change of heart and raised the question of proper jurisdiction. This cannot be allowed because it would violate the doctrine of *res judicata*, a legal principle that is applicable to administrative cases as well. At the very least, respondent's active participation in the proceedings by seeking affirmative relief before the CSC already bars him from impugning the Commission's authority under the principle of estoppel by laches. x x x Verily, since the complaints were filed directly with the CSC, and the CSC has opted to assume jurisdiction over the complaint, the CSC's

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exercise of jurisdiction shall be to the exclusion of other tribunals exercising concurrent jurisdiction. To repeat, it may, however, choose to deputize any department or agency or official or group of officials such as the BOR of PUP to conduct the investigation, or to delegate the investigation to the proper regional office. But the same is merely permissive and not mandatory upon the Commission.

3. ID.; ID.; ID.; PREVENTIVE SUSPENSION OF GOVERNMENT EMPLOYEES; KINDS. — There are two kinds of preventive suspension of government employees charged with offenses punishable by removal or suspension, *viz:* (1) preventive suspension pending investigation; and (2) preventive suspension pending appeal if the penalty imposed by the disciplining authority is suspension or dismissal and, after review, the respondent is exonerated. Preventive suspension pending investigation is not a penalty. It is a measure intended to enable the disciplining authority to investigate charges against respondent by preventing the latter from intimidating or in any way influencing witnesses against him. If the investigation is not finished and a decision is not rendered within that period, the suspension will be lifted and the respondent will automatically be reinstated. If after investigation, respondent is found innocent of the charges and is exonerated, he should be reinstated.

4. ID.; ID.; ID.; ID.; PENALTY, EXPLAINED. — A person charged with grave misconduct is put on notice that he stands accused of misconduct coupled with any of the elements of corruption or willful intent to violate the law or established rules. Meanwhile, conduct prejudicial to the best interest of the service is classified as a grave offense with a corresponding penalty of suspension for six (6) months and one (1) day to one (1) year for the first offense, and the penalty of dismissal for the second offense. In addition to the gravity of the charges against Alfonso, and equally relevant, is the opportunity available to him to use his position as Director of the Human Resources Management Department of the university to exert undue influence or pressure on the potential witnesses that the complainants may produce, or to tamper with the documentary evidence that may be used against him. Preventive suspension is, therefore, necessary so that respondent's delicate yet powerful position in the university may not be used to compromise the integrity and impartiality of the entire proceedings.

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APPEARANCES OF COUNSEL

The Solicitor General for petitioner.
Solosa De Guzman and Associates for respondent.

D E C I S I O N

NACHURA, *J.*:

This is a Rule 45 petition assailing the May 21, 2007 Decision[1] and August 23, 2007 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 97284, which reversed Civil Service Commission (CSC) Resolution Nos. 061821[3] and 061908[4] dated October 16, 2006 and November 7, 2006, respectively, as well as its Order[5] dated December 11, 2006, formally charging respondent Larry Alfonso with Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service and preventively suspending him from his position as Director of the Human Resources Management Department of the Polytechnic University of the Philippines (PUP).

The facts, as summarized by the CA, are as follows:

Respondent Larry M. Alfonso is the Director of the Human Resources Management Department of PUP. On July 6, 2006, Dr. Zenaida Pia, Professor IV in PUP-Sta. Mesa, and Dindo Emmanuel Bautista, President of *Unyon ng mga Kawani sa PUP*, jointly filed an Affidavit-Complaint against Alfonso for violation of Republic Act (RA) No. 6713, charging the latter with grave misconduct, conduct prejudicial to the best interest of the Service, and violation of Civil Service Law, rules and

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[1] Penned by Associate Justice Magdangal M. de Leon, with Associate Justices Rebecca de Guia-Salvador and Ricardo R. Rosario, concurring; *rollo*, pp. 54-68.

[2] *Rollo,* pp. 69-70.

[3] *Id.* at 71-76.

[4] *Id.* at 94-98.

[5] *Id.* at 110-112.

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regulations. The affidavit-complaint was lodged before the Civil Service Commission (CSC). In their affidavit, Dr. Pia and Bautista alleged, among others, that respondent repeatedly abused his authority as head of PUP's personnel department when the latter prepared and included his name in Special Order Nos. 0960 and 1004 for overnight services, ostensibly authorizing him to work for 24 hours straight from May 16 to 20, May 22 to 27 and May 29 to June 2, 2006. As a result thereof, Alfonso made considerable earnings for allegedly working in humanly impossible conditions 24 hours straight daily, for three consecutive weeks.[6]

In support of their complaint, Dr. Pia and Bautista submitted the following documentary evidence:

1. Special Order No. 1004, s. 2006;
2. Special Order No. 0960, s. 2006;
3. Daily time records of Saturday and Overnight Services of Alfonso;
4. PUP Perm-OT overnight May 2006 payroll register;
5. Xerox copy of check no. 162833 dated May 31, 2006;
6. Summary of Alfonso's Saturday, overnight and overtime schedule;
7. Computation of the number of hours, days and weeks that Alfonso allegedly served; and
8. Explanation of official time, night service, Saturday overtime and overnight services rendered by Alfonso for the month of May.[7]

On August 10, 2006, the Office of Legal Affairs (OLA) of the CSC issued an order directing Alfonso to submit his counter-affidavit/comment within three (3) days from receipt thereof.

In his Counter-Affidavit[8] dated August 30, 2006, respondent averred that he only rendered overnight work on May 17, 19, 22, 24, 26, 29 and 31, 2006. He explained that his daily time record explicitly indicates that it covers overnight services pursuant

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[6] *Id.* at 55.

[7] *Id.* at 32-33.

[8] *Id.* at 113-122.

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to S.O. No. 1004, series of 2006, and that an entry such as "Day 17, arrival 8:00 PM; Day 18, departure 8:00 AM" connoted only a day of overnight work and not continuous two (2) days of rendition of services.[9]

The CSC, however, found Alfonso's explanation wanting. On October 25, 2006, it issued Resolution No. 061821 formally charging Alfonso with grave misconduct and conduct prejudicial to the best interest of the Service, and imposing a 90-day preventive suspension against him.[10]

Aggrieved, respondent filed an omnibus motion for reconsideration of the preventive suspension order and requested a change of venue[11] from the CSC-Central Office to the CSC-National Capital Region (CSC-NCR). In the motion, he argued that it is the CSC-NCR regional office that has jurisdiction over the matter pursuant to Section 6 of CSC Resolution No. 99-1936, and that to hold otherwise may deprive him of his right to appeal.[12] The motion was denied.[13]

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[9] *Id.* at 55-56.

[10] Pertinent portion of the said Resolution states:

> WHEREFORE, the Commission hereby issues a FORMAL CHARGE against Larry M. Alfonso for Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service. Accordingly, he is given five (5) days from receipt hereof to submit his written answer under oath, together with the affidavits of his witnesses and documentary evidence, if any. He is further directed to indicate in his Answer whether he elects a formal investigation or waive the same. Failure to file an answer shall be deemed a waiver on his part. A Motion to Dismiss, Request for Clarification, Bill of Particulars or any other pleadings shall be considered by the Commission as his Answer and shall be evaluated as such. Furthermore, he is advised of his right to the assistance of a counsel of his choice.
>
> A PREVENTIVE SUSPENSION is hereby issued against Larry M. Alfonso for ninety (90) days effective upon receipt hereof. (*Id.* at 75-76.)

[11] *Rollo,* pp. 77-93.

[12] *Id.* at 89-92.

[13] The dispositive portion of the said Resolution reads:

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Undaunted, Alfonso filed another motion for reconsideration on November 20, 2006, accompanied by a motion to admit his supplemental answer.[14] This time, however, respondent argued that the CSC had no jurisdiction to hear and decide the administrative case filed against him. According to him, it is the PUP Board of Regents that has the exclusive authority to appoint and remove PUP employees pursuant to the provisions of R.A. No. 8292[15] in relation to R.A. No. 4670.[16]

Without ruling on the motion, Assistant Commissioner Atty. Anicia Marasigan-de Lima, head of CSC-NCR, issued an Order[17] dated December 11, 2006 directing the Office of the President of PUP to implement the preventive suspension order against respondent.[18]

WHEREFORE, the motion of Larry M. Alfonso to lift the order of preventive suspension issued against him by the Commission is hereby DENIED. Accordingly, Civil Service Commission (CSC) Resolution No. 061821 dated October 16, 2006, formally charging Alfonso of Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service and simultaneously placing him under preventive suspension for a period of ninety (90) days, STANDS.

Likewise, the request of Alfonso for the transfer of venue of the instant case from the CSC Central Office to the CSC-National Capital Region (CSC-NCR) is DENIED. The Office of Legal Affairs (OLA) is directed to proceed with the formal investigation of the case. (*Id.* at 98.)

[14] *Rollo*, pp. 99-109.

[15] Entitled "An Act Providing for the Uniform Composition and Powers of the Governing Boards, the Manner of Appointment and Term of Office of the President of Chartered State Universities and Colleges, and for Other Purposes," or more commonly known as the Higher Education Modernization Act of 1997.

[16] Otherwise known as the *Magna Carta* for Public School Teachers.

[17] *Supra* note 5.

[18] The dispositive portion of the said Order reads:

WHEREFORE, the Polytechnic University of the Philippines, through its Acting President Dr. Dante G. Guevarra, is hereby directed to place Larry M. Alfonso under preventive suspension IMMEDIATELY upon receipt hereof pursuant to CSC Resolution Nos. 061821 and 061908.

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Dissatisfied, respondent sought relief before the CA *via* a petition for *certiorari* and prohibition.

On May 21, 2007, the CA rendered a Decision[19] in favor of Alfonso. The pertinent portion of the decision declares:

> Applying the foregoing provisions, it appears that the CSC may take cognizance of an administrative case in two ways: (1) through a complaint filed by a private citizen against a government official or employee; and (2) appealed cases from the decisions rendered by Secretaries or heads of agencies, instrumentalities, provinces, cities and municipalities in cases filed against officers and employees under their jurisdiction.
>
> Indisputably, the persons who filed the affidavit-complaint against petitioner held positions in and were under the employ of PUP. Hence, they cannot be considered as private citizens in the contemplation of the said provision. It is likewise undisputed that the subject CSC resolutions were not rendered in the exercise of its power to review or its appellate jurisdiction but was an ordinary administrative case. Hence, the present case falls short of the requirement that would otherwise have justified the CSC's immediate exercise of its jurisdiction over the administrative case against petitioner.
>
> Even assuming that the CSC may directly entertain the complaints filed with it, the doctrine of exhaustion [of] administrative remedies still prevents it from entertaining the present administrative case. If a remedy within the administrative machinery can still be had by giving the administrative officer concerned every opportunity to decide on the matter that comes within his jurisdiction, then such remedy should be priorly exhausted.
>
> The circumstances in this case do not justify the disregard of the doctrine. Hence, the administrative complaint should have been lodged with the PUP board of regents.
>
> x x x x x x x x x

Failure to do so will constrain this Office to initiate contempt charges and file an administrative case against D. Guevarra for Neglect of Duty or Conduct Prejudicial to the Best Interest of the Service pursuant to Section 83 of the Uniform Rules on Administrative Cases in the Civil Service. (*Id.* at 112.)

[19] *Supra* note 1.

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The CA ratiocinated that since Presidential Decree (P.D.) No. 1341, the law creating PUP, is the special law governing PUP, then it is the Board of Regents (BOR) that should carry out the duties of the investigating committee and has the proper authority to discipline PUP personnel corollary to the BOR's general powers of administration.[20] According to the CA, the power of the BOR to hire carries with it the corresponding power to discipline PUP personnel pursuant to Section 7(c) of P.D.1341, to wit:

> Section 7. The Board of Regents shall have the following powers and duties in addition to his general powers of administration and the exercise of all the powers of a corporation as provided in Section 13 of Act Numbered fourteen hundred fifty-nine as amended, otherwise known as the Philippine Corporation Law:
>
> x x x x x x x x x
>
> (c) To appoint, on the recommendation of the President of the University, professors, instructors, lecturers and other members of the faculty, and other officials and employees of the University; to fix their compensation, hours of service, and such, other duties and conditions as it may deem proper, any other provisions of the law to the contrary notwithstanding; to grant to them in his discretion, leave of absence under such regulations as it may promulgate, any other conditions of the law to the contrary notwithstanding, and to remove them for cause after an investigation and hearing shall have been had;
>
> x x x x x x x x x

This provision in the PUP Charter is substantially in accord with Section 4(h) of R.A. 8292,

> Section 4. *Powers and Duties of Governing Boards.* — The governing board shall have the following specific powers and duties in addition to its general powers of administration and the exercise of all the powers granted to the board of directors of a corporation under Section 36 of Batas Pambansa Blg. 68, otherwise known as the Corporation Code of the Philippines:
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> x x x x x x x x x

[20] *Rollo,* pp. 64.

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(h) to fix and adjust salaries of faculty members and administrative officials and employees subject to the provisions of the revised compensation and classification system and other pertinent budget and compensation laws governing hours of service, and such other duties and conditions as it may deem proper; to grant them, at its discretion, leaves of absence under such regulations as it may promulgate, any provisions of existing law to the contrary notwithstanding; and to remove them for cause in accordance with the requirements of due process of law.

Given the foregoing antecedents, the pivotal issue we have to resolve is whether the CSC has jurisdiction to hear and decide the complaint filed against Alfonso.

We find in favor of petitioner.

Section 2(1) and Section 3, Article IX-B of our Constitution, are clear, as they provide that:

Sec. 2. (1) The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.

Sec. 3. The Civil Service Commission, as the central personnel agency of the Government, shall establish a career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service. It shall 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. It shall submit to the President and the Congress an annual report on its personnel programs.

As the central personnel agency of the government,[21] the CSC has jurisdiction to supervise the performance of and discipline, if need be, all government employees, including those employed in government-owned or controlled corporations with original charters such as PUP. Accordingly, all PUP officers and employees, whether they be classified as teachers or professors pursuant to certain provisions of law, are deemed, first and

[21] 1987 Philippine Constitution, Art. IX-B, Sec. 3.

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foremost, civil servants accountable to the people and answerable to the CSC in cases of complaints lodged by a citizen against them as public servants. Admittedly, the CSC has appellate jurisdiction over disciplinary cases decided by government departments, agencies and instrumentalities. However, a complaint may be filed directly with the CSC, and the Commission has the authority to hear and decide the case, although it may opt to deputize a department or an agency to conduct the investigation. Specifically, Sections 9(j) and 37(a) of P.D. 807, otherwise known as the Civil Service Law of 1975, provide:

SECTION 9. Powers and Functions of the Commission. — The Commission shall administer the Civil Service and shall have the following powers and function:

x x x x x x x x x

(j) Hear and decide administrative disciplinary cases **instituted directly with it** in accordance with Section 37 **or brought to it on appeal**;

x x x x x x x x x

Section 37. Disciplinary Jurisdiction. — (a) 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. **A complaint may be filed directly with the Commission by a private citizen against a government official or employee in which case it may hear and decide the case or it may deputize any department or agency or official or group of officials to conduct the investigation.** The results of the investigation shall be submitted to the Commission with recommendation as to the penalty to be imposed or other action to be taken.[22]

We are not unmindful of certain special laws that allow the creation of disciplinary committees and governing bodies in different branches, subdivisions, agencies and instrumentalities of the government to hear and decide administrative complaints

[22] Emphasis supplied.

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against their respective officers and employees. Be that as it may, we cannot interpret the creation of such bodies nor the passage of laws such as – R.A. Nos. 8292 and 4670 allowing for the creation of such disciplinary bodies – as having divested the CSC of its inherent power to supervise and discipline government employees, including those in the academe. To hold otherwise would not only negate the very purpose for which the CSC was established, *i.e.* to instill professionalism, integrity, and accountability in our civil service, but would also impliedly amend the Constitution itself.

In *Office of the Ombudsman v. Masing*,[23] we explained that it is error to contend that R.A. No. 4670 conferred exclusive disciplinary authority on the Department of Education, Culture and Sports (DECS, now Department of Education or DepEd) over public school teachers and to have prescribed exclusive procedure in administrative investigations involving them.[24] Hence, it is equally erroneous for respondent to argue that the PUP Charter and R.A. No. 8292 in relation to R.A. 4670 confer upon the BOR of PUP exclusive jurisdiction to hear disciplinary cases against university professors and personnel.

In *Civil Service Commission v. Sojor*,[25] an administrative case was filed against a state university president. There, we struck down the argument that the BOR has exclusive jurisdiction to hear and decide an administrative case filed against the respondent. We said:

> In light of the other provisions of R.A. No. 9299, respondent's argument that the BOR has exclusive power to remove its university officials must fail. Section 7 of R.A. No. 9299 states that the power to remove faculty members, employees, and officials of the university is granted to the BOR "in addition to its general powers of administration." This provision is essentially a reproduction of Section 4 of its predecessor, R.A. No. 8292, demonstrating that the

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[23] G.R. No. 165416, January 22, 2008, 542 SCRA 253.

[24] *Id.* at 275.

[25] G.R. No. 168766, May 22, 2008, 554 SCRA 160.

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intent of the lawmakers did not change even with the enactment of the new law. x x x

x x x x x x x x x

Verily, the BOR of NORSU has the sole power of administration over the university. But this power is not exclusive in the matter of disciplining and removing its employee and officials.

Although the BOR of NORSU is given the specific power under R.A. No. 9299 to discipline its employees and officials, there is no showing that such power is exclusive. When the law bestows upon a government body the jurisdiction to hear and decide cases involving specific matters, it is to be presumed that such jurisdiction is exclusive unless it be proved that another body is likewise vested with the same jurisdiction, in which case, both bodies have concurrent jurisdiction over the matter.[26] (Emphasis supplied)

But it is not only for this reason that Alfonso's argument must fail. Equally significant is the fact that he had already submitted himself to the jurisdiction of the CSC when he filed his counter-affidavit[27] and his motion for reconsideration and requested for a change of venue, not from the CSC to the BOR of PUP, but from the CSC-Central Office to the CSC-NCR.[28] It was only when his motion was denied that he suddenly had a change of heart and raised the question of proper jurisdiction.[29] This cannot be allowed because it would violate the doctrine of *res judicata*, a legal principle that is applicable to administrative cases as well.[30] At the very least, respondent's active participation in the proceedings by seeking affirmative relief before the CSC

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[26] *Id.* at 176.

[27] *Supra* note 8.

[28] *Supra* note 11.

[29] *Supra* note 14.

[30] *Felipe Ysmael, Jr. & Co., Inc. v. Deputy Executive Secretary*, G.R. No. 79538, October 18, 1990, 190 SCRA 673. *See* also *United Housing Corporation v. Dayrit*, G.R. No. 76422, January 22, 1990, 181 SCRA 285; *Nasipit Lumber Co., Inc. v. NLRC*, G.R. No. 54424, August 31, 1989, 177 SCRA 93; and *Boiser v. National Telecommunications Commission*, G.R. No. 76592, January 13, 1989, 169 SCRA 198.

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already bars him from impugning the Commission's authority under the principle of estoppel by laches.[31]

In this case, the complaint-affidavits were filed by two PUP employees. These complaints were not lodged before the disciplinary tribunal of PUP, but were instead filed before the CSC, with averments detailing respondent's alleged violation of civil service laws, rules and regulations. After a fact-finding investigation, the Commission found that a *prima facie* case existed against Alfonso, prompting the Commission to file a formal charge against the latter.[32] Verily, since the complaints were filed directly with the CSC, and the CSC has opted to assume jurisdiction over the complaint, the CSC's exercise of jurisdiction shall be to the exclusion of other tribunals exercising concurrent jurisdiction. To repeat, it may, however, choose to deputize any department or agency or official or group of officials such as the BOR of PUP to conduct the investigation, or to delegate the investigation to the proper regional office.[33] But the same is merely permissive and not mandatory upon the Commission.

We likewise affirm the order of preventive suspension issued by the CSC-NCR against respondent.

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[31] *Huertas v. Gonzalez*, G.R. No. 152443, February 14, 2005, 451 SCRA 256, 270; and *Emin v. de Leon*, 428 Phil. 172, 173 (2002).

[32] *Rollo*, p. 74.

[33] Pertinent portion of CSC Resolution No. 061908 dated November 7, 2006, which dismissed respondent's request for the transfer of venue, states:

> Under Section 6, Rule 1 of the Uniform Rules on Administrative Cases in the Civil Service (URACCS), the proper venue of the instant case should have been the CSC-NCR, the PUP being within its geographical location. Be it stated, however, that the authority of the regional office to hear a case is simply a delegated authority resorted to by the Commission pursuant to its power to prescribe, amend and enforce rules and regulations to effectively carry out its mandate (Section 12(2), Chapter 3, Title I, Subtitle (A), Book V of the Administrative Code of 1987 (Executive Order No. 292). Said delegated authority does not divest the Commission of its power to hear and decide administrative cases instituted by or brought before it directly or on appeal, including contested appointments, and review decision and actions of its offices and of the agencies attached to it (Section 12(11), *supra*).

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There are two kinds of preventive suspension of government employees charged with offenses punishable by removal or suspension, *viz:* (1) preventive suspension pending investigation; and (2) preventive suspension pending appeal if the penalty imposed by the disciplining authority is suspension or dismissal and, after review, the respondent is exonerated. Preventive suspension pending investigation is not a penalty. It is a measure intended to enable the disciplining authority to investigate charges against respondent by preventing the latter from intimidating or in any way influencing witnesses against him. If the investigation is not finished and a decision is not rendered within that period, the suspension will be lifted and the respondent will automatically be reinstated. If after investigation, respondent is found innocent of the charges and is exonerated, he should be reinstated.[34]

The first kind, subject of the CSC Order against the respondent, is appropriately covered by Sections 51 and 52 of the Revised Administrative Code of 1987 (Executive Order No. 292) which provide:

SEC. 51. *Preventive Suspension*. — The proper disciplining authority may preventively suspend any subordinate officer or employee under his authority pending an investigation, if the charge against such officer or employee involves dishonesty, oppression or grave misconduct, or neglect in the performance of duty, or if there are reasons to believe that the respondent is guilty of charges which would warrant his removal from the service.

SEC. 52. *Lifting of Preventive Suspension. Pending Administrative Investigation.* — When the administrative case against the officer or employee under preventive suspension is not finally decided by the disciplining authority within the period of ninety (90) days after the date of suspension of the respondent who is not a presidential appointee, the respondent shall be automatically reinstated in the service: *Provided*, That when the delay in the disposition of the case is due to the fault, negligence or petition of the respondent, the period of delay shall not be counted in computing the period of suspension herein provided.

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[34] *Hon. Gloria v. Court of Appeals*, 365 Phil. 744, 746 (1999).

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Respondent was charged with grave misconduct and conduct prejudicial to the best interest of the service. A person charged with grave misconduct is put on notice that he stands accused of misconduct coupled with any of the elements of corruption or willful intent to violate the law or established rules.[35] Meanwhile, conduct prejudicial to the best interest of the service is classified as a grave offense with a corresponding penalty of suspension for six (6) months and one (1) day to one (1) year for the first offense, and the penalty of dismissal for the second offense.[36]

In addition to the gravity of the charges against Alfonso, and equally relevant, is the opportunity available to him to use his position as Director of the Human Resources Management Department of the university to exert undue influence or pressure on the potential witnesses that the complainants may produce, or to tamper with the documentary evidence that may be used against him. Preventive suspension is, therefore, necessary so that respondent's delicate yet powerful position in the university may not be used to compromise the integrity and impartiality of the entire proceedings.

WHEREFORE, premises considered, the May 21, 2007 Decision[37] and August 23, 2007 Resolution[38] of the Court of Appeals in CA-G.R. SP No. 97284 are hereby *REVERSED* and *SET ASIDE*. Accordingly, Civil Service Commission Resolution Nos. 061821[39] and 061908[40] dated October 16, 2006 and November 7, 2006, respectively, as well as its Order[41] dated

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[35] *Civil Service Commission v. Ledesma,* G.R. No. 154521, September 30, 2005, 471 SCRA 589.

[36] *Civil Service Commission v. Manzano*, G.R. No. 160195, October 30, 2006, 506 SCRA 113, 130.

[37] *Supra* note 1.

[38] *Supra* note 2.

[39] *Supra* note 3.

[40] *Supra* note 4.

[41] *Supra* note 5.

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December 11, 2006 placing respondent under preventive suspension are hereby *REINSTATED*. The CSC is ordered to proceed hearing the administrative case against respondent with dispatch.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Corona, Chico-Nazario, Velasco, Jr., Leonardo-de Castro, Brion, Peralta, and *Bersamin, JJ.,* concur.

Carpio Morales, J., on official leave.

EN BANC

[G.R. No. 180941. June 11, 2009]

CHAIRMAN PERCIVAL C. CHAVEZ, Chair and Chief Executive Officer, Presidential Commission for the Urban Poor (PCUP), *petitioner, vs.* **LOURDES R. RONIDEL and Honorable COURT OF APPEALS, Ninth Division,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; FACTUAL FINDINGS OF ADMINISTRATIVE AGENCIES; ACCORDED GREAT RESPECT BY THE COURT; RATIONALE. — The question of respondent's qualifications is a factual issue which calls for the examination of the evidence presented by the contending parties. Certainly, it is beyond the power of this Court to review. This is especially true in the instant case, as the CSC-NCR, CSC and the CA have all found that, indeed, respondent possesses the required qualifications. As repeatedly held, we accord great respect to the findings of administrative agencies because they have acquired expertise in their jurisdiction; and we refrain