

MANUEL J. BURGOS, PETITIONER, VS. ZOILA BADUEL, RESPONDENT.

Adm. Matter No. P-11. April 30, 1976

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

In a verified complaint dated June 3, 1969, Celedonia Ceballos, acting prosecutor, and Manuel J. Burgos, deputy clerk of court of the Court of Industrial Relations, Cebu Branch, charged Zoila Baduel, a stenographic-reporter in the same court,[1] with:

"(a) Disgraceful or immoral or disreputable conduct committed prior to entering the government service, she having begotten an illegitimate son and which fact she did not disclose in her information sheet (please see Annex 'A' hereto attached);

"(b) Falsification in the accomplishment of her information sheet by withholding some material facts which would have affected the approval of her appointment to the effect that she was charged of grave oral defamation before the City Fiscal's Office of Cebu City and an information was later filed in the City Court of Cebu City on January 13, 1969 (please see Annex 'B' hereof) and that she had previous employments in private firms prior to entering the government service and was dismissed, yet, in her information sheet, in answer to Question No. 17, which asks whether she was ever dismissed from any employment, she answered, 'no' (please see Annex 'C' hereof);

"(c) Discourtesy and/or insubordination in the performance of official duties:

"That in the morning of March 5, 1969, Zoila Baduel was talking in a very loud voice in the office of Mr. Manuel Burgos, Deputy Clerk of Court. While talking in such a manner, Atty. Bienvenido Millares, one of the Commissioners of the court, approached her and told her to tone down her voice as there were party litigants and practitioners in the vicinity of the court who might think ill of the court and its personnel if they will witness such kind of conduct being displayed by its employees. Zoila Baduel retorted in a very much louder voice saying that she was not talking to Atty. Millares; that she is not a radio to be turned off and on and that Atty. Millares has nothing to do with her. Atty. Millares reminded her that as an officer of the Court, it is his bounden duty to protect the name and integrity of the court, but Zoila Baduel shouted back at him insisting that he has nothing to do with her. Then she stretched her legs and placed her feet on top of a chair in front of her. Later, when advised by Atty. Ceballos not to shout at Atty. Millares the way she did because Atty. Millares is a superior officer of the court and should be respected, she answered, 'those are the days gone by'.

"The following day, Zoila Baduel was called to the office of Atty. Magale to shed light on the rumor he heard that Atty. Magale 'disrecommended' her (to quote Zoila Baduel) to the Presiding Judge in Manila and that she read a letter to that effect on top of the table of Atty. Dalmacion, Judicial Supervisor of the Court of Industrial Relations in Manila. Atty. Magale denied having written such a letter and showed Zoila Baduel a copy of the transmittal letter regarding the result of the examination which he conducted in connection with Baduel's proposed appointment as stenographic reporter of the court. Zoila Baduel then said that the contents of the letter is tantamount to 'disrecommending' her because it stated that her transcript is incomplete; and further stated that Atty. Magale should not have divulged that fact in the letter for it gave a very bad impression of her. Atty. Magale then said, 'Why, do you want me to lie when it is the truth that your transcript is incomplete?'

Zoila Baduel insisted that he should not have stated that fact in the letter because it gave a very bad impression of her.

"Also, in the morning of March 27, 1969, Zoila Baduel called by telephone Atty. Socrates Villamor of Carlos A. Go Thong and Co. and over the phone tried to sell her t.s.n. of a certain case which she attended as stenographic reporter. Later, Atty. Millares was informed that in the course of her selling, she made some statements to Atty. Villamor to the effect that he should pay for the transcript of stenographic notes, anyway, he has a good case, etc. as part of her sales talk. Atty. Millares approached her and in a very calm voice advised her not to mention anything about a case pending before the court, especially in selling her t.s.n. to the parties lest such statement will be misunderstood. Instead of thanking Atty. Millares, she burst in anger and engaged Atty. Millares in a hot discussion, shouting at the commissioner in the process. Subsequently thereafter, she filed a letter-complaint against Atty. Millares for conduct unbecoming of a government official (please see Annex 'D' hereof).

"The day previous, Zoila Baduel was also admonished by Atty. Pablo Cabrera, Commissioner of the Court, not to interfere with any case pending in court as she was trying to settle a case pending before Commissioner Cabrera."

Respondent, in her answer dated June 28, 1969, aside from requesting for a formal investigation of the case, explained that on the charge of disgraceful and immoral conduct committed prior to entering the government service, she admitted that she had a son born out of wedlock long before her entry in the government service but there was no intention of withholding such fact in her information sheet, as the information called for was "if married, names of children", and not the names of the children of an unmarried applicant, which misled her to withhold such information about her child; that on the alleged withholding of information as to criminal cases filed against her, the respondent claimed that it was only in March, 1969, after she had accomplished her information sheet that she discovered criminal cases were filed against her; that on the charge of dishonesty and insubordination, Attys. Magale and Millares, the supposed aggrieved parties, should have initiated the charges and not the disinterested parties like the complainants; that as for the alleged admonition of Atty. Cabrera on the respondent's settling a case pending before Atty. Cabrera, she explained that during a casual conversation with Attys. Cabrera and Millares, she asked a hypothetical question to the effect that if she were asked to settle a case would she be competent to do so, and Atty. Millares even said that such act would help ease the docket of the court, while Atty. Cabrera opined that it would not be proper as she might be suspected of interfering in the case for a monetary consideration; and that on the charge that respondent was "selling a winning case", she stated that it was a matter of misinformation, for which Atty. Millares apologized to her later.

On January 15, 1973, a certain Mario Barrios of Cebu City, later on ascertained to be a fictitious person as per report of District Judge Mariano Zosa of Cebu, filed an unverified letter complaint addressed to the President of the Philippines, containing substantially the same charges as those in the June 3, 1969 complaint. Mario Barrios might be the same complainant Manuel J. Burgos because of the striking similarities in the style and phraseology of both complaints, not to mention the identity of the first letter of both Christian names and surnames of the complainants "Mario Barrios" and Manuel J. Burgos.

On July 20, 1973, complainant Manuel Burgos filed another verified complaint with the President of the Philippines containing substantially the same charges as those alleged in the complaints of June 3, 1969 and January 15, 1973. On November 20, 1973, the respondent submitted her comment to this verified complaint, referring to her answer to the complaint of June 3, 1969 and the counter-charges she filed against complainant Manuel Burgos, which resulted in the latter's separation from the service as deputy clerk of court, Court of Industrial Relations, Cebu Branch, as per order of the Secretary of Justice, dated April 11, 1973 (Annex C of respondent's comment), and whose petition for reconsideration was denied by this COURT in a Resolution en

banc dated July 11, 1974.

The report of the investigator designated by the Presiding Judge of the Court of Industrial Relations states that "from the testimonies given at the hearing, it is obvious that there is some sort of misunderstanding or feud between the complainants and respondent herein, which stemmed from rumor allegedly conveyed to complainants implicating the respondent and which triggered a succession of incidents eventually leading to the filing of this case."

On the charge of "disgraceful, immoral or disreputable conduct" because the respondent had a son born out of wedlock twenty three years before she entered the government service, this fact alone is not sufficient cause to hold her liable for violation of Section 19(i), Rule XVIII of the Revised Civil Service Rules, which provides that "any disgraceful, immoral or disreputable conduct committed before entering the government service is a ground for disciplinary action." The respondent might have been a victim of circumstances. The child might have been a natural child capable of being legitimated, and circumstances are such that, not due to respondent's fault, might have prevented such legitimation. Indeed, to condemn a mother for an act or error committed 23 years ago which, after all, may not be her fault, would brand her for the rest of her life with the stigma of immorality and that would be depriving her of an opportunity to have a gainful employment to support herself and her son. WE, therefore, quote with approval the findings and well-reasoned conclusion of the investigator:

"On the matter of respondent having given birth to an illegitimate son in 1946, this investigator believes that the fact alone is not sufficient ground or cause to find respondent guilty of the charge of disgraceful or immoral or disreputable conduct which would affect her present service in the government. It happened twenty-three years before she entered the service and nothing was presented by complainants pointing out that the child was begotten as a result of scandalous or disgraceful conduct or behavior and which has affected her standing in the community. It cannot be denied that many a girl had fallen victim to the same fate as respondent had and yet we cannot in all instances attribute such fate to the disgraceful or immoral conduct of the mother. In the absence of positive proof of respondent's indecency or immorality which resulted to her giving birth to an illegitimate child or that she carried herself in the same way in the following years, we cannot and we should not stamp on her the brand of being immoral or the like especially so because she appears to have been a responsible mother having fed, clothed and educated her son up to college. Her explanation that no information was required in the Information Sheet for her to make of record the fact that while she is single, a child was born by her should be deemed satisfactory. It would have been worse really had she noted down her son's name and misrepresented herself as married since the information called for names of children of married applicants."

On the second charge, We find the respondent guilty of falsification in the accomplishment of her information sheet by withholding material facts which would have affected the approval of her appointment as stenographic reporter of the Court of Industrial Relations. It is incontrovertible that on October 9, 1957 the respondent was convicted of slight oral defamation in Criminal Case No. V-5382, as per decision rendered by then Judge Edmundo S. Piccio, Presiding Judge of the Second Branch, Court of First Instance of Cebu, imposing a fine of one peso (P1.00) or, suffer subsidiary imprisonment in case of insolvency for not more than one (1) day (Exhibits E and I). On January 13, 1969, an information was filed against respondent for grave oral defamation in Case No. 2947-P (Exhibits B and H) before the City Court of Cebu City, Branch VI, although this case was dismissed on June 18, 1969 for non-appearance of the complainant and her witnesses (Exhibit 4). The respondent was formerly employed in and dismissed by the Clavecilla Padio System, Inc., as shown by a petition for overtime pay and reinstatement she filed against Santiago Catañeda and the Clavecilla Radio System, Inc. on January 13, 1961, docketed as Case No. 74-V Cebu in the Court of Industrial Relations, Cebu Branch (Exhibit C).

Undoubtedly, the respondent made the unqualified answer "no" to questions 15 and 17 of the information sheet

requiring her to state whether she had been accused of or convicted for violation of any law or ordinance and whether she had been previously dismissed from any employment. Her previous conviction for slight oral defamation with a fine of P1.00 or subsidiary imprisonment of 1 day; the filing of the grave oral defamation against her, although dismissed; and the fact that the respondent was dismissed by the Clavecilla Radio System, Inc., her previous employer, all these may be considered as a reflection on her moral fitness and, naturally, would affect her qualification for the position she was aspiring for. Her explanation that she only learned in March, 1969 after she had filed her information sheet that a grave oral defamation case had been filed against her on January 13, 1969, in the City Court of Cebu City, the very city where she works, is incredible. Moreover, she was convicted of slight oral defamation on October 9, 1957.

On the charge of discourtesy and/or insubordination, the investigation report shows "that Mr. Burgos, one of the complainants, confronted respondent right on the first day of her service at the Cebu Branch regarding rumors he received from Manila which were allegedly spread by her (pp. 21-23, t.s.n. August 28, 1969)." The investigator also found that respondent who probably was not eager to make friends with the rest of the office personnel on her first day of work, was met with such attitude and naturally she felt offended; hence when Atty. Millares chided her to tone down her voice, she raised her voice and showed her belligerence towards Atty. Millares.

Atty. Magale, an officer-in-charge in the Cebu Branch, was also a victim of respondent's discourteous act. He testified that the respondent confronted him about a letter she saw which she believes contained a "disrecommendation" against her by Atty. Magale. Atty. Magale testified that she confronted him with a "harsh tone," but he thought "there was no disrespect" (p. 26, t.s.n., August 28, 1969). This confrontation also took place on the first or second day of respondent's entrance to the service.

The foregoing acts of the respondent, while not really amounting to insubordination, are indicia of the respondent's want of courtesy and respect towards her superiors.

Respondent's misconduct is extenuated by the recommendation of her immediate chief, the Presiding Judge of the Court of First Instance of Cebu, Branch XIII, who vouches for her Competence and efficiency and for her satisfactory services as a court stenographer and strongly recommended her retention in the service (Annexes "N-" and "O")

WHEREFORE, FINDING THE RESPONDENT ZOILA BADUEL GUILTY OF FALSIFICATION IN THE ACCOMPLISHMENT OF HER INFORMATION SHEET WHICH IS AGGRAVATED BY HER AROGANCE AND DISCOURTESY TOWARDS HER SUPERIORS, THIS COURT, BY WAY OF PENALTY, SUSPENDS HER FOR SIX (6) MONTHS WITHOUT PAY, WHICH SHALL COMMENCE FROM NOTICE HEREOF, WITH THE WARNING THAT COMMISSION OF SIMILAR OFFENSES IN THE FUTURE SHALL BE DEALT WITH MORE SEVERELY.

Teehankee, (Chairman), Esguerra, Muñoz Palma, and Martin, JJ., concur.

[1] Zoila Baduel was appointed stenographer, CFI of Cebu, Cebu City, on December 3, 1971 and she assumed office on March 3, 1972 in Branch XIII.

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