

JUANITO BENAJOAN, PETITIONER, VS. JUDGE EDUARDO TUTAAN, RESPONDENT.

Adm. Matter No. 138-CFI. April 30, 1976

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is an administrative complaint dated December 20, 1972, filed with the Department of Justice on December 28, 1972 by court interpreter Juanito O. Benaojan of Branch IV, Court of First Instance of Lanao del Norte, against District Judge Eduardo C. Tutaan, formerly with Branch IV, Court of First Instance of Lanao del Norte, Iligan City, and now with Branch V, Court of First Instance of Rizal with station in Quezon City, and Clerk of Court Carlito Gabor, also of the former court,[1] for (1) falsification of official documents, (2) harassment or oppression, (3) corruption and dishonesty and (4) violation of the Anti-Graft and Corrupt Practices Act.

The charges against respondent Tutaan read:

"A- FALSIFICATION OF OFFICIAL DOCUMENTS –

"That sometime in the Months of December, 1971 up to July, 1972, the services of Mr. Fabian R. Leonar, a Bailiff in our Court had been utilized privately by the wife of Judge Tutaan as her personal driver in Manila, Ilocos Norte and Quezon City with the knowledge and consent of Judge Tutaan on official time without an authority from the Head of the Department of Justice. That in the Daily Time Records of Bailiff Leonar within the said period of 7 months collecting his salary from the Department of Justice will appear that Bailiff Leonar was rendering services in our Court but actually during these periods he was in Manila, Ilocos Norte and Quezon City rendering services privately to the personal advantage of Judge Tutaan and his family. That Judge Tutaan being corrupt and the most dishonest Judge with abuse of his power and discretion and contrary to law signed the Daily Time Records of Bailiff Leonar when he knew that Leonar was not actually working and/or rendering his services in our office, CFI, Branch IV (Baroy Branch) Iligan City within the period above mentioned; (hereto attached are the copies of the Daily Time Records of Bailiff Leonar from December, 1971 up to July, 1972, marked as Exhibits A, A-1, A-2, A-3, A-4, A-5, A-6, and A-7);

"B-HARASSMENT AND OPPRESSION –

"That I have been harassed and oppressed by Judge Tutaan since the time he assumed his duties on January 12, 1971 by not recognizing the Office Order No. 1, dated November 25, 1970 by our then 4th Presiding Judge Moises F. Dalisay, being a 1st grade civil service eligible and senior in rank in the office and holding a permanent status of appointment, Judge Tutaan with abuse of power without observing seniority rules and regulations under the civil service law and also without following the letter of the Secretary of Justice regarding seniority in the office, designated instead Miss Linda R. Villanea, a Docket Clerk and a non-civil service eligible as Officer Incharge in our Office and at the same time as Special Deputy Clerk of Court having the power to appoint counsel de oficio; That I have been subjected to many Memorandum Orders and General Order and even went to the extent of sending telegrams to the Department Financial Officer to suspend my salary without any reason or reasons at all;

"That in spite of the warning from Malacañang to Head of Department and Chief of Offices not to utilize Letter of Instruction No. 14 as a sort of harassment and oppression issued Memorandum Order Nos. 2 and 3, dated October 9 & 11, 1972 to the whole personnel and to the undersigned respectively as a sort of harassment and oppression against my person; Judge Tutaan utilized the same Letter of Instruction No. 14 by preparing a one sided recommendation to the Secretary of Justice for my removal from the service which is really highly anomalous, illegal and untrue; The actuations of Judge Tutaan must be condemned under the new society for violating the Order of His Excellency, the President of the Philippines under the cases cited in the imposition of the policies of the martial law (Hereto attached Office Order No. 1, dated November 25, 1970, marked as Exhibit B; the Daily Calendar of our Court dated January 16, 1971, marked as Exhibit B-1; a copy of Memorandum Order No. 2, dated October 9, 1972, marked as Exhibit B-2, a copy of Memorandum No. 3, dated October 11, 1972, marked as Exhibit B-3, a copy of Memorandum Order, dated November 15, 1971, marked as Exhibit B-4, and General Order, dated March 20, 1972, marked as Exhibit B-5 which are all self-explanatory;

"C-CORRUPTION AND DISHONESTY –

"That Judge Tutaan is really corrupt and dishonest in the performance of his duties as presiding judge in our court like: selling of justice, demanding goats, fishes, pansats, pigs, chickens, foreign wines, etc., through his notoriously corrupt agent, money making in the office, consenting or tolerating in the issuance of private receipts of all court deposit or cash deposit (trust funds or people's money) and by investing the same with their illegal banking business, demanding usurious rates of interest thru his notoriously corrupt Clerk of Court, Atty. Gabor; As per reliable information the amount invested is more than P10,000.00 already earning an interest 10% a month or P1,000.00; That the signing of Judge Tutaan of the Daily Time Records of Bailiff Leonar for seven (7) months (from December, 1971 to July, 1972) constitute dishonesty to the prejudice of the government particularly to the tax payers on utilizing the services of Mr. Leonar privately as their private driver to the personal advantage of Judge Tutaan and of his family in Luzon, Ilocos Norte, Manila and Quezon City and which is also in violation of Anti-Graft Law known as Anti-Graft Law and corrupt practices Acts;

"D-VIOLATION OF ANTI-GRAFT LAW AND CORRUPT PRACTICES ACTS –

"That with the actuations of Judge Tutaan since he assumed his duties as our 5th Presiding Judge on January 12, 1971 and/or for more than a year service, Judge Tutaan was able to build a residential house (a mansion) before the approval of his GSIS loan, at 42 Maginoo St., UP Village, Quezon City with the use of People's money for their selling of Justice, from their illegal Banking business right in our Office and other money making, etc."

The respondent filed his answer (Exh. 1) denying all the charges levelled against him.

The Department of Justice, under Office Order No. 3 dated January 10, 1973, directed Attys. Jose Icasiano and Emilio Jacinto to proceed to Branch IV, Court of First Instance of Lanao del Norte in Iligan City and to investigate the charges and counter-charges involving respondents Tutaan, Gabor and complainant Benaogan. This investigation, suspended upon transfer of supervision of lower courts from the Department of Justice to this Court, which was later resumed from June 14 to July 10, 1973, was conducted by the said attorneys in the absence of respondent judge. Atty. Icasiano rendered an investigation report (Exh. 48) with recommendation that the charges against respondent Tutaan "be dismissed and considered closed for lack of evidence".

By resolution of the First Division of this Court dated August 23, 1974, the case was referred to Associate Justice Andres Reyes of the Court of Appeals for investigation, report and recommendation.

Pertinent portion of his Honor's report, on the basis of which he recommended the dismissal of all the charges for "lack of evidence", reads:

"After going over the records of the case – the complaint, the affidavits supporting the same, the sworn statements given before the judicial supervisors, etc. – the undersigned found no direct evidence linking respondent judge to the alleged anomalous activities of Clerk of Court Carmelito Gabor. For such reason, in a communication dated November 4, 1974, the complainant Juanito Benaogan was directed 'to prepare a more specific complaint' against respondent judge within 30 days from receipt thereof. After asking for an extension of a period of 30 days, complainant finally submitted the required specification which was received in this Court on January 23, 1975. An examination of the same reveals that it is practically the same as the contents of the original complaint except for the addition of two charges, that is suppression of evidence and ignorance of the law.

"The case was set for hearing for the first time before the undersigned on March 6, 1975. On this date the complainant thru his counsel admitted to the undersigned that the only case against the respondent Judge is the charge of falsification, thus:

"INVESTIGATOR:

"Because if we go through with this now, we will be touching on matters that are not important in the investigation. I want to touch on matters that will incriminate the honorable respondent. What I want to drive at here is be frank with me. What is the use of proceeding with the investigation? What I want to find here is something that will connect the respondent here with the anomaly. You stated here that the only evidence that he has against the respondent Judge is on the falsification of public documents. What has been falsified?

"ATTY. VIDAL:

"The daily time record.

"INVESTIGATOR:

"If he has no evidence except on the falsification, what will you do?

"ATTY. VIDAL:

"Like I said, I have gone over the records of the case although not entirely. My humble opinion is that the only case here is on the falsification (pp. 6-7, TSN Hearing on March 6, 1975).

"On this date also, the complainant testified on the very same matters already stated in his complaint. The hearing on March 10, 1975 saw the presentation of complainant's wife, Mrs. Emperatriz Benaogan, whose testimony was a rehash of her affidavit attached to the complaint and her statement before the judicial supervisors. On this date, it was observed that all that complainant and his wife were testifying on were general statements with no specification of acts. Complainant and his appointed counsel, a representative of the Integrated Bar of the Philippines, were then advised to specify the charges and support them with affidavits and the hearing was continued to March 12, 1975. On March 12, 1975, instead of proceeding with the presentation of his evidence, complainant asked for continuance. The same was granted and the hearing was postponed to May 5, 1975 with the advertence that complainant should submit and furnish respondent copies of affidavits of his witnesses at least two (2) weeks before the next scheduled hearing. On May 1, 1975, complainant sent a telegram from Iligan City asking for indefinite postponement for the reason that he 'cannot bring witnesses for financial reasons'. It was, however, observed that despite complainant's reference to witnesses, no single affidavit was submitted in compliance with his commitment on March 12, 1975. The respondent filed a Motion to Dismiss or to Set for Hearing on May 29, 1975 on the ground 'that to this date, about two and a half (2-1/2) years after the filing of his complaint on December 28, 1972, complainant is still trying to look for evidence and witnesses' and that he 'has been given all the opportunity to substantiate his charges'. The case was then set for hearing on June 10, 1975. On this date, complainant presented Juanito Patalinghug, Felix Maratas, Alip Maria Tampi, and Irineo Castillo.

Again, the hearing was continued to June 23, 1975 in order to enable complainant to secure copies of telegrams allegedly sent by respondent to Fabian Leonar. On June 23, 1975, complainant had no additional evidence to present. The same happened at the scheduled hearing on July 8, 1975. Complainant could not present any additional evidence despite his previous manifestations that he needed additional dates for presentation of more evidence. When no further action was taken by complainant to present evidence, the case was set for continuation of hearing on July 30, 1975. On this date, complainant rested his case without any additional evidence and respondent immediately presented his evidence and rested his case. Complainant prayed that he be given time to present rebuttal evidence and the case was set for hearing on August 15, 1975 for such purpose. This scheduled hearing was again postponed by complainant and the same was reset to August 29, 1975. On this last date, complainant could not and did not present any additional evidence and the case was closed and terminated.

"On the charge of falsification, complainant alleged as follows:

'That sometimes in the months of December, 1971 up to July, 1972, the services of Mr. Fabian R. Leonar, a Bailiff in our Court had been utilized privately by the wife of Judge Tutaan as her personal driver in Manila, Ilocos Norte and Quezon City with the knowledge and consent of Judge Tutaan on official time without an authority from the Head of the Department of Justice.' (Complaint, p. 1 of record; Letter-Complaint, p. 601 of record).

"The testimony of complainant on March 6, 1975 asserts that Bailiff Fabian Leonar left for Manila for five (5) times within the period of December, 1971 to July, 1972. He nevertheless mentions six dates wherein Leonar allegedly left Iligan City for Manila – December 18, 1971, February 3, 1972, second week of March, 1972, third or fourth week of March, 1972, May 11 or 12, 1972, and June 29, 1972. A Manifest of Passengers (Exhs. 'A-8' and 'A-9' which is the same copy as 'A-10') of the Compania Maritima shows Fabian Leonar as a listed passenger. Another typewritten Manifest of Passengers (Exh. 'A-10' which is a copy of Exh. 'A-12') indicates that Fabian Leonar is a listed passenger.

"Complainant and his wife, Emperatriz Benaogan, testified that they know that Leonar was utilized in respondent's home province and in Quezon City as a driver and as a construction watchman because Leonar told them so. Both, however, admitted that they never saw Leonar being utilized as such by respondent or any member of his family because they have been in Iligan City during the periods mentioned by them. In support of his contention, complainant presented TW No. 105728709 (Exh. 'A-24') and TW No. 105680996 (Exh. 'A-26'), both of Fabian Leonar, which they claim to have been encashed by said Leonar at the PCI Bank, Cubao Branch. Juanito Patalinghug, a stenographer of the CFI of Cebu in 1972, testified that he saw Fabian Leonar in the premises of the YWCA in July, 1972. The sworn statement of one Nenet Ramiro (Exh. 'A-16') was also presented. Ramiro stated in her affidavit that she saw Fabian Leonar in the house of Atty. Gacad at Teacher's Village in May, 1972.

"In both respondent's answer (Exh. '1') and testimony, he strongly asserts that he sent Fabian Leonar to Manila only once, that is in the last week of April, 1972, for the sole purpose of getting supplies from the Department of Justice. One of the problems of respondent's court in Lanao del Norte was the lack of supplies and since there were some of such supplies which were available in the Department of Justice, and he being on vacation for the whole month of May, 1972 so much so that Bailiff Leonar would not be doing anything, respondent deemed it best to send Leonar to get some court supplies.

"In his affidavit (Exh. '4') and in his sworn statement (Exh. '4-A') before the judicial supervisors, Fabian Leonar denied complainant's charge that he (Leonar) had been utilized by respondent or his family as a driver in Manila or elsewhere in Luzon from December, 1971 to July, 1972. Leonar admits having gone to Manila in the last week of April, 1972 upon instructions of respondent and for the purpose of getting court supplies from the Department of Justice. Leonar states that on account of the delay of the boat he was taking, he was able to return to Iligan City

only about the middle of May, 1972 and he then brought home with him five (5) cartons of court supplies.

"The Manifests of Passengers of the Compania Maritima for February 3, 1972 (Exhs. 'A-8' and 'A-9' or 'A-10') and for June 29, 1972 (Exh. 'A-10' or 'A-12') in which the name of Fabian Leonar appears was satisfactorily explained by respondent. Respondent explains that during the height of the troubles in the Lanao area many Christian evacuees wanted to visit their relatives in Luzon to ask for aid and respondent, taking pity on them, did help some of these evacuees by securing boat tickets for them through Bailiff Fabian Leonar whom he had authorized by arrangement with the shipping company to secure tickets on his (respondent's) account. These tickets were issued in the name of Fabian Leonar as he was the only one authorized to procure them for the account of respondent. These tickets were then given by Leonar to the evacuees whom respondent instructed Leonar to help and respondent did not even see said tickets. Putting it plainly, while the tickets were issued in the name of Leonar, other persons, the evacuees, used them.

"Respondent's assertion that Leonar came to Manila only once in 1972 is strongly supported by Leonar's affidavit (Exh. '4') and his sworn statement (Exh. '4-A') given before the judicial supervisors. Leonar reiterated the correctness of his affidavit and sworn statement in two (2) telegrams addressed to the undersigned and dated April 29, 1975 (Exh. '49') and June 5, 1975 (Exh. '50')

"The alleged encashment of two (2) treasury warrants (Exhs. 'A-24' & 'A-26') of Fabian Leonar with the PCI Bank, Cubao, Quezon City, was also satisfactorily explained. They were not encashed. Instead, they were deposited to the current account of respondent as shown by the figures '247-8' and '452-00247-8' appearing, respectively, on the reverse side of these two treasury warrants. The figures '452-00247-8' are no doubt the current account number of respondent and his wife with the PCI Bank, Cubao (Exhs. '51' & '51-A') clearly indicating that the said two treasury warrants were deposited to the account of respondent and his wife. Respondent explained this matter in that sometimes Leonar and other court employees requested respondent to change their treasury warrants with cash. The pay checks of court employees are usually delivered by mail in advance of their due dates and if the employees encash the same with the Chinese stores, a certain amount is deducted for the advance encashment while if respondent can accommodate them at times, the full value of the check is given. These two checks were exchanged by Leonar with respondent for cash in advance of their due dates and respondent had either brought the same to Manila or had sent the same to his wife and, they were then deposited to their current account. If the said checks were encashed by Leonar himself with the bank, then the current account number of respondent and his wife would not be appearing at the reverse side thereof.

"There is no reason to doubt the version of respondent. The testimony of Leonar as well as complainant's documentary evidence support the same. In fact complainant testified that Leonar left for Manila on May 12, 1972 in company with the family of respondent. However, complainant's very own Exh. 'A-14', a Manifest of Passengers of Compania Maritima, belies complainant's testimony because nowhere therein does the name of Leonar appear. This piece of documentary evidence renders the testimony of complainant and the affidavit of Nenet Ramiro (Exh. 'A-16') unworthy of credence.

"The undersigned had also noted several discrepancies or inconsistencies in complainant's evidence. In his statement (p. 317 of record) given on January 23, 1973 before the judicial supervisors, complainant maintained that Leonar was utilized by respondent as a driver in Quezon City and Ilocos Norte for the whole period of December, 1971 to July, 1972. His statement reads in part:

'Q – What do you mean to say that Judge Tutaan has utilized the services of Mr. Leonar as driver in Manila, what connection has it got to do with his official duties as a bailiff of the court?

'A – Being a bailiff in our court, Judge Tutaan utilized him as his personal driver not only in Iligan City but

also in Manila, Quezon City and Ilocos Norte from December 1971 up to July 1972.

'Q – Now, why do you say that Judge Tutaan has falsified the official document, particularly the daily time record of Fabian Leonar?

'A – Because from the month of December 1971 up to July 1972, Mr. Fabian Leonar is absent in our office as he was in Manila, Quezon City and Ilocos Norte within that period. Then he signed the daily time record of Fabian Leonar from December 1971 up to July 1972.'

"In his testimony before the undersigned, complainant changed his theory and stated that Leonar was not in Manila for the whole period of December, 1971 to July, 1972. This change of theory must have been prompted by respondent's uncontroverted evidence (Exh. '5', Medical Certificate) showing that Leonar's wife was confined and operated on at the Iligan City Hospital from January 12 to January 16, 1972 and that hospital records will show that Fabian Leonar was then in Iligan City at a time when complainant was claiming that he was in Manila as it is of common knowledge that a wife cannot be operated on without the written consent of the husband.

"The sworn statement of Nenet Ramiro (Exh. 'A-16' upon which complainant also relies is replete with contradictions. On the first page of the same she states:

'Q – When you arrived in Manila, with whom did you stay?

'A – I stayed with my aunt in Pasay City.

'Q – How long did you stay in the City of Manila?

'A – About one month.

'Q – Did you ever stay with the family of Judge Tutaan?

'A – Only one day, sir.'

"On page 3 of the very same statement, Ramiro gives another version:

'Q – How long did you stay with the family of Atty. Gacad (brother-in-law of respondent's wife) at Quezon City?

'A – I stayed about three weeks.'

"Again on page 1 thereof, Ramiro gave the following answer:

'Q – Did you see Fabian Leonar drive the jeep of Judge Tutaan?

'A – No sir.'

"Yet, on page 3 thereof, Ramiro changed her statement and stated:

'Q – Have you ever seen Fabian Leonar driving a jeep or a volkswagen?

'A – Yes, sir.'

"From the foregoing contradictions made in one and the same sworn statement, the only logical conclusion that can be deduced is that Nenet Ramiro was not telling the truth. Her sworn statement presented in evidence by complainant as Exh. 'A-16' is not worthy of any credence.

"True indeed that one Juanito Patalinghug testified that he saw a certain Fabian Leonar at the premises of the YMCA sometime in the middle of July, 1972. It is, however, surprising that this witness should only be discovered by complainant this year when the case is already set for investigation. With Patalinghug's admission

that he was once ordered arrested by respondent for his failure to transcribe certain stenographic notes despite several orders, his sudden appearance as a witness can be explained by a hostility entertained on account of said order of arrest. It was on May 5, 1972, respondent asserts, that he with Fabian Leonar had dropped at the GSIS to file his loan application and supporting papers and he remembers having taken some snacks with Leonar at the YMCA canteen. And this assertion is supported by two GSIS receipts (Exhs. '29' & '30') showing the payment of the loan application fee and the filing of supporting papers by respondent on May 5, 1972. It could be that Patalinghug then saw Leonar on that date at the YMCA canteen but the undersigned suspects that there was an adjustment of date in his testimony to suit complainant's theory.

"It is the finding of the undersigned that there is no evidence of value that can substantiate the charge of falsification against respondent. As aptly observed by the Judicial Supervisors in their report:

'That Fabian Leonar in his testimony and affidavit avers that he was on official duty when he went to Manila on order of Judge Tutaan to get the supplies from the Department of Justice during the last week of April up to the middle of May 1972 and which Judge Tutaan attested that he instructed Fabian Leonar to get the supplies;

'That the testimonies of Alfredo de Guia, Josefina Migalang and Elias Anacleto (all in the record), all employees of Branch IV affirmed that Fabian Leonar was in the office during period questioned except when the latter was instructed by the respondent judge to go to Manila; lend credence than the statements and documentary evidence presented by Mr. and Mrs. Benaogan and that of Nanette Ramiro. Judge Tutaan did not falsify the daily time record of Fabian Leonar nor it has been established by other evidence that Fabian Leonar was utilized as family driver of the respondent in Manila, Quezon City and Ilocos Norte. Statements of Mr. and Mrs. Benaogan to this regard is hearsay in nature.'

"With respect to the other charges of complainant, there is absolutely no iota of evidence to support them. In fact even counsel for complainant admitted that there is no case with respect to the other charges when he stated: 'Like I said, I have gone over the records of the case although not entirely. My humble opinion is that the only case here really is on the falsification' (tsn, March 6, 1975, p. 7). Could there be words more eloquent to express the total lack of basis of complainant's charges than those of his counsel furnished by the Integrated Bar of the Philippines?

"In contrast, the undersigned finds complainant to be indeed a strange personality with a character and record not exactly enviable. He had been a suspect in the killing of his very own father (Exh. '38') and had been an accused in a criminal complaint for illegal possession of high explosive (Exh. '39') and in another criminal complaint for illegal possession of firearm and ammunition (Exh. '40'). The allegation in respondent's answer to the effect that complainant was previously administratively charged by Deputy Clerk of Court Monica Bliss for having inflicted physical injuries on her person was not denied by complainant. It did not receive even only a passing comment from him. When one remains silent in the face of a duty to speak, it can only be that what was stated of him is unexplainable.

"Also, it cannot be said that complainant had charged respondent out of a sense of civic duty. To the mind of the undersigned, the complaint is only a retaliatory act on the part of complainant. There is no doubt that the complaint was filed after complainant had been dismissed from the service by the Department of Justice upon respondent's recommendation (Exh. '6') dated October 14, 1972. The subject-matters of his complaint are alleged to have occurred in 1971 and in the first half of 1972. Why did complainant file his complaint only on December 28, 1972? Complainant's motive or purpose is only too apparent. In fact, the affidavits of PC Sgt. Modesto Mamitag (Exh. '10') and Pat. Carlos Bliss (Exh. '11') show that even as early as October 11, 1972, complainant had already been threatening the respondent and other court employees with the filing of charges in the hope of dissuading respondent from recommending his dismissal."

WE concur.

A careful review of the records before this COURT proved that there is no direct evidence to link respondent with the supposed anomalous activities of respondent Gabor. Indeed, the counsel for complainant herein during the formal investigation admitted that the only charge against respondent is that of falsification (tsn., pp. 6-7, hearing of March 6, 1975).

A resume of the appellate court's investigation report shows that despite the lapse of over two years from December 28, 1972 when he filed the complaint, to March 6, 1975, the first day of hearing, and after complainant was given thereafter more than five (5) months to come forward to substantiate his charge of falsification, he failed to do so. After the March 10, 1975 hearing, subsequent hearings were set to March 12, and then reset to May 5. But before this last date, or on May 1, complainant asked for indefinite postponement of hearing. Because of this inability to present additional witnesses, on May 9, respondent moved for the dismissal of the complaint. By this date, complainant was still unable to present his witnesses. Then he presented four (4) witnesses on June 10. But after this date, he again asked for continuance to June 23, then to July 8 and finally to July 30. All told, during these continuances, complainant failed to present any additional evidence. On August 15, 1975, when it was complainant's turn to present his rebuttal evidence he asked for postponement to August 29, 1975. Complainant on this last date failed to present any rebuttal evidence. Thus, the complaint for falsification may already be dismissed for lack of sufficient substantial evidence to support the same (*Ausejo, et al. vs. Pajunar*, Adm. Mat. No. 253-MJ, May 29, 1975; *Inting vs. Bernaldez*, Adm. Mat. No. 667-MJ, June 27, 1975; *Kuan Sing vs. Baltazar*, Adm. Mat. No. 810-CJ, May 30, 1975).

The observations of the inquest Justice that the respondent's evidence deserve more weight and credence than that of the complainant and his witnesses, considering that this matter involves the credibility of witnesses, command great weight and respect by this COURT and should not be disturbed. He is in a better position to decide the question of credibility of the witnesses who testified before him, having observed their demeanor and manner of testifying during the formal investigation. And he is, as an investigator vested with considerable discretion to determine which of the conflicting versions merits full faith and credit.

It is likewise evident that the complaint instituted these charges against respondent to harass and retaliate against respondent. For this complaint was filed by complainant after he was dismissed from the service by the Department of Justice upon respondent's recommendation (Exh. 6). And Exhibit 11 indicates that complainant threatened respondent and others with the filing of charges to dissuade them from recommending complainant's dismissal from the service.

WHEREFORE, THE CHARGES AGAINST RESPONDENT NOT HAVING BEEN SUBSTANTIATED, THE SAME ARE HEREBY DISMISSED.

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

[1] Juanito O. Benaogan was already separated from the service at the time this case was referred to the Court of Appeals for investigation, report and recommendation.

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