RE: COMPLAINT OF THE CIVIL SERVICE COMMISSION, CORDILLERA ADMINISTRATIVE REGION, BAGUIO CITY AGAINST RITA S. CHULYAO, CLERK OF COURT, MUNICIPAL CIRCUIT TRIAL COURT-BARLIG, MOUNT...

A.M. No. P-07-2292 [Formerly A.M. No. 06-6-206-MCTC]. September 28, 2010

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PER CURIAM:

Before us is an administrative complaint against Rita S. Chulyao, Clerk of Court II of the Municipal Circuit Trial Court (MCTC) of Barlig, Mountain Province, for Dishonesty.

The facts, as culled from the records, are as follows:

On December 9, 2004, the Civil Service Commission (CSC)-Examination Division received an Anonymous Complaint, which alleged an examination irregularity involving Rita S. Chulyao (Chulyao), Clerk of Court II, MCTC of Barlig, Mountain Province. The complaint averred that Chulyao employed her sister, Raquel S. Pangowon (Pangowon), a school teacher of Barlig National High School, to take for and in her behalf the July 31, 1988 Career Service Professional Examination (CSPE) conducted in Baguio City.

Upon verification from the examination records of the CSC-Region 1 and CSC-Integrated Records Management Office, it appeared that one Rita S. Chulyao actually took the CSPE on July 31, 1988 in Baguio City.

Upon further verification from the Office of the Court Administrator (OCA), Supreme Court, it revealed that per employment records of Chulyao, she passed the CSPE held in Baguio City on July 31, 1988 with a rating of 72%.

Thus, for purposes of comparison, the employment records of Pangowon were requested from the CSC-Cordillera Administrative Region (CSC-CAR), Mountain Province Field Office. From Pangowon's personal data sheets, it was found that the picture attached therein was that of the same person who took the CSPE on July 31, 1988 based on the picture attached in the picture seat plan. These gave the impression that the actual person who took the CSPE was Raquel Pangowon instead of the supposed examinee Rita Chulyao.

Subsequently, the CSC directed both Chulyao and Pangowon to submit their Comments on the complaint.

Chulyao moved for the summary dismissal of the complaint and manifested that the same was filed by scrupulous people motivated by revenge and envy.

In an Order dated February 15, 2005, Chulyao and Pangowon were directed to appear before the CSC-CAR for preliminary investigation on March 3, 2005. Both respondents failed to appear.

Again, in an Order dated July 21, 2005, Pangowon was directed to appear before the CSC-CAR for preliminary investigation. By special appearance, Pangowon appeared for preliminary investigation on September 6, 2005.

Chulyao, on the other hand, was again directed to appear for a preliminary investigation on August 29, 2005. However, despite notice, Chulyao failed to show up.

Subsequently, the CSC-CAR issued a formal charge against Pangowon for Dishonesty, Falsification of Official Documents and Conduct Prejudicial to the Best Interest of the Service for applying and taking the July 31, 1988 CSPE for and in behalf of her sister, Rita S. Chulyao.[1]

However, the CSC-CAR, in Decision No. CAR-06-057DC, dated May 4, 2006, the complaint against Chulyao was dismissed for lack of jurisdiction since the latter is a court employee.[2]

On June 14, 2006, the Decision of the CSC-CAR, dated May 4, 2006, was forwarded to the OCA for proper action.

On June 23, 2006, the OCA directed Chulyao to submit her Comment on the CSC-CAR Decision against her.[3]

In her Comment[4] dated July 14, 2006, Chulyao denied anew the allegations contained in the CSC Decision. She denied that she committed any examination irregularity in the CSPE conducted in Baguio City on July 31, 1988. She narrated that the week before she went to Baguio City for the examination, her sister, Pangowon, gave her certain photo negatives for developing. On July 30, 1988, Chulyao narrated that she and her townmates who are taking the CSC examinations arrived in Baguio City late in the afternoon. Since she was not familiar with the place, she asked her sister-in-law to go to the photo studio to have her photo negative, as well as that of her sister's, developed. Her sister-in-law told her that the photos will be claimed the following day.

In the early morning of July 31, 1988, she and her sister-in-law went to the photo studio to claim the photos, but the studio was still closed. Chulyao claimed that they were able to redeem the photos only after 8:00 a.m. and she was already late for the examination. She said that because she was already late, the proctor assisted her and asked for her identification (I.D.) picture for the seat plan. Chulyao further claimed that she took the I.D. picture from the small envelope and gave it to the proctor. Later, after a week or two, Chulyao alleged that she received a note from her sister inquiring about the photos she asked her to have developed. Chulyao claimed that she counted her I.D. pictures and there were six (6) copies, while the number of copies her sister had was only five instead of six. She said that she was alarmed about what happened, but she never had the courage to report the same to the CSC.[5]

On December 6, 2006, the OCA recommended to this Court the re-docketing of the complaint against Chulyao as a regular administrative matter. It also found Chulyao guilty of dishonesty, thus, recommended that Chulyao be dismissed from service.[6]

On January 30, 2007, the Court resolved to re-docket the subject complaint as A.M. No. P-07-2292 (Civil Service Commission, C.A.R., Baguio City v. Rita S. Chulyao, Clerk of Court II, Municipal Circuit Trial Court, Barlig, Mountain Province) and further required Chulyao to file her Comment thereon.[7]

In her Comment[8] dated March 27, 2007, Chulyao, as in her previous Comment, reiterated that the irregularity were merely due to inadvertence when she submitted her sister's photo instead of her's to the proctor during the CSPE. She claimed to be unaware that the photo she gave was that of her sister's.

Chulyao refuted the allegation that it was her sister, Pangowon, who took the examination for and in her behalf on July 31, 1988 by reasoning that her sister was in Kadaclan, Barlig, Mountain Province, as it was planting season at that time in their ricefield, and she was also working there as a teacher. She claimed that they are look-alikes and that they have the same facial features which she insinuated where the confusion started. She submitted the Affidavit of one Diosdado F. Foyagan,[9] her seatmate at the time of the examination, who attested that he saw Chulyao inside the examination room on July 31, 1988. Chulyao also submitted a document showing that her sister was never absent in her class during said date, thus, she claimed that it was impossible for her sister to be in Baguio City, since it will take two to three days to travel from Barlig to Baguio City and vice- versa. Likewise,

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Chulyao submitted the Personal Data Sheet of Pangowon to prove that she never took the Civil Service Examination on July 31, 1988.

On June 17, 2008, the Court referred the instant matter to the OCA for evaluation, report and recommendation.

Meanwhile, on July 7, 2008, the CSC, in Resolution No. 081285,[10] affirmed the dismissal of Raquel S. Pangowon from service for Dishonesty, Falsification of Official Documents and Conduct Prejudicial to the Best Interest of the Service.

In compliance, on July 22, 2009, in a Memorandum to Chief Justice Reynato S. Puno, the OCA recommended that Chulyao be dismissed from service having found to be guilty of Dishonesty.

In its Report, the OCA, adopting the CSC findings, noted that indeed the photo appearing on the picture seat plan over the name and signature of Chulyao was that of her sister, Pangowon. Chulyao even categorically admitted this fact, but denied it was intentional. Likewise, it also found substantial dissimilarity between the signature appearing in Chulyao's personal data sheet and the signature appearing on the picture seat plan. The OCA noted that while Chulyao insisted that the name and signature appearing below the alleged photo of Raquel Pangowon was hers and not of Raquel Pangowon, she, however, failed to present any evidence to prove that the signature appearing on the picture seat plan was really her own. Thus, the OCA concluded that the unexplained discrepancy which is clear to the naked eye is proof enough that indeed another person took the examination for and in behalf of Chulyao.

The OCA gave no credence to the documents submitted by Chulyao to prove that her sister was never absent from her classes; thus, she cannot be the one who took the examination. The document presented was merely Pangowon's service record which does not contain any specific log of Pangowon's daily time-in and time-out. The document, therefore, cannot prove that Pangowon was not in Baguio City on July 31, 1988. Likewise, the Affidavit of Foyagan was given scant consideration, since the affidavit was found to be lacking the requisite community tax certificate number and its place and date of issue. Hence, the identity of Foyagan was questionable.

Over-all, the OCA found Chulyao's defense as merely an alibi unsubstantiated by clear and convincing evidence of non-culpability.

We adopt the recommendation of the OCA.

Dishonesty is defined as "intentionally making a false statement in any material fact, or practicing or attempting to practice any deception of fraud in securing his examination, registration, appointment or promotion." It is also understood to imply a "disposition to lie, cheat, deceive, or defraud; unworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.[11]

In the instant case, respondent Chulyao would like us to believe that she is not liable for dishonesty as the alleged irregularities imputed against her occurred due to mere inadvertence or negligence; thus, in effect raising good faith as her defense for the discrepancies discovered during the CSPE on July 31, 1988.

The evidence on record, however, is overwhelming to support the findings that Chulyao employed her sister, Pangowon, to take the July 31, 1988 CSPE conducted in Baguio City for her and in her behalf and claimed the result thereof as her own in her personal data sheet accomplished on April 23, 2007.

As observed by the CSC, there was a significant difference in the signature of the examinee Chulyao and that of the true Rita Chulyao. It noted that the true Rita Chulyao spells vividly the letter R and the letter S overlapping

each other, while the examinee Rita Chulyao was not able to spell these letters as vividly and vibrantly as that of the true Rita Chulyao. The CSC added that despite the obvious effort on the part of the examinee Rita Chulyao to imitate the signature of the true Rita Chulyao, the former failed to successfully reproduce a signature as that of the true Rita Chulyao. The difference in the loops, lines, slant, pressure, fineness, contours and style revealed that the signatures belong to two different persons.

The improbability of Chulyao's claim that the irregularity was due to mere inadvertence when she gave the picture of her sister instead of her own picture for the picture seat plan was clearly explained by the CSC.

The CSC ratiocinated, and we quote:

> The CSC has devised methods and strategies in the conduct of any civil service exam to ensure the integrity of the civil service examination. The procedure in taking any civil service exam is very rigid, stiff and taut. With the well established procedure in administering the Civil Service Exams, it could not and never happen that the I.D. Picture of another person be pasted in the picture seat plan instead of the picture of the actual examinee. This is so because before the I.D. Picture of the examinee is pasted in the seat plan, the proctor will validate if the I.D. Picture submitted by the examinee is the examinee's picture. The proctor will see to it that the I.D. Picture being submitted by the examinee is his or her own picture. After the I.D. is pasted, the examinee will be required to sign below said I.D. and the signature is again validated by the proctor if the said signature is the same as the signature appearing in the application form. Hence, it would be highly improbable that the I.D. picture of another person would be pasted in the PSP.[12]

The CSC maintained that the person who actually took the examination was respondent's sister, Pangowon. The existence of impersonation was all the more established when Chulyao in her comments admitted that the picture appearing on the picture seat plan of the examination room was that of her sister's. The CSC stressed that the impersonation started right from the time of the filling-up of the application form until the actual examination, it was Chulyao's sister who performed all the acts of impersonation using the name of the person impersonated – Rita Chulyao. The truth was unveiled only when the result thereof was utilized by the respondent in her employment in the government service. When Chulyao filled up her personal data sheet and attached her photo thereon and eventually the picture in the personal data sheet was compared to the picture on the picture seat plan, it was only then that the impersonation was discovered, because the person appearing on the picture seat plan was different from the person whose picture was attached to the personal data sheet.

No amount of good faith can be attributed to Chulyao. Good faith necessitates honesty of intention, free from any knowledge of circumstances that ought to have prompted him to undertake an inquiry.[13] Chulyao admitted that she discovered after a week or two, from the day of examination, that she had given the picture of her sister to the proctor on July 31, 1988 and yet she did not immediately report and correct said error. When the CSC called her twice to appear before the investigation being conducted regarding the incident, Chulyao failed to appear. An innocent person caught in a like situation would more likely immediately profess his innocence rather than evade an investigation which could shed light on the controversy. A truly innocent person would normally grasp the first available opportunity to defend himself and assert his innocence.[14] Thus, Chulyao's protestation of good faith and inadvertence are too incredible to be given weight. To our mind, Chulyao acted with malicious intent to perpetrate a fraud.

Furthermore, it has been a settled rule in this jurisdiction that the duly accomplished form of the Civil Service is an official document of the Commission, which, by its very nature is considered in the same category as that of a public document, admissible in evidence without need of further proof. As an official document, the contents/entries therein made in the course of official duty are prima facie evidence of the facts stated therein.[15]

Indeed, Chulyao's act of using for her benefit the fake or spurious civil service eligibility not only amounted to

violation of the Civil Service Examinations, but it also resulted to the prejudice of the government and the public in general. Under the Qualification Standards (QS) of the Civil Service Commission, the eligibility needed for the position of Clerk of Court II is Career Service (Professional) Second Level Eligibility. Thus, it is clear that Chulyao was able to get her appointment as Clerk of Court II at the MCTC, Barlig, Mountain Province, by using the obtained result of the July 31, 1988 Career Service Professional Eligibility Examination.

The Court cannot turn a blind eye to what are clearly transgressions of the law. Dishonesty and falsification are malevolent acts that have no place in the Judiciary. Under Section 52, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws, dishonesty is considered a grave offense punishable by dismissal even for the first offense.

Assumption of public office is impressed with the paramount public interest that requires the highest standards of ethical conduct. A person aspiring for public office must observe honesty, candor, and faithful compliance with the law. Nothing less is expected.[16]

WHEREFORE, the Court finds RITA S. CHULYAO, Clerk of Court II, of the Municipal Circuit Trial Court, Barlig, Mountain Province, GUILTY of DISHONESTY and orders her DISMISSAL from the service, with forfeiture of all retirement benefits and privileges, except accrued leave credits, if any, with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations

SO ORDERED.

Corona, C.J., Carpio, Carpio-Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr. Perez, Mendoza, and Sereno, JJ., concur.

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[1] Id. at 7-8.

[2] Id. at 2-6.

[3] Id. at 28.

[4] Id. at 31-32.

[5] Rollo, pp. 3-4.

[6] Id. at 61-64.

[7] Id. at 65.

[8] Id. at 66-72.

[9] Id. at 75.

[10] Id. at 97-106.

[11] Crisostomo M. Plopinio v. Atty. Liza Zabala-Cariño, etc., A.M. No. P-08-2458, March 22, 2010.

[12] Emphasis supplied.

[13] Faelnar v. Palabrica, A.M. No. P-06-2251, January 20, 2009, 576 SCRA 392, 401.

[14] Gan v. People, G.R. No. 165884, April 23, 2007, 521 SCRA 550, 581.

[15] Donato v. CSC, G.R. No. 165788, February 7, 2007, 515 SCRA 48, 61-62.

[16] Re: Administrative Case for Dishonesty and Falsification of Official Document: Benjamin R. Katly, Information Technology Officer I, Systems Development For Judicial Application Division, Management Information Systems Office, A.M. No. 2003-9-SC, March 25, 2004.

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