

NIEVES L. RITUAL, COMPLAINANT, VS. JUDGE ERNESTO P. VALENCIA, COURT OF FIRST INSTANCE, BALER, QUEZON, RESPONDENT.*A.M. No. 1170-CFI. September 30, 1978*

Ponente: MAKASIAR, J.

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Respondent Ernesto P. Valencia is the District Judge of the Court of First Instance of Aurora subprovince in Baler, Quezon. He is charged with "conduct prejudicial to the best interest of the service, abuse of authority, willful violation of the provisions of the Civil Service Rules, partiality in dealing with subordinates, oppression and favoritism" by the complainant, Nieves L. Ritual, his former court stenographer.

The instant case arose from the termination of the provisional appointment of the complainant upon the recommendation of the respondent in accordance with Circular No. 2, issued on March 7, 1974 by the then Chief Justice Querube C. Makalintal pursuant to Republic Act 6040 terminating the services of those holding provisional appointments without the appropriate civil service eligibility and the refusal of the respondent to recommend complainant for reappointment, while recommending for reappointment two less qualified stenographers (p. 8, Report).

It appears that complainant was extended a provisional appointment as court stenographer on February 24, 1967. On September 13, 1974, she was advised by the then Judicial Consultant, Honorable Manuel P. Barcelona, of the termination of her services as stenographer on December 15, 1974.

Complainant filed an application for reappointment as stenographer on December 12, 1974 with the Chief Justice, through the respondent Judge, stating that there were no civil service eligibles who applied for the said position. Said application was not acted upon by the respondent, prompting her to inquire from the Judicial Consultant about the status of her application. She found out that she did not have any recommendation for reappointment from the respondent.

In a conference called by the Judicial Consultant on January 10, 1975, respondent informed him that he did not recommend the complainant for reappointment because "She did not approach him to recommend her and he would not be able to recommend her if she did not know how to respect him" (p. 44, Report).

Upon the advice of the Judicial Consultant, complainant personally approached and asked the respondent for recommendation. Notwithstanding this, however, respondent still refused to recommend her. So, on April 10, 1975, she filed another application for reappointment. While her application remained unacted upon, two other court stenographers, Isabel Ferreras and Henry Gofredo, were reappointed and extended temporary appointments upon the recommendation of the respondent.

Thus, on July 15, 1975, complainant wrote the Judicial Consultant about the alleged discrimination committed by the respondent against her. Required to comment on this letter, respondent answered on August 21, 1975 giving

his reasons for not recommending complainant for reappointment, thus:

"Mrs. Nieves L. Ritual does not possess the appropriate Civil Service Eligibility, she did not observe the usual and proper procedure in applying for recommendation for appointment to the position of stenographer, she did not accord due respect and civility to the recommending authority, and she has demonstrated that she could not give the respect and civility required of her to the Court" (p. 2, Report).

On October 9, 1975, complainant filed a letter-complaint against the respondent embodying the aforementioned charges. In his answer dated March 10, 1976, herein respondent denied all the charges against him (p. 11, Report).

In Our Resolution dated July 22, 1976, We referred this case to the Honorable Associate Justice Mariano Serrano of the Court of Appeals, for investigation, report and recommendation.

On January 9, 1978, the Investigating Justice submitted his report finding the respondent guilty of partiality or favoritism in dealing with his subordinates but exonerating him from the other charges, with the recommendation that he be admonished (p. 66, Report).

The charge of partiality or favoritism merits serious consideration.

Respondent displayed his partiality in not recommending the reappointment of the complainant as temporary stenographer after the termination of her provisional appointment while recommending for reappointment Isabel Ferreras and Henry Gofredo who were less qualified than the complainant.

The two favored stenographers do not possess a civil service eligibility as stenographer. While complainant does not possess the appropriate civil service qualification, she, however, is a second grade civil service eligible. Isabel Ferreras does not possess any civil service eligibility whatsoever. Complainant has rendered seven and one-half (7½) years of satisfactory service as a court stenographer; while Henry Gofredo and Isabel Ferreras have rendered five years and three years of service, respectively. Undoubtedly, complainant was better qualified than the other two stenographers. Respondent himself even admitted that she was qualified to be a court stenographer. Therefore, although she did not possess the appropriate civil service eligibility, she should have been recommended for reappointment as temporary stenographer because of her other qualifications.

Respondent likewise showed partiality or favoritism in assigning Isabel Ferreras most of the time in his chamber. The records reveal that from July 1, 1971, when she first reported for work, up to October 26, 1971 she attended only three court hearings. Whatever discretion respondent has in the assignment of stenographers either in the chamber or in the courtroom; the better practice, however, is to assign the three stenographers on rotation basis and thereby giving all of them equal exposure to the work in the courtroom and in the chamber.

Furthermore, respondent committed an indiscretion in assigning a female stenographer in his chamber. No female employee should be assigned inside the chamber of the judge, who is not his close relative, to avoid suspicion or temptation. He should always bear in mind the injunction about Caesar's wife.

Respondent judge insists that complainant should approach him for recommendation. Yet he recommended the reappointment of the two less qualified employees who did not approach him for such recommendation. There was no need for complainant to approach respondent and request him for a recommendation nor to approach him for interview; because she was an incumbent stenographer who had been in the service for seven and one-half (7½) years and her qualifications were already known to respondent who considers her qualified for the position.

Respondent, it seems, would want to make it appear to the complainant that it was a favor to be recommended even if she is an incumbent stenographer and is fully qualified to be such.

Respondent's refusal to recommend her merely because she did not approach him voluntarily but only upon the advice of the Judicial Consultant, smacks of arrogance of power as well as pettiness. To enhance further the efficiency and loyalty to the service of his subordinates, a superior should take the initiative in rewarding such efficiency and loyalty without imposing on their self-respect. What respondent desired of complainant is conducive to promoting fawning sycophancy or obsequiousness among subalterns, who will lose their self-respect and dignity by flattering the vanity of egoistic superiors to curry favor with them. Humility is demanded of those in authority.

WE do not consider complainant's refusal to approach the respondent for recommendation as lack of respect for the respondent; because she had already followed the procedure of the respondent by filing with him her application for reappointment. If at all, being an incumbent stenographer with more years of satisfactory service than the favored ones, complainant merited preferential consideration, without need of catering to the personal whim of respondent. Complainant had to inquire from the Judicial Consultant about the status of her application because the same remained unacted upon by the respondent. Such inaction on the part of respondent accentuated his bias against complainant, doubly compounded by the fact that he recommended for reappointment Isabel Ferreras and Henry Gofredo who did not approach him therefor. In fact, respondent was the one who personally approached and persuaded Isabel Ferreras to continue to work in his sala and even admitted sending for her from the public market where she was working after the lapse of her temporary appointment.

Moreover, all inferior courts and personnel thereof are now within the jurisdiction of the Supreme Court (New Constitution, Section 6, Article X) including appointments of subordinate court personnel, and therefore it was proper for the complainant to inquire about the status of her application from the then Judicial Consultant.

He maintained that it was not his duty to recommend complainant; yet he recommended two less qualified stenographers. If it was not his duty, then he should not have insisted that she should personally see him for such recommendation. He should have shown more concern towards her knowing that she was going to be terminated after having rendered seven and one-half (7½) years of satisfactory service. And he should not have acted with partiality because as a judge he is duty bound to be just and fair to his personnel as well as to observe the principles of Judicial ethics. And under Canon No. 4, he is expected to be: "temperate, attentive, patient, and impartial x x x."

There is no need to consider the other four charges.

The patent partiality or favoritism committed by the respondent deserves censure, not merely admonition, considering his position as a District Judge.

WHEREFORE, THE RESPONDENT DISTRICT JUDGE ERNESTO P. VALENCIA IS HEREBY CENSURED WITH THE WARNING THAT A REPETITION OF SAID ACT WILL BE DEALT WITH MORE SEVERELY.

Muñoz Palma, Fernandez, and Guerrero, JJ., concur.

Teehankee, (Chairman), J., in the result.

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