

ANGELA L. DAILAY-PAPA, COMPLAINANT, VS. MUNICIPAL JUDGE BEN ALMORA, MANKAYAN, BENGUET, RESPONDENT.

A.M. Nos. 543-MC and 1525-MJ. December 19, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

Judge Ben Almora of the municipal court of Mankayan, Benguet appointed on February 9, 1976 Angela L. Dailay, a first grade civil service eligible, as his clerk of court pursuant to section 75 of the Judiciary Law. Corazon L. Paras, the Administrative Officer of this Court, certified that the appointment was in order. The Civil Service Commission approved the appointment as permanent (Exh. A).

About six months later, Judge Almora in an "administrative order" dated August 9, 1976, required Angela to explain within forty-eight hours why she should not be dismissed due to her repeated absences and her alleged noncompliance with the requirement that she should place her time records in the pouch provided for that purpose (Exh. B).

Angela denied the charges in her answer dated August 17. A copy of that answer was furnished the Judicial Consultant (Exh. C).

Judge Almora, not satisfied with Angela's answer and believing that he had the power to remove her, dismissed her (effective August 31, 1976) in his letter of August 26, 1976, which reads (Exh. D-1):

"Miss Dailay:

"You are hereby duly informed that your service is to be terminated by the end of August, 1976, for legal cause in accordance with law and the Civil Service Rules and Regulations and in relation with the memorandum of this Court directed to you which you failed to answer satisfactorily within the 48 hours given you after receipt thereof."

Angela in her letter of August 27 to Judge Almora complained that her summary dismissal was a violation of the Constitution and the Civil Service Law. She asked for a formal investigation (Exh. E). Judge Almora did not act on that request, maybe because he had received an indorsement from Mrs. Paras, requesting his comment on Angela's letter to the Judicial Consultant dated August 9. In that letter, she applied for a vacation leave of absence for three months, from September 1 to November 30, in order to prepare for, and take, the bar examinations. She explained that she did not course her application to Judge Almora because the latter was opposed to her taking a leave of absence (Exh. G).

Judge Almora in his second indorsement of August 28, 1977 to Mrs. Paras said that Angela should not be given a leave of absence and that she should be separated from the service because of her unauthorized absences, negligence, inefficiency and disobedience. He informed Mrs. Paras that he had terminated Angela's services as of August 31, 1976 pursuant to Presidential Decree No. 6 and that he had advised the accounting office of this Court to stop the payment of her salary (Exh. F).

Angela, who was required by Mrs. Paras to comment on Judge Almora's indorsement, alleged that the latter's charges were unfounded and that her dismissal was a capricious and arbitrary exercise of discretion by Judge Almora and a denial of due process (Exh. I-2).

Angela took her three-month leave of absence. She passed the 1976 bar examinations and later got married. She returned to duty on December 6, 1976 and asked Judge Almora to approve her additional leave of absence from December 1 to 3. He "rejected" it on the ground that he had already terminated her services (Exh. R). He did not allow her to resume her work.

Angela retrieved the original and copies of her disapproved application for three days' leave of absence from Teresita Kidlo, the clerk in the municipal court in charge of sending the application to this Court. Angela told Teresita that she herself (Angela) would send the application to this Court.

When Judge Almora learned of that fact, he instructed Teresita and the janitor, Julio Culliao, to get back the application from Angela but she could not be found. Judge Almora instructed Culliao to call a policeman. Patrolman Gonzalo Reyes, Jr. was ordered by Judge Almora to arrest Angela. For that purpose, the judge issued a warrant of arrest containing the order: "You are hereby commanded to arrest Angela L. Dailay to bring back her Application for Leave from Dec. 1 to 3, 1976..."

Angela was arrested at nine-thirty in the morning of December 7 and brought to Judge Almora's office. He told Angela that he would release her if she gave him her application for leave of absence. When Angela informed him that she had forwarded it to this Court, he asked her to comment on the warrant of arrest. He accused Angela of having written a letter wherein she used the name of Edwin Camsol. In that letter, the writer imputed certain violations of the law to Judge Almora.

Because Judge Almora was shouting at her and a crowd had gathered in the office, Angela, unable to bear the humiliation of the situation, stepped out and went home. Judge Almora went to her residence in the afternoon and asked her to sign an affidavit that she was released in the morning. She refused to sign it.

Angela filed in the municipal court a formal written manifestation with the heading "People of the Philippines, plaintiff, vs. Angela L. Dailay", wherein she alleged that the warrant was issued without probable cause. She disclosed that she had already forwarded to this Court her application for leave of absence (Exh. AA).

In a verified complaint dated January 25, 1977, Angela denounced to this Court Judge Almora's act of dismissing her as clerk of court and causing her arrest.

Judge Almora answered the complaint in a twelve-page answer wherein he defended his actions and prayed that Angela be reprimanded for having filed unfounded charges against him.

The incident regarding Angela's dismissal (Adm. Matter No. 543-MC) and the arrest (Adm. Matter No. 1525-MJ) were referred for investigation, report and recommendation to Judge Sinforoso Fañgonil in this Court's resolutions of March 29 and May 25, 1977.

A protracted investigation of the two matters was held. The transcripts of the testimony consist of 844 pages. The records of the two cases have become voluminous - more than 600 pages. Judge Fañgonil in his report of September 12, 1981 found that Judge Almora had no authority to dismiss Angela because it is this Court which has the power to discipline and remove from the service any judge, officer or employee of the judiciary (Sec. 6, Art. X, Constitution; Sec. 1, P. D. No. 185, May 7, 1973; Minutes of the Supreme Court Session en Banc No. 25, July 25, 1974, 62 SCRA 555).

Judge Fañgonil also found that the arrest of Angela was unjustified. However, considering Judge Almora's

service in the judiciary of more than thirty-five years, Judge Fañgonil recommended a penalty of severe reprimand. Judge Fañgonil's findings are supported by law and the evidence.

The Court Administrator recommends that for each of the two acts of grave abuse of authority committed by Judge Almora, he be ordered to pay a fine equivalent to his salary for one month.

Judge Almora reached the age of seventy years on November 28, 1981. In this Court's resolution of October 27, 1981, he was allowed to retire under permanent disability (Adm. Matter No. 1553-Ret.).

We approve the Court Administrator's recommendation. The fine equivalent to Judge Almora's salary for two months should be deducted from his retirement pay.

SO ORDERED.

Fernando, C.J., Fernandez, Guerrero, Abad Santos, De Castro, Melencio-Herrera, Ericta, Plana, and Escolin, JJ., concur.

Teehankee and Makasiar, JJ., vote for the imposition of a penalty of five of one's years salary.

Barredo, and Concepcion, Jr., JJ., on leave.

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