

ASHARY M. ALAUYA, CLERK OF COURT, SHARI'A DISTRICT COURT, MARAWI CITY, COMPLAINANT, VS. JUDGE CASAN ALI L. LIMBONA, SHARI'A CIRCUIT COURT, LANA DEL SUR, RESPONDENT.

A.M. No. SCC-98-4. March 22, 2011

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PER CURIAM:

Before the Court is the present administrative matter against Judge Casan Ali Limbona, Tenth Shari'a Circuit Court (10[th] SCC), Tamparan, Lanao del Sur. This matter is the subject of the Memorandum/Report of the Office of the Court Administrator (OCA) dated August 7, 2000.[1]

The Factual Antecedents

The facts of the case, culled from the OCA report and the case record, are summarized below.

(1) The OCA received on July 31, 1998 a letter dated July 13, 1998 addressed to then Court Administrator Alfredo L. Benipayo,[2] signed by Datu Ashary M. Alauya (Alauya), Clerk of Court, 10[th] SSC, Marawi City.

Alauya reported that numerous verbal complaints had been received against Judge Casan Ali Limbona (Judge Limbona) for: (a) not reporting to his station at the SCC in Tamparan, Lanao del Sur; (b) having filed a certificate of candidacy as a party-list candidate of the Development Foundation of the Philippines (DFP) while serving in the Judiciary and while receiving his salary as a judge; and (c) obtaining from the post office, without sufficient authority, checks representing benefits for court employees.

(2) A request from a "concerned citizen"[3] that the court in Tamparan, Lanao del Sur, be moved to Cotobato City where Judge Limbona resided since the judge had been reporting to Tamparan only once a year since 1994.

Upon the OCA's inquiry,[4] the Commission on Elections (COMELEC) confirmed that based on their records, a certain Casan Ali L. Limbona filed his certificate as a party-list candidate of the DFP in the May 11, 1998 elections.[5]

The OCA confirmed, too, that Judge Limbona failed to submit any notice or information about his candidacy; for this reason, the Judge continued to draw his salary as a judge. The OCA forthwith advised the Finance Services Office to discontinue the payment of Judge Limbona's salary.

On January 27, 1999, the Court resolved to: (1) treat Alauya's letter as an administrative complaint against Judge Limbona; (2) direct Judge Limbona to comment; (3) explain why he did not inform the OCA that he ran for public office in the May 1998 elections; and (4) immediately refund the salaries/allowances he received from March to November 1998.[6]

In a letter dated December 28, 1998 addressed to the OCA, Judge Limbona denied that he consented to be a nominee of DFP in the May 1998 elections. To prove his point, he submitted the affidavit[7] of Datu Solaiman A.

Malambut, DFP's National President, admitting sole responsibility for his "honest mistake" and "malicious negligence and act of desperation" in including the name of Judge Limbona among the party's list of nominees.

While Judge Limbona professed awareness of the rule that appointed government officials are considered resigned on the date of the filing of their certificates of candidacy, he was not aware of any legal opinion or ruling applicable to his case.

Alauya, on the other hand, denied authorship of the letter against Judge Limbona and requested that his name be stricken from the records as complainant in the case.[8]

In his comment dated April 26, 1998,[9] Judge Limbona branded as "purely malicious and unfounded" the allegations that he and his staff were not reporting at the 10th SCC in Tamparan, Lanao del Sur. In support of his claim, the judge submitted the joint affidavit[10] of several members of his staff certifying that the public had been transacting business daily with their office at the Memorial Building in Tamparan. Members of his staff also vouched for Judge Limbona's leadership, intelligence, diligence and contributions to the welfare of the community. The judge also submitted a certification dated April 8, 1999[11] from the municipal mayor of Tamparan, Datu Topa-an D. Disomimba, attesting that the establishment of the 10[th] SCC in Tamparan has contributed to the maintenance of peace and order in the area, and that Judge Limbona's leadership has been excellent.

Judge Limbona reiterated his denial that he filed a certificate of candidacy for the May 11, 1998 elections. He explained that he had no knowledge of his supposed candidacy until he learned about it from the OCA and this Court. Because he was never a candidate, he continued performing his duties as a judge.

Also on April 26, 1999, Judge Limbona filed a motion for reconsideration[12] of the Court's January 27, 1999 Resolution maintaining his lack of knowledge of the filing of his candidacy. On May 10, 1999, Judge Limbona filed another motion for reconsideration[13] of the same Resolution, submitting fresh arguments as follows:

- (1) his alleged certificate of candidacy and acceptance bore discrepancies in the signature, thumbprints and community tax certificate numbers;
- (2) the Court's order withholding the release of his salaries without giving him the opportunity to be heard violated his right to due process; and
- (3) the resolution of the Court ordering him to refund the salaries he received from March 26, 1998 to November 30, 1998 likewise deprived him of due process as it meant he had already been adjudged guilty of the charges.

In a Memorandum/Report dated October 18, 1999,[14] the OCA apprised the Court of developments in the case. The OCA noted that the charges against Judge Limbona that needed to be addressed were: (1) Judge Limbona's alleged filing of a certificate of candidacy as a party-list representative in the May 1998 elections, in violation of the rule on partisan political activity, and (2) Judge Limbona's neglect of his duties as a judge.

On the first charge, the OCA disbelieved Judge Limbona's assertion that he did not consent to the inclusion of his name in the certificate of candidacy filed before the COMELEC and that his inclusion was purely due to the carelessness of the person who prepared the certificate. The OCA nevertheless took the view that a positive identification of the judge's participation in the filing of the certificate of candidacy was needed to fully resolve the matter.

The OCA, however, found that the second charge of non-performance or neglect of duty (due to absenteeism) stood unsubstantiated and was, in fact, negated by the joint affidavit[15] of the staff members of the 10[th] SCC in Tamparan, Lanao del Sur and the certification[16] of the municipal mayor vouching for the judge's leadership,

diligence and contribution to the maintenance of peace and order in the community.

The OCA recommended that the National Bureau of Investigation (NBI) be asked to determine the authenticity of Judge Limbona's signatures on the certificate of candidacy as DFP representative in the May 1998 congressional elections, and that Judge Limbona be suspended as a judge until the matter is finally resolved.

The Court (Third Division) approved the OCA recommendation.[17]

On July 7, 2000, the NBI, through Deputy Director Sancho K. Chan, Jr., submitted to the OCA its report on the matter[18] with the following findings:

FINDINGS: Comparative examination of the specimens received under the stereoscopic microscope, hand lens and with the aid of photographic enlargement reveals significant similarities in habit handwriting characteristics existing between the questioned and the standard sample signatures of Casan Ali Limbona, to wit:

- structural pattern of letter elements -
- Directions of strokes -
- Manner of execution -
- Other identifying details -

CONCLUSION: The questioned and the standard sample signatures Casan Ali L. Limbona WERE WRITTEN by one and the same person.""

The NBI findings and conclusion that Judge Limbona himself signed the certificate of candidacy validated the OCA's initial doubts on Judge Limbona's avowals of innocence about his participation in the May 1998 elections and his claim that the signatures appearing on the certificate of candidacy were forged.

The OCA Recommendation and Related Incidents

The OCA recommended that Judge Limbona be found guilty of dishonesty and be dismissed from the service with forfeiture of retirement and other privileges, if any, and be barred from re-employment in the public service, and that he be made to refund all salaries/allowances he received from March 26, 1998 to November 30, 1998 without prejudice to the filing of an appropriate case in court.

In a related development, the Court (Second Division) issued a Resolution dated June 16, 2003 in A.M. No. SCC-03-08, entitled *Emelyn A. Limbona v. Judge Casan Ali Limbona*, forwarding to the Third Division for consideration under the present case, the charge that the respondent judge continued to perform his functions and to receive his salaries as judge after he had filed a certificate of candidacy in the May 1998 elections.

The Court's Ruling

We find the OCA's recommendation to be well-founded. Judge Limbona committed grave offenses which rendered him unfit to continue as a member of the Judiciary. When he was appointed as a judge, he took an oath to uphold the law, yet in filing a certificate of candidacy as a party-list representative in the May 1998 elections without giving up his judicial post, Judge Limbona violated not only the law, but the constitutional mandate that "no officer or employee in the civil service shall engage directly or indirectly, in any electioneering or partisan political campaign." [19]

The NBI investigation on the authenticity of Judge Limbona's signatures on the certificate of candidacy unqualifiedly established that the judge signed the certificate of candidacy for the May 1998 elections, thus negating his claim that his signatures were forged. The filing of a certificate of candidacy is a partisan political

activity as the candidate thereby offers himself to the electorate for an elective post.

For his continued performance of his judicial duties despite his candidacy for a political post, Judge Limbona is guilty of grave misconduct in office. While we cannot interfere with Judge Limbona's political aspirations, we cannot allow him to pursue his political goals while still on the bench. We cannot likewise allow him to deceive the Judiciary. We find relevant the OCA's observation on this point:

"x x x Judge Limbona's concealment of his direct participation in the 1998 elections while remaining in the judiciary's payroll and his vain attempt to mislead the Court by his claim of forgery, are patent acts of dishonesty rendering him unfit to remain in the judiciary."

In light of the gravity of Judge Limbona's infractions, we find OCA's recommended penalty of dismissal to be appropriate. Under the Rules of Court, dishonesty and gross misconduct are punishable by dismissal.[20] We also approve the OCA recommendation that Judge Limbona be made to refund the salaries/allowances he received from March 26, 1998 to November 30, 1998. With this ruling, we likewise resolve the charge against Judge Limbona -- referred to us by the Court's Second Division in its June 16, 2003 Resolution in A.M. No. SCC-03-08 -- that the respondent judge continued to perform judicial functions and to receive his salaries as judge after he had filed a certificate of candidacy in the May 1998 elections.

WHEREFORE, premises considered, Judge Casan Ali L. Limbona is declared GUILTY OF GROSS MISCONDUCT and DISHONESTY and is declared DISMISSED from the service effective March 26, 1998, the date of the filing of his certificate of candidacy, with FORFEITURE of all accrued retirement benefits and other monetary entitlements, if any. He is BARRED from re-employment in the government, including government-owned and controlled corporation. Judge Limbona is DIRECTED TO REFUND the salaries, allowances and other benefits he received from March 26, 1998 to November 30, 1998, within 10 days from the finality of this Decision.

This Decision is without prejudice to appropriate criminal and civil cases that may be filed against Judge Limbona for the acts he committed. Let a copy of this Decision be served on the Ombudsman for whatever action it may deem appropriate.

SO ORDERED.

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

Velasco, Jr., J., no part due to prior action in OCA.

Mendoza, J., on leave.

[1] Rollo, pp. 129-135.

[2] Id. at 1.

[3] Id. at 2.

[4] Id. at 3; letter dated October 15, 1998.

[5] Id. at 4; letter dated November 5, 1998.

[6] Id. at 8; Resolution dated January 27, 1999.

[7] Id. at 28.

[8] Id. at 96.

[9] Id. at 60.

[10] Id. at 72-73.

[11] Id. at 48.

[12] Id. at 31-32; annexed to Judge Limbona's Comment.

[13] Id. at 33-35.

[14] Id. at 100-104.

[15] Supra note 10.

[16] Supra note 11.

[17] Rollo, p. 107.

[18] Id. at 123-125.

[19] CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES, Article IX B (4); see also Book V, Section 55.

[20] Rule 140, Sections 2 and 3.

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