

ALEX A. BITENG, PETITIONER, VS. DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT (CORDILLERA ADMINISTRATIVE REGION), RESPONDENT.

G.R. NO. 153894. February 16, 2005

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Public office is a public trust. Government officials must serve the people with utmost responsibility, integrity, loyalty and efficiency. A person aspiring for public office must observe honesty, candor, and faithful compliance with the law. Nothing less is expected.[1]

The Case

Before us is a Petition for Review[2] under Rule 45 of the Rules of Court, seeking to reverse the January 31, 2002 Decision[3] and the May 13, 2002[4] Resolution of the Court of Appeals (CA) in CA-GR SP No. 63369. The assailed Decision disposed as follows:

“IN LIGHT OF ALL THE FOREGOING, the ‘Petition’ is DISMISSED for lack of merit.”[5]

The assailed Resolution denied petitioner’s Motion for Reconsideration.

The Facts

The facts are narrated by the CA as follows:

“On June 28, 1989, Alejandrino C. Valera, the Regional Director of the Department of Interior and Local Government (Cordillera Administrative Region), appointed Alex A. Biteng, as Municipal Government Operations Officer, in the Cordillera Administrative Region. Under his appointment, Alex A. Biteng was recommended by his sister, Evangeline B. Trinidad, the Chief of the Administrative Services Division of the Region. Ruby Esperanza V. Valera, Personnel Officer III of the Region, certified that ‘all requirements and supporting papers pursuant to Memorandum Circular No. 6, 1985 had been complied with and found to be in order.’ On May 25, 1990, Alex A. Biteng submitted to the Department of Interior and Local Government his ‘Personal Data Sheet’ in support of his application for appointment as Local Government Operations Officer V in the Administrative Region of the Department of Interior and Local Government. In ‘Answer’ to ‘Question No. 23,’ in his ‘Personal Data Sheet,’ if he was related, within the third degree of consanguinity [or affinity] to the recommending authority, he placed an ‘X’ on the box for the answer ‘No’. On June 4, 1990, the Regional Director approved the appointment of Alex A. Biteng, as Local Government Operations Officer V in the Cordillera Administrative Region of the Department of Interior and Local Government. On the face of the appointment, the recommending officer was Evangeline B. Trinidad, the sister of Alex A. Biteng.

“On July 20, 1994, the Civil Service Commission received a letter purportedly coming from ‘DILG-CAR BELOW THE POVERTY LINE EMPLOYEES’ complaining against Marino B. Trinidad, the PLGOO, DILG-Bangued, Abra, and Evangeline B. Trinidad, the Chief of the Administrative Services Division of the Cordillera Administrative Region of the Local Government Department, for ‘Nepotism’ and irregularities in

the issuance of appointments to Antonio B. Trinidad, Melchor T. Adame and Rolando A. Briones. The Special Audit Team of the Personnel Inspection and Audit Division of the Civil Service Commission conducted its investigation, during the period from August 10 to 12, 1994. In the course of its audit, the Team decided to include the appointments of Alex A. Biteng and Abraham A. Biteng, as 'subjects' of their investigation. Under the 'Report' of the Audit Team, it made the following conclusion and recommendation:

'CONCLUSION

In view of all the foregoing, we conclude that:

- The appointments of Antonio B. Trinidad, Rolando A. Briones, and Alex A. Biteng are nepotistic;
- Falsification of public document was committed by Messrs. Antonio A. Trinidad, Rolando A. Briones and Alex A. Biteng particularly with respect to their Personal Data Sheets x x x;
- The following subject personnel favored the appointments of their relatives within the third degree of consanguinity and of affinity;
- Mr. Marino B. Trinidad – who exercised direct/immediate supervision over Mr. Antonio B. Trinidad, his brother, and Mr. Rolando A. Briones, his nephew.
- Evangeline B. Trinidad – who was the Recommending Officer in the appointment of Mr. Alex A. Biteng, her brother.
- There is irregularity in the appointments of all the subject personnel as there were no documents/records shown to prove that they have undergone the personnel recruitment and/or selection process.

x x x x x x x x

RECOMMENDATION

This Special Audit Report is hereby respectfully forwarded to Atty. Elvira L. Lomboy, Attorney VI, Legal Division, CSC-CAR, for her Information and appropriate action with respect to the anonymous letter-complaint dated July 20, 1994.'

"On September 6, 1994, the Acting Regional Director of the Civil Service Commission filed a 'Formal Charge' against Alex A. Biteng, docketed as 'Administrative Case No. 94-08' for 'Falsification and Dishonesty,' quoted *infra*, as follows:

'Preliminary investigation and result of the special audit conducted by this Office shows that a *prima facie* case exists against Alex A. Biteng, Local Government Operations Officer V, Department of Interior and Local Government, Cordillera Administrative Region, for Dishonesty and Falsification, for indicating a 'No' Answer in Item No. 23 of his Personal Data Sheet. On the face of his appointment, it was indicated that he was recommended by his sister Evangeline B. Trinidad.

x x x x x x x x'

"Alex A. Biteng submitted an 'Affidavit' where he alleged, *inter alia*, that he never solicited the assistance of his sister for his appointments; neither was the latter the recommending authority:

'4.4 That I answered 'NO' to item 23 of CS Form No. 212 because even if Evangeline Biteng-Trinidad is my

sister and at that time was Administrative Officer of the Regional Office of the DILG-CAR, I NEVER solicited her assistance, help nor recommendation. Besides my sister is NEITHER the RECOMMENDING NOR the APPOINTING AUTHORITY NOR THE CHIEF OF THE BUREAU OR OFFICE;

‘4.5 That the position I applied for is a vacancy at the DILG Mt. Province where my immediate Boss is the Provincial Government Operations Officer;

‘4.6 That I was myself surprised when I received my Appointment (Form 33) and saw the signature of my sister under ‘Recommended By’ since I did not even make a previous solicitation.’

“[Alex A. Biteng] also submitted, as part of his evidence, the ‘Affidavit’ of Evangeline B. Trinidad, claiming, inter alia, that:

‘x x x x x x x x

- That I hereby stress that in signing under the phrase ‘Recommending Approval’ in CS Form 33 of my brother Alexander Biteng, I was not recommending him in the sense that I chose him in particular, the truth being that as stated above this was an office procedure for all candidates whose papers are complete and who can be appointed;

- That I hereby stress that my brother Alex has NEVER solicited my recommendation assuming it was needed nor sought my assistance in relation to his appointment; That if ever he got his appointment it was purely on his own merits considering that he passed all the series of qualifying examinations;’

“Alejandrino C. Valera, the Regional Director of the Cordillera Administrative Region, also executed an ‘Affidavit’ declaring inter alia, that Evangeline B. Trinidad was not the recommending authority and that her signatures on the appointments of Alex A. Biteng were by his directive.

x x x x x x x x

“On September 13, 2000, the Civil Service Commission came out with ‘Resolution No. 002145’ finding Alex A. Biteng guilty of dishonesty and ordering his dismissal from the service:

‘It is clear from the June 4, 1990 appointment of Biteng that his recommending officer is his own sister, Evangeline B. Trinidad. His sister’s printed name and signature appear on said appointment as the recommending official. This being so, Biteng is under legal and moral obligation to disclose this relationship with her but failed to do so when he deliberately answered ‘No’ to item 23 on his PDS which he accomplished on May 25, 1990. Hence, he is guilty of Dishonesty.’”[6]

Ruling of the Court of Appeals

Affirming the Civil Service Commission (CSC), the Court of Appeals held petitioner liable for dishonesty. The CA said that the appointments of petitioner, having been made upon the recommendation of his sister Evangeline B. Trinidad, violated the rule against nepotism.

Hence, this Petition.[7]

Issues

Petitioner submits the following issues for our consideration:

“1. With due respect, the Honorable Court of Appeals seriously erred in declaring petitioner guilty of dishonesty for failure to disclose in his Personal Data Sheet (CS Form 212) his relationship to his sister who signed as recommending officer when such signature was not meant to be such.

“2. With due respect, [p]etitioner has been denied due process when the Honorable Court of Appeals, and so did the Civil Service Commission, did not consider the evidence presented by the petitioner.”[8]

The Court’s Ruling

The Petition has no merit.

First Issue:

Non-Disclosure of Relationship with Recommending Authority

Petitioner contends that he had no intention of concealing his relationship with Evangeline B. Trinidad. He avers that if he intended to conceal the fact, he could have simply omitted it from his Statement of Assets and Liabilities.

We agree with the CA that petitioner is guilty of dishonesty. He was duty-bound to disclose his sibling relationship, not only in his sworn Statement of Assets and Liabilities, but also in all other documents required for employment under the law and civil service rules.

“Dishonesty is ‘intentionally making a false statement in any material fact, or practicing or attempting to practice any deception or fraud in securing his examination, registration, appointment or promotion.’”[9] Stressing that a false statement in a Personal Data Sheet “amounts to dishonesty,” the Court recently echoed this definition in *Ratti v. Mendoza-de Castro*: [10]

“The accomplishment of false statements in a Personal Data Sheet, being a requirement under Civil Service Rules and Regulations in connection with employment in the government, the making of untruthful statements therein is, therefore, ultimately connected with such employment. As such, making a false statement therein amounts to dishonesty and falsification of an official document.”[11]

Petitioner admits that he twice answered “No” to Item 23 of his two Personal Data Sheets, an item that required him to disclose his relationship with the recommending or appointing authority. He asserts that while Trinidad is indeed his sister, he never solicited her assistance, help or recommendation; and that his appointments were based on his own merits, as he had passed all the qualifying examinations.

That petitioner did not seek his sister’s assistance in securing the position is immaterial, the issue being his failure to disclose the relationship as required by civil service rules. Neither does passing all the requisite examinations validate his actions, since the prohibition on nepotism[12] applies without regard to the qualifications of the appointee.[13]

Petitioner maintains that he was unaware of the functions of his sister at the time he accomplished his first Personal Data Sheet on February 18, 1989. He was allegedly later surprised to find her signature on his appointment papers dated June 28, 1989. Propriety and candor dictated that he should have, at the time, immediately informed the CSC or his superiors of such fact.

More important, since he already knew that his sister as the recommending authority had signed his June 28, 1989 appointment papers, he should have already been placed on alert when he set out to accomplish his second Personal Data Sheet dated May 25, 1990.

Petitioner should have taken extra precaution and inquired into the circumstances of his new appointment in order to prevent a repeat of his previous inadvertence. Thus, he cannot now claim that when he denied his relationship with his sister in his May 25, 1990 Personal Data Sheet, he was in good faith. Good faith requires honesty of intention. He should have been free from any knowledge of circumstances that ought to have prompted him to

undertake an inquiry.[14]

Second Issue:

Sufficiency of Evidence

Petitioner contends that both the CSC and the CA have failed to consider the evidence presented on his behalf; thus, he asks this Court to review their findings of fact. He claims that despite the clear and unequivocal signature of his sister on his appointment papers, she was, in fact, not the recommending authority with respect to his appointment.

It is a well-established rule, however, that in a petition for review under Rule 45 of the Rules of Civil Procedure, only questions of law, not of fact, may be raised before this Court.[15]

Administrative agencies' factual findings that are affirmed by the Court of Appeals are conclusive upon and generally not reviewable by this Court.[16] We find no cogent reason to disturb the findings of the appellate court, as these are amply supported by the evidence on record.

By signing under the phrase "Recommended By," the sister of petitioner explicitly declared herself to be the recommending officer with respect to his questioned appointments. It was not for him to decide whether the functions of her position included the authority to recommend. As far as he was concerned, she possessed such authority; he cannot now legally make a denial that would suit his defense and avoid liability.

Public office is a public trust. Government officials and employees must at all times be accountable to the people and serve them with utmost responsibility, integrity, loyalty, and efficiency.[17] That these principles are working standards for all public servants has been ruled by this Court in *Civil Service Commission v. Cortez*,[18] from which we quote:

"x x x. Th[ese] constitutionally-enshrined principles, oft-repeated in our case law, are not mere rhetorical flourishes or idealistic sentiments. They should be taken as working standards by all in the public service.

x x x x x x x x

"To end, it must be stressed that dishonesty and grave misconduct have always been and should always remain anathema in the civil service. They inevitably reflect on the fitness of a civil servant to continue in office. When an officer or employee is disciplined, the object sought is not the punishment of such officer or employee but the improvement of the public service and the preservation of the public's faith and confidence in the government."[19]

WHEREFORE, the Petition is DENIED and the assailed Decision AFFIRMED. Costs against petitioner.

SO ORDERED.

Davide, Jr., C.J., Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

Callejo, Sr., J., no part.

[1] Re: Administrative Case for Dishonesty and Falsification of Official Document: Benjamin R. Katly, AM No. 2003-9-SC, March 25, 2004; *De Guzman v. De los Santos*, 394 SCRA 210, December 18, 2002.

[2] *Rollo*, pp. 22-42.

[3] *Id.*, pp. 43-51. Eleventh Division. Penned by Justice Romeo J. Callejo Sr. (Division chairman and now a

member of this Court), with the concurrence of Justices Remedios Salazar-Fernando and Perlita J. Tria Tirona (members).

[4] *Id.*, p. 52.

[5] CA Decision, p. 9; rollo, p. 51. Underscoring in the original.

[6] *Id.*, pp. 1-5; rollo, pp. 43-47. (Citations omitted)

[7] The case was deemed submitted for resolution on December 10, 2003, upon receipt by this Court of respondent's Memorandum signed by Assistant Solicitor General Karl B. Miranda and Solicitor Ma. Theresa G. San Juan-Loquillano. Petitioner's Memorandum, signed by Atty. Miguel B. Liceralde Sr., was received by the Court on November 11, 2003.

[8] Petitioner's Memorandum, p. 6; rollo, p. 121.

[9] *Sevilla v. Gocon*, GR No. 148445, February 16, 2004, pp. 10-11, per Panganiban, J. (citing *Aquino v. The Gen. Mgr. of the GSIS*, 130 Phil. 488, 492, January 31, 1968, per Reyes, J.).

[10] AM No. P-04-1844, July 23, 2004.

[11] *Id.*, p. 12, per curiam (citing *Civil Service Commission v. Sta. Ana*, 386 SCRA 1, August 1, 2002).

[12] §59, Book 5 of the Revised Administrative Code of 1987 states:

"Sec. 59. Nepotism. – (1) All appointments in the national, provincial, city and municipal governments or in any branch or instrumentality thereof, including government-owned or controlled corporations, made in favor of a relative of the appointing or recommending authority, or of the chief of the bureau or office, or of the persons exercising immediate supervision over him, are hereby prohibited.

As used in this Section the word 'relative' and members of the family referred to are those related within the third degree either of consanguinity or of affinity.

x x x x x x x x."

[13] *Debulgado v. Civil Service Commission*, 237 SCRA 184, September 26, 1994.

[14] *De Guzman v. De los Santos*, *supra*.

[15] *Ramos v. Court of Appeals*, GR No. 145405, June 29, 2004; *R Transport Corporation v. Ejandra*, GR No. 148508, May 20, 2004; *National Power Corporation v. Philipp Brothers Oceanic, Inc.*, 421 Phil. 532, November 20, 2001.

[16] *Miralles v. Go*, 349 SCRA 596, January 18, 2001; *Vda. de Nazareno v. Court of Appeals*, 327 Phil. 374, June 26, 1996.

[17] §1, Article XI, 1987 Constitution.

[18] GR No. 155732, June 3, 2004.

[19] *Ibid.*

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