

EN BANC

[A.M. No. 2007-22-SC, February 01, 2011]

RE: ANONYMOUS COMPLAINT AGAINST MS. HERMOGENA F. BAYANI FOR DISHONESTY.

D E C I S I O N

PERALTA, J.:

Before this Court is an Anonymous Complaint for Dishonesty against Ms. Hermogena F. Bayani, SC Chief Judicial Staff Officer, Leave Division, Office of Administrative Services (OAS), Office of the Court Administrator (OCA).

The Anonymous complainant alleged that Bayani, during her application for promotion to her present position as SC Chief Judicial Staff Officer of the Leave Division, OAS-OCA, failed to disclose in her Personal Data Sheet (PDS) that she was previously charged in an administrative case in 1995. It appeared that in a Memorandum dated February 9, 1995 issued by the OAS and signed by then Chief Justice Andres R. Narvasa, Bayani was found remiss in the performance of her duties and was recommended that she be admonished. Complainant added that Bayani's previous administrative record was discovered only during the investigation relative to A.M. No. 2007-08-SC- *In Re: Fraudulent release of retirement benefits of Jose Lantin, former Presiding Judge, Municipal Trial Court, San Felipe, Zambales*, wherein Bayani was one of the personnel under investigation. Consequently, Bayani's failure to disclose said information misled the Court's Selection and Promotion Board (SPB) in evaluating her application for promotion which is tantamount to dishonesty.

On October 1, 2007, the OCA directed Bayani to submit her comment on the instant complaint.^[1]

On October 8, 2007, in her Comment/Memorandum,^[2] Bayani presumed that the instant complaint stemmed from her answers to question nos. 25 and 27 in her PDS, which she filled up on July 27, 1999. To wit:

25. Do you have any pending a) administrative case [☐] Yes [☒] No

x x x x

27. Have you ever been convicted of any administrative offense? [☐] Yes [☒] No

x x x x

Bayani, however, explained that she answered "No" to question no. 25, since the administrative case against her was already decided in 1995, and before she accomplished her PDS in 1999. Thus, Bayani believed that she had no more pending case at the time she accomplished her PDS.

With regard to question no. 27, wherein she again answered in the negative, Bayani explained that it was due to her understanding that there was no conviction on the administrative case against her, because she was merely admonished and warned therein. She pointed out that pursuant to Section 15, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292, admonition and stern warning are not considered penalties. She claimed that by answering "no" to question no. 27, it was not her intention to gain advantage of getting the promotion to her current position, SC Chief Judicial Staff Officer, as she was, in fact, the most qualified candidate for the position being the Officer-in-Charge since 1997.

Moreover, Bayani added that the admonition was merely by virtue of a Memorandum issued by the OAS albeit signed by then Chief Justice Narvasa. She claimed that the memorandum was not the current A.M. Resolution issued by the Court *En Banc*, or through its divisions.

Finally, Bayani averred that if her act was indeed wrong, she, however, did not intend to defraud the government, or prejudice anyone.

On October 10, 2007, the OCA referred the instant case to Atty. Eden T. Candelaria, Chief of Office, Office of Administrative Services, Supreme Court, for appropriate action.^[3]

On January 7, 2008, in a Memorandum,^[4] Atty. Candelaria recommended that Bayani be dismissed from service having been found guilty of Dishonesty through falsification of official documents.

The OAS maintained that while admonition or stern warning are not considered penalties, Bayani remained guilty of the charges in the previous administrative complaint against her as per OAS Memorandum dated February 9, 1995. Hence, her failure to disclose such finding of guilt in the PDS she filled up, Bayani becomes administratively liable for dishonesty.

Furthermore, the OAS pointed out that Bayani could have mentioned in the PDS that there was a previous administrative case against her, but she was only admonished instead of choosing to conceal it. The OAS emphasized that while admonition and stern warning are not penalties, still, her non-disclosure thereof constituted as dishonesty. In essence, the OAS maintained that there is no substantial difference in using "convicted" and "guilty" as long as what is intended to be made known is the existence of a previous finding of administrative liability. Thus, the OAS failed to appreciate Bayani's defense of good faith as well as Bayani's length of service.

We disagree with the OAS's recommendation.

Indeed, dishonesty is defined as "intentionally making a false statement in any material fact, or practicing or attempting to practice any deception or fraud in