

EN BANC

[A.M. No. P-07-2292 [Formerly A.M. No. 06-6-206-MCTC], September 28, 2010]

**RE: COMPLAINT OF THE CIVIL SERVICE COMMISSION,
CORDILLERA ADMINISTRATIVE REGION, BAGUIO CITY AGAINST
RITA S. CHULYAO, CLERK OF COURT, MUNICIPAL CIRCUIT TRIAL
COURT-BARLIG, MOUNTAIN PROVINCE.**

D E C I S I O N

PER CURIAM:

Before us is an administrative complaint against Rita S. Chulyao, Clerk of Court II of the Municipal Circuit Trial Court (MCTC) of Barlig, Mountain Province, for Dishonesty.

The facts, as culled from the records, are as follows:

On December 9, 2004, the Civil Service Commission (CSC)-Examination Division received an Anonymous Complaint, which alleged an examination irregularity involving Rita S. Chulyao (Chulyao), Clerk of Court II, MCTC of Barlig, Mountain Province. The complaint averred that Chulyao employed her sister, Raquel S. Pangowon (Pangowon), a school teacher of Barlig National High School, to take for and in her behalf the July 31, 1988 Career Service Professional Examination (CSPE) conducted in Baguio City.

Upon verification from the examination records of the CSC-Region 1 and CSC-Integrated Records Management Office, it appeared that one Rita S. Chulyao actually took the CSPE on July 31, 1988 in Baguio City.

Upon further verification from the Office of the Court Administrator (OCA), Supreme Court, it revealed that per employment records of Chulyao, she passed the CSPE held in Baguio City on July 31, 1988 with a rating of 72%.

Thus, for purposes of comparison, the employment records of Pangowon were requested from the CSC-Cordillera Administrative Region (CSC-CAR), Mountain Province Field Office. From Pangowon's personal data sheets, it was found that the picture attached therein was that of the same person who took the CSPE on July 31, 1988 based on the picture attached in the picture seat plan. These gave the impression that the actual person who took the CSPE was Raquel Pangowon instead of the supposed examinee Rita Chulyao.

Subsequently, the CSC directed both Chulyao and Pangowon to submit their Comments on the complaint.

Chulyao moved for the summary dismissal of the complaint and manifested that the same was filed by scrupulous people motivated by revenge and envy.

In an Order dated February 15, 2005, Chulyao and Pangowon were directed to appear before the CSC-CAR for preliminary investigation on March 3, 2005. Both respondents failed to appear.

Again, in an Order dated July 21, 2005, Pangowon was directed to appear before the CSC-CAR for preliminary investigation. By special appearance, Pangowon appeared for preliminary investigation on September 6, 2005.

Chulyao, on the other hand, was again directed to appear for a preliminary investigation on August 29, 2005. However, despite notice, Chulyao failed to show up.

Subsequently, the CSC-CAR issued a formal charge against Pangowon for Dishonesty, Falsification of Official Documents and Conduct Prejudicial to the Best Interest of the Service for applying and taking the July 31, 1988 CSPE for and in behalf of her sister, Rita S. Chulyao.^[1]

However, the CSC-CAR, in Decision No. CAR-06-057DC, dated May 4, 2006, the complaint against Chulyao was dismissed for lack of jurisdiction since the latter is a court employee.^[2]

On June 14, 2006, the Decision of the CSC-CAR, dated May 4, 2006, was forwarded to the OCA for proper action.

On June 23, 2006, the OCA directed Chulyao to submit her Comment on the CSC-CAR Decision against her.^[3]

In her Comment^[4] dated July 14, 2006, Chulyao denied anew the allegations contained in the CSC Decision. She denied that she committed any examination irregularity in the CSPE conducted in Baguio City on July 31, 1988. She narrated that the week before she went to Baguio City for the examination, her sister, Pangowon, gave her certain photo negatives for developing. On July 30, 1988, Chulyao narrated that she and her townmates who are taking the CSC examinations arrived in Baguio City late in the afternoon. Since she was not familiar with the place, she asked her sister-in-law to go to the photo studio to have her photo negative, as well as that of her sister's, developed. Her sister-in-law told her that the photos will be claimed the following day.

In the early morning of July 31, 1988, she and her sister-in-law went to the photo studio to claim the photos, but the studio was still closed. Chulyao claimed that they were able to redeem the photos only after 8:00 a.m. and she was already late for the examination. She said that because she was already late, the proctor assisted her and asked for her identification (I.D.) picture for the seat plan. Chulyao further claimed that she took the I.D. picture from the small envelope and gave it to the proctor. Later, after a week or two, Chulyao alleged that she received a note from her sister inquiring about the photos she asked her to have developed. Chulyao claimed that she counted her I.D. pictures and there were six (6) copies, while the number of copies her sister had was only five instead of six. She said that she was alarmed about what happened, but she never had the courage to report the same to the CSC.^[5]

On December 6, 2006, the OCA recommended to this Court the re-docketing of the complaint against Chulyao as a regular administrative matter. It also found Chulyao guilty of dishonesty, thus, recommended that Chulyao be dismissed from service.^[6]

On January 30, 2007, the Court resolved to re-docket the subject complaint as A.M. No. P-07-2292 (*Civil Service Commission, C.A.R., Baguio City v. Rita S. Chulyao, Clerk of Court II, Municipal Circuit Trial Court, Barlig, Mountain Province*) and further required Chulyao to file her Comment thereon.^[7]

In her Comment^[8] dated March 27, 2007, Chulyao, as in her previous Comment, reiterated that the irregularity were merely due to inadvertence when she submitted her sister's photo instead of her's to the proctor during the CSPE. She claimed to be unaware that the photo she gave was that of her sister's.

Chulyao refuted the allegation that it was her sister, Pangowon, who took the examination for and in her behalf on July 31, 1988 by reasoning that her sister was in Kadaclan, Barlig, Mountain Province, as it was planting season at that time in their ricefield, and she was also working there as a teacher. She claimed that they are look-alikes and that they have the same facial features which she insinuated where the confusion started. She submitted the Affidavit of one Diosdado F. Foyagan,^[9] her seatmate at the time of the examination, who attested that he saw Chulyao inside the examination room on July 31, 1988. Chulyao also submitted a document showing that her sister was never absent in her class during said date, thus, she claimed that it was impossible for her sister to be in Baguio City, since it will take two to three days to travel from Barlig to Baguio City and vice-versa. Likewise, Chulyao submitted the Personal Data Sheet of Pangowon to prove that she never took the Civil Service Examination on July 31, 1988.

On June 17, 2008, the Court referred the instant matter to the OCA for evaluation, report and recommendation.

Meanwhile, on July 7, 2008, the CSC, in Resolution No. 081285,^[10] affirmed the dismissal of Raquel S. Pangowon from service for Dishonesty, Falsification of Official Documents and Conduct Prejudicial to the Best Interest of the Service.

In compliance, on July 22, 2009, in a Memorandum to Chief Justice Reynato S. Puno, the OCA recommended that Chulyao be dismissed from service having found to be guilty of Dishonesty.

In its Report, the OCA, adopting the CSC findings, noted that indeed the photo appearing on the picture seat plan over the name and signature of Chulyao was that of her sister, Pangowon. Chulyao even categorically admitted this fact, but denied it was intentional. Likewise, it also found substantial dissimilarity between the signature appearing in Chulyao's personal data sheet and the signature appearing on the picture seat plan. The OCA noted that while Chulyao insisted that the name and signature appearing below the alleged photo of Raquel Pangowon was hers and not of Raquel Pangowon, she, however, failed to present any evidence to prove that the signature appearing on the picture seat plan was really her own. Thus, the OCA concluded that the unexplained discrepancy which is clear to the naked eye is proof enough that indeed another person took the examination for and in behalf of