

THIRD DIVISION

[G.R. No. 170691, April 23, 2008]

REBECCA E. BADIOLA, PETITIONER, VS. HON. COURT OF APPEALS, THE OFFICE OF THE OMBUDSMAN, AND LERMA G. ABESAMIS, RESPONDENTS.

D E C I S I O N

CHICO-NAZARIO, J.:

Before Us is a Petition for *Certiorari*^[1] under Rule 65 of the Rules of Court. Petitioner Rebecca E. Badiola (Badiola) seeks to annul, reverse and set aside (1) the Resolution^[2] dated 19 October 2005 in which the Court of Appeals refused to reconsider its earlier Resolution^[3] dated 22 December 2004, dismissing Badiola's petition in CA-G.R. SP No. 84623; and (2) the Decision^[4] dated 19 January 2004 in Administrative Case No. OMB-C-A-03-0186-F in which the Office of the Ombudsman suspended Badiola from office for three months without pay after finding her guilty of simple neglect of duty.

The factual and procedural antecedents of the case are as follows:

Badiola is the Human Resource Management Officer V of the Department of Agriculture (DA) and is designated as the Chief of the Personnel Division. She is likewise the Head Secretariat of the DA Promotion and Selection Board (DA-PSB) and the DA Search Committee.

Private respondent Lerma G. Abesamis (Abesamis), on the other hand, is a Project Development Officer of the Public Investment Program Division of the DA Planning Service.

On 30 May 2003, Abesamis filed a Complaint-Affidavit^[5] before the Office of the Ombudsman, charging Badiola with violating Section 5(a)^[6] of Republic Act No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees), Section 3(e) and (f)^[7] of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act), Perjury^[8], and Dishonesty and/or Grave Misconduct.

In the Complaint-Affidavit, Abesamis related that on 17 July 2001, and again on 15 January 2003, she applied^[9] for the vacant position of Director III (Assistant Director) of the Agricultural Training Institute, an attached Bureau of the DA. She submitted her letter of application to then DA Secretary Luis P. Lorenzo, Jr. (Lorenzo), together with recommendation letters from various politicians, which DA Secretary Lorenzo allegedly endorsed to the Office of the President (OP) for consideration.

In a letter^[10] dated 5 March 2003, then Chairman Bernardino R. Abes (Abes) of the OP Search Committee returned DA Secretary Lorenzo's letter of endorsement of Abesamis's application, and required instead the submission of (1) the names of at least three nominees for the position, with supporting documents; and (2) the rating/ranking of the nominees given by the DA-PSB.

Abesamis alleged that from the time of receipt by the DA of Chairman Abes's letter on 6 March 2003 until the filing of her Complaint-Affidavit, the requirements in said letter were yet to be complied with. This undue delay was blamed on Badiola, as she was the head of the DA-PSB Secretariat, and this was deliberately done in order to favor another unnamed applicant for the same position.

On 15 May 2003, Abesamis received a memorandum^[11] signed by DA-PSB Vice Chairman and Administrative Service Director Julito M. Briola, requiring her to submit her Performance Appraisal Report for the 1st and 2nd semesters of Calendar Year 2002. Abesamis complained that this requirement was applied only to her, allegedly upon the authorship of Badiola. Abesamis's immediate superior, purportedly in collusion with Badiola, gave Abesamis low marks so as to disqualify her from the promotion she was aspiring for.

Finally, Abesamis pointed to the alleged illegality of Badiola's appointment as Human Resource Management Officer V (Chief of Division) on 20 January 1999. A Master's Degree was required for the said position and Badiola obtained hers from the Pampanga Agricultural College only in March 1999, as certified^[12] by the school. Abesamis averred that Badiola wrongly stated this fact on her Personal Data Sheet.^[13] According to Abesamis, Badiola even misrepresented in her Daily Time Record^[14] that she was rendering overtime work in the DA Quezon City office during the Saturdays of November and December in 1998, when she was supposedly attending classes in Pampanga at the same time.

The administrative complaint was docketed at the Office of the Ombudsman Preliminary Investigation and Administrative Adjudication Bureau as OMB-C-A-03-0186-F, for Misconduct and Conduct Prejudicial to the Best Interest of the Service, while the criminal aspect of the complaint was docketed as OMB-C-C-03-0355-F, for violation of Section 3(e) and (f) of Republic Act No. 3019.

In an Order^[15] dated 1 July 2003, the Office of the Ombudsman required Badiola to submit a Counter-Affidavit and other controverting evidence to the complaint.

On 8 July 2003, Badiola filed her Counter-Affidavit in which she denied the allegations that she caused the delay in the processing of Abesamis's papers and that she had any part in the decision of the DA-PSB to require the applicants to submit their performance evaluation reports. Badiola also asserted that the DA-PSB already forwarded its recommendations^[16] of short listed applicants to DA Secretary Lorenzo as of 17 June 2003 in compliance with the letter of OP Search Committee Chairman Abes. Regarding the issue of her Master's Degree, Badiola declared that she belonged to the graduate class of October 1998 as reflected in the Official Transcript of Records^[17] issued by the Pampanga Agricultural College. However, the graduation rites were only held on 16 December 1999, which circumstance was already beyond her control. Thus, she allegedly committed no

misrepresentation in her Daily Time Records when she declared that she rendered overtime services in the months of November and December in 1998.

On 17 July 2003, Abesamis filed a Reply-Affidavit^[18] wherein she spelled out the mistakes committed by Badiola in the performance of her duties. She annexed thereto an unsigned letter by DA Secretary Lorenzo to OP Search Committee Chairman Abes, which was prepared by Badiola's office. The matrix of the short listed applicants and their qualifications presented in said letter bear the following irregularities: (1) the name of then Undersecretary Charito R. Eligir of the Presidential Management Staff (PMS) appeared as one of Abesamis's endorsers, when he was actually not; (2) the other personalities who actually recommended Abesamis for the promotion were not listed; (3) that Abesamis's Master's Degree in Business Administration was omitted from the information regarding her educational background; and (4) that the applicant ranked number 1 was made to appear to have a Master's Degree in Environment and Natural Resources Management, when he had yet to finish the same. Abesamis claimed that these mistakes were deliberately resorted to by Badiola to discriminate against Abesamis's application for promotion.

In a Rejoinder^[19] filed by Badiola, she explained that the erroneous entries were honest mistakes and that the same were already rectified.

Several more pleadings and documents^[20] were thereafter filed by the parties before the Ombudsman.

On 10 November 2003, the Ombudsman issued a Resolution^[21] dismissing OMB-C-C-03-0355-F, the criminal complaint against Badiola, pertinent portions of which read:

[W]ith respect to the charge of Violation of Section 3, paragraph (e) of R.A. 3019, the essential element of "discharging official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence" is not present in the instant case. In the same token, as regards the charge of Violation of Section 3, paragraph (f) of R.A. 3019, the essential element of giving undue advantage in favor of an interested party is lacking herein.

x x x x

Accordingly, it can not be gainsaid that the [herein petitioner Badiola] acted with manifest partiality, evident bad faith or gross inexcusable negligence since the purported delay is beyond her control. Furthermore, a reading of the complaint failed to reveal that "undue injury" has been caused to the [herein private respondent Abesamis]. In addition, the actuation of [Badiola] can not be considered as having given undue advantage to an interested party since the requirements imposed on the nominees to the position in question appears to apply to all of the said nominees.

In view of the lack of any sufficient ground to engender a well founded belief that the respondent committed a violation of Republic Act No.

3019, the only logical recourse is to dismiss the present case.

WHEREFORE, PREMISES CONSIDERED, it is respectfully recommended that the above-entitled case be DISMISSED, as it is hereby DISMISSED.

Subsequently, on 19 January 2004, the Office of the Ombudsman rendered a Decision^[22] in OMB-C-A-03-0186-F, the administrative case against Badiola, in which it ruled as follows:

After a careful review of the records of the case, we conclude, and so hold, that substantial evidence have been adduced to establish the liability of respondent [Badiola] for Neglect of Duty.

It is beyond question that the official functions of [Badiola] consist of, among others, the supervision of the concerned office staff and the submission of data/information of candidates for appointment/promotion. However, as the records of the case will reveal, [Badiola] appears to have been remiss in the performance of the said functions.

For one, it has been shown that the respondent [Badiola] failed to perform her task of supervising the personnel under her direction, particularly, Human Resource Management Officer I ROMELIA A. UFEMIA, resulting in the placing of the name of Undersecretary CHARITO ELEGIR of the Presidential Management Staff as one of the endorsers in the application for promotion of the complainant. x x x

From this, it is clear that the respondent [Badiola] has been remiss in the performance of her duty, i.e., in supervising the personnel under her charge. Although this mistake may be considered as innocuous, it apparently has a more far-reaching repercussion, in that a false endorsement from the Presidential Management Staff, contained in official records, will have a negative effect on the application of the complainant [Abesamis].

In addition, the respondent [Badiola] further failed to perform her supervisory function, by indicating in the same matrix of short listed applicants for the position of Assistant Director for the Agricultural Training Institute (pp. 0079, records), that FRANCISCO RAMOS III, one of the applicants for the ATI position, was a graduate of a masteral degree in environment and natural resources management, when in fact, record in the possession of the respondent [Badiola] will show that RAMOS is not yet a graduate. This again has far-reaching effects in that it appears to be favorable to the concerned applicant, to the prejudice of the other applicants for the position.

Again, in the same matrix of short listed applicants for the position of Assistant Director for the Agricultural Training Institute (pp. 0081, records), the fact that the complainant [Abesamis] is a holder of a Masters in Business Administration was omitted, when in fact, records in the official custody of the respondent [Badiola] will indicate such. This further shows that the respondent [Badiola] has apparently failed in the

performance of her functions.

x x x x

As discussed above, the performance by the respondent [Badiola] of her function leaves much to be desired, and for which the appropriate penalty should be imposed. In view of the absence of any mitigating or aggravating circumstance, it is submitted that the medium penalty for the offense of Simple Neglect of Duty may be imposed against the respondent [Badiola].

WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered finding [petitioner] REBECCA E. BADIOLA, Guilty of Simple Neglect of Duty, for which the penalty of Suspension From Office for Three (3) Months Without Pay is hereby recommended, pursuant to Section 52 B(1), Rule IV of the Uniform Rules on Administrative Cases in the Civil Service.

The Honorable, the Secretary, (sic) Department of Agriculture is hereby furnished a copy of this Decision for its implementation in accordance with law, with the directive to inform this Office of the action taken hereon.

Badiola filed a Motion for Reconsideration^[23] of the above Decision, which the Ombudsman denied in an Order^[24] dated 11 May 2004.

Badiola sought recourse with the Court of Appeals by filing a Petition for Review on *Certiorari* with a Prayer for the Issuance of a Temporary Restraining Order,^[25] docketed as CA-G.R. SP No. 84623.

In her petition, Badiola claimed that the Ombudsman erred in holding that she was remiss in the supervision of the personnel under her charge and that she was negligent in the performance of her official duties. According to Badiola, the official matrix that was signed by DA Secretary Lorenzo and submitted to the OP Search Committee showed the correct qualifications of the applicants, therefore proving that Badiola did indeed perform her job. Badiola likewise prayed for the issuance of a Temporary Restraining Order (TRO) inasmuch as the implementation of the Ombudsman Decision dated 19 January 2004, which ordered Badiola's suspension, and the 11 May 2004 Order,^[26] which denied her Motion for Reconsideration of the said decision, will inflict irreparable injury upon her person.

Badiola subsequently filed a Supplemental Petition for Review,^[27] in view of the fact that her original petition was instituted without the services of a counsel and that certain aspects of her case were overlooked. In the Supplemental Petition, Badiola further contended that the Ombudsman erred in proceeding with the administrative case despite the prior dismissal of the criminal aspect that was based on the same set of facts, and reiterated her prayer for the issuance of a TRO.

In a Resolution^[28] dated 20 July 2004, the Court of Appeals dismissed Badiola's original petition in this wise: