

## EN BANC

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

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

### DECISION

**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.<sup>[1]</sup>

### The Case

Before us is a Petition for Review<sup>[2]</sup> under Rule 45 of the Rules of Court, seeking to reverse the January 31, 2002 Decision<sup>[3]</sup> and the May 13, 2002<sup>[4]</sup> 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."<sup>[5]</sup>

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:

1. The appointments of Antonio B. Trinidad, Rolando A. Briones, and Alex A. Biteng are nepotistic;
2. 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;
3. The following subject personnel favored the appointments of their relatives within the third degree of consanguinity and of affinity;
  - a. Mr. Marino B. Trinidad – who exercised direct/immediate supervision over Mr. Antonio B. Trinidad, his brother, and Mr. Rolando A. Briones, his nephew.
  - b. Evangeline B. Trinidad – who was the Recommending Officer in the appointment of Mr. Alex A. Biteng, her brother.
4. 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.

## 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 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 x

9. 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;

10. 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 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.'"<sup>[6]</sup>

### **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.<sup>[7]</sup>

### **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