

DULAY, Blandina P.

Re: Dishonesty; Conduct Prejudicial to the
Best Interest of the Service
(Appeal)

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RESOLUTION NO. 050010

Blandina P. Dulay, Cashier III, Quirino Memorial Medical Center (QMMC), Quezon City, appeals the Decision dated June 16, 2003 of Dr. Rosalinda F. Arandia, Medical Center Chief II, QMMC, which was affirmed in an Order dated August 6, 2003 of Department of Health (DOH) Secretary Manuel M. Dayrit. In said Decision, Dr. Arandia found Dulay guilty of Conduct Prejudicial to the Best Interest of the Service and Dishonesty imposing upon her the penalty of suspension from the service for one (1) year for the first offense and dismissal from the service with cancellation of eligibility, forfeiture of retirement benefits and perpetual disqualification for re-employment in the government service for the second offense.

The Decision reads, in part, as follows:

“1. Mrs. Dulay, as head of the Cashier Section of this medical center had the primordial responsibility of submitting with the Accounting Office the true and factual dates of deposit of all cash collections deposited with the Bureau of Treasury. This is besides her duty to deposit all cash collections not later than the following day, pursuant to COA rules and regulations;

“2. Not only did Mrs. Dulay fail to perform aforestated duties and responsibilities, but has

deliberately withheld and delayed the deposit of subject cash collections. Worst, she tried to fraudulently conceal the said practice by issuing fraudulent deposit receipts to make it appear that the subject amounts were being deposited on time;

“3. Mrs. Dulay has the sole responsibility of securing the transfer of hospital cash collections to the Bureau of Treasury. This responsibility was again abridged by the unaccounted status of hospital collections amounting to two million two hundred twenty six thousand, eight hundred and twenty three pesos and eighty three centavos (P2, 226, 823.83);

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*“**WHEREFORE**, based on the foregoing evidences, the guilt of Mrs. Dulay with regard to the two offenses or complaints lodged against her has become certain. In addition to this declaration, this Office hereby adopts in full the Formal Investigation Report of the Hospital-Wide Discipline Committee, tasked by this authority to conduct the formal investigation of this issue, as true and accurate within this premises. Therefore, pursuant to subject finding, and under the authority vested upon this Office by Section 7 (paragraph A-1), Section 36, and 37 of the Uniform Rules on Administrative Cases in the Civil Service, this Office hereby impose the following penalties against Mrs. Dulay:*

“1. One (1) year suspension for Conduct Prejudicial to the Best Interest of the Service for the fraudulent concealment of the actual dates of deposit of cash collections by the hospital, and its concomitant delay in its due and proper deposit to the Bureau of Treasury. This is in accordance with the provision of Paragraph A-20, Section 52, Rule IV of Civil Service Commission Resolution No. 991936;

“2. Dismissal for the Dishonesty exhibited in misappropriating the hospital cash collection funds for her personal agenda, the fund amounting to two million two hundred twenty six thousand, eight hundred and twenty three pesos and eighty three centavos (P2, 226, 823.83). With her partial payment of the fund misappropriated having no bearing in her administrative guilt, which is the sole issue in this investigation, without prejudice to its proper effect on the civil liability in the criminal aspect of this case.”

In her appeal, Dulay alleged, as follows:

“Respondent-Appellant respectfully submits that the decision, subject of this appeal imposes harsh and excessive penalties. Ten (10) days before the decision was issued, she has already restituted the total amount of One Million One Hundred Ninety Five Pesos (P1, 195, 000). With the help of her children, this amount was restituted in a short period of Thirty (30) days from May 7, 2003, the inception of the Administrative Case. Appellant will make full restitution, within another thirty (30) days from July 1, 2003, God willing.

“Appellant respectfully, submits that, the Discipline Committee administered harsh justice as distinguished from ‘speedy justice’. The committee was unmindful of the paramount interest of justice which demands patience and thoroughness essential to a just and judicious determination of all matters in this case. Although the committee seemingly rendered speedy justice it was really hasty justice that it administered when it issued its decision hastily on June 16, 2003 and only after thirty nine (39) days from inception of the case and fifty one (51) days before expiration of appellant preventive suspension. If ninety (90) days is promptness in deciding the case was not sobered with prudence and wisdom in the decision of the case against the appellant.

“The appellant, for humanitarian reasons, appeals to this Hon. Commission to reconsider and set aside the decision of the QMMC, thru Dra. Arandia.”

When directed to comment, Dr. Arandia represented, as follows:

“The decision dismissing Dulay from the service was affirmed by the Honorable Secretary of Health on August 6, 2003. (ANNEX ‘RRR’).

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“There was a total of sixty occasions as shown above where she misrepresented the date when

collections were actually deposited.

“Records also show that she misrepresented that she made deposits on twelve (12) occasions but did not actually make such deposits. The amount involved in such dishonest acts of Dulay total to P2,226,823.83.

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“Even in her appeal to the Honorable Commission, Dulay indirectly admitted that she misappropriated the collections when she stated that she restituted the amount of P915, 000 as of May 29, 2003 and the amount of P280, 000 on June 6, 2003.

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“It is respectfully submitted to the Honorable Commission that the restitution, full or otherwise, of the missing amount and obviously misappropriated by Dulay does not absolve her from the offense of Dishonesty, which she admitted to have committed.

“Since she was found guilty of sixty (60) counts of Conduct Prejudicial to the Best Interest of the Service when she misrepresented the dates she actually made the deposits, and twelve (12) counts of Dishonesty in misappropriating the amount of P2, 226, 823.83 representing the collections of this Medical Center, the penalty of Dismissal is neither harsh nor excessive.”

Records show that the QMMC Hospital-Wide Discipline Committee (Committee) conducted a preliminary investigation relative to the deposit of QMMC hospital funds. When the QMMC Committee found a *prima facie* case against Dulay, Dr. Arandia formally charged her with Dishonesty and Conduct Prejudicial to the Best Interest of the Service on May 7, 2003. The charge for Dishonesty was anchored on Dulay’s act of misappropriating for personal use the hospital cash collection amounting to Two Million Two Hundred Twenty Six Thousand Eight Hundred Twenty Three Pesos and Eighty-Three Centavos (P2,226,823.83). On the other hand, she was charged with the offense of Conduct Prejudicial to the Best Interest of the Service for fraudulently concealing the actual dates of deposit in sixty (60) transactions of the hospital.

Dulay was directed to answer the charges against her within seventy-two (72) hours from receipt of the formal charge and to appear before the investigating committee later. She was likewise advised that she is entitled to counsel. In the same formal charge, Dulay was placed under preventive suspension for ninety (90) days effective upon its receipt.

On May 13, 2003, in answer to the formal charge, Dulay wrote Dr. Arandia admitting the charges against her and proposing to retribute the amount taken from the hospital funds.

Meanwhile, after further examination of the collections and deposits in the custody of Dulay, Dr. Arandia issued an amended formal charge on May 26, 2003 to include hospital transactions which were not yet discovered when the original formal charge was issued. Dulay was given seven (7) days from receipt of the amended formal charge to submit her answer thereto. In a letter dated June 2, 2003, Dulay informed Dr. Arandia that she is adopting her previous Answer dated May 13, 2003 as her answer to the amended formal charge. Dulay further informed Dr. Arandia that as of May 29, 2003 she has already restituted Nine Hundred Fifteen Thousand Pesos (P915, 000.00) of the Two Million Two Hundred Twenty Six Thousand Eight Hundred Twenty Three Pesos and Eighty-Three Centavos (P2,226,823.83). On June 6, 2003, Dulay restituted an additional amount of Two Hundred Eighty Thousand Pesos (P280, 000.00).

On June 16, 2003, Dr. Arandia rendered a decision finding Dulay guilty of Conduct Prejudicial to the Best Interest of the Service and imposed upon her the penalty of one-year suspension. In the same decision, Dulay was found guilty of Dishonesty and was meted the penalty of dismissal from the service.

Without first elevating the case to the DOH, Dulay appealed to the Commission on July 1, 2003.

In an Order dated August 6, 2003, Secretary Dayrit affirmed the decision of Dr. Arandia but modified the penalty of dismissal by including the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from reemployment in the government service.

The issue that needs to be resolved is whether the penalty of dismissal from the service is harsh and excessive considering that Dulay restituted the amount of P1,195,000.00 within thirty (30) days from the inception of the case and that she rendered

service to the government from 1965 to 2003.

Before passing upon the issue, the Commission puts on record that Dulay's premature appeal on July 1, 2003 from Dr. Arandia's Decision dated June 16, 2003 was subsequently cured by Secretary Dayrit's confirmation thereof in an Order dated August 6, 2003.

The Commission finds the appeal devoid of merit. The penalty of dismissal from the service is the penalty fixed by law for the commission of acts of Dishonesty in accordance with **Section 52, Item A, Number 1 of the Uniform Rules on Administrative Cases in the Civil Service**, to wit:

“Section 52. Classification of Offenses. – Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

“A. The following are grave offenses with their corresponding penalties:

*“1. Dishonesty
“1st offense – Dismissal”*

Similarly, the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification from reemployment in the government service is provided for under **Section 58, Item (a) of the mentioned Rules**, to wit:

“Section 58. Administrative Disabilities Inherent in Certain Penalties.

“a. The penalty of dismissal shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service, unless otherwise provided in the decision.”

Appellant's defense that the penalty is harsh and excessive because her twenty three (23) years of government service and

the fact that she returned P1,195,000.00 were not considered in imposing the same is without merit. The Commission emphasizes the relevance in the instant case of the Supreme Court decision in **PAL vs. NLRC, 198 SCRA 748 (1991)** which provides, as follows:

“xxx the fact that De Veyra has worked with PAL for twenty (20) years, if it is to be considered at all, should be taken against her. The infraction that she committed, vis-à-vis her long years of service with the company, reflects a regrettable lack of loyalty. Loyalty that she should have strengthened instead of betrayed. If an employee’s length of service is to be regarded as a justification for moderating the penalty of dismissal, it will actually become a prize for disloyalty, perverting the meaning of social justice and undermining the efforts of labor to cleanse its ranks of all undesirables.”

Dulay abused the trust bestowed on her on account of her twenty-three (23) years in the service when she treacherously committed the infractions with which she is charged. Indeed, it would be rewarding her deceitful acts if Dulay’s length of service would be considered to mitigate the penalty of dismissal imposed upon her.

As regards Dulay’s restitution of the amount of P1,195,000.00, the Commission applies the ruling of the Supreme Court in the case of **JDF Anomaly in the RTC of Ligao, Albay, 255 SCRA 221 (1996)**. The Supreme Court ruled that the restitution of the whole amount misappropriated cannot erase the government employee’s administrative liability. Since restitution of the whole amount was not given weight in such case, there is more reason not to consider Dulay’s restitution of half of the total amount that she misappropriated.

Finally, it is glaring from the records that Dulay never questioned QMMC’s findings on her culpability but rather focused her appeal on the penalty imposed. This only goes to show that she committed the acts with which she was accused. Dulay’s admission of the charge and her acts of filling-up and signing the LBP cash deposit slips to make it appear that she has deposited the amounts indicated thereon constitute Dishonesty, which connotes *“a disposition to defraud, deceive or betray”* (**Words and Phrases, Vol. 12A, Permanent Edition**). They also constitute Conduct Prejudicial to the Best Interest of the Service, which is an unwarranted act that results in an undue prejudice to the best interest of the service in the sense that the government is denied the benefit of a committed service that could have been rendered (**Civil Service Commission Resolution No. 04-1076 dated September 28, 2004, citing Civil Service Commission Resolution No. 98-0649 dated March 25, 1998**).

Dulay's failure to have duly forthcoming any public funds or property with which she is accountable, upon demand by any duly authorized officer, raises the presumption that she has put such missing funds or property to personal uses (**Article 217 of the Revised Penal Code**). It is noted that Dulay did not deny the allegation that the total amount of Two Million Two Hundred Twenty Six Thousand Eight Hundred Twenty Three Pesos and Eighty-Three Centavos (P2,226,823.83) hospital funds was misappropriated. Instead of proving otherwise, Dulay admitted in her Answer dated May 13, 2003 that she "*borrowed*" money from the hospital funds allegedly in order to accommodate a group of unscrupulous persons who befriended her. She issued checks to cover the amount she borrowed but the checks turned out to be spurious. Notably, even with the restitution of the amount of One Million One Hundred Ninety Five Thousand Pesos (P1,195,000.00), Dulay is still accountable for the remaining amount of One Million Thirty One Thousand Eight Hundred Twenty Three Pesos and Seventy-Seven Centavos (P1,031,823.77).

As regards the penalty of one (1) year suspension imposed for the offense of Conduct Grossly Prejudicial to the Best Interest of the Service and dismissal for Dishonesty, the latter penalty, being the imposable penalty corresponding to the more serious offense, shall be imposed pursuant to **Section 55** of the mentioned Uniform Rules, to wit:

“Section 55. Penalty for the Most Serious Offense. If the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge or count and the rest shall be considered as aggravating circumstances.”

WHEREFORE, the appeal of Blandina P. Dulay is hereby **DISMISSED**. Accordingly, the Decision dated June 16, 2003 rendered by Dr. Rosalinda F. Arandia, Medical Center Chief II, Quirino Memorial Medical Center (QMMC), and affirmed in an Order dated August 6, 2003 of Department of Health (DOH) Secretary Manuel M. Dayrit, finding her guilty of Dishonesty and Conduct Prejudicial to the Best Interest of the Service and dismissing Dulay from the service with cancellation of eligibility, forfeiture of retirement benefits and perpetual disqualification from reemployment in the government service is **AFFIRMED**.

Let a copy of this Resolution be furnished the GSIS for its appropriate action.

Quezon City,

(SIGNED)
KARINA CONSTANTINO-DAVID
Chairman

(SIGNED)
J. WALDEMAR V. VALMORES
BUENAFLOR
Commissioner

(SIGNED)
CESAR D.
Commissioner

Attested by:

(SIGNED)
REBECCA A. FERNANDEZ
Director IV
Commission Secretariat and Liaison Office

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