



Mamamayan Nuna

AMBA, Tita B.
 Re: Dishonesty, Grave Misconduct;
 Conduct Prejudicial to the Best Interest
 of the Service

X-----X

This is a

**MUST - READ
 RESOLUTION**

CSC Res No. 07-0958 dated May 25, 2007
 CSLO

RESOLUTION NO. 070958

Tita B. Amba, Social Welfare Aide II, Field Office XII, Department of Social Welfare and Development (DSWD) Cotabato City, appeals the Decision dated August 26, 2005 of DSWD Undersecretary Luwalhati F. Pablo, finding her guilty of Dishonesty, Grave Misconduct and Conduct Grossly Prejudicial to the Best Interest of the Service and imposing upon her the penalty of "Deemed Retired from Service".

Relevant portions of the assailed decision read, as follows:

"Respondent Amba is a Social Welfare Aide II currently assigned as Secretary to the Office of the Asst. Regional Director. In her affidavit respondent Amba admitted that she received 51 checks amounting to Six Million Four Hundred Seventy Thousand Pesos (P6,470,000.00) issued to different 51 SEA K organizations from respondent Mohamad despite the fact that she has no Special Power of Attorney to received (sic) the said checks from said organizations. Amba claimed that she was authorized by Project Evaluation Officers, Generosa Francisco, Gavino Bagahansol, Jr. and Ibrahim Sangcupan to get the checks for the beneficiary organizations since these SEA-K has no money to follow-up their requests, thereby saving these associations from unnecessary expenses. She further claimed that she forthrightly deposited the checks to the Land Bank of the Philippines, Estosan Branch, Cotabato City.

"In respondent Amba's earnest attempt to clear her name she presented various deposit slips and certifications from various SEA-K Associations purporting that they received the grant money from the Department.

"A perusal of the evidence would show that respondent Amba was sufficiently able to account for the checks that were issued to the following SEA-K Associations:

x x x

"However, she failed to account for the following checks that she received.

x x x

"Further, a scrutiny of the teller's validation in each and every deposit slip submitted by Amba to prove that she had deposited the money revealed that her handling of the checks that she received without authority is replete with irregularities. Firstly, the checks were deposited several months after they have been drawn and received by Amba. Specifically, checks that were drawn on March 25, 2002 were deposited only on May 23, 2002 and some were even deposited only on August 9, 2002. Hence, depriving SEA-K Associations the use of their money for a period 60 days which is sufficient enough to earn an interest for the associations. Secondly, there were occasions that not the entire amount for the SEA-K Group was deposited, specifically the SKA Tenok was drawn a check for P150,000.00 but only P100,000 was deposited in its account. Lastly, checks that are supposed for specific SKAs were deposited to the account of different SKAs specifically money that was intended for Daladagan SKA were deposited to the account of Upper Dilag, for Tenok SKA it was deposited to the account of Lower Siling. Thus, SKA Upper Dilag and SKA Lower Siling received more than the allotted P150,000.00 while some SKAs failed to received (sic) their allocation despite the fact that checks are already drawn in their favor. x x x The Teller's Validation appearing at the Deposit Slips submitted by respondent Amba is a mute witness to the nefarious transaction that shows some of the funds intended for other SKAs were diverted to the accounts of 'favored' SKAs of Tenok(sic) and Lower Siling.

"Respondent Amba failed to account for the One Million Pesos (P1,000,000.00) worth of checks which she admittedly received, this fact coupled with the irregularities in handling the other checks creates a prima facie evidence that she put the money for her own personal use which renders her liable for Dishonesty, Grave Misconduct and Conduct Grossly Prejudicial to the Best Interest of the Service. Respondent



Amba's failure to account for the checks and the manner which she handles banking transactions clearly shows her lack of integrity.

"However, respondent Amba could not be held liable for Gross Neglect of Duty and for Incompetence and Inefficiency in the Performance of Official Duties. It should be stressed that as Social Welfare Assistant I it is not her duty to receive and collect the checks for SKAs, as such it cannot be said that she is negligent or incompetent in the performance of her duties. In fact, evidence showed that her action in this instant case of receiving the checks is willful and deliberate and not merely negligent act on her part.

x x x

"Respondent TITA AMBA is hereby FOUND GUILTY OF DISHONESTY, GRAVE MISCONDUCT AND CONDUCT GROSSLY PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE. However, the complaints for Gross Neglect of Duty and Inefficiency and Incompetence in the Performance of Official Duties are hereby dismissed for lack of merit. Further, considering that respondent has been in the service since 1971 and she has just been recently widowed these circumstance are considered in imposing the appropriate penalty. As such Respondent AMBA is hereby DEEMED RETIRED FROM SERVICE."

Amba appeals the above-quoted Decision on the following grounds:

- a. Absence of substantial evidence to support the decision;
- b. The penalty imposed is not legally in existence;
- c. The penalty is excessive.

In her Appeal Memorandum, Amba averred, as follows:

"Knowing that she is innocent of the charges and that the finding of her guilt is not supported by substantial evidence and being confident that she has faithfully served her employer, Respondent filed a motion for reconsideration of the Decision, which motion was denied. x x x

"Respondent cannot live the rest of her life with the stigma that she had dishonestly served her employer, who she faithfully served during her prime years and until now; hence, this appeal.



"I THERE IS NO SUBSTANTIAL EVIDENCE SUPPORTING THE DECISION

"All the charges are grave offenses, and the penalty for each of the first is dismissal, and the penalty for each of the last two, for the second offense, is also dismissal. Yet Respondent is meted with the penalty of 'Deemed Retired' which is not recognized by the Rules as a penalty in disciplinary cases. The imposition of this kind of penalty betrays the lack of substantial evidence that supported the finding of guilt of Respondent.

"She is a lowly employee, who is saddled with an additional load, which was to deposit checks prepared and issued by the cash provision to the accounts of named beneficiaries. In those cases where there were obvious mistake in the names of the beneficiaries, she simply deposited the checks to the accounts of the correct and rightful beneficiaries. For doing this, she was adjudged dishonest for delivering checks to 'ghost' beneficiaries, and she was assumed to have pocketed the proceeds of the checks.

"The assumption or conjecture is the only probable evidence against the Respondent.

"II. THE PENALTY IMPOSED IS NOT LEGALLY IN EXISTENCE.

"While this penalty of 'deemed retired' may appear better or lighter than 'dismissal', its imposition has no legal basis.

"Be that at it may, the imposed penalty is still in effect 'dismissal' and it still carries the stigma that Respondent has been dishonest, grossly negligent of her duty, conducted herself in a grave manner, inefficient and incompetent in the performance of her official duties, and conducted herself in a manner that caused gross prejudice to the best interest of the service.

"III. THE PENALTY IS EXCESSIVE

"Judging from the participation of Respondent in the matter on which the charges were filed, and considering the acts and position held by the other respondents, the penalty of virtual dismissal (that of 'deemed



retired') of Respondent is submitted to be excessive, not to say that the penalties imposed to the other respondents were very light.

"Let it not be understood to mean that the other respondents are not innocent, and only this respondent can validly claim the innocence of the charges.

"And let this allegation be not construed as to mean that Respondent intends to cause prejudice to the other respondents.

x x x

"WHEREFORE, Respondent most respectfully pray that the August 26, 2005 Decision in Administrative Case No. 03-004 be reversed, and that Respondent be ordered reinstated to her position."

As culled from the records, the antecedent facts of the case are, as follows:

In line with Presidential Decree No. 1145 and Administrative Order No. 278, which mandates government agencies to strengthen their internal control system, and pursuant to the agreement reached by the DSWD's Executive Committee, then DSWD Secretary Corazon N. Juliano-Soliman issued Special Order No. 230 dated March 20, 2003, creating a Special Internal Audit Team for the DSWD Field Office XII, Cotabato City. Said audit team was directed to review the transactions of Field Office XII for calendar years 2000 through 2002. The constitution of the Special Audit Team was for the purpose of assisting the DSWD's Executive Committee in ascertaining whether resources of the DSWD are being managed efficiently, effectively and economically and also determine the compliance of the Field Office XII's transaction with the rules and regulations of the Commission on Audit, the Civil Service Commission and other oversight agencies.

On July 2, 2003, the Special Audit Team submitted its initial findings covering Calendar Year 2002 to Secretary Soliman. The Special Audit Team discovered irregularities in the financial transactions of the Field Office XII, which included, among others, the release of SEA-K checks by Cashier Sahabudin Mohamad to Respondent Amba instead of the actual payees of the checks. The Self-Employment Assistance-Kaunlaran Program or SEA-K is a community-based program of the DSWD which utilizes people's organizations called SEA Kanluran Associations (SKAs) as credit conduits for microfinance. The DSWD provides non-interest bearing loans without collateral to the SKAs. In order that funds may be released to the SKA, it is required



that a Project Proposal shall be approved by the Field Office Director and supported by the necessary documents.

The Special Audit Team reported the following findings:

1. Two (2) Disbursement Vouchers (DV) with LBP Check Nos. 908538 to 98543, specifically DV Nos. 101-01-12-4081 and 101-01-12-4066 both for One Hundred Fifty Thousand Pesos (P150, 000.00) each have no certification from the Division Chief of the Management Division as to the necessity or legality of the expenses.
2. DV Nos. 101-01-12-4250, 101-01-12-4248, 101-01-12-4249 and 101-01-12-4251, for the amount of One Hundred Thousand Pesos (P100,000) each lack the necessary supporting documents.
3. Despite the lack of supporting documents, the DVs were certified by the responsible officers and approved by Regional Director Kunesa Sekak.
4. Sahabudin Mohamad, Cashier directly issued the fifty one (51) checks in the total amount of Six Million Four Hundred Seventy Thousand Pesos (P 6,470,000.00) to Respondent Amba in the absence of a Special Power of Attorney and contrary to the guidelines which require that the checks should be released to either the President or Treasurer of the SKA.

Undersecretary Luwalhati F. Pablo issued a Show Cause Order dated August 20, 2003 to Amba to which she responded on August 29, 2003. Finding that a *prima facie* case exists against Amba, Undersecretary Pablo formally charged Amba with Dishonesty, Grave Misconduct, Inefficiency and Incompetence in the Performance of Official Duty and Conduct Grossly Prejudicial to the Best Interest of the Service. After the conduct of a formal hearing, respondent Amba submitted her position paper together with her documentary evidence consisting of deposit slips and acknowledgment receipts on June 7, 2004.

On August 26, 2005, a resolution was issued by Undersecretary Luwalhati Pablo finding respondent guilty of Dishonesty, Grave Misconduct and Conduct Grossly Prejudicial to the Best Interest of the Service and imposing upon her the penalty of "Deemed Retired from Service". Incidentally, the authority of Undersecretary Pablo to formally charge and sign decisions on administrative cases involving grave offenses committed by rank and file employees was pursuant to DSWD Memorandum Circular No. 15, series of 2004 dated April 19, 2004 which was signed by then DSWD Secretary Corazon Juliano Soliman.



Amba moved for the reconsideration of said Decision but the same was denied on January 23, 2006. Hence, Amba filed this present appeal before the Commission.

The only issue to be resolved in the present case is whether substantial evidence exists to hold Amba liable for Dishonesty, Grave Misconduct and Conduct Grossly Prejudicial to the Best Interest of the Service.

Dishonesty is the concealment or distortion of truth, which shows lack of integrity or a disposition to defraud, cheat, deceive or betray and intent to violate the truth. Grave Misconduct is the "*transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer*". It is settled that *misconduct, misfeasance, or malfeasance warranting removal from office of an officer must have direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office.*² On the other hand, Conduct Prejudicial to the Best Interest of the Service refers to "*such unwarranted act of the respondent resulted in an undue prejudice to the best interest of the service.*"³

On the onset, it must be pointed out that Amba was separately charged with the offenses of Dishonesty, Grave Misconduct, Inefficiency and Incompetence in the Performance of Official Duty and Conduct Grossly Prejudicial to the Best Interest of the Service although the assailed decision also involved other respondents namely: Tayan Namla, Accountant; Ludmila Rellores, Budget Officer; Sahabudin Mohamad, Cashier; Gemma Rivera, Chief of the Operations Division; and Fatima Abobakar, Chief, Technical Division, who were all separately charged with the same offenses. All were alleged to be involved in the certification and approval of the questionable DVs, which in turn led to the issuance of fifty-one (51) checks to Respondent Amba. In the assailed DSWD Decision, the DSWD did not find substantial evidence of conspiracy among the respondents. Of all the respondents, only Rellora was exonerated. Rivera, Abobakar and Namla were ordered suspended for six (6) months and one (1) day. Both Mohamad and Amba were imposed the penalty of "Deemed Retired from the Service". Notably, this case is limited to resolving the individual liability of Respondent Amba as to her failure to account for all of the 51 checks.

Records show that Amba was able to account for forty-three (43) of the fifty-one (51) SEA-K checks. However, she failed to account for eight (8) checks of the following

¹ Arcenio vs. Pagorogon, 224 SCRA 246

² Amosco vs. Magro, 73 SCRA 107

³ Lucero, Antonio M., CSC Resolution No. 98-0649, March 25, 1998



SEA-K organizations and the corresponding amounts that they should have received, to wit:

SKA	Amount
1. Talitay SKA, Maguindanao	150,000.00
2. Sapad SKA, Matanog, Maguindanao	100,000.00
3. Central Langking, SKA	100,000.00
4. Mukas SKA, Koiambogan, Lanao del Norte	100,000.00
5. SKA Sumusplung, Barina, Maguindanao	100,000.00
6. SKA Pob. Nabalwag Barina, Maguindanao	150,000.00
7. Padtad SKA, Barina Maguindanao	150,000.00
8. Laguilayan SKA, Isulan, Sultan Kudarat	150,000.00
Total	P 1,000,000.00

Moreover, the formal investigation of the case further revealed irregularities in the way the respondent handled these SEA-K checks. In the first place, she was not the person authorized to receive the checks from the Cashier. Rather, it should be the President or the Treasurer of the SKA. Also, Amba deposited the checks several months after they have been drawn and received by her. Checks which were drawn on March 25, 2002 were deposited only on May 23, 2002 and August 9, 2002. There were also findings which show that not the entire amount for the SKA was deposited, specifically that of SKA Tenok which was supposed to receive One Hundred Fifty Thousand Pesos (P150, 000.00) but only the amount of One Hundred Thousand Pesos (P 100,000.00) was deposited to said SKA's account. Finally, evidence also shows that checks that were drawn for specific SKAs were deposited to the account of different SKAs. Specifically, the amount intended for Daladagan SKA was deposited to the account of SKA Upper Dilag. The amount intended for Tenok SKA was deposited to the account of Lower Siling SKA. In effect, SKAs Upper Dilag and Lower Siling received more than the allotted One Hundred Fifty Thousand Pesos (P 150,000.00) while some SKAs failed to receive their allocation.

In her Motion for Reconsideration to the assailed Decision, Amba blamed the irregularities in the handling of checks to the tellers of the Land Bank of the Philippines (LBP) where she deposited these checks. However, she failed to support this allegation with evidence. Amba further claimed that she cannot account for the checks of Central Langking SKA, Sapad SKA, Sumusplung SKA and Laguilayan SKA because said SKAs are inexistent. Despite this representation, the DVs revealed that checks were issued for these SKAs. In denying her motion for reconsideration, the DSWD concluded that Amba's admission that the four (4) SKAs are non-existent only gives credence to the earlier findings of the Special Audit Team that funds were released to "ghosts" or non-existing SKAs.



From the foregoing, the Commission rules that substantial evidence exists to find Amba guilty of Dishonesty, Grave Misconduct and Conduct Grossly Prejudicial to the Best Interest of the Service. Her failure to account for eight (8) SEA-K checks amounting to a total of One Million Pesos (P 1,000,000.00) resulting in loss to the government, coupled with the irregularities that accompanied the depositing of other checks and the fact that she was not authorized to handle these checks leads to no other conclusion than that respondent's actions constitute the offenses for which she was found guilty. Moreover, Amba's acts resulted in either delay in remittance or non-remittance of the allotted funds which prejudiced the program's beneficiaries.

Be it reminded that in administrative cases, what is required is substantial evidence, which means such evidence as a reasonable mind might accept as adequate to support a conclusion. In the case on appeal, the DSWD has established the guilt of the respondent with the substantial evidence required.

Finally, the DSWD imposed the penalty of "Deemed Retired from the Service" on Amba instead of the penalty of dismissal from the service with all its accessory penalties which should have been imposed considering that she was found guilty of grave offenses. The DSWD imposed the more lenient penalty in consideration of Amba's financial welfare since she was recently widowed and was about to retire. In the DSWD's Comment dated August 14, 2006, the DSWD justified the imposition of the penalty by citing rulings of the Supreme Court where retirement in lieu of dismissal was imposed.

Notably, in the same Comment, the DSWD also averred, to wit:

"x x x Since she was administratively charged with grave offenses, dismissal from the service should have been the proper sanction, complete with forfeiture of benefits. Instead, the Department considered her 'retired from the service' and this liberality can neither be seen as excessive or harsh. But will all these, Ms. Amba did not even appreciate this leniency. We now reconsider the Department's act of liberality and generosity to Ms. Amba, and pray that the proper penalty of DISMISSAL FROM THE SERVICE now be imposed by the Commission."

Be it emphasized that disciplining authorities should impose the proper penalties as mandated by the Uniform Rules on Administrative Cases in the Civil Service. Clearly, the penalty of "Deemed Retired from the Service" is not one of the penalties provided in said Rules. The offenses committed by Amba are grave offenses punishable with the penalty of dismissal from the service and its accessory penalties. In the present appeal, the DSWD erred in imposing the penalty of "Deemed Retired from the Service". Thus,



the Commission shall rectify this error by modifying the same to the penalty of dismissal from the service with all its accessory penalties.

WHEREFORE, the appeal of Tita B. Amba, Social Welfare Aide II, Field Office XII, Department of Social Welfare and Development, Cotabato City is hereby **DISMISSED** for lack of merit. Accordingly, the Decision dated August 26, 2005 of DSWD Undersecretary Lurwalhati F. Pablo, finding her guilty of Dishonesty, Grave Misconduct and Conduct Grossly Prejudicial to the Best Interest of the Service is hereby **AFFIRMED**. However, the imposition of the penalty of "Deemed Retired from the Service" is hereby **MODIFIED**. The penalty of **DISMISSAL FROM THE SERVICE** with all its accessory penalties of cancellation of civil service eligibility, forfeiture of retirement benefits and perpetual disqualification to re-enter government service is hereby imposed.


Quezon City, **MAY 25 2007**


MARYANN FERNANDEZ MENDOZA
Commissioner


KARINA CONSTANTINO-DAVID
Chairman


CESAR D. BUENAFLOR
Commissioner

Attested by:


JUDITH D. CHICANO
Director IV
Commission Secretariat and Liaison Office