

OCA CIRCULAR NO. 152-2003, November 06, 2003

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Public office is a public trust. Public officers and employees must therefore at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, and act with patriotism and justice. (Section 1, Article XI, 1987 Constitution.) The essence of public trust calls upon each government official to be true to his duty towards God and his country.

In answer to the call for all government officials to be accountable for his acts as public officials, it has been the paramount goal of this Office to ensure the effective delivery of judicial service to the public without unnecessary disruptions.

By reason of the nature and functions of this office, the official and employees of the Judiciary must serve as role models in the faithful observance of the constitutional canon that public office is a public trust. Inherent in this mandate is the observance of prescribed office hours and the efficient use of office time for public service, if only recompense the government and ultimately, the people, who shoulder the cost of maintaining the Judiciary.

The Office of the Court Administrator has received information that certain groups of court personnel are planning to resort to mass leaves, walkouts, demonstrations and other similar activities to the detriment of the delivery of service by the Judiciary to the general public.

While we are not prescribing the employee's right to express their respective sentiments concerning the issues now facing the Judiciary, there are rules that govern such expression of sentiments of which all employees must be made aware of. All lower courts employees are therefore hereby reminded of the following prevailing laws, rules, and jurisprudence concerning unauthorized absences, mass actions, and other related activities, to wit:

1) "Section 5. Definition of prohibited Concerted Mass action.— As used in the Omnibus Rules, the phrase "prohibited concerted activity or mass action" shall be understood to refer to any collective activity undertaken by government employees, by themselves or through their employees' organizations, with the intent of effecting work stoppage or service disruption in order to realize their demands of force concessions, economic or otherwise, from their respective agencies or the government. It shall include mass leaves, walkouts, pickets and acts of similar nature." (CSC Resolution No. 021316 dated October 11, 2002.)

2) "Section 11. Prohibition on Mass Leaves. — No government agency shall approve or warrant mass leave of absences, when circumstances will substantially show that the purpose for which such mass leave is taken is to enable the employees concerned to join, participate or take part in a prohibited concerted activity or mass action. Mass leave of absences shall occur when five (5) or more employees of the same agency shall apply for leave simultaneously or almost at the same time under circumstances evidencing conclusion or common design to participate in a prohibited mass action.

"When the mass leave is predicated on health reasons, the approving authority shall inquire into the veracity of the leave of absence and require the employees concerned to submit corresponding medical certificates upon their resumption to duty. In case the mass leave applied for is vacation leave, the approving official must satisfy himself or herself that the mass leave shall not be intended for engaging in any prohibited concerted

activity or mass action, before taking any action thereon. In all instances, any misrepresentation on the leave applications shall be a ground for initiating disciplinary action against the concerned employees. (CSC Resolution No. 021316 dated October 11, 2002.)

3) Sec. 50, Rule XVI, Omnibus Rules on Leave of Absence, provides that "an official or employee who is absent without approved leave shall not be entitled to receive his salary corresponding to the period of his unauthorized leave of absence."

4) Section 5 (5-1), Part 1 of Administrative Circular No. 5-2001 dated January 9, 2001 provides that: "Those who incurred vacation leave of absence without pay for an aggregate period of five (5) days or more during the preceding year" shall not be entitled to receive the productivity incentive benefit.

5) In the case of *Bangalisan versus Court of Appeals* (276 SCRA 619 [1987]), the Court upheld the prohibition on mass leaves by ruling that: "While the Constitution recognizes the right of government employees to organize, they are prohibited from staging strikes, demonstrations, mass leaves, walk-outs and other forms of mass action which will result in temporary stoppage or disruption of public services."

6) In the case of *Manila Public School Teachers Association, et. al. versus Laguio, Jr.*, (200 SCRA 323 [1991]), the Court held that: "It is entirely possible that petitioners and their members-teachers had and have some legitimate grievances. This much may be conceded. Nonetheless,..what needs to be borne in mind, trite though it may be, is that one wrong cannot be righted by another, and that redress, for even the most 'justifiable complaints, should not be sought through proscribed or illegal means. The belief in the righteousness of their cause, no matter how deeply and fervently held, gives the teachers concerned no "license to abandon their duties, engage in unlawful activity, defy constituted authority, and set a bad example to their students."

7) "Section 7. Administrative Liability. — Government employees who join, participate or take part in any prohibited concerned activity or mass action as defined in the preceding section shall be held administratively liable for the offense of conduct prejudicial to the best interest of the service and such other administrative offenses as may be warranted under the circumstances.

"A registered and/or accredited employees' organization which initiates, spearheads, joins or participates in any prohibited concerned activity or mass action, shall have its certificate of registration and, or accreditation revoked or canceled."

"Section 8. Penal and Civil Liability. — The filing of administrative charges against the erring employees shall not be a bar to the institution of appropriate criminal and civil cases when so warranted by the circumstances." (CSC Resolution No. 021316 dated October 11, 2002.)

8) Conduct prejudicial to the best interest of the service fall under the classification of Grave Offenses under Rule IV of the Civil Service Rules. The first offense is punishable with suspension for six months and one day to one year while the second offense is punishable with dismissal from the service.

9) Finally, officials and employees who have been found guilty of an administrative charge except those who have been reprimanded or warned are not entitled to receive productivity incentive bonuses, fringe benefits (amelioration assistance), additional COLA (JDF), year-end bonus, cash gift, and the advance payment of one-half (1/2) thereof. (Administrative Circular No. 5-2001 dated January 9, 2001 and DBM Budget circular No. 2000-18 dated September 6, 2000.)

For your guidance and strict compliance.

November 6, 2003.

PRESBITERO J. VELASCO, JR.

Court Administrator

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