

JUDGE JOSE P. GENIO, COMPLAINANT, VS. PEDRO R. ABONALES, RESPONDENT.

A.M. No. P-170. September 10, 1975

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

In a letter-complaint dated February 1, 1973, Municipal Judge Jose P. Genio of Ragay, Camarines Sur, denounced his clerk-stenographer, Pedro R. Abonales, for incompetence, abandonment and dereliction of duty, dishonesty and immorality.

Judge Genio alleged that respondent Abonales has no knowledge of stenography; that he never reported for work since October 1, 1972, abandoning his post without any proper advice to the court; that he committed serious acts of dishonesty of withdrawing his salary without rendering any service, and/ or without filing the appropriate leave of absence, and/or submitting daily time records which he reconstructed covering the period from July to December, 1970 and November and December, 1971, without the necessary verification or countersignature by the Municipal Judge; and that he cohabited with a woman who is not his wife begetting two children by her out without giving them the needed support.

This letter-complaint was referred to District Judge Abelardo Dayrit, CFI of Camarines Sur, Naga City for investigation, report and recommendation (3rd Indorsement dated May 30, 1973, p. 4, rec), who set the case for hearing on July 13, 24, 27 and 28, 1973.

The respondent was duly notified of the scheduled hearings. In a certification dated July 11, 1973, the office of the chief of police of Ragay, Camarines Sur, certified that the notice of hearing scheduled for July 13, 1973 could not be served on respondent because he could not be contacted in Ragay, as he was already residing in Lopez, Quezon. On July 13, 1973, Judge Dayrit directed his branch clerk of court to issue another subpoena to be served on respondent by the chiefs of police of Ragay and of Lopez, ordering them to serve the notice of hearing which was re-set to July 24, 1973 (pp. 30-31, rec). The return of the office of the chief of police of Lopez; Quezon (p. 38, rec.) shows that two attempts to serve the subpoena failed because the respondent was somewhere in Manila. However, his legitimate wife, Mrs. Socorro A. Abonales, and daughter were notified of the date of hearing scheduled on July 24, 1973 at 8:30 A.M. Mrs. Abonales, who refused to accept the notice of hearing and the court order, stated that her husband would appear at the hearing either on the 27th or 28th of July, 1973.

The respondent failed to appear at the scheduled hearings and on the day he said he would appear according to his wife, and the investigation of this administrative case proceeded ex parte (p. 99, rec).

After the ex parte investigation, the Inquest Judge submitted his investigation report dated August 7, 1973 finding the respondent guilty of incompetence, abandonment of office and dereliction of duty as well as of dishonesty but exonerating him of immorality, with the recommendation that he be dismissed from the service with prejudice to reinstatement.

On the procedural standpoint, if the formal investigation proceeded ex parte, respondent was to blame. Duly notified as many times as there were scheduled hearings, personally and thru his wife and daughter in Ragay, Camarines Sur, and in Lopez, Quezon, he did not appear during the investigation to refute the charges against him and to present his defense. The respondent was afforded his day in court. Indeed, after the formal investigation was finally concluded and up to the present, this Court received no word from respondent, personally or in writing, refuting the charges levelled against him or controverting the evidence presented against him or contesting the findings and recommendation of the Inquest Judge.

The findings and recommendation of the Inquest Judge are fully substantiated by the evidence.

The respondent is guilty of incompetence. He does not know stenography. The complainant testified that since March 22, 1972 when he assumed office as Municipal Judge, he found that the previous proceedings in his court were not taken down in stenographic notes. As clerk-stenographer, the respondent has not made himself available in court to perform his duties as stenographer. Lacking the requisite qualification for the position of clerk-stenographer is sufficient warrant for dismissal. It is obvious that he secured his appointment through deceit and political patronage.

The respondent is also guilty of dereliction of duty. He failed to comply with the directive of the complainant to produce the records of Criminal Case No. 982 of the Municipal Court of Ragay.

The respondent is likewise guilty of abandonment of office. The complainant testified that his predecessor Municipal Judge Pedro C. Cruz informed him (complainant) that respondent was frequently absent in office, thus necessitating the services of a certain Miss Muñoz. Since the complainant assumed office in March, 1972, he saw the respondent only once. Since October of the same year, respondent failed to report to work as well as to give his whereabouts. Because of this, the complainant reported the matter to the Secretary of Justice and returned respondent's check for the first quincena of October, 1972. The complainant informed District Judge Abelardo Dayrit of the long and unwarranted absence of respondent.

Respondent ignored simple office rules and regulations like the filing of application for leave of absence, which every civil service employee must know. Respondent had all the opportunities to file his corresponding leave application or to inform his superiors of his absence and the reason therefor. He evidently did not do so. The ease with which the respondent facilitated the enjoyment of his leave without official sanction in writing is not only irresponsibility of the highest order. It constitutes abandonment of office. OUR point seemed stressed in Court of Industrial Relations vs. Gruspe, Jr. (Adm. Matter No. P-230, June 14, 1974, 57 SCRA 285), holding that every officer or employee in the government service is under obligation to discharge the duties of his office with diligence and integrity and with an overriding concern to promote public interest. The respondent has demonstrated by his conduct callous unconcern for the responsibilities of his office. The gross neglect of duty demonstrated by him constitutes a serious misconduct in office to warrant his removal.

The respondent is, moreover, guilty of dishonesty. He did not render the required service, yet he tried to collect the corresponding salary for the month of October, 1972. This is evidenced by his time record wherein he tried to include the services for October, 1972 (Exh. "C"), which he did not render.

The charge of immorality merits no serious consideration; because the alleged aggrieved party refused to subscribe and swear to her complaint as required by law (Sec. 12, Civil Service Act of 1959, as amended).

IN VIEW OF THE FOREGOING, RESPONDENT PEDRO R. ABONALES, CLERK-STENOGRAPHER OF THE MUNICIPAL COURT OF RAGAY, CAMARINES SUR, IS FOUND GUILTY OF INCOMPETENCE, ABANDONMENT OF OFFICE AND DERELICTION OF DUTY AS WELL AS OF DISHONESTY AND IS

HEREBY ORDERED DISMISSED FROM THE SERVICE WITH PREJUDICE TO REINSTATEMENT AND WITH FORFEITURE OF ALL RIGHTS AND PRIVILEGES.

Makalintal, C.J., Castro, Fernando, Teehankee, Barredo, Muñoz Palma, Aquino, and Martin, J.J., concur.

Antonio and Esguerra, JJ., on official leave.

Concepcion Jr., J., on leave.

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