

IN RE PEDRO P. TONGSON

Adm. Matter No. T-344. July 22, 1975

Ponente: CASTRO, J.

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CASTRO, J.:

For consideration by the Court is a letter dated January 6, 1975 of Pedro P. Tongson, Budget Officer-Deputy Clerk of Court of the Juvenile and Domestic Relations Court of Quezon City, requesting a review of the action taken on October 13, 1972 by the Secretary of Justice dismissing him from the service "for abandonment of office" in view of his "long unexplained absence since July 7, 1972 up to the present." Tongson's letter to the Court, is in his own words, "a delayed appeal for justice;" he presumes, in the said letter, that he was dismissed as being "notoriously undesirable," and decries the belatedness of the charges of "absence from duty" and "neglect of duty" leveled against him by Judge Leonor Ines Luciano of the JDRC of Quezon City in her 1st Indorsement, dated January 10, 1973.

To clarify the apparent time-conflict in Judge Luciano's charges, and in justice to her, it must be stated that her aforesaid indorsement was made by way of comment on Tongson's letter to the Secretary of Justice, dated December 6, 1972, wherein he requested a copy of the letter of Judge Luciano charging him with absence without leave. On December 12, 1972 Tongson appealed the Secretary's order to the President; acting thereon, Assistant Executive Secretary Ronaldo B. Zamora referred the same on January 2, 1973 to the Secretary of Justice "for immediate comment." It would appear that the Secretary of Justice, in turn, referred the matter to Judge Luciano, who thereafter issued her aforesaid 1st indorsement, dated January 10, 1973, containing the "after-dismissal" charges against Tongson.

The petitioner Tongson was born on June 29, 1920. He had a record of about thirty (30) years of military and civil service when he was "dropped" from service on October 13, 1972.[1] He was a conscientious and dedicated employee, succeeding in implementing the projects of the JDRC of Quezon City.[2]

During the period of his absence from office, which began on July 7, 1972, untoward events transpired. His son was involved in a melee wherein an activist of pre-martial law days was killed, and the Tongson family had to flee their place of usual residence for a safer one, as the companions of the deceased were hunting for them. And because of this development, his wife became hysterical. On July 8, 1972 he informed three responsible officials of the JDRC that he was going on indefinite leave of absence.

The Tongson family took temporary refuge in the house of Col. Jose Isposo at 144 Scout Fuentebella St., Quezon City. While there, the petitioner received a telegram informing him that his wife's cousin, who took care of his children when they were studying in Magsingal, Ilocos Sur, died on July 16, 1972.[3] The family then left for the province to attend the funeral. On July 20, 1972 the petitioner sent from Vigan, Ilocos Sur a telegram to Judge Luciano asking for the extension of his leave,[4] but, as he had not filed a formal application for leave of absence, Judge Luciano noted on the telegram that she was not aware of any leave to be extended.[5] Then came the July floods, and because the roads were impassable, Tongson and his family were stranded in the province for a time.[6]

When Tongson returned on August 12, 1972, he was informed that the enemies of his son had visited the office of his wife. Her fright recurred while she was suffering from hemorrhage of the uterus.[7]

The unassailed explanation of the petitioner's absence from office, which we consider satisfactory, thus parries the charges against him of "absence from duty," "neglect of duty" and "abandonment of office." The misfortunes that were visited upon his family and which prevented him from attending office were not of his own making and were beyond his control. It was but natural for him to move his family in the face of danger from his son's enemies, to attend the funeral of one to whom he owed gratitude, and to comfort a sick wife. And when he was in the province, even had he wanted to return, he could not do so on account of the floods.

But Tongson must be faulted for his failure to notify his immediate superior or file the proper application for leave of absence when it became evident that he could not report for office. Considering this infraction or neglect, even in the face of his satisfactory explanation for his absence from office, and, further, that he did not render any service during the entire period of his absence, non-payment of his salary corresponding to the period of his absence is in order.

The record does not disclose that Tongson was summarily dismissed by the Secretary of Justice pursuant to Letter of Instruction 14-A, issued on September 29, 1972, but at the time of his dismissal on October 13, 1972, Presidential Decree 6, promulgated on September 27, 1972, was already in effect. The said decree authorizes a Department Head, such as the Secretary of Justice, to remove, separate, suspend and otherwise discipline officers and employees under his jurisdiction; if he imposes the penalty of removal, the respondent may appeal to the Civil Service Commission, but the appeal does not stop the decision from becoming executory.

The petitioner Tongson appealed, not to the Civil Service Commission, but to the President; despite the appeal not having been taken to the Civil Service Commission, the Office of the President took cognizance thereof as is evident from a memorandum of the Executive Secretary dated November 6, 1972 "directing that action be taken on appeals or requests for reconsideration submitted to this Office by government officials and employees who were dismissed or considered resigned or otherwise separated from the service pursuant to the pertinent Letter of Instructions." [8] But then, no decisive action on Tongson's appeal was taken by the Executive Department, for, on January 17, 1973, the President proclaimed the ratification of the new Constitution, which transferred to the Supreme Court the power of administrative supervision over all courts and the personnel thereof. [9]

The records of Tongson's case were not forthwith transmitted to the Court, which was apprised of the case only when Tongson sent his letter of January 6, 1975. In the light of the attendant circumstances, the Court considers his appeal as subsisting, and, as heretofore discussed, meritorious.

Presidential Decree No. 6 provides pertinently that "in the event that the respondent wins an appeal, he shall be considered as having been under suspension during the pendency of the appeal." Conformably therewith, and considering the petitioner's own tardiness in taking the initiative in pursuing his appeal to the Court, a period of about three years from the transfer to the Court of administrative supervision over all courts and court personnel, he should not be paid during the pendency of his appeal.

Accordingly, the petitioner Pedro P. Tongson is hereby ordered reinstated to his former position. His absence from office from July 7, 1972 to the time he reports back for duty, which must take place within thirty days from his receipt of a copy of this resolution, shall be considered as leave without pay.

Makasiar, Esguerra, Munoz Palma, and Martin, JJ., concur.

Teehankee, J., is on leave.

[1] Service Record.

[2] 1st Indorsement, January 10, 1973, of Judge Leonor Ines Luciano to the Sec. of Justice.

[3] Record, pp. 3 and 33.

[4] Id., p. 18.

[5] Id., p. 24.

[6] Id., p. 33.

[7] Id., p. 34.

[8] 1st Indorsement, Jan. 2, 1973, of Assistant Executive Secretary Ronaldo B. Zamora to the Secretary of Justice, rollo, p. 11.

[9] Const., Art. X, Sec. 6.

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