

COURT OF INDUSTRIAL RELATIONS, COMPLAINANT, VS. ELEAZAR C. GRUSPE, JR., RESPONDENT.

A.M. No. P-230. June 14, 1974

Ponente: ANTONIO, J.

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ANTONIO, J.:

This case is before Us pursuant to Section 6 of Article X of the 1973 Constitution.[1]

On October 18, 1973, an administrative complaint[2] was filed by Presiding Judge Ansberto P. Paredes of the Court of Industrial Relations, Manila, against Eleazar Gruspe, Jr., a stitcher assigned to CIR Pangasinan Branch, Dagupan City, for conduct prejudicial to the best interest of the service, under Section 19(s), Rule XVIII of the Civil Service Law.

In the complaint, it is alleged (1) that respondent did not report for work from April 1 to September 9, 1973, or an absence of 128 working days (Annexes A & B); (2) that during his absence, respondent did not notify the Head of Office nor state the reasons therefor, despite the fact that he had the opportunity to do so; (3) that it was only on August 28, 1973, after an absence of almost five (5) months, that respondent notified Atty. Dominador Cruz, Officer-in-charge, CIR Pangasinan Branch, Dagupan City, about his absence and also expressed his apologies for having been absent from his work for a long time (Annex A, 4th paragraph); (4) that he reported for work on September 10, 1973 after he was required to show cause why no administrative action should be filed against him by the CIR Administrative Officer in a letter dated September 1, 1973 (Annexes B & C); (5) that during his absence, respondent continued to receive, through his attorney-in-fact, his salary for a period of nine (9) quincenas in the aggregate amount of P966.80, without rendering service to the court and without submitting his daily time record (CS Form 48, Annexes D & E); (6) that when he left the court leaving only three (3) CIR personnel (Annex F) to cope with the labor problems in the CIR Pangasinan Branch, Dagupan City, respondent did not even consider that his presence or that of his replacement was indispensable to the smooth operation of the court; and (7) that during his absence respondent had all the opportunity to inform the office, either verbally or in writing or through his attorney-in-fact, who is also connected with the Manila Main Office (Annex A, 6th paragraph).

Respondent was required to answer the aforesaid administrative complaint within a period of five (5) days from receipt thereof and was advised of his right to a formal investigation and of his right to assistance of a counsel.

On October 30, 1973, respondent filed his answer,[3] dated October 29, 1973, alleging substantially (1) that his absence during the period aforementioned was due to his illness; (2) that he asked his brother-in-law to inform Atty. Dominador Cruz about his illness; (3) that on August 28, 1973, respondent found out that his brother-in-law had never notified Atty. Cruz thereof, whereupon he wired Atty. Cruz apologizing for his apparent neglect; (4) that he returned to work on September 10, 1973; (5) that he could not submit any time record during his absence for failure to render service; (6) that if his presence was indispensable, the court should have employed a substitute; and (7) that he is willing to reimburse any overdrawn salary paid to him by the court. Respondent also

stated that he was waiving his right to a formal investigation.

Attached to respondent's answer is the certification,[4] dated September 26, 1973, of Dr. Saturnino S. Ferrer, Municipal Health Officer of Tarlac, Tarlac, stating that respondent had been under his medical care for pneumonia lobar since April 1, 1973 and that he advised respondent to rest and take all medications prescribed for proper management.

Notwithstanding respondents waiver of his right to an investigation, the CIR Acting Presiding Judge on October 30, 1973 assigned Atty. Sofronio Ona, CIR Senior Executive Assistant, to investigate this case.[5] Thereafter, or on January 10, 1974, the Investigator, Atty. Ona, submitted his Report to the Acting Presiding Judge, recommending that respondent Eleazar Gruspe, Jr. be declared guilty of conduct prejudicial to the best interest of the service with a penalty of dismissal effective immediately and that the amount corresponding to the overdrawn salary received by the respondent be reimbursed by him to the Court. His recommendation is based upon his findings embodied in his report,[6] as follows:

"After the formal administrative charge was filed against him, respondent's sole reason for his absence and failure to notify the office was; due to sickness, pneumonia lobar, presenting therein medical certificate. The nature of his sickness, as testified by his physician is not even acute tuberculosis.

'DR. FERRER -

It is not a tuberculosis but a tuberculosis which is present at the lung in its inactive stage which may be precipitated and become acute.' (t.s.n., Dr. Ferrer, November 15, 1973, p. 4).

Respondent's physician implies that the patient's chest was not even X-rayed (t.s.n., Dr. Ferrer, November 15, 1973, pp. 8-9), a standard operating procedure for those gravely sick of tuberculosis. The investigation also revealed that respondent was a walking patient and that he visited the doctor only 3 or 4 times (t.s.n., Dr. Ferrer, November 15, 1973, pp. 6-7). The distance from the residence of the respondent, Sta. Ignacia, Tarlac, and the office of the physician in Tarlac, Tarlac, is about twenty-five (25) kilometers (t.s.n. Dr. Ferrer, November 15, 1973, pp. 9-10) such that in commuting the distance, it is safe to presume that the respondent patient is physically well. Had respondent been responsible enough he had all the to inform the Head of Office or the Officer-in-charge his sickness or even report for work had he wanted to. The admission of respondent that he was still able to drive the car of his sister when he met an accident proves that he could still afford to report for work. It further appears that respondent has more concern for his personal interests rather than the best interest of public service. The defense therefore of having a serious family problem will not hold water since public service should not be subordinated to family trouble. The other defense that he informed his brother-in-law to inform the office of his sickness is of doubtful credibility, for the brother-in-law was not presented by respondent as a witness. Be that as it may, he should have immediately inquired from the alleged brother-in-law if the latter informed the office about his absence, a duty which respondent is under obligation to personally accomplish. Failure to do so amounts to the highest form of irresponsibility or a down right lie which the new society seriously abhors. Strangely, it took respondent almost one hundred sixty-two (162) calendar days to discover the alleged neglect of the brother-in-law, which coincides with the time the administrative charge against him was being contemplated.

"What actually transpired was that since April 1, 1973, respondent Gruspe, Jr. was gainfully enjoying his salary without rendering service to the Court, a reminiscence of the Old Society's x x x government employees who report for work only on the 15th and 30th day of the month, only for the purpose of signing their payroll and receiving their salary.

"Being detailed in Dagupan City, respondent was able to receive regularly his bi-monthly salary thru his attorney-in-fact in the Manila Main Office (See No. 5 of the Complaint and Annex 'A', paragraph 6), but

unfortunately, the 'modus operandi' was discovered. Consequently, on September 10, 1973, respondent became 'physically fit' again and reported for work, a 'recovery from illness' which if gratuitously believed as true may even render the Court liable under the Workmen's Compensation Act. Had his undesirable acts not been checked, then perhaps, he must still be enjoying his salary without rendering service to the Court.

"When asked why he left the Court and the remaining three officemates to cope with the volume of work in the CIR Dagupan Branch, a question appealing to his sense of responsibility, cooperation and dedication, respondent had the temerity to toss the blame on the Head of Office by stating thus:

"That if my presence was indispensable to the smooth operation of the Court, the fact is that illness prevented me from working, and maybe the court should have employed a substitute stitcher; x x x' (Answer dated October 29, 1973, No. 6).

Such bold remark is uncalled for from an ordinary government employee considering that since the item respondent occupies is not vacated, appointment of a substitute is a remote possibility.

"Ordinarily, a responsible government employee asks for computation of his earned leave before going on vacation or sick leave. In receiving his overdrawn salary, respondent attributes the same to the failure to compute his earned leave which he believes he had already earned. Aside from his failure to file his sick leave. (t.s.n., Silag, December 13, 1973, pp. 9-10), respondent did not ask for computation of his accumulated leave (t.s.n. Silag, December 13, 1973, p. 3). Being a transferee from a private firm as surveyor of the Vinnyl Corporation (See CS Form 212) immediately prior to his appointment in the Court on July 10, 1971, he had no reason to expect that his earned leave shall last up to September 1973. As April 1, 1973, respondent had he filed his leave of absence, is entitled to earned leave with pay not beyond May 18, 1973 (t.s.n., Silag, December 13, 1973, p. 4). After May 18, 1973, the salary respondent received was already overdrawn. The promise to reimburse for the overdrawn salary amounts at most to an admission of guilt but never a ground for exoneration." Underscoring supplied.)

On January 21, 1974, the Acting Presiding Judge, on the basis of the above quoted findings of the Investigator, Atty. Sofronio A. Ona, rendered a decision, the dispositive portion of which reads:

"WHEREFORE, respondent Eleazar Gruspe, Jr. is hereby found guilty of conduct prejudicial to the best interest of the service and as a consequence he is ordered DISMISSED from his employment with this Court effective upon receipt of this Decision, and to reimburse this Court any unpaid amount corresponding to his overdrawn salary."

We have carefully reviewed the records of this case, including the report of investigation and recommendation of the Investigator, and find the charge against respondent fully established. Every public officer or employee in the government service is under obligation to discharge the duties of his office with diligence and integrity with an overriding concern to promote the public interest. In the case at bar, respondent has demonstrated by his conduct, a callous unconcern for the obligations and responsibilities of his office. The gross neglect of duty demonstrated by him constitutes a serious misconduct to warrant his removal from the public service.

ACCORDINGLY, respondent Eleazar C. Gruspe, Jr., is thereby ordered dismissed from the service, and to reimburse the amount corresponding to his overdrawn salary, if any, said dismissal to take effect upon receipt of this decision.

Makalintal, C.J., Zaldivar, Castro, Fernando, Teehankee, Barredo, Makasiar, Esguerra, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

[1] The Supreme Court shall have administrative supervision over all courts and the personnel thereof.

[2] CIR Adm. Case No. 6-73; Rollo, pp. 13-15.

[3] Rollo, pp. 20-21.

[4] Rollo, p. 10.

[5] Id., p. 7.

[6] Id., pp. 51-59.

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