

CLERK III ROBERTO L. MENDAÑO, COMPLAINANT, VS. ACTING EXECUTIVE JUDGE BONIFACIO SANZ MACEDA AND O.I.C. MIGUEL C. TORLAO, REGIONAL TRIAL COURT, BR. 11, CALUBIAN, LEYTE, RESPONDEN...

A.M. No. RTJ-95-1313. April 10, 1996

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PER CURIAM:

In this administrative case involving gross insubordination and absences without leave, the Court finds occasion to remind public officers and employees in the judiciary to observe the highest standards of public service.

This administrative matter was initiated by a complaint of Roberto L. Mendaño (Mendaño), Clerk III, RTC, Branch 11, Calubian, Leyte, against Acting Executive Judge Bonifacio S. Maceda (Maceda) and Officer-in-Charge Miguel C. Torlao (Torlao) of the same court, charging them with oppression, harassment and grave abuse of authority. In turn, respondents counter-charged Mendaño with insubordination and absence without official leave (AWOL).

The Parties' Submissions

To support their respective accusations, the parties filed the following submissions, summarized by the Deputy Court Administrator[1] in his report to this Court dated March 7, 1995, as follows:[2]

"1. Sworn letter-complaint, dated 17 November 1994, charging respondents with oppression, harassment and grave abuse of discretion [should be authority] alleging that: (a) respondent Torlao relieved him of his regular duties and gave him new assignments. which when he protested at, prompted respondent Judge Maceda to direct him to 'show cause,' why he should not be charged with insubordination (Adm. Case No. 07, re: In the Matter of Insubordination of Mr. Roberto L. Mendaño, Clerk III, RTC, Branch 11, Calubian, Leyte); (b) respondent Torlao further did not approve his sick leave applications, and instead issued a 'show cause' memorandum as to why he should not be charged with AWOL; (c) respondents deliberately withheld his salary since August 1994; and (d) they put his family to shame and embarrassment by addressing to his wife communications intended for him;

"2. Letter, dated 29 November 1994, charging respondent Judge Maceda again with oppression and harassment in relation to Adm. Case No. CN-07. He alleged that on account of too much pressure, and tension, he suffered Sinus Arrhythmia but was denied his sick leave application. His doctor was even unnecessary [sic] summoned to appear before Judge Maceda and was interrogated without being given the opportunity to propound counter-questions.

"3. Sworn 'Urgent Petition,' dated 5 December 1994, relative to Adm. Case No. 07, reiterating his allegations in the foregoing communications with prayer that (1) the proceedings in Adm. Case No. 07 be 'reconsidered, set aside and declared null and void,' (2) the records thereof be elevated to this court for proper proceedings as required by Sec. 6, Article VII of the Constitution; (3) respondent Judge Maceda be prohibited from meddling with his salary checks and further harassing him; and (4) pending resolution of the instant case, he be detailed at the Regional Trial Court, Branch 6, Tacloban City.

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"A. Letter dated 23 August 1994 requesting (a) that his salary for 1st and 2nd quincena of August 1994, be released to him, and (b) that he be detailed at RTC, Branch 6, Tacloban City until the situation in the office has improved; and (c) the situation thereat being unbearable, 'there is no sense in going back to the office';

"B. Letter dated 24 August 1994 reiterating his detail request with the additional information that he has the approval of Executive Judge Getulio Francisco and that he is being harassed by respondent Judge Maceda;

"C. Letter of the court employees of RTC Calubian dated 19 September 1994 x x x, requesting that respondent Judge Maceda prodded to resolve Adm. Case No. 07;

"D. Comment of respondent Judge Maceda, dated 16 October 1994, to the letter request of complainant dated (2)3 August 1994, 'where the former recommended the denial of the detail requested by the latter. Respondent denied complainant's allegations therein and claimed that the letter 'contains purposely inaccurate statements to misrepresent the facts obtaining therein and to mislead the Supreme Court.' Complainant is allegedly a problem employee charged with absence without official leave (AWOL) for his absences on 13-15 and 18 July 1994 and insubordination for his refusal to submit the monthly reports for months of April and May 1994 (Memorandum No. 602, dated 6 June 1994; not quarterly reports for December 31 1993, March 30, 1994 and June 30, 1994, as alleged) and to furnish respondent Torlao with his Daily Time Record (DTR) for the months of April, May and June 1994 and to prepare notices and subpoena. In reply to complainant's charge that he conducted hearing even in the former's absence, respondent counters that the former was employing dilatory schemes (filing of 11th hour motion for inhibition, malingering and filing of sick leave for indefinite period) to block the hearing of the case.

"E. Letter dated 28 October 1994 requesting information as to the status of his request for detail; and

"F. Duplicate copies of complainant's letter dated 16 November 1994, requesting that his salary since August to date be released to him. He alleged that after informing respondent Judge he went on sick leave from July 8-31, 1994. When respondent failed to act on his sick leave application for said period, and later for the period August-October 1994, he filed his leave applications directly to this Court."

Court Administrator's Findings

The Office of the Court Administrator was able to establish, through verification with the Finance Division of the Fiscal Management and Budget Office (FMBO), that Mendaño's salary checks were all released to him.[3] But his salary checks for the months of August, September and October 1994 were all returned to the Chief Administrative Officer of this Court, he having failed to report for work from July 18 onwards.[4] The Office of the Leave Division of this Court, on the other hand, issued a certification to the effect that Mendaño had not submitted a duly authenticated daily time record since June 1, 1994 (up to the date of said certification on February 10, 1995), nor did he file an approved leave application for the said period.[5]

In the meantime, respondent Judge Maceda filed a Manifestation dated October 16, 1995[6] requesting the early resolution and dismissal of the instant case considering that his mid-year bonus and other non-salary benefits were withheld on account of the pendency of this case. He also made mention that he was not asked to comment on the instant case.

The Court's Ruling

We are in agreement with the Deputy Court Administrator's findings that the charges of oppression, harassment and abuse of authority against respondents Judge Maceda and OIC Torlao are without basis, while the charges against Mendaño are well-supported. We quote from his report:

"x x x The questioned orders issued by respondents appear to be regular and reasonable as well as within the ambit of their respective authority. The investigation, on the other hand, appears to be impartial and the requisites of due process observed. As to his (Mendoza's) alleged absence during the hearing, we find reason to believe that the same is deliberate as found in no. 6 of his 'Urgent Petition' stating that 'at about 2:00 o'clock in the afternoon, the petitioners (meaning Mendoza) herein opted not to attend the hearing of the instant case for want of due process x x x,' giving credence thereby to respondent Judge Maceda's claim that complainant Mendoza was malingering. His claims that he failed to attend the subsequent hearing because he was sick is unacceptable, the medical certificate issued on 21 July 1994 advised him to rest for only ten (10) days. Thus, it does not cover his August 9, 1994 absence. Moreover, respondent in his letter dated 17 November 1994, alleged that: 'from July 18, 1994 to the present, due to deteriorating atmosphere in the office, went on sick leave, giving the impression that his absences are not due to illness. Meanwhile, his allegation that there was mockery of justice when his doctor, summoned as witness, was not allowed to ask questions bears no merit since witnesses do not propound questions.

"On the counter-complaint of Judge Maceda and Mr. Torlao, evidence on record tend to support the charges against Mr. Mendoza. Insubordination, or unwillingness to submit to authority, are apparent in his actuations when he (a) refused to perform his newly assigned duties as directed by his superior; (b) opted not to attend the investigation of his case without valid or justifiable reason; (c) filed thru telegram and without medical certificate, an indefinite extension of his sick leave; and (d) on his own and without any valid reason he decided, and actually did, not return to work. (italics supplied)

"Gross insubordination is a grave offense with the corresponding penalty of suspension for a period of six months and one day to one year. (Rule XIV, Section 23(s), Book V of E.O. 292; Resolution No. 91-1631, dated 27 December [1991] of the Civil Service Commission)

"As to the charge of AWOL, records show that his leave of absence for the period of 18 July 1994 to an indefinite date in September 1994 should be approved only for the period of July 21 to 31, 1994, considering that per doctor's advise he was to rest only for ten (10) days from July 21, 1994 the date of his medical examination. His DTR for June 1994 is valid since the entries therein are not disputed. Those for the months of July and August are not valid for erroneous entries, it appearing that complainant was AWOL on July 13-15 and 18-20 and for the whole month of August 1994. Needless to say that, 'as his application of leave for the month of September 1994 was denied and no DTR or leave application was filed for months of October 1994 to March 1995. he is also deemed AWOL for the same period."

Considering that there was a directive dated September 14, 1994 issued by respondent Torlao directing Mendoza to report for work immediately and as he did not heed such order, as attested by his failure to submit DTRs for the months of October, 1994 to March, 1995, thus constituting another act of insubordination to the lawful order of a superior officer, this Court finds that the penalty for such repeated gross insubordination - consisting of dismissal from the roll of employees[7] - is well-deserved. Furthermore, this Court is appalled by the attitudes of complainant who, while awaiting the resolution of his case against respondents, did not report for work and yet had the temerity to demand his salary for the months he did not work,[8] on the pretext that he was on sick leave. Clearly, complainant has amply demonstrated his propensity for laziness and complete disregard for the lawful orders of a superior, as well as his being unfit to continue in the service.

At this juncture, we recall *Mendoza vs. Mabutas*,[9] where we held:

"[T]his Court condemns and would never countenance any conduct, act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and would diminish or even just tend to diminish the faith of the people in the Judiciary."

We have also held that:

"Every officer or employee in the Judiciary is duty bound to obey the orders and processes of the court without the least delay (Pascual v. Duncan, 216 SCRA 786 [1992]), and to exercise at all times a high degree of professionalism in the performance of his duties." [10]

WHEREFORE, consistent with the foregoing findings and recommendations of the Deputy Court Administrator, this Court hereby renders judgment (1) DISMISSING the complaint against Judge Maceda and OIC Torlao for lack of merit; (2) ORDERING the immediate release of the mid-year bonus and other non-salary benefits due said judge, unless same are being with-held for other valid reasons; (3) DENYING Mendaño's request to be detailed at RTC, Branch 6, Tacloban City; and (4) DISMISSING Mendaño from the service for gross insubordination and absences without leave (AWOL), with forfeiture of all retirement benefits and leave credits to which he may be entitled and with prejudice to re-employment in the government service, including government-owned and controlled corporations. Let a copy of this Decision be spread in his employment records.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Francisco, Hermosisima, Jr., and Panganiban, JJ., concur.

Torres, Jr., J., took no part.

[1] Bernardo P. Abesamis.

[2] Administrative Matter For Agenda dated March 7, 1995, pp. 1-2.

[3] Rollo, p. 1.

[4] Rollo, p. 70

[5] Rollo, p. 3-A.

[6] Rollo, pp. 107-109.

[7] Rule XIV, Section 23(s), Book V of E.O 292; Resolution No. 91-1631, dated 27 December [1991] of the Civil Service Commission.

[8] Rollo, p. 72.

[9] 223 SCRA 411, 419 (June 17, 1993); see also Sy vs. Academia, 198 SCRA 705 (1991).

[10] Chan vs. Castillo, 238 SCRA 359 (November 25, 1994).

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