

JUDGE BERNARDO P. PARDO, COMPLAINANT, VS. ANGELIE V. CUNANAN, RESPONDENT.

A.M. No. P-87-73. September 01, 1995

Ponente: MELO, J.

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MELO, J.:

Miss Angelie V. Cunanan was a Staff Assistant II of the Manila Regional Trial Court, Branch 43, at that time presided over by the Honorable Bernardo Pardo.

In a sworn letter-complaint dated April 6, 1987, addressed to the Office of the Court Administrator, Judge Bernardo charged Angelie Cunanan with conduct prejudicial to the best interest of the judicial service for frequent absences without approved leave and/or tardiness in reporting for work for the months of January, February and March 1987.

On April 14, 1987, then Court Administrator Leo D. Medialdea, by way of 1st Indorsement, required respondent to submit her comment.

In a letter dated November 6, 1990, Judge Pardo wrote the Office of the Court Administrator, informing said office that respondent had already resigned from her position effective June 1987 and that the latest information they received was that she was re-appointed to the Regional Trial Court, Branch 80, Quezon City.

In her comment dated August 1, 1991, respondent alleges that sometime in the early part of April 1987, she was constrained to subject herself to a rigid medical examination on account of recurring chest pains aggravated by shortness of breath and dizzy spells. As a consequence thereof, she was advised to take a rest but due to recurring chest pains she was forced to tender her resignation which was accepted by this Court En Banc in its resolution of June 30, 1987. She thus, prayed, for the dismissal of the complaint for having become moot and academic.

Acting on the recommendation of then Court Administrator Josue Bellosillo, the Court, in its Resolution dated September 30, 1992 referred the case to the Vice-Executive Judge of the Manila Regional Trial Court, considering that the complainant was himself the Executive Judge, for investigation, report and recommendation.

The records of the case were referred to the Honorable Corona Ibay-Somera, then Vice Executive Judge, on November 10, 1992. However, it appears that the case was not acted upon until the records were finally forwarded to Executive Judge Bayhon on January 9, 1995.

In his Report and Recommendation dated May 23, 1995, Judge Bayhon observed that the resignation of respondent on May 31, 1987 and its acceptance, rendered the case moot and academic. Quoting the notice of acceptance of her resignation "your services while employed in this office have been satisfactory and your future application for reinstatement maybe favorably considered", (p. 23 Rollo), Judge Bayhon recommends the dismissal of this case.

The Office of the Court Administrator differs with the recommendation of Judge Bayhon. In its Memorandum

dated July 11, 1995 the said office recommends that respondent be suspended for three months without pay, for the following reasons -

Respondent made untruthful statements when she accomplished her Personal Data Sheet in connection with her application for the position of Clerk II in RTC, Quezon City. One of the questions asked (Question 25) "Do you have any pending administrative/criminal case? If you have any, give particulars." Her answer was NONE and in (Question 26) "Have you ever been retired, dismissed, forced to resign from any employment for reason other than lack of funds or dropped from the rolls?" Her answer was NO.

Respondent committed an act of dishonesty when she failed to disclose the information that at the time she accomplished the personal data sheet she has no pending administrative case when in truth and in fact the instant case is still pending. Moreover, she also did not apprise the Court that she was a former employee of RTC, Manila and her appointment is not a new appointment but a re-appointment.

Records from the Leave Section also disclosed that she is very irregular in her attendance from work. For the current year she already incurred ten (10) absences from January to March, 1995 and was on leave for the whole month of April and May, 1995.

(pp. 2-3, Memorandum.)

We agree with the Office of the Court Administrator that respondent was less than candid when she failed to disclose the fact that she had a pending administrative case and that she was applying for re-appointment. However, as also correctly observed by Judge Bayhon, respondent's resignation and its acceptance thereof by this Court on July 8, 1987 had rendered said administrative case moot and academic (*Raconse vs. Tumilde*, 70 SCRA 458 (1976); *Vda. de Recario vs. Aquino*, 61 SCRA 144 (1974) and an order of dismissal on this ground should have been issued. Had this order of dismissal been issued in the meantime, then there would have been no pending case against her. It could even be that at the time respondent filled up the subject information sheet, she was under the impression that the case against her had already been dismissed. In her comment which she filed on August 1, 1991 she prayed for the dismissal of the case for having become moot and academic by reason of her resignation. Considering all these, coupled with the fact that in the notice of acceptance of her resignation, it was stated "your services while employed in this office have been satisfactory and your future application for reinstatement may be favorably considered", the Court believes that a one-month suspension is sufficient.

ACCORDINGLY, the Court Resolved to Suspend Angelie V. Cunanan from service for a period of one month without pay.

SO ORDERED.

Romero and Vitug, JJ., concur.

Feliciano, J., (Chairman), on leave.

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