

RE: IMPOSITION OF CORRESPONDING PENALTIES FOR HABITUAL TARDINESS COMMITTED DURING THE SECOND SEMESTER OF 2004 BY THE FOLLOWING EMPLOYEES OF THIS COURT:

A.M. No. 00-6-09-SC. July 27, 2005

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

In her Memorandum dated February 17, 2005,[1] Atty. Eden T. Candelaria, Deputy Clerk of Court and Administrative Officer of this Court, recommended the imposition of administrative penalties upon 9 employees of this Court who committed habitual tardiness during the second semester of 2004. Her recommendation is pursuant to Civil Service Commission (CSC) Memorandum Circular No. 4, Series of 1993[2] and CSC Memorandum Circular No. 19, Series of 1999.[3]

On January 18, 2004, Ms. Gloria C. Kasilag, Chief Judicial Staff Officer, Leave Division, referred the list of employees who incurred tardiness 10 times or more in a month for the second semester (July to December) of 2004 to the Complaints and Investigation Division, Office of the Administrative Services, for appropriate action. Atty. Candelaria then required these employees to explain within 5 days from notice why no disciplinary action should be taken against them. Following are their names and their respective explanations:

A. Employees previously penalized for habitual tardiness:

- EUTQUIA P. RAMIREZ, Utility Worker II, Finance Management and Budget Office - She was tardy 10 times each in the months of July, August and September, or 30 times. She explained that she was on half-days on July 30, August 24 and 27, and September 27, 2004. Thus, she should not be considered tardy on those days.

In a Resolution dated August 8, 2000, this Court sternly warned her for habitual tardiness. Again, on February 19, 2001, she committed the same infraction and was reprimanded.

- ANGELINA A. COBACHA, Records Officer III, Calendar Division, Judicial Records Office - She was 12 times tardy in July and September 2004, and 12 times in November of the same year. She explained that she is afflicted with diabetes mellitus and was suffering from dizziness and fast heart palpitation as her sugar level was then below normal. She has been in the service for 36 years, performing her assigned tasks with dedication. In fact, she even works on Saturdays without pay.

In its Resolution of August 8, 2000, this Court sternly warned her for habitual tardiness in 1999.

- GLENDA FRANCESCA M. CAGADOC, Court Stenographer IV, Office of Associate Justice Cancio C. Garcia - She was 10 times tardy in July and 12 times in August, 2004. She explained that she attended to the needs of her sister suffering from asthma.

On March 16, 2004, this Court reprimanded her for habitual tardiness incurred during the second semester of 2003.

B. Employees incurring habitual tardiness for the first time:

- RODOLFO E. CABRAL, Mechanic III, Property Division, Office of the Administrative Services - He incurred habitual tardiness 10 times in September and October 2004 because he was suffering from hypertension, dizziness, nape pain and headache.

- ERNESTO D. EDIS, JR., Carpenter III, Halls of Justice, Iloilo City - He incurred habitual tardiness 10 times in August and 11 times in November, 2004. He explained that during those times, his wife was suffering from hypertension and could not perform her duties at home. Thus, he performed household chores for her and their two children who are studying.

- MA. ERA A. ORTIZ, Assistant Information Officer, Public Information Office - She incurred habitual tardiness 11 times in August and 13 times in December, 2004. She explained that she was then suffering from asthma and rheumatism.

- BASILIA T. RINGOL, Court Attorney V, Office of the Clerk of Court - She incurred habitual tardiness 13 times in July and 14 times in November, 2004. She explained that she worked over time because of the exigencies of the service. Hence, she came late on those days. She worked an average of 10 to 11 hours daily during the month of July. Her mental and physical fatigue affected her health. Thus, she suffered asthma attacks at night and experienced vertigo. Moreover, during those days, there was traffic congestion caused by the construction of the expressway.

- VIRGINIA Y. Taneo, Clerk II, Bar Records Division, Office of the Bar Confidant - She incurred habitual tardiness 10 times in November, 2004. She explained that her maid left, hence, she was constrained to attend to the needs of her family.

- MARLON ANTHONY R. TONSON, SC Judicial Staff Officer, Public Information Office - He incurred habitual tardiness 12 times in August, 11 times in October, and 13 times in December, 2004. He explained that he was authorized to change his official time in November, 2004 from 8:00am - 4:30pm to 9:00am - 5:30pm. Incidentally, he resigned from the service on February 15, 2005.

In her Memorandum dated February 18, 2005, Atty. Candelaria made the following evaluation and recommendation:

"The allegation of Ms. Eutiquia Ramirez and Mr. Rodolfo Cabral that they should not be considered tardy on certain days that they rendered half day work as reflected in their respective RAT is not acceptable. The mere indication in the RAT that one is on half-day does not officially make one on half-day leave. It is the act of filing a duly approved application for leave of absence corresponding to the period the employee absented for a half-day, that he is officially considered on a half-day. Unless an application for leave of a half-day is filed with the Leave Division, an employee on a half-day attendance in office is considered tardy/undertime. This has always been the policy implemented by the Court since time immemorial. Besides, to accept such an explanation is tantamount to allowing employees to report at 9:30 or 10:30 in the morning and simply claim 'half day.'

With respect to the cases of Atty. Ringol and Ms. Cobacha, this Office can only commend them for performing their duties even beyond the official working hours and for completing large volume of work. Truly, public servants at times should share a part of their extra time and skills in order to facilitate swift delivery of service to the public. However, such commendable act should not be utilized as an excuse for violation of simple office rules and regulations. Public servants are expected to perform well in their respective duties, not be complacent after achieving a certain standard of performance but continue with its avowed pursuit of excellence. This is the essence of public service. The violation of Atty. Ringol and Ms. Cobacha of the policy

on habitual tardiness is one act and their outstanding performance of their duties beyond the regular office hours is another act. One cannot be made to off-set the other (Rule XVI, Section 9 of the Omnibus Rules Implementing Book V of E.O. 292 disallows off-setting of tardiness).

As to the claim of Ms. Cobacha that she has a poorly controlled diabetes mellitus and submitting medical certifications issued by her doctors as proof thereof, this Office submits that the same could not be taken as an excuse for habitual tardiness. If ever her explanation is to be considered, it is in the form of a mitigating circumstance only and not an excuse for violation of the policy on tardiness. Especially that the certifications submitted in support to her claim of sickness were obtained only after respondent received this Office's Memorandum for her to explain her tardiness. Likewise, her 36 years service may be taken as a mitigating circumstance in her favor.

Clear therefore is the fact that the medical certificate presented by Ms. Cobacha is irrelevant. The fact that she is suffering from diabetes mellitus does not necessarily mean that the same has prevented her from reporting for work punctually because, when she reported for work, it only means that she is physically fit and well and her arriving late in those days was not brought about by her illness but by some other forces independent thereof.

Anent the claims of:

- Ms. Cagadoc that she attended the needs of her sister with asthma attacks;
- Mr. Cabral that he had frequent attacks of hypertension;
- Mr. Ernesto D. Edis that he performed house chores for his wife and children;
- Ms. Ortiz that she had bouts with asthma and rheumatism;
- Ms. Taneo that she took charge with the duties of their house maid who left them; and
- Atty. Ringol that she had vertigo and asthma attacks as well as there was heavy traffic in the expressways due to construction,

this Office submits that the same are in the category either as moral obligation, humanitarian consideration, performance of household chores, and traffic condition, etc. which have been ruled as unacceptable by the Honorable Court in its various decisions involving cases of habitual tardiness.

x x x

It is worth reiterating the provisions of Administrative Circular No. 1-99 (Enhancing the Dignity of the Courts as Temples of Justice and Promoting Respect for their Officials and Employees) and Administrative Circular No. 2-99 (Strict Observance of Working Hours and Disciplinary Action for Absenteeism and Tardiness) which provides that court employees should:

'x x x

3. Strictly observe official time. As punctuality is a virtue, absenteeism and tardiness are impermissible.

'x x x Absenteeism and tardiness, even if such do not qualify as 'habitual' or 'frequent' under Civil Service Commission Memorandum Circular No. 4, Series of 1991, shall be dealt with severely x x x .'

x x x

ALL THE FOREGOING CONSIDERED, this Office respectfully recommends as follows:

- Ms. Eutiquia P. Ramirez be SUSPENDED for thirty (30) days without pay, this being her third incursion of habitual tardiness;

- Ms. Glenda Francisca M. Cagadoc be likewise SUSPENDED five days without pay, this being her second incursion of habitual tardiness;
- Ms. Angelina V. Cobacha be REPRIMANDED, though this is her second incursion of habitual tardiness, her ailment and long years of service in the Court are considered as mitigating circumstances in her favor;
- The following employees be REPRIMANDED for the first offense of habitual tardiness:
 - Mr. Rodolfo E. Cabral;
 - Mr. Ernesto D. Edis, Jr.,
 - Ms. Ma. Era A. Ortiz;
 - Atty. Basilia T. Ringol;
 - Ms. Virginia Y. Taneo; and
- Atty. Marlon Anthony R. Tonson (Although at the time the Resolution of the Court in this case will definitely come out after the effectivity of the resignation of Atty. Tonson on 15 February 2005, the same may be promulgated for record purposes only)."

Civil Service Commission Memorandum Circular No. 14, s. 1991, as amended, provides:

"An officer or employee of the civil service shall be considered habitually tardy if he incurs tardiness, regardless of the number of minutes, ten (10) times a month for at least two (2) months in a semester or at least two (2) consecutive months during the year. x x x."

There is no question that the above-named employees incurred habitual tardiness. Such administrative offense seriously compromises efficiency and hampers public service. By being habitually tardy, these employees have fallen short of the stringent standard of conduct demanded from everyone connected with the administration of justice. By reason of the nature and functions of their office, officials and employees of the Judiciary must be role models in the faithful observance of the constitutional canon that public office is a public trust.[4] Inherent in this mandate is the observance of prescribed office hours and the efficient use of every moment thereof for public service, if only to recompense the Government, and ultimately, the people who shoulder the cost of maintaining the Judiciary.[5] Thus, to inspire public respect for the justice system, court officials and employees are at all times behooved to strictly observe official time. As punctuality is a virtue, absenteeism and tardiness are impermissible.[6]

As correctly found by Atty. Candelaria, none of the reasons relied upon by respondents to justify their habitual tardiness merit our consideration. We have ruled that moral obligations, performance of household chores, traffic problems, health conditions, domestic and financial concerns are not sufficient reasons to excuse habitual tardiness.[7]

Under Section 52 (C) (4), Rule VI of CSC Memorandum Circular No. 19, Series of 1999,[8] habitual tardiness is penalized as follows:

First Offense - Reprimand

Second Offense - Suspension for 1-30 days

Third Offense - Dismissal from the service

We sustain Atty. Candelaria's recommended penalties to be imposed on the herein erring employees. In the case of Eutiquia Ramirez, while she should be dismissed from the service, as this is the third time she committed

habitual tardiness, however, considering her long years of service in this Court, Atty. Candelaria recommended that she be merely suspended for thirty (30) days without pay. Nonetheless, in view of the present economic condition and the fact that the said employee is a mere utility worker, we believe that a suspension of only fifteen (15) days without pay is in order.

WHEREFORE, and as recommended by Atty. Atty. Candelaria, we find the above-named employees of this Court administratively liable for habitual tardiness and are penalized as follows:

- Eutiquia Ramirez is SUSPENDED for fifteen (15) days without pay;
- Glenda Francisca Cagadoc is SUSPENDED for five (5) days without pay;
- Angelina Cobacha is REPRIMANDED;
- Rodolfo Cabral, Ernesto Edis, Jr. Ma. Era Ortiz, Basilia Ringol, Virginia Tanco and Marlon Anthony Tonson are REPRIMANDED for being habitually tardy for the first time. As such administrative sanction can no longer be imposed on Marlon Anthony Tonson since he resigned from the service on February 15, 2005, let a copy of this Decision be entered into his personal file for record purposes.

Furthermore, they are WARNED (except Tonson) that a repetition of the same or a similar offense will warrant the imposition of a more severe penalty.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.
Corona, J., on official leave.

[1] Rollo at 1-10.

[2] Policy on Absenteeism and Tardiness.

[3] Revised Uniform Rules on Administrative Cases in the Civil Service.

[4] Section 1, Article XI, 1987 Constitution, cited in A.M. No. 00-06-09-SC, Re: Imposition of Corresponding Penalties for Habitual Tardiness Committed During the First and Second Semesters of 2003 by the following Employees of this Court: x x x.

[5] Administrative Circular No. 2-99, "Strict Observance of Working Hours and Disciplinary Action for Absenteeism and Tardiness," dated January 15, 1999.

[6] Administrative Circular No. 1-99, "Enhancing the Dignity of Courts as Temples of Justice and Promoting Respect for their Officials and Employees," dated January 15, 1999.

[7] Id., citing In Re: Imposition of Corresponding Penalties for Habitual Tardiness Committed During the Second Semester of 2002, A.M. No. 00-6-09-SC, 409 SCRA 9, August 14, 2003.

[8] Supra.

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