

PABLO DOMINGO, COMPLAINANT, VS. JUDGE JESUS M. ELBINIAS, CFI JUDGE, STA. MARIA, BULACAN, RESPONDENT.

A.M. No. 2001-CFI. August 31, 1981

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

In a verified complaint dated July 24, 1978, complainant Pablo B. Domingo, former janitor in the Court of First Instance of Bulacan, Branch V, at Sta. Maria, Bulacan, charged respondent Judge Jesus M. Elbinias, Presiding Judge of said court, with dishonesty, oppression and misconduct.

Complainant alleged that he applied for a vacation leave of absence covering the period from June 26 to July 6, 1978 to enable him to attend to his farm which depends on rain water for irrigation. Respondent judge approved said leave of absence on the condition that he would nevertheless report daily either before eight in the morning or after five in the afternoon to clean the court premises, to which condition he was constrained to agree.

On the second day of his leave, June 27, 1978, herein complainant tried to comply with the condition, actually making an effort to report in order to clean the court premises as early as five in the morning; but then the gate was still closed. He waited until a little past six o'clock but the gate remained locked so that he left for his farm; although he returned at around nine o'clock that same morning, only to be served by Deputy Sheriff Bienvenido Villarente with a copy of Administrative Order No. 6 issued by herein respondent judge, suddenly revoking his leave and directing him to report back to office immediately. Complainant, when summoned by the respondent judge, explained that he had already begun tending his farm and that he had at least made an attempt to comply with the condition but that his failure to comply therewith was not due to his fault. Thinking that his said explanation was considered satisfactory by the respondent judge, complainant left for his farm which badly needed his attention.

On June 30, 1978, herein complainant was served at his residence with a copy of Administrative Order No. 7 ordering his separation from the service as of said date. On July 5, 1978, complainant went to see herein respondent judge to seek reconsideration of his order of dismissal, but the latter refused to reconsider the same, although as a sort of concession, he prevailed upon complainant to file his letter of resignation which was prepared by the court's legal researcher upon the instruction of the respondent judge. Complainant claimed that he was compelled to sign and submit his letter of resignation as he was threatened by the respondent judge that he would be cited for contempt of court with imprisonment at Muntinlupa if he would not tender his resignation. Lastly, complainant claimed that he was summarily dismissed from the service to pave the way for the appointment of one Reynaldo de los Reyes, a relative of Mrs. Elvira Belen, the special deputy clerk of court and allegedly respondent judge's "sweetheart and personal attendant".

Respondent judge, in his comment on the complaint, alleged that he granted complainant Pablo Domingo a two-week vacation leave of absence but that he imposed the condition that he report to office daily during the duration of his leave to clean the court premises as the exigencies of the service would not warrant such leave in

view of the daily morning and afternoon court sessions. On June 27, 1978, he issued Administrative Order No. 6 revoking complainant's leave because of his failure to comply, even on the first day of his leave, with the aforesaid condition, with the warning that complainant's services would be terminated if he would not report back to work. Complainant appeared on the same day, June 27, and gave "toothache" as an excuse for his failure to clean the court premises. When the complainant failed likewise to report for work during the intervening days, respondent judge issued Administrative Order No. 7 on June 30, 1978 terminating complainant's services as of the closing hours of said date. On July 5, 1978, herein complainant approached respondent judge and requested for a reconsideration of his order of dismissal. Respondent judge, taking pity on herein complainant, allowed him to resign to enable him to enjoy all his government benefits.

Based on the foregoing facts, WE find respondent judge guilty of grave abuse of authority and oppression in summarily dismissing herein complainant from the service and in compelling him to sign the letter of resignation resulting in his losing his job.

Herein respondent judge imposed on Domingo the condition that he report to office daily just the same throughout the duration of his leave in order not to prejudice the interest of the service. And complainant could not protest, for his leave might not be granted. Complainant acceded to the condition considering that he must attend to his farm continuously while rain water was in abundance.

The imposition by the respondent judge of the condition on complainant's leave defeated the very purpose of the complainant in applying for a vacation leave. Executive Order No. 324, series of 1941, governing the approval of applications for vacation and sick leave of officers and employees of the government provides that each chief of office or bureau may approve applications for leave of his subordinates provided their services can be spared without detriment to the interest of public service. While respondent judge may impose conditions for the approval of complainant's application for leave, such conditions should be reasonable and fair. Considering the nature of farming an unirrigated land which depends mainly on rain water, to require the lowly janitor to report for work before eight o'clock in the morning or after five o'clock in the afternoon, is unreasonable and oppressive. It practically neutralizes respondent's approval of complainant's leave application in much the same way that it reveals the total lack of compassion or sympathy on the part of respondent judge for his necessitous janitor, the herein complainant, who must supplement his meager salary with personally tilling his own riceland to survive. When respondent judge revoked the approved leave of complainant during the period of such leave, and subsequently illegally dismissed complainant janitor from the service, he aggravated the oppression to which he subjected complainant.

Complainant's failure to report for work after respondent unceremoniously revoked his application leave, cannot be considered as "unauthorized absences" to justify the extreme penalty of separation from the service. Pursuant to the Civil Service Decree of 1975 (P.D. 807), only "frequent unauthorized absences" can be a ground for disciplinary action (Sec. 36, sub-section b, No. 14). In the instant case, the record does not show any frequent unauthorized absences of complainant. His few consecutive days of vacation leave only became "unauthorized absences" when his leave was suddenly revoked by the respondent judge for failure of the complainant to comply with the condition unduly imposed on his leave, which was to report daily to office to clean the court premises before or after office hours even if he was on leave. Furthermore, "frequent unauthorized absences" is classified as a "light civil service offense" which is punishable only by: (1) reprimand or fine or suspension from one day to ten days in its minimum period; (2) fine or suspension for eleven days to twenty days in its medium period; and (3) fine or suspension for twenty-one days to thirty days in its maximum period (CSC Memo-randum Circular No. 8, series of 1970).

But more importantly, respondent judge arrogated unto himself the disciplinary power of the Supreme Court by

his summary dismissal of the complainant.

Respondent judge compounded his high-handed actuations against complainant and his usurpation of the prerogative of the Supreme Court when he practically intimidated the complainant-janitor to sign a letter of resignation prepared by the latter's legal researcher upon respondent's directive.

The issuance by the respondent judge of Administrative Order No. 7 despite his lack of authority as well as his threat to cite complainant for contempt of court with imprisonment at the National Penitentiary points to one objective alone -- to get rid of the complainant in violation of the latter's constitutional and statutory rights.

WHEREFORE, PREMISES CONSIDERED, RESPONDENT JUDGE JESUS M. ELBINIAS IS FOUND GUILTY OF GRAVE ABUSE OF AUTHORITY AND OPPRESSION AND IS HEREBY SUSPENDED FROM OFFICE FOR A PERIOD OF ONE (1) MONTH WITHOUT PAY, SAID SUSPENSION NOT TO BE CHARGED AGAINST HIS LEAVE CREDITS, WITH WARNING THAT A REPETITION OF THE SAME OR SIMILAR ACTS SHALL BE ADMINISTRATIVELY DEALT WITH MORE SEVERELY.

LET A COPY OF THIS DECISION BE ATTACHED TO RESPONDENT JUDGE'S PERSONAL RECORD.

THE CHARGE THAT RESPONDENT JUDGE HAS ILLICIT RELATIONS WITH MRS. ELVIRA BELEN, SPECIAL DEPUTY CLERK OF COURT, AND THAT HE ALLEGEDLY DISMISSED COMPLAINANT JANITOR PABLO DOMINGO TO PAVE THE WAY FOR THE APPOINTMENT IN COMPLAINANT'S PLACE OF ONE REYNALDO DE LOS REYES, A RELATIVE OF MRS. BELEN, SHOULD BE, AS IT IS HEREBY REFERRED TO COURT OF APPEALS ASSOCIATE JUSTICE ISIDRO BORROMEO FOR INVESTIGATION, REPORT AND RECOMMENDATION.

SO ORDERED.

Teehankee, (Chairman), Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

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