

RE: MEMORANDUM REPORT OF ATTY. THELMA C. BAHIA AGAINST MS. DOROTHY SALGADO

A.M. NO. 2004-41-SC. January 13, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

This refers to the Memorandum Report dated November 8, 2004 of the Court Management Office, Office of the Court Administrator, relative to the habitual absenteeism of Court Stenographer IV Dorothy D. Salgado.

Also forwarded is Salgado's disapproved sick leave application for 45 days, inclusive, to wit: August 9, 11-13, 25, 30-31, 2004; September 1-30, 2004; and October 1-22, 2004, as well as her medical certificate stating that during the time of her long absence, she was suffering from dysfunctional uterus bleeding and external hemorrhoids and that she was advised to take rest.

Based on the report, Salgado did not inform her office about her condition during the entire period of her absence. On the contrary, it was her office that has been trying to contact her in her cellular phone to inquire as to what happened to her. Her office did not receive any response from her nor did she call up her office to give some information about her absence.

It was also mentioned in the Memorandum Report that it was not the first time that Salgado committed a violation of this nature. Last June and August 2003, she also incurred 43 days of continuous absence without leave. However, prior to the service of the notice to go back to work, she reported for work, signifying her intention to assume the duties and responsibilities of her office, so she was not dropped from the service.

On October 13, 2004, Gloria P. Kasilag, SC Chief Judicial Staff Officer, Leave Division-OAS, referred to the Complaint and Investigation Division, Office of the Court Administrator, the Report on Absence Without Approved Leave of Salgado from August 30, 2004 to October 13, 2004 for appropriate action.

Acting on said report, Atty. Carina M. Cunanan, Acting Chief of Office, OAS in her memorandum dated October 14, 2004 directed Salgado to report for work within five days from receipt thereof and to submit a comment/explanation on why no administrative disciplinary action should be taken against her for violation of existing leave laws and/or reasonable office rules and regulations.

In her comment, Salgado explained that she underwent medical treatment due to myoma and she was advised to have a complete bed rest. She also indicated that she reported back to work on October 25, 2004.

After investigation, Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer, OAS, in her Memorandum dated November 24, 2004 to the Chief Justice, through the Clerk of Court, Atty. Luzviminda D. Puno found Salgado guilty of habitual absenteeism and recommended the minimum penalty of suspension for six (6) months without pay, thus:

WHEREFORE, it is respectfully recommended that Ms. Dorothy D. Salgado having been found guilty of Habitual Absenteeism be meted the minimum penalty of six (6) months suspension without pay. She shall not

be entitled to receive her salary during the period of her unauthorized absences, however, such absences shall not be deducted from her accumulated leave credits, if any. It is further recommended that all salaries and benefits accruing to her upon her assumption to office on 25 October 2004 shall be released to her, provided she is entitled thereto under existing guidelines and/or rules.

After a thorough review of the records, we agree with the recommendation of the OAS that respondent should indeed be punished for her malfeasance.

The crux of the charge against respondent is her habitual absenteeism. Although respondent might have had a valid reason for the absences by presenting uncontroverted medical certificates proving that she suffered an illness, her failure to exert any effort to inform her office is a contemptuous behavior that exacts disciplinary action of the Court. Rule XVI, Section 16 of the Omnibus Rules Implementing Book V of EO 292 provides:

Sec. 16. All application for sick leave of absence for one full day or more shall be made on the prescribed form and shall be filed immediately upon the employee's return from such leave. Notice of absence, however, should be sent to the immediate supervisor and/or to the agency head. Application for sick leave in excess of five days shall be accompanied by a proper medical certificate. (*Italics ours*)

Respondent did not bother to inform her office of the reason for her long absence, causing the disapproval of her sick leave application. And, with the disapproval of her leave application, she should be considered absent without leave, as follows:

1. August 9, 11-13, 25, 30-31, 2004 - 7 days
2. September 1-30, 2004 - 22 days
3. October 1-22, 2004 - 16 days

Total - 45 days

Civil Service Memorandum Circular No. 23, Series of 1998, provides:

An officer or employee in the Civil Service shall be considered habitually absent if he incurs unauthorized absences exceeding the allowable 2.5 days monthly leave credits under the Leave Law for at least three (3) months in a semester or at least three (3) consecutive months during the year. In case of claim of ill-health, heads of departments or agencies are encouraged to verify the validity of such claim and, if not satisfied with the reason given, should disapprove the application for sick leave. On the other hand, in cases where an employee absents himself from work before approval of the application, said application should be disapproved.

Along the same vein, the Uniform Rules on Administrative Cases in the Civil Service, classified habitual absenteeism as a grave offense with the following corresponding penalties: for the first offense – suspension for six (6) months and one (1) day to one (1) year; and for the second offense – dismissal.

Section 35 of Rule XVI of the Omnibus Rules Implementing Book V of EO 292, provides:

Sec. 35. Officers and employees who are absent for at least thirty (30) days without approved leave are considered on Absence Without Leave (AWOL) and shall be dropped from the service after due notice. However, when the exigencies of the service require his immediate presence and he fails/refuses to return to the service, the head of office may drop him from the service even prior to the expiration of the thirty (30) day period above-stated.

Respondent's habitual absenteeism had caused inefficiency in the public service. Time and again, this Court has stressed that the conduct and behavior of everyone connected with an office charged with the dispensation of

justice, should be circumscribed with the heavy burden of responsibility.[1] As enshrined in the Constitution, public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency.[2] It must be emphasized that the Court cannot countenance any act or omission which diminishes or tends to diminish the faith of the people in the judiciary.[3]

The acts complained of would have warranted Salgado's separation from the service and her being dropped from the rolls. However, it appears that immediately after receipt on October 18, 2004 of the Memorandum dated September 14, 2004, requiring her report to work within five days from receipt thereof and after her health condition permits, Salgado reported back to work on October 25, 2004. Her belated filing of her sick leave application that was disapproved by her immediate supervisor, Atty. Thelma Bahia, coupled with her immediate return to work, indicates that she remains interested in her work. The fact that respondent was really ill during her absences and her long years of service in the Court, having been employed since 1981, may be appreciated as mitigating circumstances.

Under Section 50 of Memorandum Circular No. 41, Series of 1998, an official or employee who is absent without approved leave shall not be entitled to receive her salary corresponding to the period of her unauthorized leave of absence.

WHEREFORE, respondent Dorothy D. Salgado is found GUILTY of habitual absenteeism and is hereby meted the penalty of suspension for six (6) months and one (1) day, with a stern warning that her commission of similar acts in the future will account for her dismissal from the service. Likewise, respondent shall not be entitled to receive her salary during the period of her unauthorized absences. However, such absences shall not be deducted from her accumulated leave credits, if any. It is further ordered that all salaries and benefits accruing to her upon her assumption of office on October 25, 2004 shall be released to her, provided she is entitled thereto under existing guidelines and rules.

SO ORDERED.

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

[1] Aquino vs. Israel, A.M. No. P-04-1800, March 25, 2004.

[2] Sec. 1, Art. XI of the 1987 Constitution.

[3] Basilia vs. Becamon, et. al., A.M. No. MTJ-02-1438, 22 January 2004, 402 SCRA 608.

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