CONCERNED EMPLOYEE, COMPLAINANT, VS. ROBERTO VALENTIN, CLERK II, RECORDS DIVISION, OFFICE OF THE COURT ADMINISTRATOR, RESPONDENT

A.M. NO. 2005-01-SC. June 08, 2005

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

This administrative case arose from an undated anonymous letter-complaint addressed to the Chief Justice charging respondent Roberto Valentin, Clerk II, Records Division, Office of the Court Administrator (OCA), with dishonesty and conduct unbecoming of a government employee. The letter-complaint reports that he collected overtime pay and at the same time, received expense allowance for having acted as an umpire of table tennis games after office hours during the Court's Sports Festival in July to September 2004.

After respondent had filed his comment, the letter-complaint was referred to Atty. Eden T. Candelaria, Chief of the Administrative Services, for investigation, report and recommendation.

On January 6, 2005, Atty. Candelaria submitted to Chief Justice Hilario G. Davide, Jr. a Memorandum reporting as follows:

> "This Office finds the explanation of Mr. Valentin unmeritorious.
>
> It reviewed the disbursement vouchers (Nos. 04-08-26458, 04-09-29826 and 04-09-31225) and other supporting documents which were received by this Office on 13 December 2004 pertaining to the payment of his overtime. It was revealed that he was paid One Hundred Pesos (P100.00) and not Eighty Pesos (P80.00) or a total of One Thousand Two Hundred Pesos (P1,200.00) for the overtime work which he rendered starting at 5:00 p.m. and ending at 8:00 o'clock in the evening on the following dates:
>
> DATES 2004
>
> EXPENSE ALLOWANCE RECEIVED
>
> AMOUNT
>
> EXPENSE ALLOWANCE RECEIVED
>
> AMOUNT
>
> July 05
>
> Overtime [1]
>
> P 100.00
>
> Umpire[2]
>
> P 75.00[3]

07

Overtime

100.00

Umpire

75.00

14

Overtime

100.00

Umpire

75.00

19

Overtime

100.00

Umpire

75.00

21

Overtime

100.00

Umpire

75.00

26

Overtime

100.00

Umpire

75.00

28

Overtime

100.00

Umpire

75.00

Aug. 16

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Overtime

100.00

Umpire

75.00

18

Overtime

100.00

Umpire

75.00

Sept.01

Overtime

100.00

Umpire

75.00

06

Overtime

100.00

Umpire

75.00

07

Overtime

100.00

Umpire

75.00

Based on the above chart, while he received overtime pay on the dates enumerated therein, he also acted an umpire of the table tennis games for which Mr. Valentin explicitly admitted his receipt of expense allowance of Seventy Five Pesos (P75.00) 'for every game that I officiated.' For having acted as an umpire on the same dates, it was obviously impossible for Mr. Valentin to have done his assigned task. Even assuming that he likewise rendered overtime services on those dates, certainly it is not from 5:00 to 8:00 o'clock in the evening, for he can never be in two different places at the same time.

In justifying his receipt of both allowances, he cited the employees who are officers and members of the different Committees of the Court who are entitled to receive allowances. He averred that there is no difference between the entitlement of the former who received allowances in doing additional jobs for the committees, and in this case, in receiving allowances for overtime rendered and being an umpire of the table tennis games.

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> This office cannot accept such reasoning. It bears stressing that he had been granted an authority to render overtime work specifically from 5:00 p.m. to 8:00 p.m. in order to work on a big volume of 201 files and documents of the lower court employees. The fact that he was able to finish satisfactorily a big part of his assigned task just like the way he presented his accomplishments, is of no moment because he was paid his overtime not on the quantity of his accomplished tasks, but on the number of actual hours rendered. Overtime pay is based on actual work performed for which the overtime was authorized. When Mr. Valentin acted as umpire/scorer during the sports festival, his entitlement to overtime for the particular hours consumed in umpiring the games ceased.
>
> It is interesting to note that the legality of the payment made to Mr. Valentin for serving as an umpire was not the issue although the complaint may be perceived in that way. It was only raised because he got paid for it while he was supposed to be rendering his overtime work. The crux of the complaint therefore was his receipt of allowances for overtime work which he did not render in so far as the dates enumerated above.
>
> In defending his receipt of overtime pay, Mr. Valentin contended that when he umpired the games, the same did not consume all the three (3) hours of his supposed overtime. Such assertion is hardly acceptable. If such was the case, what Mr. Valentin could have done was to claim only for actual hours rendered. In contrast, Mr. Valentin claimed his overtime in full for all the dates above. In fact he submitted his DTRs (For the months of July, August and September 2004, attached to the Disbursement Vouchers) which were duly signed by him where entries would show overtime from about 5:00 p.m. to 8:00 oï¿½clock p.m. His further defense that what he did was no different from officials and employees of the Court who too received allowances from their Committee membership are immaterial. Overtime services are rendered in the exigency of the service in order to accomplish a specific work, and in the event designated employees cannot perform overtime service, they may be replaced. In this case, Mr. Valentin opted to make this Office believe that while he was rendering overtime services, he too was acting as an umpire, which is of course improbable."

Atty. Candelaria found respondent guilty of dishonesty and recommended his dismissal from the service, pursuant to paragraph A(1), Section 52, Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service,[4] with forfeiture of all benefits and privileges, except accrued leave credits, if any. She further recommended that respondent be ordered to return to this Court the amount of One Thousand Two Hundred Pesos (P1,200.00) equivalent to the overtime pay he received.

Respondent does not deny the act imputed against him. He justifies the same by pointing to officials and employees of this Court who receive allowances as members of its Committees.

Respondent's defense lacks merit. Those officials and employees do not receive other allowances except those allowed while they are attending the meetings of their respective Committees.

While we sustain Atty. Candelaria's finding that respondent is guilty of dishonesty, however, we find her recommended penalty of dismissal from the service too harsh. There exist circumstances which, in the interest of substantial justice, may be taken into consideration in the determination of the appropriate penalty. Respondent was officially designated as umpire/scorer because of his experience, having acted as such during previous table tennis games officially sponsored by the Court. He claims that immediately after every game, he returned to his office to work overtime. As found by Atty. Candelaria, "he was able to finish satisfactorily a big part of his assigned task." This finding was based on the Accomplishment Report on Overtime Work prepared by his immediate superior, Mrs. Gloria C. Ruano, Chief of the Records Control Division, Office of the Court Administrator. The Report shows that he worked on and finished sixty-one (61) 201 files of court personnel assigned to him and photocopied one thousand three hundred eleven (1,311) service records of lower court employees for submission to the Government Service Insurance System.

Section 53 of the same Civil Service Rules provides inter alia that in the determination of the penalties to be

imposed, mitigating circumstances attendant to the commission of the offense shall be considered. Among the mitigating circumstances allowed are (1) length of service in the government and (2) other analogous circumstances.

Respondent was hired on July 1, 1997 as a casual employee by this Court. On October 29, 1999, his appointment became permanent. All in all, he has been in the government service for almost eight (8) years now. As previously stated, he performed his overtime work satisfactorily. These two circumstances can be considered mitigating and, therefore, decrease the imposable penalty.

In several cases, we refrained from imposing the extreme penalty of dismissal from the service where the erring employee has not been previously charged with an administrative offense.[5] In fact, in several cases[6] taking into consideration the presence of mitigating circumstances, we lowered the penalty of dismissal imposed on respondent. We believe that a penalty of suspension for six (6) months without pay and with warning is in order.

WHEREFORE, respondent ROBERTO VALENTIN is hereby found guilty of dishonesty and is SUSPENDED from the service for six (6) months without pay, with a warning that a repetition of the same or similar act will be dealt with more severely. He is ordered to return to this Court the amount of P1,200.00 equivalent to the overtime pay he received without authority.

Let a copy of this Decision be attached to respondent's records with this Court.

SO ORDERED.

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

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[1] DTRs for the months of July, August and September 2004 forming part of the Disbursement Vouchers.

[2] Schedule of Table Tennis Games furnished by Rodolfo R. Bundoc, Member, Committee on Sports and In-Charge, Table Tennis Games.

[3] Page 1 of the Comment of respondent.

[4] Classifying administrative offenses and providing the corresponding penalties therefor.

[5] Re: Alleged Tampering of Daily Time Record of Sherryl B. Cervantes, Court Stenograher III, Branch 18, RTC, Manila, A.M. No. 03-8-463-RTC, May 20, 2004; Judge Teodoro L. Dipolog vs. Darryl Montealto, et al., A.M. No. P-04-1901, November 23, 2004; Office of the Court Administrator vs. Sirios, A.M. No. P-02-1659, August 28, 2003; Alda C. Floria, Executive Assistant IV, Archives Section, Court of Appeals vs. Curie F. Sunga, Supervising Judicial Staff Officer and Isidro Aperocho, Assistant Information Officer, Information & Statistical Data Division, Court of Appeals.

[6] Civil Service Commission vs. Delia T. Cortez, G.R. No. 155732, June 3, 2004, citing Maraigan vs. Buena, 348 Phil. 1 (1998); Office of the Court Administrator vs. Ibay, A.M. No. P-02-1649, November 29, 2002; Office of the Court Administrato vs. Sirios, A.M. No. P-02-1659, August 28, 2003.

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