

RE: HABITUAL ABSENTEEISM OF MR. FERNANDO P. PASCUAL.

A.M. NO. 2005-16-SC. September 22, 2005

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Records show that Fernando P. Pascual, Utility Worker II, Records Division, Office of the Court Administrator (OCA), has been absent for 7 days in March, 11 days in April, and 3 days in May, 2005, in violation of Administrative Circular No. 14-2002 on habitual absenteeism.

Pascual claimed that he had been absent from work due to failing health. He experienced abnormal blood pressure and frequent headache. He was bedridden for more than a week because of flu. In one occasion, he needed to take care of his sick children. Sometimes, he had no money for his transportation fare in going to the office.

Dr. Prudencio P. Banzon, SC Chief Staff Officer, Medical and Dental Services, affirmed that Pascual had repeated consultations with the clinic since 1979 for various complaints. In 1979, he complained of skin rashes, cough and colds, musculo skeletal aches and headaches. His headaches became frequent beginning 1995 with occasional dizziness. From 1997 up to the present, he was diagnosed to have hypertension.

In the Memorandum for the Chief Justice dated August 23, 2005, the Office of the Administrative Offices (OAS), through Atty. Eden T. Candelaria, conceded that Pascual has hypertension. However, it found the claim that he was bedridden for a week due to flu, bereft of evidence, self-serving and deserved scant consideration. The OAS stated that the fact that Pascual's children were sick and needed attention; and his lack of funds which prevented him from going to the office, are not sufficient or valid reasons for him to be absent. At the very least, these would only mitigate, but not exempt him from the infraction.

Thus, the OAS recommended that Pascual be fined the amount of P10,000.00.

We adopt the findings of the OAS except for the recommended penalty.

Under Administrative Circular No. 14-2002,[1] it is provided that:

- 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 credit under the law for at least three (3) months in a semester or at least three (3) consecutive months during the year[.]

We have often held that, 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. 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. 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.[2]

Since Pascual has been absent for 7 days in March, 11 days in April, and 3 days in May, 2005, there is no dispute that he has been habitually absent.

Administrative Circular No. 14-2002 and The Uniform Rules on Administrative Cases in the Civil Service impose the penalty of suspension of 6 months and 1 day to 1 year, for the first offense, and dismissal, for the second offense, in case of frequent unauthorized absences. However, in the determination of the penalty to be imposed, attendant circumstances, such as physical fitness, habituality, and length of service in the government, may be considered.

In the instant case, it has been established that Pascual has served this Court since May 2, 1979 as a casual employee receiving a daily salary of P20.00. He was designated as a Stitcher in 1984 and as a Utility Worker in 1989 up to the present. He has been in the government service for 26 years and this is the only time that he was administratively charged.

Likewise, his claim that he was experiencing headaches and suffering from hypertension was corroborated by Dr. Banzon. He immediately admitted his infractions, asked for forgiveness and understanding, and promised to reform. It also appears that respondent did not deliberately absent himself from work as he submitted applications for leave but they were disapproved because he had insufficient leave credits.

In several cases, we have mitigated the imposable penalty for humanitarian reasons.[3] We have also considered length of service in the judiciary; the respondent's acknowledgment of his infractions and feelings of remorse; and family circumstances, among others, in determining the proper penalty.[4] We have also ruled that where a penalty less punitive would suffice, whatever missteps may be committed by labor ought not to be visited with a consequence so severe. It is not only because of the law's concern for the workingman. There is, in addition, his family to consider. Unemployment brings untold hardships and sorrows on those dependent on wage-earner.[5]

In *Atty. Contreras v. Mirando*,[6] we fined respondent therein in the amount of P5,000.00 for frequent unexplained absences, reporting to work drunk, neglect of duty and asking money from litigants in exchange for small favors. In the present case, we find that a fine in the amount of P2,000.00 is commensurate under the circumstances.

ACCORDINGLY, respondent Fernando P. Pascual, Utility Worker II, Records Division, Office of the Court Administrator, is found GUILTY of violation of Administrative Circular No. 14-2002 on habitual absenteeism and is FINED the amount of P2,000.00 to be paid in ten (10) equal monthly installments of P200.00 each[7] and WARNED that repetition of the same or similar act will be dealt with more severely.

SO ORDERED.

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

[1] Reiterating the Civil Service Commission's Policy on Habitual Absenteeism.

[2] *Re: Imposition of Corresponding Penalties for Habitual Tardiness Committed During the First and Second Semesters of 2003*, A.M. No. 00-06-09-SC, 16 March 2004, 425 SCRA 508, 517-518.

[3] *Id.* at 518.

[4] *Re: Administrative Case for Dishonesty Against Elizabeth Ting, Court Secretary I, and Angelita C. Esmerio, Clerk III, Office of the Division Clerk of Court, Third Division*, A.M. No. 2001-7-SC & No. 2001-8-SC, 22 July

2005.

[5] *Almira v. B.F. Goodrich Philippines, Inc.*, 157 Phil. 110, 121-122 [1974].

[6] 345 Phil. 854 [1997].

[7] *Id.* at 858.

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