

RE: EMPLOYEES INCURRING HABITUAL TARDINESS IN THE 1ST SEMESTER OF 2007: MS. MARIVIC C. AZURIN, ATTY. WINSTON R. BANIEL, MS. MARIA VICTORIA S. BUZON, MR. CRISANTO C. CARILLO, JR....

A.M. No. 2007-15-SC. January 19, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Pending our action is the Memorandum[1] dated 16 November 2007 of Atty. Eden T. Candelaria (Atty. Candelaria), Deputy Clerk of Court and Chief Administrative Officer of this Court, recommending the imposition of administrative penalties on 16 employees who committed habitual tardiness during the first semester of 2007, in accordance with Civil Service Commission (CSC) Memorandum Circular No. 4, Series of 1991 (Policy on Absenteeism and Tardiness) and Memorandum Circular No. 19, Series of 1999 (Revised Uniform Rules on Administrative Cases in Civil Service).

The present administrative matter stemmed from the referral by the Leave Division to the Complaints and Investigation Division of the Office of Administrative Services (OAS) of the list of employees who incurred tardiness 10 times or more in a month for the first semester (January to June) of 2007, for appropriate action. Atty. Candelaria then required the employees in said list to explain within five days from notice why no disciplinary action should be taken against them. The names of the concerned employees and their respective explanations are reproduced below:

A. Employees with previous penalties of habitual tardiness:

1. Ms. Maria Teresa P. Olipas (Ms. Olipas), Court Stenographer III, Court Management Office.

In the First Semester of 2007, Ms. Olipas incurred habitual tardiness, to wit:

MONTH

TIMES TARDY

January

10

April

11

In her Comment[2] dated 29 August 2007, Ms. Olipas explained that she is a single parent with no one to assist her in taking care of her two daughters' needs. There are times when she suffers a severe pain on her left foot

which gives her a hard time in getting up from bed. She admitted, however, she incurred tardiness but without any intention to violate the said CSC Memorandum Circular. She now begs for the kind indulgence and compassion of the Court for her predicament.

The Court En Banc in a Resolution dated 4 May 2001 in Re: Habitual Tardiness for the Year 1999 suspended Ms. Olipas for one month. She was again suspended for five days pursuant to the Court En Banc Resolution dated 16 March 2004 Re: Habitual Tardiness for the 1[st] and 2[nd] Semesters of 2003 for her second incursion of the same offense.

2. Ms. Marivic C. Azurin (Ms. Azurin), Clerk IV, Leave Division-OCA.

In the first semester of 2007, Ms. Azurin incurred habitual tardiness, to wit:

MONTH

TIMES TARDY

January

13

February

10

March

10

Ms. Azurin did not submit her explanation despite receipt of the Memorandum of OCA on 24 August 2007 and First Tracer on 26 September 2007 by the Leave Section of OCA, requiring her to explain in writing why no disciplinary action should be taken against her for her habitual tardiness. Thus, she is deemed to have waived her right to comment.

In a Resolution dated 23 October 2001, the Court En Banc in Re: Habitual Tardiness for the First Semester of 2001, Ms. Azurin was sternly warned.

3. Atty. Wilson Baniel (Atty. Baniel), Court Attorney VI, Office of the Clerk of Court-En Banc.

Atty. Baniel incurred habitual tardiness in the first semester of 2007, to wit:

MONTH

TIMES TARDY

January

14

May

13

June

12

In his Comment[3] dated 1 October 2007, Atty. Baniel apologized for the late compliance with the OCA's directive to explain. He stated that through oversight, he was not able to comply in due time because all the while he thought that he had already complied but as he checked his files none has been filed.

As to the tardiness he incurred in the 1[st] semester of 2007 he explained that it was a balance of priorities between domestic troubles and family problems as against the rules being required of civil servants. He admitted that to decide between priorities, the latter should prevail. He now asks for temperance and promises to persevere and sacrifice more as he approaches his eighteenth year of service to the Court.

In a Resolution dated 13 September 2006, the Court En Banc in Re: Habitual Tardiness for the 2[nd] Semester 2005, sternly warned Atty. Baniel.

4. Mr. Allan Michael L. Chua (Mr. Chua), Clerk IV, Office of the Court Administrator.

In the first semester of 2007, Mr. Chua incurred tardiness, to wit:

MONTH

TIMES TARDY

January

13

February

11

In his Comment[4] dated 14 September, Mr. Chua admitted his infraction. He said that such incursion was neither intentional nor ingrained with bad faith. Having been employed only in July 2006 as co-terminus, he is still at a loss on the procedure on attendance in the government. That due to some domestic problems that he dealt with during said period, his performance at work was somehow affected. Mr. Chua now begs for the kind consideration on his case so as not to prejudice his chance of being employed elsewhere in the future when his appointment expires.

In a Resolution dated 5 June 2007, the Court En Banc in Re: Employees Incurring Habitual Tardiness in the Second Semester of 2006, Mr. Chua was sternly warned.

5. Jovito V. Sanchez (Mr. Sanchez), Information System Analyst III, Management Information Systems Office.

Mr. Sanchez incurred habitual tardiness in the First Semester of 2007, to wit:

MONTH

TIMES TARDY

January

10

March

11

In his Comment[5] dated 5 September 2007, he explained that it has been a year now since he was separated with his wife. On 10 December 2006, his estranged wife left for Singapore to work. Their three children, two of whom are already attending school, are now living with him since she left and they are all being taken care of by himself alone. He is considering the idea of getting a household help but finds it difficult to get one. He now begs that any disciplinary action that may be imposed on him as a result of his being habitually tardy be accorded with utmost compassion for humanitarian reasons.

Mr. Sanchez was sternly warned pursuant to the Court En Banc Resolution dated 17 April 2001, Re: Habitual Tardiness for the 1[st] Semester of 2000.

B. Employees incurring habitual tardiness for the first time:

1. Ms. Maria Victoria S. Buzon (Ms. Buzon), Management & Audit Analyst II, Court Management Office-OCA.

Ms. Buzon has been reported to be habitually tardy in the first semester of 2007, to wit:

MONTH

TIMES TARDY

February

10

April

10

In her Comment[6] dated 27 August 2007, Ms. Buzon explained that for having served the Judiciary for the past thirty (30) years as a public servant, she is well aware of the Civil Service Rules and Regulations regarding tardiness, absenteeism and the like. Having acquired hypertension last year, she finds it difficult to adjust and still is unable to handle the situations up to the earlier part of this year. She added that she is not used to uncomfortable feelings brought about by attacks of hypertension which caused her to slow down especially in the morning. This predicament, she said, was compounded by the unprecedented street diggings that caused so much traffic along the different routes used by public utility vehicles which she takes to reach the office.

Nonetheless, she admitted that she failed to monitor the number of times she came late. She promised, however, that this would not happen again especially now that she has been able to cope with her present health condition and the routes she takes daily to reach the office.

2. Mr. Crisanto C. Carrillo, Jr. (Mr. Carrillo), Judicial Officer III, MCLEO.

Mr. Carrillo, Jr. has incurred habitual tardiness in the first semester of 2007, to wit:

MONTH

TIMES TARDY

January

12

May

10

In his Comment[7] dated 4 September 2007, he admitted the report for incurring tardiness qualified as habitual on the above-mentioned months. Nonetheless, he seeks favorable consideration due to the personal and health problems he was dealing with at that time compounded by the demand in school where he enrolled for his post graduate studies. He promised to be more circumspect in his actions despite this predicament.

3. Mr. Manolito V. De Guzman (Mr. De Guzman), Data Entry Machine Operator IV, Office of ACA Antonio Dujua, OCA.

Mr. De Guzman has been reported to be habitually tardy during the first semester of 2007, to wit:

MONTH

TIMES TARDY

January

11

May

10

He explained in his Comment[8] dated 29 August 2007 that during the months he was habitually tardy, his wife was sick and would not be able to take care of their seven children, six of whom are attending their classes. That during those times, he was the one who took care of all the children's needs as he could not afford to get a household help. He is hoping for the kind consideration on his predicament.

4. Mr. Roderick I. Duero (Mr. Duero), Utility Worker II, Office of the Chief Attorney.

Mr. Roderick I. Duero incurred habitual tardiness in the first semester of 2007, to wit:

MONTH

TIMES TARDY

January

11

February

10

May

10

June

11

In his explanation[9] dated 29 August 2007, Mr. Duero did not dispute the record of his tardiness. As a family

man who is desolated by his better-half, he said that he has to attend to all the needs of his four kids, three of whom are attending schools. Nonetheless, he pleads that any disciplinary action that may be imposed on him for the said infraction be accorded with leniency for humanitarian reasons.

5. Mr. Rodel A. Gombio (Mr. Gombio), Human Resource Management Officer II, Office of Administrative Services.

Mr. Gombio incurred habitual tardiness in the first semester of 2007, to wit:

MONTH

TIMES TARDY

May

10

June

10

In his Comment[10] dated 28 August 2007, Mr. Gombio, at the outset, expressed his apologies for being tardy during the said months. He explained that his tardiness was incurred due to some circumstances attendant in his family life. That during those times, his wife was set to travel to Australia for one year and had a short period to prepare for her trip. Most of the time, he had to do the errands as his wife could not afford to be absent nor late for work.

He added further that two days before his wife left for Australia, his brother came home from Dubai and stayed there for his month-long vacation. With his wife away, he had to run the household by himself and attend to the needs of their children. Despite all of these, he said that he tried his best to wake up early and catch the Court of Appeals shuttle bus at 6:00 a.m. At times that he missed the shuttle service, he is sure that on his way to the office he will be caught in terrible traffic that hindered him from coming to work on time.

6. Mr. Eduardo M. Iglesias (Mr. Iglesias), SC Chief Judicial Staff Officer, Personnel Division-OCA

Mr. Iglesias has been reported to be habitually tardy in the first semester of 2007, to wit:

MONTH

TIMES TARDY

April

11

May

10

Mr. Iglesias submitted his Comment[11] dated 5 September 2007. In his comment, he admitted his tardiness pursuant to CSC Memorandum Circular No. 4, s. 1991. He said, however, that he was not fully aware of his being tardy ten times or more for two consecutive months. He humbly expresses his apology and assured not to commit the same infraction in the future.

7. Atty. Teresita Asuncion M. Lacandula-Rodriguez (Atty. Lacandula-Rodriguez), Court Attorney VI, Office of Justice Renato C. Corona.

Atty. Lacandula-Rodriguez has been reported to be habitually tardy in the first semester of 2007, to wit:

MONTH

TIMES TARDY

January

10

February

16

In her Comment[12] dated 28 August 2007, Atty. Rodriguez explained that she lives in Quezon City and during the period she was tardy, repairs to the Ayala Bridge (where she passes) were made which made her travel time longer than usual. In addition, she cites the circumstances in her family as her reason for her coming to the office late. She nonetheless resolves to rearrange her schedule so she can henceforth arrive on time. She asks the kind consideration on this matter and offers her sincere apology to the Court for the inconvenience she may have caused it.

8. Mr. Ronald C. Napolitano (Mr. Napolitano), Information Officer IV, Public Information Office.

Mr. Ronald C. Napolitano incurred habitual tardiness in the first semester of 2007, to wit:

MONTH

TIMES TARDY

January

11

February

13

March

16

June

12

In his letter[13] dated 28 September 2007, Mr. Napolitano explained that being the Public Information Office's Primary Artist and Layout Editor, he rendered overtime, on a regular basis, just to complete his tasks within the deadlines. Because of this, he has difficulty waking up early in the morning. He said that he already requested for a change in his official time. He begs for kind consideration and pledges to endeavor not to repeat the same infraction in the future.

9. Ms. Digna C. Palafox (Ms. Palafox), Clerk IV, Court Management Office.

Ms. Palafox incurred habitual tardiness in the first semester of 2007, to wit:

MONTH

TIMES TARDY

April

10

May

10

In her letter[14] dated 31 August 2007, she admitted having incurred her tardiness for a considerable number of days but without deliberate disregard of the Civil Service Rules. She explained that her tardiness for the above-mentioned months were caused by her severe symptoms of menopause which frequently wake her all night long. Being forty-nine (49) years of age, she finds difficulty to get up in the morning after a very troublesome sleep. Despite this predicament, she has been trying her best to adjust her schedule and has been successful in not incurring tardiness ten (10) times a month prior to April and May 2007, and the months thereafter.

10. Ms. Sandra O. Pendon (Ms. Pendon), Clerk IV, Office of Court Administrator Jose P. Perez.

Ms. Pendon was reported to be habitually tardy in the first semester of 2007, to wit:

MONTH

TIMES TARDY

January

10

March

10

In her Comment[15] dated 28 August 2007, Ms. Pendon explained that during the months she was habitually tardy, she has no household help to take care of all the needs of her two nieces who were left by their mother to her charge. She prays for kind consideration on the matter.

11. Mr. Rolando N. Yacat (Mr. Yacat), Clerk III, Office of Administrative Services-OCA.

Mr. Yacat incurred habitual tardiness in the first semester of 2007, to wit:

MONTH

TIMES TARDY

February

11

June

10

Mr. Yacat explained in his letter[16] dated 28 August 2007 that he and his family are living in Kawit, Cavite; that during the month of February, part of the road along Island Cove, where they usually take as their route, is undergoing renovation and because of the volume of the vehicles going to Manila, heavy traffic builds up during the morning. This causes him to arrive late in the office. He added that he already remedied his predicament by changing his work schedule from 8:00 a.m. to 8:30 a.m. He prays for consideration and understanding on the matter.

In her Memorandum, Atty. Candelaria recommended that:

- Ms. MARIA TERESA P. OLIPAS, for having been habitually tardy for the third time, be **SUSPENDED** for fifteen (15) days, for humanitarian consideration, with a final warning that a repetition of the same shall be dealt with more severely;
- The following employees for having been found guilty of habitual tardiness for the second time, be **SEVERELY REPRIMANDED** for humanitarian reason, with a **FINAL WARNING** that a repetition of the same shall be dealt with more severely:
 - Ms. MARIVIC C. AZURIN
 - ATTY. WINSTON R. BANIEL
 - MR. ALLAN MICHAEL L. CHUA
 - MR. JOVITO V. SANCHEZ
- The following employees be **STERNLY WARNED** for their first offense of habitual tardiness with the same warning that a repetition of the same infraction in the future shall be dealt with more severely:
 - MS. MARIA VICTORIA S. BUZON
 - MR. CRISANTO C. CARILLO, JR.
 - MR. MANOLITO V. DE GUZMAN
 - MR. RODERICK L. DUERO
 - MR. RODEL GOMBIO
 - MR. EDUARDO IGLESIAS
 - ATTY. TERESITA ASUNCION M. LACANDULA-RODRIGUEZ
 - MR. RONALD C. NAPOLITANO
 - MS. DIGNA C. PALFOX
 - MS. SANDRA O. PENDON
 - MR. ROLANDO N. YACAT

On 27 November 2007, we required[17] the parties to manifest within 10 days from notice if they were willing to submit the matter for resolution based on the pleadings filed. Only Ms. Olipas,[18] Mr. De Guzman,[19] Ms. Pendon,[20] Atty. Lacandula-Rodriguez,[21] and Mr. Sanchez[22] submitted their manifestations. As for the others who failed to file their manifestations within the given period, despite due notice, we deemed as

waived[23] their submission of supplemental comment/pleadings. Resultantly, the administrative matter was deemed submitted for decision based on the pleadings filed.

We agree in the findings of Atty. Candelaria in her Memorandum. We, however, make some modifications on the penalties.

Under CSC Memorandum Circular No. 4, Series of 1991, a public employee 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.

There is no question that the employees herein were habitually tardy, as defined in CSC Memorandum Circular No. 4, Series of 1991, for which they must be penalized for such administrative offense which 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.[24] Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.[25] 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.[26] 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.[27]

Likewise, in *Basco v. Gregorio*[5] this Court held:

The exacting standards of ethics and morality imposed upon court employees and judges are reflective of the premium placed on the image of the court of justice, and that image is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat. It thus becomes the imperative and sacred duty of everyone charged with the dispensation of justice, from the judge to the lowliest clerk, to maintain the court's good name and standing as true temples of justice. Circumscribed with the heavy burden of responsibility, their conduct at all times must not only be characterized with propriety and decorum, but above all else, must be above suspicion. Indeed, every employee of the Judiciary should be an example of integrity, probity, uprightness, honesty and diligence. x x x.[28]

The employees involved in the administrative matter before us, however, beg our indulgence and consideration, giving various explanations for their habitual tardiness, i.e., domestic problems and responsibilities, health reasons, traffic and road repairs, overtime work, and unfamiliarity with the rules on attendance in government. As correctly found by Atty. Candelaria, none of the justifications provided by the employees for their habitual tardiness merit our consideration. We have ruled that moral obligations, performance of household chores, traffic problems, health conditions, and domestic and financial concerns are not sufficient reasons to excuse habitual tardiness[29] or to exempt the guilty employee from the imposition of the penalty, although these may be considered to mitigate their liability.

Under Section 52(C)(4), Rule VI of CSC Memorandum Circular No. 19, Series of 1999,[30]habitual tardiness shall be penalized as follows:

First Offense - Reprimand

Second Offense - Suspension for 1-30 days

Third Offense - Dismissal from the service

Thus, we modify the penalties recommended by Atty. Candelaria to be imposed against the erring employees.

In the case of Ms. Olipas, while she should already be dismissed from the service, as this is the third time she is found guilty of habitual tardiness, we believe, for humanitarian considerations,[31] as well as taking into account her (30) long years of service[32] in this Court, that a suspension of only fifteen (15) days is in order. Ms. Olipas, however, is finally warned that this Court will not hesitate to impose the extreme penalty of dismissal in case of a repetition of the same or similar act in the future.

Ms. Azurin, Atty. Baniel, Mr. Chua, and Mr. Sanchez are suspended from the service for five (5) days without pay since they have committed the offense of habitual tardiness for the second time.

As for Ms. Buzon, Mr. Carillo, Mr. De Guzman, Mr. Duero, Mr. Gombio, Mr. Iglesias, Atty. Lacandula-Rodriguez, Mr. Napolitano, Ms. Palafox, Ms. Pendon, and Mr. Yacat, found guilty of habitual tardiness for the first time, we cannot approve Atty. Candelaria's recommendation that they should only be warned. According to the Civil Service rules earlier cited, the proper penalty for the first offense of habitual tardiness is reprimand.

WHEREFORE, as recommended by Atty. Candelaria, we find the concerned Supreme Court employees administratively liable for habitual tardiness and are penalized as follows:

- Ms. Maria Teresa P. Olipas is SUSPENDED for fifteen (15) days without pay, for being habitually tardy for the third time, with a FINAL WARNING that a repetition of the same shall be dealt with more severely;
- Ms. Marivic C. Azurin, Atty. Winston R. Baniel, and Mr. Jovito V. Sanchez are SUSPENDED FOR 5 DAYS, for being habitually tardy for the second time, with a FINAL WARNING that a repetition of the same shall be dealt with more severely;
- Mr. Allan Michael L. Chua is SUSPENDED for 5 days for being habitually tardy for the second time. However, as such administrative sanction can no longer be imposed since his appointment expired on 30 November 2007, let a copy of this Decision be entered into his personal file for record purposes; and
- The following employees: (a) Ms. Maria Victoria S. Buzon, (b) Mr. Crisanto C. Carrillo, Jr., (c) Mr. Manolito V. de Guzman, (d) Mr. Roderick L. Duero, (e) Mr. Rodel A. Gombio, (f) Mr. Eduardo M. Iglesias, (g) Atty. Teresita Asuncion M. Lacandula-Rodriguez, (h) Mr. Ronald Napolitano, (i) Mr. Digna C. Palafox, (j) Ms. Sandra O. Pendon, and (k) Mr. Rolando N. Yacat are REPRIMANDED with a WARNING that a repetition of the same act shall be dealt with more severely.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, Velasco, Jr., Nachura, Leonardo-De Castro, and Brion, JJ., concur.

[1] Rollo, pp. 1-13.

[2] Id. at 14.

[3] Id. at 15.

[4] Id. at 17.

[5] Id. at 29.

[6] Id. at 34.

[7] Id. at 35.

[8] Id. at 36.

[9] Id. at 37.

[10] Id. at 38-39.

[11] Id. at 40.

[12] Id. at 41.

[13] Id. at 42.

[14] Id. at 44.

[15] Id. at 46.

[16] Id. at 47.

[17] Id. at 72.

[18] Id. at 77.

[19] Id. at 67.

[20] Id. at 70.

[21] Id. at 71.

[22] Id. at 75.

[23] Id. at 65.

[24] 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.

[25] *Belvis v. Fernandez*, 326 Phil. 467, 471 (1996).

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

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

[28] 315 Phil. 681, 687-688 (1995).

[29] Id., citing *In Re: Imposition of Corresponding Penalties for Habitual Tardiness Committed During the Second Semester of 2002*, 456 Phil. 183, 190 (2003).

[30] Id.

[31] Renato Labay, Utility Worker II, Medical and Dental Services and Albert Semilla, Clerk III, Office of the Chief Attorney of this Court, were found to be habitually tardy for the second time and were suspended and

warned. In the instant case, they committed tardiness for the third time and, therefore, they should be dismissed from the service. Again, for humanitarian reasons and as recommended by Atty. Candelaria, the Court meted instead a penalty of suspension for ten (10) days without pay, with a warning that a repetition of the same or a similar offense will warrant the imposition of a more severe penalty.

[32] Almost 30 years in service.

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