

**RE: REPORT OF ATTY. CARIDAD A. PABELLO, CHIEF OF OFFICE,
OFFICE OF ADMINISTRATIVE SERVICES- OFFICE OF THE COURT
ADMINISTRATOR (OAS-OCA), ON NEGLECT OF DUTY OF FERDINAND
F. ANDRE...**

A.M. No. 2014-07-SC. July 08, 2015

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Before the Court is an administrative matter against Ferdinand F. Andres (Andres), Human Resource Management Officer III, Regional Trial Court (RTC)-Personnel Division, Office of Administrative Services (OAS)- Office of the Court Administrator (OCA), which stemmed from a Memorandum[1] dated June 18, 2014 of Atty. Caridad A. Pabello (Atty. Pabello), Chief of Office, OAS-OCA, referring to the OAS-Supreme Court (OAS-SC) for investigation, report, and recommendation the: (a) negligence of Andres in reflecting in the line-up/matrix of applicants for the vacant position of Sheriff IV in the RTC of Imelda, Zamboanga Sibugay, Branch 31 (RTC-Branch 31), the wrong performance rating of Guillermo C. Puerto (Puerto), Clerk III of the same court, who applied for the said position, albeit disqualified; and (b) alleged erroneous recording, erasure, and alteration of the performance rating of Puerto in the office record book.

The Facts

Andres is the Processor-in-Charge of RTC personnel in Regions VIII, IX, XI, and XII.[2] In consequence of the vacancy in the position of Sheriff IV in the RTC-Branch 31, he prepared a Memorandum Report containing the line-up/matrix of the applicants for the said position, which included Puerto.[3]

Puerto, who was listed as having a performance rating of “Very Satisfactory” for the period January to June 2013, was subsequently promoted to the position of Sheriff IV of the said court by virtue of Resolution No. 38B-2013 dated November 18, 2013 of the Selection and Promotions Board for the Lower Courts (SPB-LC). His promotional appointment was approved by the Court on November 26, 2013 and signed by Court Administrator and SPB-LC Chairperson, Jose Midas P. Marquez (Court Administrator Marquez), on December 18, 2013. Thereafter, Puerto assumed his official duty on February 3, 2014.[4]

However, when Puerto’s promotional papers were about to be transmitted to the Records Control Division of the OAS-OCA for inclusion in his 201 file, Andres noticed that Puerto’s performance rating form (PR form) was lacking.[5] Upon verification with the Clerk of Court who rated Puerto’s performance,[6] Andres learned that Puerto’s performance rating was only “Satisfactory,” hence, erroneously reported, which meant that Puerto should have been disqualified for promotion under the Merit Selection and Promotion Plan for the Lower Courts (MSPP-LC).[7]

In an undated incident report,[8] Andres conveyed the matter to Atty. Pabello, stating that he merely used an old memorandum file which was saved in his computer and overwrote the same with new entries, and that “he

committed a big mistake/negligence x x x [in] not observing/checking accurately the said memo,”[9] which resulted in the erroneous reporting of Puerto’s performance rating as “Very Satisfactory.” However, after discovering his mistake, he verified Puerto’s performance rating and secured a copy of the latter’s PR form, which showed a “Satisfactory” performance rating. He offered his apology and manifested his acceptance of the consequences of his mistake.[10]

In a letter[11] dated May 19, 2014 addressed to Atty. Pabello, Louieline M. Ednaco (Ednaco), Clerk IV of the RTC-Personnel Division, OAS-OCA, who was tasked to summarize and record the individual performance ratings of lower court personnel,[12] reported that Puerto’s performance rating, as reflected in the record book “Task Force Plantilla” (Task Force Plantilla), was tampered with and made to appear that he had a “Very Satisfactory” adjectival rating with a numerical score of thirty-one (31), when in reality, he only had a “Satisfactory” adjectival rating and a numerical score of twenty-one (21).[13] Thus, in separate Memoranda dated May 15, 2014[14] and May 23, 2014,[15] Atty. Pabello reported to Court Administrator Marquez, for appropriate action the alleged inadvertence of her staff, i.e., Andres, regarding Puerto’s performance rating and the latter’s consequent disqualification for promotion under the MSPP-LC, as well as the erasures and alterations in the record book.

As a result of Atty. Pabello’s report, the SPB-LC issued Board Resolution No. 18C-2014[16] dated May 26, 2014, recommending that Puerto’s promotional appointment be revoked and that the vacancy for the position of Sheriff IV in the said court be declared vacant and re-posted.[17] The Chief Justice, with the concurrence of the Chairpersons of the Divisions of the Court, approved the SPB-LC’s Resolution.[18]

In a Memorandum[19] dated June 18, 2014, Atty. Pabello recommended that an investigation be conducted by the OAS-SC.[20] Accordingly, Andres and Ednaco were directed to appear and testify before the said office on July 8, 2014, to which they complied.[21]

The Action and Recommendation of the OAS-SC

In a Memorandum[22] dated January 27, 2015, the OAS-SC recommended that Andres be found guilty of simple neglect of duty due to his failure to check and verify material information of applicants for vacant positions in the lower court, and that such failure to give utmost attention to his assigned tasks tarnished the public’s perception of the SPB-LC’s credibility and competence and placed into serious question the Court’s integrity on appointment and promotion of personnel in the Judiciary.[23] Considering, however, that Andres had served the Court for almost eighteen (18) years and this was ostensibly his first offense, with no apparent bad faith or malicious motive on his part, the OAS-SC opined that Andres should be meted the minimum penalty of suspension of one (1) month and one (1) day without pay, with a warning that a repetition of the same or similar acts in the future shall be dealt with more severely.[24]

Anent the allegation that Andres was the one who made the erasures and alterations in the record book, the OAS-SC held that there was insufficient evidence to establish the same.[25]

The Issue Before the Court

The essential issue in this case is whether or not Andres should be held administratively liable for simple neglect of duty and the alleged tampering of the record book.

The Court’s Ruling

The Court concurs with the OAS-SC’s findings and recommendation, except as to the recommended penalty to be imposed on Andres.

Under OCA Circular No. 74-2010[26] dated May 21, 2010, as amended by OCA Circular No. 134-2010[27] dated

October 5, 2010, in relation to the Revised Administrative Circular (A.C.) No. 50-2001[28] dated September 30, 2005, the OAS-OCA is tasked, inter alia, with the: (a) preparation of the list of candidates aspiring for vacant positions in the lower courts; (b) conduct of preliminary evaluation of the qualifications of all listed candidates; (c) submission of the selection line-up to the SPB-LC; (d) processing of the commission evidencing the appointment; and (e) the required notifications.

Andres, as processor-in-charge of appointment, occupies a sensitive position which is vital to the human resource management operations and activities of the RTC-Personnel Division of the OAS-OCA. His primary task is to check and verify the information given by applicants for any vacant position in the RTC and, thereafter, prepare the necessary reports for his supervisors.[29]

Under Item XIV(14) (a) of Revised A.C. No. 50-2001, “[f]or appointment by promotion, the performance rating of the appointee for the last rating period prior to the effectivity date of the appointment should be at least very satisfactory”[30] – a requirement which Andres is aware of.[31] Nonetheless, he failed to meticulously check Puerto’s qualifications and indicate in the list of lacking requirements, the absence of Puerto’s PR form. While applications “with incomplete form or lacking requirement/s shall still be included in the list to be submitted to the SPB-LC with a notation as to the lacking form or requirement/s,”[32] subject to subsequent accomplishment/submission as the SPB-LC may require, Andres likewise erroneously reported Puerto’s performance rating as “Very Satisfactory” instead of “Satisfactory,”[33] which eventually led to the latter’s promotion from Clerk III to Sheriff IV, albeit disqualified.

From the foregoing circumstances, Andres was clearly remiss and negligent in performing his assigned tasks as a processor-in-charge, and is guilty of simple neglect of duty, defined as “the failure of an employee to give proper attention to a required task or to discharge a duty due to carelessness or indifference.”[34]

Section 1, Canon IV of A.M. No. 03-06-13-SC,[35] otherwise known as the “Code of Conduct for Court Personnel,” mandates that “[c]ourt personnel shall at all times perform official duties properly and with diligence. x xx.” The Court has repeatedly emphasized that the “[j]udicial machinery can only function if every employee performs his task with the highest degree of professionalism. Court personnel are obligated to perform their duties properly and with diligence. Any task given to an employee of the judiciary, however menial it may be, must be done in the most prompt and diligent way.”[36] Andres’ attribution of the mistake to human error[37] and his alleged heavy workload at the time[38] cannot be given credence because a heavy workload is not a compelling reason to justify failure to perform one’s duties properly. Otherwise, every government employee charged with negligence and dereliction of duty would always proffer a similar excuse to escape punishment, to the prejudice of the government service.[39] Truth be told, it is incumbent upon every government employee to adapt all reasonable means to cope with the heavy workload, for the occupation demands no less than full and uncomplaining dedication to the public service.

Under Section 46(D)(1), Rule 10 of Civil Service Commission (CSC) Resolution No. 1101502 dated November 8, 2011, otherwise known as the “Revised Rules on Administrative Cases in the Civil Service” (RRACCS), simple neglect of duty is a less grave offense, punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense.[40] This notwithstanding, the disciplining authority, the Court in this case, is granted the discretion to consider mitigating circumstances in the imposition of the final penalty. These factors range, among others, from the erring individual’s admission of guilt, remorse, length of service, or high performance rating.[41]

In this case, Andres readily admitted having “committed a big mistake/negligence x x x [in] not observing/checking accurately the x x x memo”[42] he prepared, containing the selection line-up/matrix of the

applicants for the position of Sheriff IV in the RTC-Branch 31 and, concomitantly, offered his apology and manifested his acceptance of the consequences of his mistake.[43] Thus, considering too that said offense would be his first administrative infraction in his long length of service in the judiciary, the Court finds it proper to appreciate a mitigation of the penalty, and impose the penalty of reprimand, instead of suspension of one (1) month and one (1) day, as recommended by the OAS-SC.

Finally, the Court finds the records bereft of evidence to support the allegation that Andres was the one who made the erasures and alterations in the record book as to Puerto's adjectival rating and numerical score, and exonerates Andres of the charge.

WHEREFORE, respondent Ferdinand F. Andres, Human Resource Management Officer III, Regional Trial Court-Personnel Division, Office of Administrative Services-Office of the Court Administrator, is found GUILTY of simple neglect of duty and is hereby REPRIMANDED, with a warning that a repetition of the same or similar offense shall be dealt with more severely.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Perez, JJ., concur.

[1] Rollo, pp. 88-89. Signed by Atty. Pabello with the recommending approval of Court Administrator Jose Midas P. Marquez.

[2] Id. at 95.

[3] See id. at 1-2.

[4] Id. at 1. See also id. at 90-91.

[5] See sworn statement of Andres dated July 8, 2014; id. at 14-15.

[6] Id. at 16.

[7] Id. at 1-2.

[8] See Incidental Report; id. at 95.

[9] Id., italics supplied.

[10] Id.

[11] Id. at 93.

[12] Id. at 2.

[13] See id. at 92. See also id. at 94.

[14] Id. at 92.

[15] Id. at 96-97.

[16] Id. at 99-100. Signed by Chairperson Jose Midas P. Marquez, 1st Vice-Chairperson Raul Bautista Villanueva, 2[nd] Vice-Chairperson Jenny Lind R. Aldecoa-Delorino, 3[rd] Vice-Chairperson Thelma C. Bahia, and Members Caridad A. Pabello and Perlita V. Ele; Member Edmund S. De Javing, on leave.

[17] Id. at 99.

[18] Id. at 3.

[19] Id. at 88-89.

[20] Id. at 89.

[21] See id. at 3.

[22] Id. at 1-6. Signed by Deputy Clerk of Court and Chief Administrative Officer Eden T. Candelaria.

[23] Id. at 5.

[24] See id. at 5-6.

[25] Id. at 6.

[26] Entitled "GUIDELINES IN THE SUBMISSION OF APPLICATIONS FOR APPOINTMENT IN THE LOWER COURTS" (July 1, 2010)

[27] Entitled "AMENDMENT OF OCA CIRCULAR NO. 74-2010-GUIDELINES IN THE SUBMISSION OF APPLICATIONS FOR APPOINTMENT IN THE LOWER COURTS" (October 5, 2010)

[28] Entitled "ESTABLISHING THE MERIT SELECTION AND PROMOTION PLAN FOR THE LOWER COURTS" (September 30, 2005).

[29] Rollo, p. 4.

[30] Underscoring supplied.

[31] See Sworn Statement of Andres on July 8, 2014; rollo, p. 13.

[32] See Item 4 of OCA Circular No. 74-2010.

[33] Rollo, p. 95.

[34] See Sabijon v. de Juan, A.M. No. P-14-3281, January 28, 2015.

[35] Effective on June 1, 2004.

[36] Contreras v. Monge, 617 phil. 30, 35 (2009), citations omitted.

[37] Rollo, p. 95.

[38] See Sworn Statement of Andres on July 8, 2014; id. at 14.

[39] See Tan v. Azcueta, A.M. No. P-14-3271, October 22, 2014.

[40] See also Rule IV, Section 52 (B) of the Uniform Rules on Administrative Cases in the Civil Service (URACCS).

[41] OCA v. Capistrano, A.M. No. P-13-3147, July 2, 2014, 728 SCRA 439, 444-445, citing then Section 53, Rule IV of the Revised URACCS under CSC Memorandum Circular No. 19-99 dated September 14, 1999, now Section 48 of the RRACCS.

[42] Rollo, p. 95.

[43] Id.

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