

FLORENTINO R. CALAYAG, COMPLAINANT, VS. RUFINO DE ASAS, RESPONDENT.

Adm. Matter No. P-260. November 28, 1980

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

In a letter-complaint[1] filed on April 16, 1974, Atty. Florentino R. Calayag, Clerk of Court of the Court of First Instance of Northern Samar at Catarman, Branch I, charged Rufino de Asas, a binder-helper of the same court, with the following counts:

- Falsification of official time records;
- Violations of Civil Service law and rules or reasonable office regulations;
- Frequent unauthorized absences, loafing and frequent unauthorized absences from duty during regular office hours;
- Discourtesy in the course of official duties; and
- Being notoriously undesirable.

Upon being asked to comment on the letter-complaint, the respondent denied in general terms the charges against him and alleged that the complainant had merely singled him out from the many employees who committed the same infractions regarding absences and the irregular accomplishment of Form 48 of the Civil Service.[2]

This administrative matter was referred to the Executive Judge of the Court of First Instance of Northern Samar at Catarman for investigation, report and recommendation.[3]

Judge of First Instance Romulo S. Quimbo who investigated this administrative case submitted a recommendation dated February 28, 1979, the pertinent portion of which reads:

"The complainant alone testified. In the course of his testimony, he introduced the following exhibits:

Exhibits 'A' (Civil Service Form 48 for October, 1973 of respondent Rufino de Asas); 'A-1' (Entry in Exhibit 'A' for Oct. 18, 1973); 'A-2' (Entry for the time of departure for October 8, 1973 PM); 'A-3' (Entry of October 10, 1973 in Exhibit 'A'); 'B' (Logbook of Attendance); 'B-1' (Entry for Oct. 18, 1973, of respondent Rufino de Asas); 'B-2' (Entry for October 10, 1973, AM-PM pages 68 and 69 of Exhibit 'B'); 'B-3' (Entry for Sept. 6, AM and PM of the logbook, pages 114-115); 'B-4' (Entry in Exhibit 'B' for Sept. 22, 1973, page 142); 'B-6' (Entry for time of departure, p. 147, for Sept. 25, 1973); 'B-6-A' (P.M. Entry in red circle on the blank portion opposite name of respondent); 'B-7' (Page 169 of Exhibit 'B'); 'B-7-A' (Entry for the time of departure of Exh. 'B', p. 169); 'B-8' (Sept. 1, 1973 of Exh. 'B'); 'B-8-A' (Entry for the time of departure for October, 1973); 'C' (CS Form 48 for October 1973 of respondent Rufino de Asas); 'D' (CS Form 48 for September, 1973 of respondent Rufino de Asas); 'D-1' (Entry for Sept. 6, 1973); 'D-2' (Entry for Sept. 22, 1973 in Exh. 'B'); 'D-3' (Entry for the time of departure of Sept. 25, 1973, PM in Exh. 'D'); 'E' (Memorandum Circular #4); 'F' (CS Form 48 of respondent for Dec. 1973, PM); 'F-1' (Entry for time of departure for December, 1973, PM); 'F-2'

(Entry for Dec. 21, 1973, PM); 'G' (Loose leaf of logbook for Dec. 3, 1973 and the date enclosed in red pencil for the blank portion of time of departure); 'H' (Loose slip of the logbook for Dec. 21, 1973, PM, and the blank portion enclosed in red pencil as Exh. 'H-1'); 'I' (CS Form 48 of respondent Rufino de Asas); 'I-1' (Enclosed portion in red, time of departure for April 26, 1974 and the blank portion); 'J' (Loose slip of the logbook for April 26, 1974); 'J-1' (Enclosed portion in red, time of departure for Dec. 26, PM); 'K' (CS Form 48 of respondent Rufino de Asas); 'K-1' (Loose slip of logbook for Oct. 23, 1975 PM and the blank portion enclosed in red pencil on Exh. '1-1'); 'L' (Loose slip for Oct. 23, 1975, PM); 'L-1' (Enclosed portion in red - time of departure); 'M' (CS Form 48 of respondent for September, 1976); 'M-1' (Entry enclosed in red pencil for Sept. 3, 1974, PM); 'M-2' (Entry of time for Sept. 8, 1974); 'M-3' (Entry for Sept. 10, 1974); 'M-4' (Entry for Oct. 20, 1974); 'N' (Loose slip of logbook for Oct. 3, 1976); 'N-1' (Blank portion of time of departure); 'O' (Loose slip of logbook for Sept. 8, 1976, PM); 'O-1' (Blank portion of time of departure for Sept. 8, 1976, PM); 'P' (Loose slip of logbook for Sept. 10, 1976, PM and also the name of respondent); 'P-1' (Time of departure and the blank portion of time of departure); 'Q' (Loose slip of logbook for Sept. 20, 1976, PM and the blank); 'Q-1' (Blank portion which is enclosed in red pencil); 'R' (CS Form 48 of respondent for October, 1976) and 'R-1' (Entry in time of de-parture for October 6, 1976 PM).

The respondent chose not to present any evidence. Instead, he asked the undersigned to recommend leniency as this was his first offense.

It is obvious from the evidence that respondent has been truant in the observance of his office hours. In more than one occasion, he had entered in his Form 48 wrong times of arrival and departure to avoid being deducted for tardiness or for being undertimed for his early departures.

These acts of respondent are reprehensible. However, considering that he is now close to the age of retirement after having served this Branch of the government for a considerable number of years, it is our view that he deserves leniency. It is also of general knowledge that the 'picadillos' committed by respondent are the most common infractions committed by civil servants."^[4]

On the basis of these findings, the investigating judge recommended that the respondent be imposed a fine equivalent to his salary for one (1) month and that he be warned that a repetition of the offense will be dealt with more severely.

An examination of the oral and documentary evidence adduced during the investigation shows that the findings of the investigating judge are well founded.

The penalty recommended is reasonable.

WHEREFORE, the respondent, Rufino de Asas, is found GUILTY of falsifying his daily time records, Civil Service Form 48, and is hereby imposed the penalty of a fine equivalent to his salary for one (1) month and he is warned that a repetition of the same offense will be dealt with more severely.

SO ORDERED.

Barredo, Concepcion, Jr., Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Aquino, J., in the result.

Teehankee, J., concurs in the dissenting opinion of Justice Makasiar.

Fernando, C.J., took no part.

[1] Rollo, pp. 2-6.

[2] Rollo, pp. 15-20.

[3] Rollo, p. 22.

[4] Rollo, pp. 56-58.

DISSENTING IN PART

MAKASIAR, J.:

Respondent Rufino De Asas, binder-helper since his original appointment on January 5, 1965, has been found guilty of 48 falsifications of public documents -- official time records -- from 1973 to 1976. The penalty for one such falsification is prison mayor or an imprisonment of 6 years and one day to 12 years and a maximum fine of P5,000.00. Forty-eight (48) repetitions of such falsification aggravate the crime and renders the misconduct serious, for which the administrative penalty of fine equivalent to 6-month salary should be meted out to him, not just a fine of one-month salary which is too lenient.

It should be noted that the quoted portion of the recommendation of the investigating Judge does not include the discussion of the other charges, to wit: (1) violations of Civil Service rules and regulations or reasonable office regulations; (2) loafing and frequent unauthorized absences during regular office hours; and (3) discourtesy, all of which would suffice to characterize him as notoriously undesirable.

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