

CONCERNED EMPLOYEES OF THE MUNICIPAL TRIAL COURT OF MEYCAUAYAN, BULACAN, COMPLAINANTS, VS. LARIZZA PAGUIO-BACANI, BRANCH CLERK OF COURT II, MUNICIPAL TRIAL COURT OF MEYCAUAYAN, ...

A.M. NO. P-06-2217 (FORMERLY OCA IPI NO. 06-2375-P). July 30, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

Before this Court is an anonymous letter complaint[1] to the Office of the Court Administrator (OCA) dated September 7, 2005 from the concerned employees of the Municipal Trial Court (MTC) of Meycauayan, Bulacan, alleging that Branch Clerk of Court II, respondent Larizza Paguio-Bacani, falsified her attendance and/or leave records. Complainants averred that it was doubtful whether respondent complied with the requirements for her travels abroad, and claimed that respondent's staff would sign for her in the attendance logbook even when she was absent.

Complainants attached to their complaint a Travel Information document[2] issued by the Bureau of Immigration and Deportation (BID) which showed that one Larizza Paguio traveled abroad on the following dates: February 9, 2005, May 19, 1999, December 12, 2003, and June 29, 2003.

In a telegram[3] dated July 4, 2005, the Leave Division, Office of Administrative Services (OAS), Office of the Court Administrator (OCA) of this Court requested confirmation from Judge Eranio Cedillo, Sr. of the MTC of Meycauayan, Bulacan about respondent's travel abroad from February 8 to June 11, 2005.

On July 28, 2005, Judge Cedillo forwarded to the Leave Division respondent's explanation letter[4] dated July 26, 2005.

In the said letter, respondent explained that she had to leave for the United States of America (USA) to attend to her husband, who had to undergo an aortic valve operation. She claimed that she applied for vacation leave from February 14-25, 2005, but was not able to obtain the required clearance and authority to travel because of the urgency of the situation. Respondent averred that before she left, she designated an officer-in-charge to attend to her duties in her absence and to act as authorized signatory for the court's deposits and withdrawals of cash bonds with the Land Bank, Meycauayan Branch.

The Leave Division then issued a Certification[5] dated September 14, 2005, attesting that the following were the data on record of said office relative to the attendance of respondent:

1999

May 19

- applied for enrollment leave

2003

June 29

- has rendered service

December 12

- has rendered service

2005

February 8-24

- with leave application but did not specify what type of leave being applied for.

In a Memorandum[6] to the OCA dated January 25, 2006, the Legal Office, to which the matter was referred to by the Leave Division, recommended that the Complaint against respondent for violation of reasonable office rules and regulations be docketed for initial preliminary investigation and that respondent be made to comment on the instant complaint against her before the same would be evaluated and submitted for the Court's decision.

In its 1[st] Indorsement dated February 13, 2006, the OCA required respondent to comment on said complaint.

In her undated Comment[7] received by the OCA on March 16, 2006, respondent admitted that the entries in the travel information provided by the BID were true. As to the first entry, respondent explained that on February 9, 2005, she had to leave for the USA without a travel authority because her husband's life was at stake and the latter had to undergo an aortic valve operation, for which her consent was necessary. For the second entry, May 19, 1999, respondent went to Hong Kong. Respondent's mother and her friends had requested respondent to canvass a cheap package tour to Hong Kong for fifteen persons so that the travel expense for the sixteenth person would be free of charge. The sixteenth slot was intended for their parish priest but two days before the flight, he got sick and did not want to go, so it was suggested that respondent take his place. Respondent claimed that because the incident happened so fast and due to the excitement of having a free trip to Hong Kong, she was not able to acquire a travel authority. She did, however, file an application for leave. For the third entry, December 12, 2003, as it had been long planned, respondent was able to apply for and acquire a travel authority from the Supreme Court but, unfortunately, failed to keep a copy of the same. She asserted that it could be checked with the Court. As to the last entry, June 29, 2003, respondent narrated that, two days before the flight, a travel agency staff went to her house and gave her a ticket to the USA, which was a surprise gift from her husband in the USA. Respondent averred that her husband wanted to celebrate his birthday with her and bought the ticket two weeks before the scheduled flight, but the travel agency brought her the ticket only two days before said flight. She proceeded with the trip although she had no time to secure a travel authority, because her husband had been in the USA since the year 2000, and wanted to see her. Respondent did file for a leave of absence.

Respondent further averred that all four entries appearing in the BID information regarding her travels were made in good faith without any intention of violating the reasonable rules and policies of the Supreme Court. She added that she had written to ask the permission of her immediate supervisor, Judge Cedillo, and filed an application for leave. She claimed that, as clerk of court for about ten years, she had not been remiss in her duties, and denied that she had trusted staff to log her in and out in the attendance logbook whenever she was absent.

In its Report[8] dated July 3, 2006, the OCA gave the following evaluation and recommendation:

EVALUATION: In view of respondent's admission that she traveled abroad on three occasions without the required authority to travel from the Court, she should be held administratively liable for violation of

reasonable office rules and regulations. Under OCA Circular No. 49-2003, in relation to A.M. No. 99-12-08-SC, dated 06 November 2000, "all foreign travels of judges and court personnel regardless of the number of days, must be with prior permission from the Supreme Court through the Chief Justice and the Chairmen of the Divisions." The same Circular likewise expressly provides that judges and personnel, who shall leave the country without travel authority issued by Office of the Court Administrator, shall be subject to disciplinary action.

In the instant case, respondent clearly violated the aforesaid circular. She admitted that the four entries in the travel information attached to the complaint are all true and correct and that in three (3) of her foreign travels, she did not secure the necessary authority from the court. Despite her explanation, respondent cannot be exempted from liability, considering that she did said prohibited acts more than once, thus, reflecting her wanton disregard of said Court Circular.

As to the charge that respondent may be liable for falsification of her daily time records since her alleged trusted staff signs the attendance logbook for her whenever she is absent to make it appear that she reported for work, the same should be investigated as there are reasons to suspect that there is truth to said allegation. While respondent claims in her Comment that she filed and applied for a leave on 29 June 2003, which is one of the departure dates reflected in the travel information, the OAS-OCA Certification dated 14 September 2005 shows that she rendered service on said date. Verification with the Leave Division-OCA also reveals that respondent did not file a leave of absence on said date.

In the same Certification, it is also shown that respondent rendered service on 12 December 2003, when said date is also one of the entries in the travel information of her departure from the Philippines which respondent admitted to be true and correct. However, these pieces of information are insufficient to pin her down for falsification of her daily time records for the exact time of her departure on those dates mentioned are not available to the Office to determine whether it is physically possible for her to still report for work.

RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court is our recommendation that:

[1] the instant complaint be RE-DOCKETED as regular administrative matter;

[2] respondent be found guilty of violation of SC office rules and regulations and be SEVERELY REPRIMANDED for such violation;

[3] the charge of falsification of daily time record/leave record against respondent be REFERRED to the Executive Judge of RTC, Malolos, Bulacan, for investigation, report and recommendation within sixty (60) days from receipt of records.

In its Resolution[9] dated August 2, 2006, the Court, acting upon the recommendation of the OCA, re-docketed the instant complaint as a regular administrative matter and referred the same to the Executive Judge of the RTC, Malolos, Bulacan, for investigation, report and recommendation within ninety (90) days from receipt of records.

The administrative matter was set for initial hearing on November 27, 2006, and reset several times. Upon failure of complainants to appear in court despite due notice, respondent was allowed to present her evidence.

In her Explanation[10] dated March 20, 2007, respondent denied having violated reasonable office rules and regulations by alleging that she reported for work on June 29, 2003 and December 12, 2003, when she was already on leave on the latter date. She stated that June 29, 2003 was a Sunday, hence, a non-working day, thus, there was no need to apply for leave. She attached a certified photocopy of a calendar for the year 2003 to support her claim. As for December 12, 2003, respondent vehemently denied having rendered service on said date. She attached a duplicate copy of her Daily Time Record (DTR) for December 2003, as well as a certified photocopy of their attendance logbook, both signed and certified by Judge Cedillo to show that she was on leave on said date.

Respondent further averred that she did not have any intention of violating the Supreme Court Circular in question and, had she done so, the same was not intentional but made owing to the urgency of her situation. She maintained that she still filed the necessary application for leave, and left instructions with her designated officer-in-charge.

In her Final Report[11] dated August 31, 2007, Judge Petrita Braga Dime observed that:

x x x x

Discussion:

The two (2) questioned dates are June 29, 2003 and December 12, 2003.

June 29, 2003, as shown by the calendar for the year 2003, was a Sunday and, therefore, a non-working day.

December 13, 2003 (sic) was a Friday, but the copy of the Daily Time Record respondent submitted shows that respondent was on leave on said date. There was no evidence, however, submitted by her that this is a copy of the Daily Time Record she submitted to the Supreme Court.

With respect to the charge that her alleged trusted staff signs the attendance logbook, no evidence was presented by the complainants to substantiate the same.

Settled is [the] rule that in administrative cases, complainants bear the onus of establishing their averments by substantial evidence. (Cruz v. Iturralde, 422 SCRA 65)

In view of the foregoing, the undersigned hereby recommends that this complaint be dismissed for insufficiency of evidence.

In its Resolution[12] dated October 15, 2007, the Court referred the instant administrative matter to the OCA for evaluation, report and recommendation within thirty (30) days from notice.

In its Memorandum[13] dated January 3, 2008, the OCA submitted its findings, the pertinent portions of which are quoted as follows:

Reviewing the records of this case, the Office of the Court Administrator in its Agenda Report dated July 3, 2006, found respondent guilty of violating OCA Circular No. 49-2003. However, the Office likewise recommended that the instant administrative matter be referred to the Executive Judge of Malolos City, Bulacan to clarify the fact of inconsistency in the record of this Office and that of the Travel Information of the Bureau of Immigration and Deportation (BID). x x x

The investigation report of the Executive Judge throws new light on the charge of falsification of respondent as it appears that on December 12, 2003, a Friday, respondent alleges that she was on vacation leave on the subject date. She presented a copy of her alleged Daily Time Record on the subject month, marked as Annex "B," which was also signed by Judge Eranio G. Cedillo, Sr., presiding judge of MTC, Meycauayan, Bulacan. The said daily time record was not the same or even a certified copy of the DTR she submitted to the Office of the Administrative Services of the Office of the Court Administrator. This piece of evidence, however, contradicts the certification of the OAS-OCA that respondent was present and rendered service on the subject date, December 12, 2003. Respondent could not have been present in her work station and at the same time on vacation leave abroad. She could not be at two different places at the same time.

The undersigned finds respondent also liable for dishonesty.

Section 52, Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service provides:

Section 52. Classification of Offenses. - Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following are grave offenses with their corresponding penalties:

1. Dishonesty - 1[st] Offense - Dismissal
2. Gross Neglect of Duty - 1[st] Offense - Dismissal
3. Grave Misconduct - 1[st] Offense - Dismissal

Under the foregoing Section of the Civil Service Rules, respondent's offense is classified as a serious offense and that the penalty for the first offense is dismissal from the service. However, this Office believes that the penalty of dismissal would be too harsh as a penalty, considering that [it is] respondent's first offense. In fact, the Honorable Court, in several cases, refrained from imposing the extreme penalty of dismissal from the service where the erring employee has not been previously charged with an administrative offense. x x x In several cases, the fact that respondent was not previously charged with any [other] administrative complaint operates as a mitigating circumstance to lower the penalty of dismissal imposed on respondents. x x x

IN VIEW OF THE FOREGOING, the undersigned respectfully recommends to the Honorable Court our recommendation that respondent Larriza Paguio-Bacani, Clerk of Court, Municipal Trial Court, Meycauayan, Bulacan, having been found guilty of violation of reasonable office rules (OCA Circular No. 49-2003 in relation to A.M. No. 99-12-08-SC dated 06 November 2000) and dishonesty, be **SUSPENDED** from the service for one (1) year without pay, with a warning that a repetition of the same or similar act will be dealt with more severely.

The Court agrees with the finding of the OCA that respondent is guilty of violation of reasonable office rules in failing to secure a travel authority, and of dishonesty in falsifying her attendance and/or leave records.

Respondent admitted that she had left the country without securing a travel authority for the three, out of the four, travel dates (i.e., May 19, 1999, June 29, 2003, December 12, 2003, and February 8, 2005) provided by the BID in violation of OCA Circular No. 6-2003 dated January 9, 2003. The said Circular states that judges and court personnel who intend to travel abroad must observe the following guidelines:

VI. Leave to be Spent Abroad.

All foreign travels of judges and court personnel, regardless of the number of days, must be with prior permission from the Supreme Court through the Chief Justice and the Chairmen of the Divisions pursuant to the resolution in A.M. 99-12-08-SC (Memorandum Order No. 14-2000 dated 6 November 2000). In line with the policy, the judge or court personnel concerned must submit the following:

x x x x

For Court Personnel:

- application or request addressed to the Court Administrator, stating therein the purpose of the travel abroad;
- application for leave covering the period of the travel abroad duly recommended by the Executive Judge/Presiding Judge;
- clearance as to money and property accountability;
- clearance as to pending criminal and administrative case filed against him/her, if any; and
- for court stenographer, clearance as to pending stenographic notes for transcription from his/her court and from the Court of Appeals.

OCA Circular No. 49-2003[14] also states:

B. Vacation Leave to be Spent Abroad.

Pursuant to the resolution in A.M. No. 99-12-08-SC dated 6 November 2000, all foreign travels of judges and court personnel, regardless of the number of days, must be with prior permission from the Supreme Court through the Chief Justice and the Chairmen of the Divisions.

- Judges and court personnel who wish to travel abroad must secure a travel authority from the Office of the Court Administrator. x x x

Corollarily, Section 67 of the Omnibus Rules on Leave[15] provides that any violation of the leave laws, rules or regulations, or any misrepresentation or deception in connection with an application for leave shall be a ground for disciplinary action.

As Clerk of Court, respondent must be reminded of the constitutional provision that a public office is a public trust, and all public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency. Every government employee, especially of the judiciary, should be an example of integrity and proper behavior.[16] Being Branch Clerk of Court, respondent is the role model for all court employees under her supervision, and her position requires competence and efficiency to insure the public's confidence in the administration of justice.[17]

Anent the issue of falsification of attendance and/or leave records, Section 4, Rule XVII of the Omnibus Rules on Leave[18] provides:

SEC. 4. Falsification or irregularities in the keeping of time records will render the guilty officer or employee administratively liable without prejudice to criminal prosecution as the circumstances warrant.

In *Office of the Court Administrator v. Balisi*,[19] the Court held that falsification of daily time records – to cover up for absenteeism and/or tardiness – shall constitute gross dishonesty and serious misconduct, which it further reiterated in Administrative Circular No. 14-2002.[20]

Complainants alleged that, on certain occasions, respondent's staff signed for her in the attendance logbook whenever she was absent. Although complainants failed to categorically specify the dates when such incidents occurred, the investigations of both the Investigating Judge and the OCA revealed that there were discrepancies between the Certification dated September 14, 2005 issued by the Leave Division of the OCA and the DTR submitted by respondent. According to the Certification, respondent rendered service on June 29 and December 12 for the year 2003. On the other hand, respondent denied having rendered service on the dates in question, claiming that June 29, 2003 was a Sunday and a non-working day, and that she was on leave on December 12, 2003. Further, it could not be determined whether respondent submitted the same DTR to the MTC and the OCA.

In light of such findings, the Court believes that respondent indeed made it appear that she rendered service on the dates in question. The discovery of a discrepancy in the attendance records of respondent gave rise to a presumption that the latter falsified her attendance and/or leave records and, therefore, the burden to overcome this presumption fell upon respondent. However, respondent was not able to adequately explain how such discrepancy occurred. She merely denied the contents of said Certification without clarifying how the Leave Division could have issued information different from that of her DTR and the attendance logbook when, in fact, it was respondent's office which supplied the Leave Division with their attendance and leave records. Moreover, the Court ascribes greater weight to the records of the Leave Division, for its act of certifying the attendance of government employees is considered an official duty performed with regularity,[21] which again, respondent failed to disprove.

Under Section 52(A)(1) of the Uniform Rules on Administrative Cases in the Civil Service Commission,[22] respondent's act of falsifying her DTRs amounts to dishonesty, which carries the extreme penalty of dismissal

from the service.[23]

In conjunction with this Rule, violation of reasonable office rules and regulations is classified as a light offense under Section 52(C)(3) of the same Rules[24] which states:

Section 52. Classification of Offenses. - Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

x x x x

C. The following are Light Offenses with corresponding penalties:

x x x x

3. Violation of reasonable office rules and regulations.

1[st] Offense - Reprimand

2[nd] Offense - Suspension 1-30 days

3[rd] Offense - Dismissal

x x x x

The Court has penalized court employees who have traveled abroad without the requisite authority to travel. In *Malayo v. Cruzat*,[25] respondent clerk of court was severely reprimanded for conduct unbecoming of a public officer and member of the Judiciary, and suspended for one (1) month without pay for travelling to Hong Kong without the required authority therefor. In *Request of Judge Eduardo F. Cartagena*,[26] respondent Judge was found guilty of gross misconduct and dismissed from the service when he left for the USA without the knowledge or permission of the Court. In *Reyes v. Bautista*,[27] respondent stenographer left the country for Dubai to work overseas without securing the necessary permission for travel, but stated in her leave application that her vacation would be spent in the Philippines; she was, likewise, dismissed from the service for dishonesty, gross neglect of duty and violation of Court administrative circulars.

Also, in previous cases wherein court employees falsified their DTRs, the Court ordered them to pay a fine ranging from P2,000.00 to P5,000.00,[28] or sentenced them to a suspension ranging from three (3) to six (6) months.[29]

Although dishonesty through falsification of DTRs is punishable by dismissal, such an extreme penalty cannot be inflicted on an errant employee such as herein respondent, especially so in cases where there exist mitigating circumstances which could alleviate her culpability.[30] Respondent has been Branch Clerk of Court for about ten (10) years and this is her first administrative complaint. The OCA recommended that respondent be suspended from the service for one (1) year without pay, with a warning that a repetition of the same or similar act will be dealt with more severely.

The conduct of court personnel should be geared towards maintaining the prestige and integrity of the court, for the image of the court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel; hence, it becomes the imperative and sacred duty of each and everyone in the court to maintain its good name and standing as a temple of justice.[31]

WHEREFORE, respondent Larizza Paguio-Bacani, Branch Clerk of Court II of the Municipal Trial Court of Meycauayan, Bulacan, is found GUILTY of dishonesty through falsification of her Daily Time Records and leaving the country without the requisite travel authority, and is SUSPENDED from the service for one (1) year

without pay, with a warning that a repetition of the same or similar act shall be dealt with more severely.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., and Nachura, JJ., concur.

[1] Rollo, pp. 6-7.

[2] Id. at 8.

[3] Id. at 9.

[4] Id. at 11-13.

[5] Id. at 5.

[6] Id. at 1-3.

[7] Id. at 37-41.

[8] Id. at 61-65.

[9] Id. at 66.

[10] Id. at 84-85.

[11] Id. at 97-99.

[12] Id. at 109.

[13] Id. at 110-114. (Citations omitted.)

[14] Dated May 20, 2003.

[15] As amended by CSC MC Nos. 41, s. 1998; 6, 14 and 24, s. 1999, dated November 23, 1999.

[16] *Malayo v. Cruzat*, A.M. No. P-02-1639, September 18, 2002, 389 SCRA 296.

[17] *Office of the Court Administrator v. Judge Bagundang*, A.M. No. RTJ-05-1937 and *Office of the Court Administrator v. Silongan*, A.M. No. P-06-2267, January 22, 2008, 542 SCRA 153.

[18] *Supra* note 15.

[19] *Office of the Court Administrator v. Myrene C. Balisi*, A.M. No. 08-1-11-MeTC, August 11, 2008.

[20] Dated March 18, 2002.

[21] Rules of Court, Rule 131, Sec. 3(m).

[22] Promulgated by the Civil Service Commission through Resolution No. 99-1936 dated August 31, 1999 and implemented by Memorandum Circular No. 19, series of 1999.

[23] *Re: Falsification of Daily Time Records of Maria Fe P. Brooks, et al.*, A.M. No. P-05-2086, October 20, 2005, 473 SCRA 483.

[24] Id.

[25] *Supra* note 16.

[26] A.M. No. 95-9-98-MCTC, December 4, 1997, 282 SCRA 370.

[27] A.M. No. P-04-1873, January 13, 2005, 448 SCRA 95.

[28] In Re: Irregularities in the Use of Logbook and Daily Time Records by Clerk of Court Raquel D.J. Razon, et al., A.M. No. P-06-2243, September 26, 2006, 503 SCRA 52; Reyes-Domingo v. Morales, 396 Phil. 150, 165-166 (2000); Office of the Court Administrator v. Saa, 457 Phil. 25 (2003).

[29] Re: Falsification of Daily Time Records of Maria Fe P. Brooks, et al., supra note 22; Re: Failure of Jose Dante E. Guerrero to Register His Time In and Out in the Chronolog Time Recorder Machine on Several Dates, A.M. No. 2005-07-SC, April 19, 2006, 487 SCRA 352.

[30] Office of the Court Administrator v. Sirios, A.M. No. P-02-1659, August 28, 2003, 410 SCRA 35.

[31] Supra note 16.

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