

**PAZ M. GARCIA, PETITIONER, VS. THE HON. SECRETARY OF JUSTICE
CLAUDIO TEEHANKEE, FRANCISCO DE LA ROSA, EXECUTIVE
JUDGE, COURT OF FIRST INSTANCE OF PASAY CITY, BRANCH VII,
AND LOR...**

G.R. No. L-29113. April 18, 1969

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Petition for a writ of prohibition and mandamus filed by petitioner Paz M. Garcia against the Honorable Secretary of Justice, the Executive Judge of the Court of First Instance of Pasay City, Branch VII, Honorable Francisco de la Rosa, and the Clerk of Court thereat, seeking to enjoin and prohibit the implementation and enforcement of the Secretary's directive of 25 March 1968 assigning petitioner to work at the stenographers' section, Judiciary Division, of the Department of Justice and that all the respondents be ordered to allow said petitioner to discharge the functions, duties and responsibilities of assistant clerk of the Court of First Instance of Pasay City.

From the pleadings and annexes thereto, the following facts can be gleaned:

Petitioner Garcia holds an appointment as Assistant Clerk of Court of the Court of First Instance of Rizal (Pasay City), issued on 26 October 1963, in view of a budgetary change of her item from Senior Stenographer of the aforesaid court to assistant clerk of court (Item 884, Page 460, R.A. 3845). On 25 March 1968, the Secretary of Justice, Honorable Claudio Teehankee, issued a directive addressed to petitioner in the following terms:

"Madam:

In the interest of public service and pursuant to authority vested by law, you are hereby assigned to work until further notice in the stenographers' Section, Judiciary Division, of this Department.

By virtue of this assignment, you are hereby required to finish all stenographic transcripts due from you in appealed cases."

Petitioner Paz Garcia, on 3 April 1968, asked for a reconsideration of the directive "in view of my desire to clear my name of all the persecutory charges filed against me before seeking a transfer" (Petition, Annex D). She followed up her petition for reconsideration with a letter of 5 May 1968, claiming that her transfer under the Secretary's directive was virtually a demotion and reduction in rank; that the transfer without her consent amounted to an illegal removal from her present position, without lawful cause, infringement of her constitutional rights, and could not be justified by the statement that it was "in the interest of public service." Upon the Secretary's reiteration of his previous directive, on the ground that compliance therewith was essential for consideration of her petition for reconsideration, petitioner replied, on 28 May 1968, that—

"I am reporting for duty effective June 1, 1968 after the expiration of my sick leave on May 31, 1968, in the Court of First Instance of Pasay City." (Petition, Annex H)

although respondent Clerk of Court Sta. Ana reported to the Department of Justice that petitioner had filed with him no application for sick leave, and had informed her that "she would not be allowed to report to this office" unless the Secretary's directives were lifted or pertinent instructions were given.

The respondent's answer further discloses that up to 31 July 1968 petitioner Garcia had untranscribed stenographic notes in no less than eight (8) cases (4 civil and 4 criminal) pending in the Court of Appeals (Annex B, Answer), and had to submit transcripts of stenographic notes in forty-two (42) civil and criminal cases in the Court of First Instance of Pasay City (Annex C, Answer); albeit petitioner denied not having submitted transcripts in the Court of Appeals cases and claimed having done so in Court of First Instance cases Nos. 5002, 6019, 6688, 6189, Sp. Proc. No. 1964-P and 1851-P, Criminal Case No. 5359, and Civil Case 580-R, while others were duplicated or set for continuance of hearing (Reply, p. 8 et seq.). There appears of record, likewise, that the personnel of the Pasay court had petitioned the Secretary for disciplinary action against petitioner Paz M. Garcia (Answer, Annex A).

We find no merit in this petition.

The text of the respondent Secretary's directive clearly belies the contention of petitioner that it constituted a disguised removal from her present position. The second paragraph of the directive in question, previously quoted, reveals that the purpose of petitioner's assignment was to compel transcription of the notes taken by her as court stenographer as soon as possible. The assignment, therefore, was on its face temporary, and justified by the needs of the service, particularly that of a speedy administration of justice.

Official records attached to the respondent's answer disclose that at the time of the petitioner's assignment to the Department of Justice petitioner had taken stenographic notes in eight cases pending in the Court of Appeals (4 civil and 4 criminal)[1], and such notes were still untranscribed. The need for a quick transcription of these notes by the petitioner is self-evident. Persons at all acquainted with conditions in appellate courts know that one of the major factors in delaying the prompt disposition of appealed cases lies in the absence of transcripts of the testimony taken at the trials in the Court of First Instance, and the need for such transcripts is particularly acute in the Court of Appeals, that must resolve questions of fact and of weight of evidence.

Petitioner's argument that such transcripts could not be missing because without them the judge of the Court of First Instance could not have decided the cases under appeal (Reply, page 8) is disingenuous, to say the least. It is a well known practice of trial judges to decide cases without awaiting full transcription of stenographic notes, and to rely upon personal notes taken by them during the trial, precisely in order to accelerate the dispatch of cases. But such chance is not available to Justices of the appellate Tribunals.

If petitioner had really submitted her transcripts to the Court of Appeals, contrary to what appears in the official records, she could have easily produced the corresponding receipts of the Clerk of the Appeals Court, or, at least, a certification that such transcriptions had been received. Instead, she only submitted copies of her alleged letters of transmittal of her transcripts in two cases (and these letters are obviously self-serving); said missives only mention Civil Case No. 367-R and Criminal Case No. 5666-R (see Annexes H and H-1 of the reply). Hence, transcripts in the other six cases pending in the Court of Appeals are unaccounted for.

Thus, even without taking account of the cases in the Court of First Instance wherein petitioner Paz Garcia intervened as stenographer (Answer, Annex C), the record furnishes ample justification for the directive of the respondent Secretary. Delays in the speedy disposition of cases have been a perennial complaint against our administration of justice and it is highly regrettable that instead of cooperating with the Secretary in his concern for the prompt dispatch of cases the petitioner should have resorted to subterfuges culminating in blunt but improper disobedience of the valid order of a superior officer (Petition, Annex H). Prior thereto, petitioner herein,

when refused her salary for April, 1968 due to her refusal to comply with the Secretary's directive, managed to deceive Undersecretary Makasiar into approving her application for sick leave by concealing her disobedience (Annex D); and when her salary for the first half of June was also withheld, she obtained from Undersecretary Antonio an order for its payment by concealing the fact that Clerk of Court Sta. Ana had refused to approve her time record for being prepared in violation of regulations and for being contrary to the truth, because she had only reported for six days (Annex E). Such conduct can not qualify as compliance with the equitable rule that a petitioner must come to Court with clean hands.

That her assignment to the Department of Justice carried no specific date of termination is manifestly due to the fact that the Secretary of Justice could neither know nor anticipate when petitioner would finish transcribing her stenographic notes. Instead of evidencing a desire to surreptitiously effect her removal, as she claims, the indefiniteness of the assignment was inevitable in the very nature of things. For these and the other reasons heretofore adverted to, the jurisprudence invoked by petitioner in support of her case is inapplicable, as the factual background is entirely different.

We, therefore, hold that the Secretary's directive of 25 March 1968 was in valid exercise of his administrative powers and was issued without abuse of discretion; and, therefore, that said directive was binding on petitioner herein, who was fully obligated to comply therewith, there having been no valid excuse for her refusal to do so.

The foregoing makes it unnecessary to consider the other defenses interposed by herein respondents. It is thereby equally clear that petitioner had no cause for complaint when Judge De la Rosa and Clerk of Court Sta. Ana assigned another employee to make use of her desk, since she was duty bound to remain at the Department of Justice from the issuance of the Secretary's directive until her temporary assignment ended.

Nor do we see any valid ground for petitioner's refusal to work at the Department's stenographic division, considering that the work required of her was related to the performance of her duties as stenographer. Moreover, the record shows (and her own pleadings reveal it) that petitioner had had clashes and strained relations with the other personnel of the Court of First Instance in Pasay City. Regardless of the merits of the parties involved, the situation was one not conducive to a speedy transcription of petitioner's notes, and the directive was, in this respect, neither faulty nor improper. The overriding consideration was, and had to be, the avoidance of delays in the disposition of pending cases.

Finally, Section 32 of the Civil Service Act (R.A. 2260) is clearly against petitioner's position, for it distinctly prescribe as follows:

"SEC. 32. Disciplinary Action.— No officer or employee in the civil service shall be removed or suspended except for cause as provided by law and after due process: Provided, That a transfer from one position to another without reduction in rank or salary shall not be considered disciplinary when made in the interest of public service: -----."

This rule had been recognized by this Court in *Gorospe vs. De Veyra*, 51 OG 692, and *Trinidad vs. Lacson*, L-13262, 5 August 1962. No showing is here made that the contested directive reduced petitioner's rank or salary.

And if the petitioner believed that the foregoing provision was inapplicable to her case, her primary remedy was to recourse to the Commissioner of Civil Service. Her failure to do so prevents this Court from granting the remedy she seeks, it being a time honored and well known principle that before seeking judicial redress, a party must first exhaust the administrative remedies available (*Santiago vs. Cruz*, 98 Phil. 168; *Montes vs. CS Board of Appeals*, 101 Phil. 490; *Peralta vs. Salcedo*, 101 Phil. 453).

IN VIEW OF THE FOREGOING, the petition for writs of prohibition and mandamus is denied for lack of merit.

Costs against petitioner Paz M. Garcia.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Fernando and Capistrano, JJ., concur.

Concepcion, C.J.: Mr. Justice Castro voted for the denial of the writs prayed for and the dismissal of the petition.

Teehankee and Barredo, JJ., took no part.

[1] These cases were: Civil Cases CA-G.R. No. 37845-R, C. Felipe, et al. vs. G. Hilario, et al.; CA-G.R. No. 41281-R, Alejandro de la Rosa vs. Isidoro Aclan; C.A.-G.R. No. 41381-R, Guillermo R. Suarez vs. Remedios Lopez Angeles, et al; and CA-G.R. No. 39776-R, Candido Mateo, et al. vs. Spouses Dr. Filemon Aguilar, et al; and Criminal Cases CA-G.R. No. 05857-CR, People vs. Lee Sin Guan (Incorporated); CA-G.R. No. 06082-CR, People vs. Leona Empamano; CA-G.R. No. 08012-CR, People vs. Sy Yen et al; and CA-G.R. No. 08416-CR, People vs. Montano Sapida y Lunazo.

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