

REYNALDO A. JACINTO, PETITIONER, VS. SANDIGANBAYAN OF THE PHILIPPINES AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.*G.R. No. 84571. October 02, 1989*

Ponente: GANCAYCO, J.

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On June 23, 1984, Dr. Reynaldo Jacinto was assigned as the Officer-In-Charge of the Eulogio Rodriguez Sr. Memorial Hospital (ERMH). He was instructed by the Minister of Health to clean it up and get rid of its bad image. Correctly indeed, he found out that most of the medical staff were rendering services outside of the hospital at government time and collecting full government pay. He gathered the so-called moonlighting doctors including Dr. Veneracion Pacis-Munar and asked them to make their choice between government service and private practice. He tried to dissuade Dr. Munar from this practice as she was drawing full pay as a fulltime member of the medical staff while teaching in several medical schools but she remarked that she had been doing this since 1972 while working at the San Lazaro Hospital and that she had the authority to teach.

After some time, Dr. Munar protested the promotion of Dr. Tica to the position of Medical Specialist II which she believed should have been given to her. This caused a misunderstanding between her and Dr. Jacinto who recommended said promotion.

On May 13, 1985, after the medical staff meeting at the hospital, Dr. Munar submitted to a medical examination by Dr. Evelyn Padre of the same hospital as she was allegedly suffering from intermittent diarrhea. Dr. Padre issued a medical certificate that she was sick of gastro enteritis and amoebic colic.[1] She then filed an emergency sick leave application attaching the medical certificate.[2] Dr. Jacinto did not believe the findings of Dr. Padre and disapproved the application. He instructed Dr. Munar to file an application for vacation leave. She left her vacation leave papers in the office of the hospital's personnel officer without retaining a copy. The period covered by her vacation leave was from May 13 to 19, 1985.

A few days later, Dr. Munar received a telegram dated May 17, 1985[3] from Dr. Jacinto asking her to report for duty on May 20, 1985. She went to the hospital on said day and learned that it was the birthday of Dr. Jacinto. He asked her to report for work and he tried to persuade her to withdraw her protest against the promotion of Dr. Tica as a birthday gift. Dr. Munar did not agree. Apparently, Dr. Jacinto resented this as he told her she would never be promoted. Thereafter, Dr. Munar received a letter from Dr. Jacinto reiterating the disapproval of her application for sick leave for the period from May 13 to 19, 1985 as she was not sick.

On May 30, 1985 Dr. Munar reported for duty at the hospital. She could not get her salary as her name was deleted from the hospital payroll. She again went on leave on June 4 to 20, 1985 upon the advise of another physician.

On July 5, 1985, she was detailed at the Quirino Memorial Hospital upon order of the Minister of Health,[4] a copy of which was furnished Dr. Jacinto. Although detailed at another hospital, Dr. Munar was to continue to receive her salary from the ERMH.

While still working at the ERMH, she presented her daily time record for the month of May to Dr. Jacinto but the latter refused to sign the same. She then approached Dr. Flores, the Chief of Clinic, but he remarked that Dr. Jacinto instructed him not to sign.

At the Quirino Memorial Hospital, Dr. Munar had her daily time record signed by her superior officer thereat which she submitted to her former place of assignment for the purpose of collecting her salary. Nonetheless, she still could not get her salary from the ERMH so she sought the assistance of Director Ibañez of the Regional Health Office in Quezon City who sent a letter ordering Dr. Jacinto to pay her salary. She got a similar directive from the Minister of Health.[5] Dr. Jacinto released her salary.

Meanwhile, Dr. Munar's name was not included in the proposed plantilla of the ERMH. Upon learning about this, she wrote the Placement Committee of Region IV, Ministry of Health, about the deletion of her name and she received a reply that her name was reincluded in the final plantilla.

During the period covered by this incident, Dr. Munar had a part time teaching job at the Philippine-Muslim Medical School and at the Ocampo Memorial School. She taught in the former from 7:00 to 12:00 noon only during Saturdays while in the latter institution her class schedule was variable but the same did not prejudice her office hours in the hospital. She also handled summer classes in Micro-Biology at the Ocampo Memorial School. She claims she was authorized to teach by way of a teaching permit issued by the Minister of Health but said permit prohibited her from teaching earlier than 6:00 in the evening.[6] However, she was able to hold classes after 1:00 P.M. allegedly upon verbal permission of Dr. Jacinto provided she should render service either on Saturdays or Sundays to compensate for the lost hours in the hospital. The latter denies this.

It is on the basis of the foregoing set of facts that in due course an information was filed in the Sandiganbayan against Dr. Jacinto by the special prosecutor of the Tanodbayan charging him with violation of Section 3(e) of Republic Act No. 3019, as amended, allegedly committed as follows:

"That on or about May 17, 1985, in Marikina, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being the duly appointed officer-in-charge of the Eulogio Rodriguez Sr. Memorial Hospital, acting with evident bad faith, did then and there, wilfully and unlawfully order the indefinite withholding of the salary of his subordinate, Dr. Veneracion Pacis-Munar and removal of her name in the plantilla, thereby causing undue injury to the latter."

After arraignment wherein the accused entered a plea of not guilty and a trial on the merits a decision was rendered on May 12, 1988 finding him guilty of the offense charged with the mitigating circumstance of voluntary surrender and sentencing him to imprisonment of six (6) years and one (1) month, to suffer perpetual disqualification and to pay the costs.

Hence, the herein petition for certiorari filed by the accused based on the following assigned errors:

"FIRST ASSIGNMENT OF ERROR

THE SANDIGANBAYAN ERRED IN NOT HOLDING THAT THE ACTS ALLEGEDLY COMMITTED BY THE ACCUSED AS CHARGED IN THE INFORMATION DID NOT REALLY CONSTITUTE A VIOLATION OF SECTION 3, PARAGRAPH (E) OF REPUBLIC ACT NO. 3019, AS AMENDED, AND, THEREFORE, ACCUSED SHOULD NOT HAVE BEEN ARRAIGNED NOR TRIED UNDER SUCH INFORMATION.

SECOND ASSIGNMENT OF ERROR

ASSUMING AD ARGUENDUM THAT THE INFORMATION CHALLENGED COULD BE THE VALID BASIS FOR ARRAIGNMENT AND TRIAL, THE DECISION OF THE SANDIGANBAYAN SENTENCING THE ACCUSED TO SUFFER THE PENALTY OF SIX YEARS AND ONE (1) MONTH IMPRISONMENT, TO SUFFER PERPETUAL DISQUALIFICATION, AND TO PAY THE COSTS' FOR THE MERE ACTS OF ALLEGEDLY WITHHOLDING SALARY AND REMOVAL OF NAME FROM THE PLANTILLA (WHEN IN TRUTH AND IN FACT SHE RECEIVED HER PAY IN FULL AND HER NAME WAS IN THE FINAL PLANTILLA) IS UNCONSTITUTIONAL AND, THEREFORE, VOID (ART. III, SEC. 19-(1), 1987 CONSTITUTION) PROVIDING THAT;

"Sec. 19. (1) Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. x x x."

THIRD ASSIGNMENT OF ERROR

REGARDLESS OF THE ABOVE ERRORS, THE SANDIGANBAYAN ERRED IN NOT RULING THAT ALL THE ELEMENTS OF THE ALLEGED VIOLATION UPON WHICH IT RENDERED A SENTENCE OF CONVICTION WERE NOT PROVED BEYOND REASONABLE DOUBT, AND, HENCE ERRED IN NOT ACQUITTING THE ACCUSED."

The petition is impressed with merit. Section 3(e) of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, penalizes any public officer as follows:

"SEC. 3. Corrupt practices of public officers. -- In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful.

x x x

"(c) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith, or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions."

The elements of this offense are:

1. The accused must be a public officer discharging administrative, judicial or official functions;
2. He must have acted with manifest partiality, evident bad faith or inexcusable negligence; and
3. That his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.

In this case, it is not denied that the salary of the complainant, Dr. Munar, was withheld for sometime upon instruction of petitioner. But his explanation therewith is that complainant failed to submit her daily time records duly approved. Indeed her daily time records for May, June, July and August, 1985 were submitted by her only on September 24, 1985. It is a well-known fact that in the government service an employee must submit his daily time record duly accomplished and approved before he can collect his salary.

Furthermore, petitioner asserted that he withheld the salary of the complainant from May 13 to May 19, 1985, which was the period when she applied for sick leave because he disapproved her application for sick leave. He found out she was not sick from Dr. Padre who confided to him that she was merely persuaded by the

complainant to issue said medical certificate.

At any rate, while there was indeed some inconvenience in the failure of complainant to immediately get her salary for the aforesaid period, upon receiving the handwritten note of the Minister of Health, the petitioner nevertheless authorized the payment of the salary of the complainant.

The petitioner also admits that he caused the removal of the name of the complainant from the plantilla but obviously his action was the net result of his dissatisfaction with the services of complainant. The complainant was undeniably moonlighting even during her office hours in the ERMH. She also refused to yield to the advice of petitioner not to further protest the promotion of Dr. Tica. When her salary was withheld, instead of appealing to petitioner who was her immediate superior, she went directly to higher authorities for assistance. When her name was omitted in the plantilla, she again by-passed petitioner.

Nevertheless, no real or actual damage was suffered by her. She got her withheld salary released. Her name was restored in the plantilla. Thus, the complainant did not suffer undue injury as an element required by the law. Such an injury must be more than necessary, excessive, improper or illegal.[7] The injury suffered by complainant in this instance, if at all, is negligible.

By the same token, the essential ingredient of manifest partiality and evident bad faith required for the commission of the offense has not been successfully established in this case. As above discussed, the actions taken by petitioner aforesaid were not entirely without rhyme or reason. They were measures taken by a superior against an erring employee who studiously ignored if not defied his authority.

Moreover, assuming the aforesaid actions which were taken by petitioner are erroneous or excessive, they are certainly not criminal in nature. If at all, the liability of petitioner may be civil if not administrative. Indeed, because of this prosecution, the petitioner was purged from the government service after the EDSA revolution. The nominal injury to the complainant had been more than adequately vindicated. A conviction under the Anti-Graft and Corrupt Practices Act is certainly out of the question.

WHEREFORE, the petition is GRANTED. The decision of the Sandiganbayan dated May 12, 1988 is hereby REVERSED AND SET ASIDE and another judgment is hereby rendered ACQUITTING the petitioner, with costs de oficio.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

[1] Exhibit "H".

[2] Exhibit "C".

[3] Exhibit "F".

[4] Exhibit "CC".

[5] Exhibits "V" and "V-1".

[6] Exhibit "11".

[7] *Morris v. Morris*, 192 Miss. 518, 6 So.Ld 311, 312; page 1370 Black's Law Dictionary, Fifth Edition.

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