



Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

JUDGE ANASTACIO C. RUFON,
Complainant,

A.M. No. P-12-3044

[Formerly A.M. OCA I.P.I. No. 09-3267-P]

Present:

- versus -

VELASCO, JR., J., Chairperson,
PERALTA,
ABAD,
MENDOZA, and
LEONEN, JJ.

MANUELITO P. GENITA, Legal
Researcher II, Regional Trial
Court, Branch 52, Bacolod City,
Respondent.

Promulgated:

April 8, 2013

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DECISION

PERALTA, J.:

This administrative case stemmed from the Letters of Judge Anastacio C. Rufon¹ (Judge Rufon), dated July 16, 2009, and Mr. Gary G. Garcia² (Mr. Garcia), dated August 3, 2009, relative to respondent Manuelito P. Genita's daily time record (DTR) and application for leave for the month of June 2009, addressed to then Court Administrator Jose P. Perez, now a member of this Court. Judge Rufon was the Presiding Judge of the Regional Trial Court (RTC), Branch 52, Bacolod City; Mr. Garcia was the Officer-in-Charge (OIC); while respondent was the Legal Researcher II, same court.

In his July 16, 2009 letter, Judge Rufon forwarded respondent's DTR together with his application for leave and medical certificate attached thereto for the month of June 2009, and explained that he did not sign it

¹ Rollo, p. 29.

² Id. at 3.

because the entries in the DTR were not reflective of the true and correct entries appearing in the logbook for the said month. He claimed that while respondent presented a medical certificate showing that he consulted a doctor on the 15th of June where he was diagnosed and treated for diabetes mellitus, hypertension and hypercholesterolemia and was an out-patient, respondent failed to report for work from June 11 to 30, 2009. He, likewise, stated that his application for leave failed to disclose whether respondent was applying for vacation or sick leave.³

Mr. Garcia, on the other hand, claimed that upon verification, respondent had not been reporting for work but when confronted, he already filed an application for terminal leave. Echoing Judge Rufon, Mr. Garcia explained that while respondent presented a medical certificate to support his application for leave for June 11 to 30, there was no recommendation for an admission to a hospital or to rest for a number of days, causing the disapproval of his application for leave. He also stated that the entries in respondent's DTR were not reflective of the correct entries as appearing in the office logbook.⁴

On October 16, 2009, respondent was directed to Comment on the letters within ten (10) days from receipt, but he failed to comply. A trace letter was sent to him with the same directive, but still no such comment.⁵

In a Resolution⁶ dated December 15, 2010, the Court required respondent to show cause why he should not be administratively dealt with for refusing to submit his comment despite the OCA's directive. Respondent was also directed to submit the required Comment within a non-extendible period of five (5) days from receipt with a warning that his failure to comply would compel the Court to decide the complaint against him on the basis of the records at hand. The Court also ordered that another notice be sent to respondent's residence.

In compliance with the said directive, respondent submitted a letter explanation dated February 21, 2011 stating that he had already submitted his comment first to Deputy Court Administrator Reuben P. Dela Cruz, dated June 7, 2009,⁷ and second to then Court Administrator Jose P. Perez.⁸ Respondent denied that he falsified his DTR. He explained that he indeed consulted his doctor and insisted that he had a recurring sickness that needed medication, but he chose to be an out-patient to save time, money and effort.

³ *Id.* at 29.

⁴ Letter dated August 3, 2009, *id.* at 3.

⁵ Memorandum dated November 13, 2011 of Court Administrator Jose Midas Marquez to Hon. Justice Antonio T. Carpio, *id.* at 78.

⁶ *Rollo*, pp. 49-50.

⁷ *Id.* at 53.

⁸ *Id.* at 54-55.

He claimed that he could not report for work because he was very sick. He admitted that there was a disparity in the entries in his DTR compared to those appearing in the office logbook, but claimed that it was understandable because of the time difference in signing them. He also contended that the case against him is moot and academic, since he already forwarded his DTR to the Court from January 2008 until December 2009 as he already filed his terminal leave; the same had been signed, authenticated and certified by the RTC of Negros Occidental. He also pointed out that he had written Mr. Randy Sanchez of the Leave Section, Office of the Administrative Services, OCA explaining the reasons why complainants did not sign his DTR. He claimed that the complaint was a mere afterthought and filed merely to harass him as he was suspected to be behind a certain Gideon Daga, who filed several administrative cases against complainants.⁹

In its Report, the OCA found that respondent's DTR was spurious as he made it appear that he was present from June 1 to 10, 2009, when in fact he was absent as shown by the notation in the logbook made by Mr. Garcia that he did not report for work on those dates. Assuming that he was present, still, with respondent's admission, there were discrepancies in the times entered in the DTR as opposed to those appearing in the logbook.¹⁰ The OCA also found that though respondent indeed applied for sick leave from June 11 to 30, 2009, the same was disapproved because such application was not supported by the medical certificate presented.¹¹ Hence, the disapproval of his application for sick leave was justified. These acts, according to the OCA, constitute gross dishonesty or serious misconduct punishable by dismissal from the service.¹² Considering, however, that this is respondent's first offense, and considering further that he is already retired from the service and needs the necessary finances to defray his medical expenses, the OCA recommended that he be meted the penalty of fine equivalent to his three (3) month's salary, to be deducted from his retirement benefits.¹³

The OCA's findings are well taken.

At the outset, we determine the propriety of Judge Rufon's disapproval of respondent's application for sick leave for June 11 to 30, 2009. Although the disapproval *per se* does not make respondent liable for any administrative offense, the same would make his absences during the aforesaid dates unauthorized.

⁹ Memorandum dated November 13, 2011 of Court Administrator Jose Midas Marquez to Hon. Justice Antonio T. Carpio, *id.* at 78.

¹⁰ *Rollo*, p. 79.

¹¹ *Id.* at 80.

¹² *Id.* at 81.

¹³ *Id.* at 81-82.

The rules on application for sick leave are laid down in Memorandum Circular No. 41, Series of 1998, to wit:

Section 53. *Applications for sick leave.* - All applications for sick leave of absence for one full day or more shall be on the prescribed form and shall be filed immediately upon the employee's return from such leave. Notice of absence, however, should be sent to the immediate supervisor and/or to the agency head. Application for sick leave in excess of five (5) successive days shall be accompanied by a proper medical certificate.

Sick leave may be applied for in advance in cases where the official or employee will undergo medical examination or operation, or be advised to rest in view of ill health duly supported by a medical certificate.

In ordinary application for sick leave already taken not exceeding five days, the head of department or agency concerned may duly determine whether or not the granting of sick leave is proper under the circumstances. In case of doubt, a medical certificate may be required.¹⁴

Well settled is the rule that approval of application for sick leave, whether with pay or without pay, is mandatory as long as proof of sickness or disability is attached to the application.¹⁵ In this case, respondent filed his application for sick leave for June 11 to 30, 2009 supported by a medical certificate dated June 24, 2009 signed by the attending physician stating that respondent consulted him on June 15, 2009 and was diagnosed and treated for diabetes mellitus and hypertension; and that on June 24, respondent again consulted him with the following diagnoses: *diabetes mellitus, hypertension, and hypercholesterolemia*.¹⁶ The statements made by the attending physician only indicate respondent's consultation on June 15 and 24 and no other. Nowhere in said certificate did the attending physician recommend that respondent needed to rest for the period he claimed to be sick or that he needed to be at the hospital for treatment. Thus, the medical certificate presented by respondent is insufficient to support his application for sick leave for a period of more than two weeks. Judge Rufon is, therefore, justified in disapproving his application for sick leave making his absence during those days unauthorized.

Now on the main issue of whether respondent indeed falsified his DTR for the month of June. Attached to the complaints of Judge Rufon and

¹⁴ *Re: Habitual Absenteeism of Ms. Eva Rowena J. Ypil, Court Legal Researcher II, Regional Trial Court, Branch 143, Makati City*, A.M. No. 07-2-92-RTC, July 24, 2007, 528 SCRA 1, 6-7; *Re: Unauthorized Absences of Karen R. Cuenca, Clerk II, Property Division-Office of Administrative Services*, A.M. No. 2005-03-SC, March 15, 2005, 453 SCRA 403, 408.

¹⁵ *Re: Habitual Absenteeism of Ms. Eva Rowena J. Ypil, Court Legal Researcher II, Regional Trial Court, Branch 143, Makati City*, *supra*, at 7; *Re: Unauthorized Absences of Karen R. Cuenca, Clerk II, Property Division-Office of Administrative Services*, *supra*, at 408.

¹⁶ *Rollo*, pp. 31-32.

Mr. Garcia are the office logbook,¹⁷ respondent's DTR¹⁸ and application for leave,¹⁹ and medical certificate.²⁰

Per respondent's June 2009 DTR, he claimed that he reported for work on June 1-5 and 8-10, but was on sick leave on June 11 to 30, 2009. Mr. Garcia, who was then the OIC, however, noted in the logbook that respondent did not report for work on the days the latter claimed he was present.

We cannot rely with particularity on the office logbook as basis to determine the accuracy of respondent's entries in his DTR, because the employees were identified therein by their signatures without their complete name. Neither did the complainants nor respondent pointed to the contested entries. The only clear entry therein was the notation of Mr. Garcia that respondent did not report for work on those dates. In making it appear that he was present from June 1 to 10 but in fact he was not, respondent clearly falsified his DTR. Assuming that he was present on those contested dates, a perusal of the entries made in the logbook and respondent's DTR would show that the time stated in the DTR did not correspond to any of the times entered therein by any of the employees. This leads to no other conclusion than that respondent did not make truthful entries in his DTR.

We take judicial notice of the fact that in government offices where there are no bundy clocks, it is a matter of practice for employees of these offices that upon arrival at work and before proceeding to their respective workstations, they first sign their names at the attendance logbook and at the end of each month, the employees fill up their DTR reflecting therein the entries earlier made in the logbook.²¹

Falsification of time records constitutes dishonesty.²² Dishonesty has been defined as "the disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray."²³

Under the schedule of penalties adopted by the Civil Service, gross dishonesty or serious misconduct is classified as a grave offense and the

¹⁷ *Id.* at 4-26.

¹⁸ *Id.* at 30.

¹⁹ *Id.* at 32.

²⁰ *Id.* at 31.

²¹ *Judge How v. Ruiz*, 491 Phil. 501, 508-509 (2005).

²² *Office of the Court Administrator v. Isip*, A.M. No. P-07-2390, August 19, 2009, 596 SCRA 407, 412.

²³ *Leave Division, Office of Administrative Services, Office of the Court Administrator v. Gutierrez III*, A.M. No. P-11-2951, February 15, 2012, 666 SCRA 29, 35.

penalty impossible is dismissal.²⁴ However, such an extreme penalty cannot be inflicted on an erring employee, especially in cases²⁵ where there exist mitigating circumstances which could alleviate his or her culpability.²⁶ Factors such as length of service, acknowledgment of respondent's infractions and feeling of remorse, and family circumstances, among other things, have had varying significance in the Court's determination of the impossible penalty.²⁷

Inasmuch as this is respondent's first offense, it is considered a mitigating circumstance in his favor.²⁸ Moreover, under Section 53 (a) of the Uniform Rules on Administrative Cases in the Civil Service, the physical fitness or unfitness of respondent may be considered a mitigating circumstance in the determination of the penalties to be imposed.²⁹ Records show that respondent already availed of optional retirement and he is in need of financial assistance for his medication for his recurring illness and we deem it proper to exercise liberality in the imposition of penalty. Taking into consideration the circumstances that mitigate respondent's liability, we adopt the OCA's recommendation to impose the penalty of fine equivalent to his salary for three (3) months to be deducted from his retirement benefits.

One final note.

x x x We have repeatedly emphasized that the conduct of court personnel, from the presiding judge to the lowliest clerk, must always be beyond reproach and must be circumscribed with the heavy burden of responsibility as to let them be free from any suspicion that may taint the judiciary. The Court condemns and would never countenance any conduct, act or omission on the part of all those involved in the administration of justice, which would violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the Judiciary.³⁰

²⁴ *Re: Alleged Tampering of the Daily Time Records (DTR) of Sherry B. Cervantes, Court Stenographer III, Br. 18, RTC, Manila, Adm. Matter No. 03-8-463-RTC, May 20, 2004, 428 SCRA 572, 576.*

²⁵ *Leave Division, Office of Administrative Services, Office of the Court Administrator v. Gutierrez III, supra note 23; Office of the Court Administrator v. Isip, supra note 22; Re: Falsification of Daily Time Records of Maria Fe Brooks, 510 Phil. 262 (2005); Re: Alleged Tampering of the Daily Time Records (DTR) of Sherry B. Cervantes, Court Stenographer III, Br. 18, RTC, Manila, supra note 24.*

²⁶ *Re: Falsification of Daily Time Records of Maria Fe Brooks, supra note 25, at 267.*

²⁷ *Office of the Court Administrator v. Isip, supra note 22, at 412.*

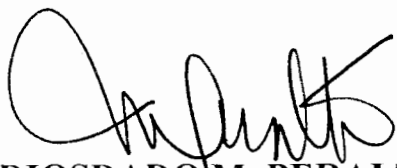
²⁸ *Re: Alleged Tampering of the Daily Time Records (DTR) of Sherry B. Cervantes, Court Stenographer III, Br. 18, RTC, Manila, supra note 24, at 576.*

²⁹ *Re: Frequent Unauthorized Absences of Ms. Nahren D. Hernaez, A.M. No. 2008-05-SC, August 6, 2008, 561 SCRA 1, 12-13.*

³⁰ *Re: Falsification of Daily Time Records of Maria Fe Brooks, supra note 25, at 266-267.*


WHEREFORE, premises considered, respondent **MANUELITO P. GENITA** is **GUILTY** of **DISHONESTY** and is meted the penalty of **FINE** equivalent to his three (3) months salary to be deducted from his retirement benefits.

SO ORDERED.




DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:




PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



ROBERTO A. ABAD
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice



MARVIC MARIO VICTOR F. LEONEN
Associate Justice