

THIRD DIVISION

[A.M. No. P-12-3044 [Formerly A.M. OCA I.P.I. No. 09-3267-P], April 08, 2013]

JUDGE ANASTACIO C. RUFON, COMPLAINANT, VS. MANUELITO P. GENITA, LEGAL RESEARCHER II, REGIONAL TRIAL COURT, BRANCH 52, BACOLOD CITY, RESPONDENT.

D E C I S I O N

PERALTA, J.:

This administrative case stemmed from the Letters of Judge Anastacio C. Rufon^[1] (Judge Rufon), dated July 16, 2009, and Mr. Gary G. Garcia^[2] (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 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 Resolution^[6] 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. 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.

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 Mr. Garcia are the office logbook,^[17] respondent's DTR^[18] 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