

## SECOND DIVISION

**[ A.M. No. 07-10-260-MTC, February 26, 2008 ]**

**RE: ABSENCE WITHOUT OFFICIAL LEAVE (AWOL) OF MR. GREGORIO B. SADDI, Clerk of Court II, Municipal Trial Court, Sasmuan, Pampanga.**

### RESOLUTION

**TINGA, J,:**

This resolves the Motion for Reconsideration,<sup>[1]</sup> filed by Gregorio B. Saddi, Clerk of Court II, Municipal Trial Court (MTC) of Sasmuan, Pampanga, of our Resolution dated 13 December 2007 dropping him from the rolls effective 2 January 2007 for having been on absence without approved leave since said date.

Respondent explains that in response to the letter<sup>[2]</sup> dated 6 June 2007 of the late Pascuala Canlas, Presiding Judge of MTC of Sasmuan, Pampanga, he submitted a letter-explanation dated 7 June 2007 together with his daily time records (bundy cards), application for leave and original medical certificate to Judge Canlas and received by the court stenographer, Albert M. David.<sup>[3]</sup> He further alleges that as early as 9 July 2007, said documents had already been submitted for appropriate action.

He avers that the telegram dated 4 July 2007 sent by the Office of the Court Administrator (OCA) requesting Judge Canlas to instruct him to submit his bundy cards from January 2007 to date as well as the letter dated 9 July 2007 requesting Judge Canlas to serve upon him a letter requiring him to explain his unauthorized absences were not communicated to him by Judge Canlas, which thus resulted in his failure to respond accordingly. He argues that this is evidenced by Judge Canlas's failure to comply with the OCA's directive to submit a confirmation or proof of service. He adds that he was not sent a separate copy of said letter because the one addressed to him was enclosed with the letter addressed to Judge Canlas. He allegedly discovered the existence of these letters only after Judge Canlas passed away in December 2007.

He narrates that he and a court stenographer, Jeffrey Mangalindan, went inside Judge Canlas's chambers to get some folders and there he saw to his surprise his bundy cards and application for leave of absence which were still not acted upon by Judge Canlas. Mangalindan executed an affidavit attesting to this fact.<sup>[4]</sup> He further claims that after submitting the documents required of him, he reported for work. He maintains that when he submitted his bundy cards for the months of October, November and December which were duly received by the Leave Division, the latter did not inform him of the non-transmittal of his bundy cards for the period of January to September 2007. He states that his bundy cards for the months of November and December 2007 as well as those of his co-employees were not transmitted on time because Judge Canlas was then on official leave as she was ill.

He further claims that because he had reported for work regularly, Judge Canlas sent a letter dated 24 October 2007 to the OCA informing the latter that David would be directed to turn over to him the passbook for fiduciary funds, and at the same time requesting that her letter dated 21 May 2007 be revoked and respondent, as clerk of court, be designated as the new signatory to the fiduciary account with the Land Bank of the Philippines.<sup>[5]</sup>

He argues that the foregoing circumstances show his good faith in submitting the documents required of him and that he was deprived of a reasonable opportunity to be heard as he did not receive the OCA's communications. He pleads that this Court's Resolution dated 13 December 2007 be reconsidered and he be reinstated as he is the sole bread winner in a family of four children.

We reconsider.

Section 63, Rule XVI of the Omnibus Civil Service Rules and Regulations, as amended, provides that no prior notice is required to drop from the rolls an employee who is continuously absent without approved leave for at least thirty (30) calendar days. This Court has nevertheless given erring employees an opportunity to be heard by requiring them to explain their unauthorized absences. In view of the circumstances surrounding the receipt by respondent of the OCA's letter requiring him to show cause why he should not be disciplinary dealt with for his unauthorized absences, we hold and so rule that the instant Motion for Reconsideration with attachments constitutes substantial compliance with directive.

However, while respondent submitted his Bundy cards and application for leave of absence for the months of January to May 2007 as required by the OCA, he nevertheless failed to proffer any explanation for his unauthorized absences during that period. He did not even specify in his applications for leave of absence if the same were for sick leave or vacation leave, except for the month of January when he applied for three days of sick leave.

We note that respondent has been reporting for work regularly as evidenced by Judge Canlas's letter dated 24 October 2007. We deem it too harsh to drop him from the rolls at this point. Nevertheless, even with the fullest measure of sympathy and patience, the Court cannot act otherwise since the exigencies of government service cannot and should never be subordinated to purely human equations.<sup>[6]</sup>

As a Supreme Court employee, respondent is covered by the Civil Service Law. Under Section 52, Rule IV of the Uniform Rules on Administrative Cases<sup>[7]</sup>, "frequent, unauthorized absences, or tardiness in reporting for duty, loafing or frequent, unauthorized absences from duty during regular office hours" is classified as a grave offense punishable by suspension for the first offense (6 months, 1 day to one 1 year) and dismissal for the second offense. Furthermore, under Administrative Circular No. 2-99<sup>[8]</sup> –

xxx Absenteeism and tardiness, even if such do not qualify as "habitual" or "frequent" under Civil Service Commission Memorandum Circular No. 04, Series of 1991, shall be dealt with severely, and any falsification of daily time records to cover-up for such absenteeism and/or tardiness shall constitute gross dishonesty or serious misconduct.