

SECOND DIVISION

[A.M. NO. P-05-1940 (FORMERLY OCA IPI NO. 01-1039-P), February 28, 2005]

JUDGE LEAH DOMINGO-REGALA, REGIONAL TRIAL COURT, BRANCH 226, QUEZON CITY, COMPLAINANT, VS. MA. DONNA Y. SULTAN, LEGAL RESEARCHER, REGIONAL TRIAL COURT, BRANCH 226, QUEZON CITY, RESPONDENT.

D E C I S I O N

CHICO-NAZARIO, J.:

Judge Leah Domingo-Regala, Regional Trial Court (RTC), Branch 226, Quezon City, has charged Ma. Donna Y. Sultan, Legal Researcher of the same court, with Inefficiency, Habitual Absenteeism, Tardiness, Falsification of Daily Time Record, Dishonesty, and Conduct Prejudicial to the Service.

In a referral letter dated 12 May 2000, Court Administrator Bernardo T. Ponferrada requested Judge Regala to comment on the unauthorized leave of absence for the period 1-29 October 1999, 3-29 November 1999, and 1-3 and 06 December 1999, of Ma. Donna Y. Sultan. Said absences were the subject of a letter by Ma. Donna Sultan addressed to the Office of the Court Administrator (OCA) complaining the disapproval by Judge Regala of her applications for leave on the above-mentioned dates.

In her comment dated 05 June 2000, Judge Regala alleges that Ma. Donna Sultan is guilty of habitual absenteeism as defined by Administrative Circular No. 1-91 for having incurred unauthorized absences exceeding the allowable 2.5 days monthly leave credits for at least three (3) months in a semester:

June 1999	-----	8 ½ days
July 1999	-----	2 days
August 1999	-----	3 days
September 1999	-----	5 ½ days
October 1999	-----	21 days
November 1999	-----	19 days
December 1999	-----	3 days
January 2000	-----	2 days
February 2000	-----	1 day
March 2000	-----	1 day
May 2000	-----	7 days ^[1]

Said circular states that "an officer or employee in the civil service shall be

considered habitually absent if he incurs unauthorized absences exceeding the allowable 2.5 days monthly leave credit under the leave law for at least three (3) months in a semester or at least three (3) consecutive months during the year." She added further that Ma. Donna Sultan had always gone on extended leave of absence without filing applications for leave in advance, also in violation of said Circular.

On the charge of tardiness and falsification of daily time record, Judge Regala claims that respondent has always been tardy in reporting for work and signs the office logbook with a time earlier than that of her actual arrival. Said entries in the logbook are reflected in her daily time record. Moreover, complainant alleges that Ma. Donna Sultan leaves at about eleven o'clock in the morning to take long lunch breaks out of the office and comes back long after two o'clock in the afternoon.

With respect to the charge of incompetence, complainant claims that Ma. Donna Sultan cannot carry out proper legal research, that is, she cannot find cases in point; neither can she come up with the latest jurisprudence on the subject matter assigned to her and instead copies verbatim from textbooks. Judge Regala finds respondent not suited for the job. Judge Regala maintains that Ma. Donna Sultan is slow to learn, requires frequent instruction, and finds difficulty in adjusting herself to new tasks, methods and details of work.^[2]

Regarding the imputation of dishonesty, complainant alleges that in the month of October, when respondent went on an extended leave, respondent misled her and the members of her staff to believe that respondent's daughter was confined in Malvar General Hospital for days, which upon verification, was discovered to be untrue.

Judge Regala asserts that respondent often goes out of the office to talk to lawyers who have cases before Branch 226, RTC, Quezon City, and that she engages in long telephone conversations during office hours. Said acts, according to complainant, constitute conduct prejudicial to the service.

Respondent does not deny that she has incurred the alleged absences but states that except for the months of October, November, and December 1999, all her absences were authorized, with the corresponding applications for leave duly filed and approved. For the absences she incurred for the above-mentioned months, respondent did file the required applications for leave but all were disapproved. Respondent now evokes the forgiveness of Judge Regala, and her understanding, for it was during said period that respondent suffered a very serious family problem and had to absent herself from work to attend to said dilemma.

With respect to the accusations of habitual tardiness, respondent maintains that Judge Regala had given her staff a grace period of thirty (30) minutes from 8:00 a.m., or up to 8:30 a.m., to time-in without being considered late. Respondent admits that there were instances when she arrives after 8:30 a.m. but these late arrivals are all properly reflected in the logbook and on her daily time records. Respondent further denies that she is usually out of the office the whole day, and, if ever she had to go out of the office, respondent would always ask permission from either the Branch Clerk of Court or Judge Regala herself.

Apropos her alleged incompetence, respondent claims that as a law graduate, she at least has the basic knowledge of law and legal research. Respondent stresses that in

any task assigned to her, she tries to fulfill it to the best of her abilities. Respondent admits that at times she commits errors and mistakes in the performance of her duties, she however discloses that she was looking forward to the guidance and tutelage of Judge Regala in order to enhance her work. Moreover, respondent pointed out that although complainant had recently given her a performance rating of "Unsatisfactory," the latter had earlier given her a rating of "Very Satisfactory."

Regarding the imputation that respondent has misled the court to believe that her absence was due to her daughter's confinement in the hospital, respondent maintains that she did not tell a member of the staff of Branch 226, RTC, Quezon City, that she confined her daughter at Malvar General Hospital; rather, she told her officemate Evelyn Borela that she would bring her daughter to said hospital as an out-patient for medical examinations. Respondent is apologetic if any misunderstanding occurred because of her failure to personally inform Judge Regala regarding her whereabouts.

Lastly, respondent asserts that she will not compromise her employment by going out of the office to talk to lawyers who have cases before the court. Respondent explains that when lawyers and litigants come to their office to inquire regarding the status of their cases, there were instances when respondent had to attend to them, especially when the person in charge was not around.^[3] As to the use of the office telephone, respondent maintains that she only uses the phone to answer incoming calls but sees to it that she does not take long in deference to other official calls.

Due to the fact that the instant administrative case involves several issues which could not be resolved by merely going over the pleadings submitted by the parties, the Court, per recommendation of the OCA, referred the matter to Hon. Monina Arevalo Zeñarosa,^[4] then Executive Judge, RTC, Quezon City, for investigation, report and recommendation.^[5] Judge Zeñarosa was succeeded by Judge Catral Mendoza,^[6] who, in turn was succeeded by Judge Natividad Giron Dizon as Executive Judge of RTC, Quezon City, and investigating judge of the case. However, in view of the numerous cases the latter inherited from her predecessors-in-office, Executive Judge Dizon designated Judge Jaime N. Salazar, Jr., 3rd Vice Executive Judge of Quezon City, Branch 103, to conduct the investigation in the instant case.^[7]

In his Resolution and Recommendation dated 19 November 2002, Investigating Judge Salazar found respondent liable for incompetence and habitual absenteeism, but absolved respondent as regards the charges of habitual tardiness, falsification of daily time record, and conduct prejudicial to the service due to insufficiency of evidence. The Investigating Judge recommended that respondent be reprimanded for incompetence, but refrained from recommending any penalty for habitual absenteeism in deference to the evaluation of the OCA.

In a Report dated 19 October 2004, the OCA affirmed the findings of the Investigating Judge pertaining to respondent's liability for inefficiency and habitual absenteeism but overturned the recommendation absolving respondent from the charge of conduct prejudicial to the service. According to the OCA:

Investigating Judge observed that, as by her admission, respondent was "quite ill-prepared for the job" and the present scenario is not unique