

THIRD DIVISION

[A.M. No. 07-2-93-RTC, October 29, 2009]

RE: ORDER DATED 21 DECEMBER 2006 ISSUED BY JUDGE BONIFACIO SANZ MACEDA, REGIONAL TRIAL COURT, LAS PIÑAS CITY, BRANCH 275, SUSPENDING LOIDA M. GENABE, LEGAL RESEARCHER, SAME COURT.

[A.M. No. P-07-2320]

JUDGE BONIFACIO SANZ MACEDA, REGIONAL TRIAL COURT, LAS PIÑAS CITY, BRANCH 275, COMPLAINANT, VS. LOIDA M. GENABE, LEGAL RESEARCHER, SAME COURT. RESPONDENT.

D E C I S I O N

CARPIO, J.:

This administrative matter against Loida M. Genabe (Genabe), Legal Researcher II of the Regional Trial Court (trial court), Branch 275, Las Piñas City, stemmed from a Letter dated 22 December 2006 addressed to the Office of the Court Administrator (OCA) filed by Judge Bonifacio Sanz Maceda (Judge Maceda) of the same trial court. Judge Maceda attached his Order dated 21 December 2006 suspending Genabe for 30 days by reason of neglect of duty for attending a two-day seminar despite a pending assignment. In the letter, Judge Maceda requested that the salary of Genabe be withheld for the period 21 December 2006 to 20 January 2007 since the suspension was immediately executory.

The Facts

On 20 November 2006, Atty. Jonna M. Escabarte (Atty. Escabarte), Branch Clerk of Court of the same trial court, issued an Inter-Office Memorandum to Genabe referring to her neglect, in leaving for Baguio City on 16 to 17 November 2006 to attend a seminar for legal researchers, without finishing her assigned task. The assigned task required Genabe to summarize the statement of facts in Criminal Case Nos. 03-0059 to 03-0063 entitled "People of the Philippines v. Marvilla, et al.," set for promulgation on 21 November 2006. Atty. Escabarte reminded Genabe that such act could not be tolerated and that similar acts in the future would be meted an appropriate sanction.

On 22 November 2006, Genabe submitted her explanation regarding the unfinished assigned case. She stated that she was not able to complete the summary due to lack of transcript of stenographic notes (TSN). Genabe added that she be absolved for humane considerations.

On 29 November 2006, Judge Maceda called a staff meeting to discuss several matters in the agenda, including the inter-office memorandum. Allegedly, even

before the staff meeting, Genabe resented the issuance of the memorandum and became disrespectful to the court staff, including the clerk of court. At the meeting, Genabe allegedly continued her combative behavior in total disregard of the presence of Judge Maceda.

On 30 November 2006, Judge Maceda ordered Genabe to show cause why she should not be cited in contempt by the court and why she should not be administratively sanctioned for conduct unbecoming, neglect of duty and misconduct.

In her Answer dated 11 December 2006, Genabe denied that she neglected her duty and explained with counter-charges. Genabe stated that Atty. Escabarte did not give her the opportunity to be heard and that she was not given sufficient lead time to finish the five consolidated informations of the criminal case assigned to her. Genabe attributed the lack of stenographers, which was beyond her control, as the cause of the delay in the transcriptions of the minutes of the meeting. As a counter-charge, Genabe claimed that Judge Maceda disciplines his staff on a selective basis.

On the same day, Judge Maceda conducted a fact-finding investigation inside his chambers. The agenda of the investigation focused on the charges of contempt, conduct unbecoming, neglect of duty, and misconduct against Genabe. Judge Maceda directed all members of the staff, including Genabe, to attend. However, Genabe did not appear despite notice. Later, she appeared to say that she was waiving her right to be present in the investigation.

On 21 December 2006, Judge Maceda issued the Suspension Order against Genabe for neglect of duty.

In a Letter dated 22 December 2006, Judge Maceda furnished the Office of the Court Administrator (OCA) with a copy of the Order dated 21 December 2006. Judge Maceda suspended Genabe for a period of 30 days, using as authority the power given to appropriate supervisory officials in disciplining personnel of their respective courts as provided in Article II, Section A(2)(a) of Circular No. 30-91 dated 30 September 1991. Judge Maceda declared that the suspension was to take effect immediately and would not be stayed even if appealed to the Supreme Court. Judge Maceda then requested that following the suspension order, Genabe's salary be withheld for the period 21 December 2006 to 20 January 2007.

The OCA received a letter dated 12 January 2007 sent by Atty. Zandro T. Bato, Clerk of Court VI of the same trial court, returning the salary check of Genabe following the suspension order issued against her. On 22 January 2007, Genabe reported back to work after serving the 30-day suspension order of Judge Maceda.

On 18 January 2007, Judge Maceda endorsed his Investigation Report and Recommendation to the OCA, even without any directive from the latter. The report mainly focused on the alleged unruly conduct of Genabe during the staff meeting of Branch 275 on 29 November 2006. Judge Maceda submitted the following recommendations:

1. Pending determination of the instant matter by the Honorable Supreme Court, Ms. Loida M. Genabe, Legal Researcher, RTC,

- Branch 275, Las Piñas City, be immediately placed under preventive suspension, and thereafter dismiss her from the service; and
2. Allow the undersigned to recommend a replacement to enable RTC Branch 275 to function normally soonest.^[1]

In a Letter dated 18 April 2007, several staff members of the same trial court, headed by the Branch Clerk of Court, assailed the alleged inaction of the OCA on the Investigation Report and Recommendation dated 18 January 2007 submitted by Judge Maceda as well as the request for the detail of Genabe to another post.

In a Resolution dated 23 May 2007, this Court resolved to:

1. NOTE the letter dated 22 December 2006 of Presiding Judge Bonifacio Sanz Maceda x x x x;
2. TREAT the Order dated 21 December 2006 issued by Judge Bonifacio [Sanz] Maceda as an administrative complaint against Loida M. Genabe under a separate docket number, A.M. No. P-07-2320 x x x x;
3. DIRECT Ms. Loida M. Genabe to REPORT BACK TO WORK pending resolution of the administrative complaint against her, unless another administrative case directs otherwise; and
4. REQUIRE Judge Bonifacio [Sanz] Maceda to EXPLAIN, within ten (10) days from notice, why no disciplinary sanction should be imposed against him for having violated A.M. No. 03-8-02-SC entitled "Guidelines on the Selection and Appointment of Executive Judges and Defining their Powers, Prerogatives and Duties" approved on 27 January 2004 and became effective on 15 February 2004.^[2]

Judge Maceda submitted his Explanation dated 29 June 2007, in compliance with the Court's Resolution dated 23 May 2007. Judge Maceda reasoned that there were other charges against Genabe, such as "conduct unbecoming and grave misconduct," which called for the imposition of a higher penalty. Thus, he endorsed the determination of such other charges to the OCA, including whether the heavier penalty of dismissal or replacement might be warranted. Judge Maceda prayed that his explanation be considered as sufficient compliance and that he be absolved of any disciplinary sanction.

On 22 August 2007, the Court resolved to refer to the OCA for evaluation, report and recommendation the (1) Order dated 21 December 2006 and (2) Explanation dated 29 June 2007, both made by Judge Maceda.

On 29 August 2007, the Court resolved to inform the staff members of the same trial court, in consideration of the Letter dated 18 April 2007, that until Genabe has been formally charged with "contempt, conduct unbecoming and misconduct," which are not light offenses, the propriety of suspending Genabe pending investigation of the charges against her cannot be properly evaluated, and to await the outcome of A.M. No. P-07-2320.

On 19 November 2007, the staff members of the same trial court, headed by the Branch Clerk of Court, filed their Manifestation dated 15 October 2007, that Genabe had been formally charged with "contempt, conduct unbecoming and misconduct" as contained in the Investigation Report and Recommendation dated 18 January 2007 submitted by Judge Maceda to this Court.

In a Resolution dated 16 January 2008, the Court resolved to require the parties to manifest their willingness to submit the matter for decision on the basis of the pleadings filed. Judge Maceda and Genabe respectively filed their compliance on separate dates.

In a Resolution dated 4 June 2008, the Court resolved to:

1. APPROVE the previous recommendation of the Office of the Court Administrator, as contained in its Agenda Report dated 24 January 2007 particularly items no. 5 and 6. Accordingly, (a) the Financial Management Office is DIRECTED to pay the salary of Ms. Loida M. Genabe pending resolution of the administrative case against her by the Court; and (b) the Office of the Administrative Services-Leave Division is DIRECTED not to deduct the number of absences incurred by Ms. Genabe from her leave credits since the order of suspension is unauthorized; and
2. GRANT the application of Ms. Loida M. Genabe for leave for a period of five (5) months starting 1 May to 30 September 2008 for purposes of taking the bar examination, this, however, is without prejudice to the action that the Committee of the Education Support Program may take on her application.^[3]

The OCA's Report and Recommendation

In its Report dated 23 October 2007, the OCA found Judge Maceda's explanation unsatisfactory. The OCA stated that Circular No. 30-91 had been impliedly amended by the Guidelines on the Selection and Appointment of Executive Judges and Defining their Powers, Prerogatives and Duties as contained in A.M. No. 03-8-02-SC, which became effective on 15 February 2004. The OCA added that it was clear from the Guidelines that Judge Maceda had no authority to directly penalize a court employee. As an Executive Judge, he only had the right to act upon and investigate administrative complaints involving light offenses. The power to decide and impose a penalty, even for light offenses, rests with the Supreme Court. Thus, the OCA recommended that Judge Maceda be fined P12,000 payable immediately and be sternly warned that a repetition of the same or similar act in the future would merit a severe penalty.

The Court's Ruling

After a careful review of the records of the case, we find reasonable grounds to hold both Genabe and Judge Maceda administratively liable.

In A.M. No. P-07-2320, we find Genabe guilty for simple neglect of duty. Simple neglect of duty has been defined as the failure of an employee to give attention to a task expected of him and signifies a disregard of a duty resulting from carelessness or indifference.^[4]

Genabe had been permitted to attend a two-day seminar in Baguio City on the premise that no work would be left pending. She was assigned to summarize the testimonies of three defense witnesses for a criminal case set for promulgation. The records reveal that Genabe was only able to summarize the TSN of one witness consisting of 46 pages and failed to finish the TSN of the other two witnesses consisting of 67 pages. Before leaving for Baguio, Genabe had three working days to complete the task. However, the assignment remained unfinished. When such task was assigned to another court employee, it only took the other employee two and a half hours to complete the TSN of the two witnesses.

Further, Judge Maceda stated that this was not the only time Genabe had been remiss in her duties. In Criminal Case No. 98-926 entitled "People of the Philippines v. Russel Javier, et al.," Genabe failed to include in the statement of facts the detail on the prosecutor's waiver of the cross examination and more importantly, neglected to include the testimony of the accused Russel Javier upon completing his testimony. Also, in Criminal Case Nos. 02-0713 and 02-0714, entitled "People of the Philippines v. Alberto Ylanan," Genabe included the testimony of an alleged poseur when his testimony, upon motion, had been stricken off the record per Order dated 29 July 2003.

From these instances, we find that Genabe's actuations constitute simple neglect of duty. As a first offense under civil service law, we impose the penalty of suspension without pay for a period of one month and one day.^[5] The suspension imposed upon Genabe under the Order dated 21 December 2006 shall be considered as the penalty imposed. The remaining balance of one day suspension must be served upon finality of this decision.

With regard to the other charges of contempt, conduct unbecoming and misconduct, we find no sufficient basis to hold Genabe accountable for these offenses based on her alleged unruly conduct at the staff meeting held on 29 November 2006. In administrative proceedings, the burden is on the complainant to prove by substantial evidence the allegations in his complaint.^[6] Substantial evidence is that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion. The standard was not met in this case. The Order dated 21 December 2006 and Investigation Report dated 18 January 2007 submitted by Judge Maceda centered mainly on Genabe's neglect of duty in not completing her assigned task on time. The other charges had been touched on in a sporadic manner. While the law does not tolerate misconduct by a civil servant, suspension, replacement or dismissal must not be resorted to unless there is substantial evidence to merit such penalties. In the absence of substantial evidence to the contrary, Genabe cannot be held accountable for the other charges against her.

In A.M. No. 07-2-93-RTC, we find that Judge Maceda failed to observe due process in ordering the suspension of Genabe and withholding her salary from 21 December 2006 to 20 January 2007.