

EN BANC

[A.M. No. 2002-15-SC, November 15, 2002]

RE: HABITUAL TARDINESS FIRST SEMESTER 2002

D E C I S I O N

CARPIO, J.:

For resolution is the Memorandum dated August 28, 2002 of Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer of this Court, recommending the imposition of administrative penalties on employees who committed habitual tardiness during the first semester of 2002. Her recommendation is based on Civil Service Commission Memorandum Circular No. 4, Series of 1991 (Policy on Absenteeism and Tardiness) and Memorandum Circular No. 19, Series of 1999 (Revised Uniform Rules on Administrative Cases in Civil Service).

The Facts

The Leave Division of the Office of the Administrative Services of this Court submitted a list of employees who incurred habitual tardiness for the first semester of 2002, namely: (1) Ms. Lutgarda E. De Leon ("De Leon" for brevity) from the Office of the Court En Banc; (2) Ms. Susan L. Belando ("Belando" for brevity) from the Office of the Court Administrator; (3) Mr. Almario Medina ("Medina" for brevity) from the Library Services; (4) Ms. Lolita Quinto ("Quinto" for brevity) from the Judicial and Bar Council; and (5) Atty. Perpetua Socorro Jocelyn Guerrero ("Guerrero" for brevity) from the Office of the Court Administrator.

In a Memorandum dated July 24, 2002, Deputy Clerk of Court Atty. Eden T. Candelaria directed the subject employees to submit an explanation, within five days from receipt of the Memorandum, why no disciplinary action should be taken against them for habitual tardiness. Guerrero, Belando, Quinto and De Leon received separately the Memorandum on July 26, 2002, while Medina received the Memorandum on July 29, 2002.

De Leon was tardy 10 times for the month of March and 11 times for the month of May. She claims she tried her best to avoid being tardy. She asks for leniency and humanitarian consideration because she is attending to the needs of her 92-year old blind mother.

Belando incurred habitual tardiness for the months of February (10 times), April (14 times), May (20 times) and June (12 times). She says she is a single parent with five children, four of whom attend school and the youngest is still a toddler. She has no house-help because she cannot afford one. Before she leaves for work, she cooks their food for a whole day-consumption and she also prepares the children's "baon". She bathes the toddler first before she leaves her under the care of a kind neighbor.

Medina was late for work 11 times each for the months of February and March and 10 times for the month of April. He lives with his mother who is old and weak.

Before he leaves for work, he waits for his sister to arrive at their house and to take over the care of their mother. He cannot leave his mother alone in the house. It is only when his sister arrives at their house that he can depart for work. Hence, if her sister goes to his house late, he will in turn arrive late in the office.

Quinto incurred habitual tardiness 10 times for the month of April and 12 times for the month of May. She claims that she is a single parent. During the months of April and May when she was late for work, she had no house-help. She alone attended to the needs of her children especially her youngest child who is undergoing special speech lesson as a form of therapy (the child has undergone surgery for a cleft palate). She claims she usually leaves the office after 5:00 o'clock in the afternoon to compensate for her tardiness during these months.

Guerrero admits that she was tardy during the first semester of year 2002. In February, she was late 13 times, 11 times in April and 10 times in June. On January 23, 2002, her obstetrician-gynecologist informed her that she was one month pregnant with her third child. Like her first and second pregnancies, she was advised not to stress herself during the first trimester until the baby is fully developed. She claims she experienced terrible morning sickness that lasted until her fourth month of pregnancy.

Deputy Clerk of Court's Recommendation

In her Memorandum, Deputy Clerk of Court and Chief, Administrative Officer Eden T. Candelaria recommended that:

- "a) Ms. Lutgarda E. De Leon be suspended for two months without pay for committing habitual tardiness for the third time;
- b) Ms. Susan Belando and Mr. Almario Medina be severely reprimanded for committing habitual tardiness for the second time;
- c) Ms. Lolita A. Quinto and Atty. Perpetua Socorro Jocelyn S. Guerrero be sternly warned, this being their first offense of habitual tardiness."

The Court's Ruling

Civil Service Commission Memorandum ("CSC" for brevity) Circular No. 4, Series of 1991, defines "habitual tardiness" as:

"An employee shall be considered habitually tardy if he incurs tardiness, regardless of the number of minutes, ten (10) times a month for at least two (2) months in a semester or at least two (2) consecutive months during the year."

Civil Service Commission Memorandum Circular No. 19, Series of 1999 amended the Memorandum and provided for the following penalties for habitual tardiness:

First Offense - Reprimand

Second Offense - Suspension for 1 to 30 days

Third Offense - Dismissal."

There is no question that the subject employees were habitually tardy, as defined in CSC Memorandum Circular No. 4. We have read and examined carefully the