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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **October 7, 2019**, which reads as follows:

“A.M. No. P-19-4016 (Formerly A.M. No. 18-03-50-RTC) (*Re: Habitual Tardiness of Michelle R. Leopoldo, Utility Worker I, Branch 164, Regional Trial Court, Pasig City*). – The Office of the Court Administrator (OCA), in its Report and Recommendation¹ (*Report*) dated July 29, 2019, informed the Court that Ryan U. Lopez, Officer-in-Charge, Employees’ Leave Division, Office of Administrative Services, OCA, submitted a Report dated March 7, 2018 stating that Michelle R. Leopoldo, Utility Worker I, Branch 164, Regional Trial Court (RTC), Pasig City, incurred tardiness in March 2017 (15 times), May 2017 (13 times), June 2017 (11 times), July 2017 (12 times), and November 2017 (13 times).

In the 1st Indorsement² dated March 26, 2018, the OCA directed Michelle Leopoldo to comment on the Report of Ryan Lopez. When she failed to comply, a 1st Tracer³ dated October 15, 2018 was sent reiterating the prior directive, but to no avail. Despite the registry return receipt showing that she received the 1st Tracer on November 9, 2018, Michelle Leopoldo still failed to submit her comment.

The OCA’s Report further revealed other relevant information to the effect that in the Resolution dated April 26, 2017 in A.M. No. P-17-3690 (*Habitual Tardiness of Ms. Michelle R. Leopoldo, Utility Worker I, Branch 164, RTC, Pasig City*), Michelle Leopoldo was reprimanded for habitual tardiness and sternly warned that a repetition of the same or any similar offense shall warrant a more severe penalty.

In view of the foregoing facts, the OCA recommended that the March 7, 2018 Report of Ryan Lopez be **re-docketed** as a regular administrative matter against Michelle R. Leopoldo; and that the latter be found **guilty** of habitual tardiness incurred in the months of March, May, June, July, and November, all

¹ Signed by Court Administrator Jose Midas P. Marquez and Assistant Court Administrator Lilian C. Barribal-Co; *rollo*, pp. 11-15.

² *Rollo*, p. 9.

³ *Id.* at 10.

in 2017, and insubordination for her non-compliance with the 1st Indorsement dated March 26, 2018 and Tracer dated October 15, 2018 of the OCA, directing her to file her comment, and be **suspended** for a period of six (6) months from notice.

In support of its recommendation, the OCA opined:

EVALUATION: This Office finds Ms. Leopoldo administratively liable for habitual tardiness and for insubordination for failing to comply with this Office's directives.

A careful perusal of the records of the instant administrative matter reveals that Ms. Leopoldo received the 1st Indorsement dated 26 March 2018 directing her to file her comment on the report. Ms. Leopoldo likewise received this Office's Tracer dated 15 October 2018 on 09 November 2018. However, both directives were left unheeded.

The Court, in *Clemente vs. Bautista, Clerk III, Metropolitan Trial Court, Branch 48, Pasay City*, stated:

All directives coming from the Court Administrator and his deputies are issued in the exercise of this Court's administrative supervision of trial courts and their personnel, hence, should be respected. ***These directives are not mere requests but should be complied with promptly and completely.*** Clearly, respondent's indefensible disregard of the orders of the OCA, as well as of the complainant and Judge Manodon, for him to comment on the complaint and to explain his infractions, shows his disrespect for and contempt, not just for the OCA, but also for the Court, which exercises direct administrative supervision over trial court officers and employees through the OCA. ***His indifference to, and disregard of, the directives issued to him clearly constituted insubordination.*** (Emphasis ours)

In *Mendoza vs. Tablizo*, the Court likewise held:

Respondents in administrative complaints should comment on all accusations or allegations against them in the administrative complaints because it is their duty to preserve the integrity of the judiciary. ***This Court, being the agency exclusively vested by the Constitution with administrative supervision over all courts, can hardly discharge its constitutional mandate of overseeing judges and court personnel and taking proper administrative sanction against them if the judge or personnel concerned does not even recognize its administrative authority.*** (Emphasis ours)

Ms. Leopoldo's failure to submit her comment despite receipt of the 1st Indorsement dated 26 March 2018 and Tracer dated 15 October 2018 constitutes clear and willful disrespect, not just to the OCA, but also to the Court which exercises direct administrative supervision over trial court officers and employees through the OCA. In fact, it can be said that her non-compliance with the OCA directives is tantamount to insubordination to the Court itself.

Such failure to comply betrays not only a recalcitrant streak in character, but also disrespect for the Court's lawful orders and directives. This contumacious conduct of refusing to abide by the Court's lawful directives has likewise been considered as an utter lack of interest to remain with, if not contempt of, the system. Ms. Leopoldo's insolence is further aggravated by the fact that she is an employee of the Judiciary, who, more than an ordinary citizen, should be aware of her duty to obey the orders and processes without delay.

Moreover, Ms. Leopoldo's failure to comment and her silence on the allegations are detrimental to her cause. It is the natural instinct of a man to resist an unfounded claim or imputation and defend himself. It is totally against human nature to just remain reticent and say nothing in the face of false accusations. Hence, silence in such cases is almost always construed as an implied admission of the truth thereof.

For her non-compliance with the 1st Indorsement dated 26 March 2018 and Tracer dated 15 October 2018 directing her to file her comment, Ms. Leopoldo is deemed to have waived her right to file her comment thereon. Thus, her liability for habitual tardiness can already be passed upon at this stage.

Civil Service Memorandum Circular No. 23, Series of 1998, provides that "*any 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.*"

From the foregoing, Ms. Leopoldo is indeed guilty of habitual tardiness. Along this line, the Court further pronounced that "(h)abitual tardiness seriously compromises efficiency and hampers public service. By being habitually tardy, the employee has fallen short of the stringent standard of conduct demanded from everyone connected with the administration of justice. By reason of the nature and functions of their office, officials and employees of the Judiciary must be role models in the faithful observance of the constitutional canon that public office is a public trust. Inherent in this mandate are the observance of prescribed office hours and the efficient use of every moment thereof for public service, if only to recompense the Government, and ultimately, the people who shoulder the cost of maintaining the Judiciary. Thus, to inspire public respect for the justice system, court officials and employees are at all times behooved to strictly observe official time. As punctuality is a virtue, absenteeism and tardiness are impermissible."

Rule 10, Section 50, paragraph F(4), of the 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS), penalizes habitual tardiness with reprimand for the first offense; suspension of one (1) day to thirty (30) days for the second; and dismissal from the service for the third.

For her non-compliance with the 1st Indorsement dated 26 March 2018 and Tracer dated 15 October 2018 directing her to file her comment, Ms. Leopoldo is likewise guilty of insubordination.

Section 55, Rule 10 of the 2017 RACCS provides that "(i)f the respondent is found guilty of two (2) or more different offenses, the penalty to be imposed should be that corresponding to the most serious offense and the rest shall be considered as aggravating circumstances." In the instant case, the most serious charge against Ms. Le[o]poldo is insubordination, which is punishable by suspension for one (1) month and one (1) day to six (6) months

for the first offense, and dismissal from the service for the second. Taking the foregoing into consideration, the charge of habitual tardiness should be considered as an aggravating circumstance.

Further, Section 54 of the 2017 RACCS enumerates the manner of imposition when there are aggravating or mitigating circumstances, to wit:

Section 54. **Manner of Imposition.** When applicable, the imposition of the penalty may be made in accordance with the manner provided herein below:

- a. The **minimum** of the penalty shall be imposed where only mitigating and no aggravating circumstances are present.
- b. The **medium** of the penalty shall be imposed where no mitigating and aggravating circumstances are present.
- c. The **maximum** of the penalty shall be imposed where only aggravating and no mitigating circumstances are present.

Where aggravating and mitigating circumstances are present, paragraph [a] shall be applied where there are more mitigating circumstances present; paragraph [b] shall be applied when the circumstances equally offset each other; and paragraph [c] shall be applied when there are more aggravating circumstances.

In the instant case, considering that there is only one (1) aggravating circumstance, Ms. Leopoldo's habitual tardiness, and no mitigating circumstances, the penalty for insubordination in its maximum period for the first offense should be imposed.⁴

The findings of the OCA are duly supported by the facts on record and the applicable laws and jurisprudence on the matter.

WHEREFORE, the recommendation of the Office of the Court Administrator, being in accord with the facts, law and jurisprudence, is hereby **APPROVED**. Michelle R. Leopoldo, Utility Worker I, Branch 164, Regional Trial Court, Pasig City, is found **GUILTY** of habitual tardiness and insubordination and is **SUSPENDED** from service for a period of six (6) months from notice.

⁴ *Id.* at 11-15. (Citations omitted)

SO ORDERED.” (*Hernando, J., on wellness leave; Inting, J., on leave*)

Very truly yours,

Misa DC Batt
MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court MCE 10-29-19

Ms. Michelle R. Leopoldo
Utility Worker I
REGIONAL TRIAL COURT
Branch 164, 1600 Pasig City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 164, 1600 Pasig City

Hon. Jose Midas P. Marquez
Court Administrator
OFFICE OF THE COURT ADMINISTRATOR
Supreme Court, Manila

Hon. Raul Bautista Villanueva
Hon. Jenny Lind R. Aldecoa-Delorino
Hon. Leo T. Madrazo
Deputy Court Administrators
OFFICE OF THE COURT ADMINISTRATOR
Supreme Court, Manila

Hon. Lilian C. Barribal-Co
Hon. Maria Regina Adoracion Filomina M. Ignacio
Assistant Court Administrators
OFFICE OF THE COURT ADMINISTRATOR
Supreme Court, Manila

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