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FIRST DIVISION

[A.M. No. P-91. October 30, 1975]

JUDGE MANUEL D. BALLELOS, *complainant, vs.* **RODOLFO A. REJUSO,** *respondent.*

SYLLABUS

ADMINISTRATIVE LAW; ADMINISTRATIVE COMPLAINTS; WHERE COURT EMPLOYEE WAS ARBITRARILY DISMISSED HIS REINSTATEMENT WILL BE ORDERED.— Where a municipal judge filed charges against his personnel in a spirit of vindictiveness and in retaliation because the latter had testified as a subpoenaed witness in the criminal case against the former as accused in a superior court and had submitted the subpoenaed municipal records therein, and thereafter the complainant judge unauthorizedly summarily dismissed the personnel for allegedly refusing to resign pursuant to the President's Letter of Instruction and for "being notoriously undesirable," said complainant judge acted vindictively, arbitrarily and with gross abuse of power. Under the circumstances, the Supreme Court will order the personnel's immediate reinstatement, subject only to his meeting the standard requirement of physical fitness.

D E C I S I O N

TEEHANKEE, *J.*:

The record amply shows that complainant Manuel D. Ballelos at the time judge of the municipal court of Monreal, Masbate, in filing administrative charges against respondent Rodolfo A. Rejuso, clerk-stenographer of his court and in unauthorizedly summarily dismissing respondent for allegedly refusing to resign pursuant to the President's Letter of Instruction and for "being notoriously undesirable" acted vindictively, arbitrarily and with gross abuse of power.

On August 7, 1972, respondent in compliance with a subpoena *duces tecum* issued by the Masbate court of first instance

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submitted to said court certain records of complainant's municipal court as required by the superior court in a criminal case wherein complainant himself was the accused.

Three days later on August 10, 1972, complainant filed his charges against respondent for alleged inefficiency and incompetence and conduct prejudicial to the best interest of the service. Complainant personally served his complaint on respondent with formal notice that he would investigate the same on August 21, 1972. When respondent sought postponement and requested *inter alia* that complainant inhibit himself from investigating his own complaint, complainant rejected the requests and instead submitted to the Department of Justice his unilateral findings of respondent's guilt and recommended respondent's dismissal.

The Department in turn disregarded complainant's obviously arbitrary action and referred the complaint in accordance with established procedure to the CFI Executive Judge with the directive that the same be investigated by the clerk of court.

The CFI clerk of court sent the parties notices of the investigation to be conducted by him on October 30, 1972. Complainant, however, per his letter dated October 27, 1972 to the clerk of court-investigator informed the latter that he had summarily dismissed respondent on October 23, 1972 on the basis of his charges and for alleged refusal to tender his resignation and for "being notoriously undesirable." Complainant did not appear at the scheduled hearing, while respondent moved for the dismissal of the complaint and nullification of the summary dismissal.

These developments were reported by the clerk of court to the Department which returned the records to him with instructions to conduct further proceedings and receive the evidence with a view to the case being decided on the merits. Such hearing was duly conducted by the clerk of court who received respondent's testimony in the absence of complainant who filed a perfunctory note for postponement.

The clerk of court in his report found the charges against respondent to be unmeritorious, and recommended that

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complainant's summary dismissal of respondent be nullified and that respondent be reinstated in the service.

The record of the case was thereafter transferred to the Court by indorsement dated June 7, 1973 of the Department of Justice.

The Court, approves the clerk of court's report and finds, as indicated, that complainant's charges against respondent were filed in a spirit of vindictiveness and in arbitrary retaliation because respondent had testified as a subpoenaed witness in the criminal case against complainant as accused in the Masbate court of first instance and had submitted the subpoenaed municipal court records therein.

The Court further finds that complainant's summary dismissal of respondent was an arbitrary and unwarranted usurpation of power that was vested in the Department. Needless to add, complainant's oppressive actions in the case and usurpation of authority would subject him to serious disciplinary action but this has been rendered moot and academic by the President's acceptance of his resignation last August 25, 1975.

The "summary dismissal" of respondent, although unwarranted and without authority on complainant's part, appears to have been carried out nevertheless as a *fait accompli* since according to the record, respondent was paid his last salary for the first half of October 1972 and respondent himself thereafter ceased to report to his office and now asks only for his reinstatement in the service. Under the circumstances, the Court will order his immediate reinstatement, subject only to his meeting the standard requirement of physical fitness.

ACCORDINGLY, the summary dismissal of respondent from his position of clerk-stenographer of the municipal court of Monreal, Masbate is set aside as void and his immediate reinstatement is hereby ordered, subject only to his meeting the standard requirement of physical fitness.

Makasiar, Muñoz Palma, Aquino, and *Martin, JJ.*, concur.

Esguerra, J., is on official leave.