

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 132

TRANSFERRING MR. LEONARDO C. GUTIERREZ, PROVINCIAL TREASURER
OF BATANGAS, TO ANOTHER PROVINCE.

These are two administrative cases against Provincial Treasurer Leonardo C. Gutierrez of Batangas for misconduct in office and conduct prejudicial to the best interest of the service in the first case and, in the second case, for grave misconduct and conduct prejudicial to the interest of the service on four (4) counts, namely: (1) engaging in the manufacture and sale of hollow blocks without any previous authority, (2) utilizing government trucks and other equipment in the hauling of raw materials for his private business, (3) requiring certain employees in his office to perform domestic work in his residence and (4) harassing and threatening Ignacio Alcantara, assistant chief lineman, Office of the Provincial Treasurer of Batangas.

In the first case, it is alleged that sometime in November 1962 respondent ordered the removal from the toilet of the capitol building of the province of Batangas of thirteen (13) pieces of marble walls and their transfer to a private resort known as "Riverside" where some were made into tables and the rest left idle in the premises; that during the same period he ordered the removal of five (5) public telephone poles from a place known as "Mataas na Kahoy" and had them brought to the aforesaid private resort where they were used in the construction of its swimming pool; and that the above acts were done to the damage and prejudice of the government.

At the formal hearing of this case, respondent stated that the removal of the government properties involved was authorized by the Provincial Governor of Batangas upon the request of the Municipal Mayor of Tanauan and that his acts did not cause any damage or prejudice to the government, as the materials were transferred to the "Riverside" resort which is a provincial government project.

Respondent also stated that, contrary to the contention of government counsel, the transfer of the materials was in accordance with the provisions of law and regulations, Section 640 of the Administrative Code not being applicable, as the materials had not been proposed to be destroyed or sold at public auction.

Upon respondent's explanation, the question that need be resolved is whether he properly disposed of the materials involved. This Office agrees with the Secretary of Finance that a report of waste materials should have been submitted first to the Provincial Auditor for action before the materials were disposed of, even if the same were not proposed to be destroyed or sold at public auction. As an accountable officer of provincial government properties, respondent was not free to dispose of them without the approval of the auditor. He therefore violated Section 640 of the Revised Administrative Code in relation to Section 910 of the Revised Manual of Instructions to Treasurers.

In the second case, the respondent waived his right to a formal hearing and instead merely submitted a written answer. He explained that, as to Count No. 1, the private business referred to is owned by a partnership known as the Tanauan Riverside Concrete Products originally capitalized by his wife and children in the amount of ₱15,000; that the partnership was duly formed on July 22, 1963; and that, in accordance with a ruling of the Commissioner of Civil Service on a similar case, the wife of a government employee is not under the administrative jurisdiction of the government and that the husband should only be warned not to interfere with his wife's business.

With respect to Count No. 2, Ignacio Alcantara, assistant chief lineman, Office of the Provincial Treasurer of Batangas, declared in a sworn statement that respondent took advantage of his position as Provincial Treasurer by utilizing government trucks and other equipment in the hauling of raw materials and the delivery of finished products for his private business to the prejudice of the government. Denying the charge, respondent averred that the partnership owns a De Soto truck, a Willy's jeep and a trailer which are being used by the factory any time.

As regards Count No. 3, it is alleged that Miss Alicia Besid, an employee in the Office of the Provincial Treasurer of Batangas, was not rendering services as telephone operator but instead was being required by the respondent to do household chores for his family. Respondent claimed that Miss Besid requested his family to give her board and lodging and that in her stay in their house, she attended to washing her own clothes and cleaning her room. He submitted an affidavit signed by Miss Besid to support his statement.

Regarding Count No. 4, respondent is charged with harassing and threatening Ignacio Alcantara upon knowing that the

latter had executed a sworn statement in connection with the aforementioned charges. According to respondent, it was he who was being harassed and threatened by Alcantara who had fabricated the charges against him and was seeking revenge for his refusal to employ two of Alcantara's children.

After a perusal of the records, this Office finds, under Count No. 1, that the partnership is exclusively a family affair. It is believed that respondent as head of the family must have been actually managing the business of the partnership, as attested to by Ignacio Alcantara, and that his non-inclusion among the official partners was merely designed to circumvent the prohibition imposed by standing rules and regulations on the matter.

It is also believed that respondent's denial of the charge in Count No. 2 cannot preclude the probability of government trucks having been used in the business of his family in addition to the use of the facilities owned by the partnership. This was confirmed by witnesses who had risked their positions in the government service by giving statements to this effect.

As to the third count, Miss Besid, an employee in the respondent's office, has been boarding in his house. Under the circumstances, it is highly probable that respondent utilized and availed of her services even during office hours to do some work for his household. This fact was likewise attested to by the complaining witnesses.

Finally, as to the fourth count, there is no sufficient basis for holding respondent guilty of harassment and threats. He is therefore liable under Counts 1, 2 and 3 in the second case.

Wherefore, and considering the nature of the offenses committed by the respondent, it is believed that his further stay in Batangas is against the interest of the service. Accordingly, and upon the recommendation of the Secretary of Finance, Provincial Treasurer Leonardo C. Gutierrez is hereby ordered to be transferred to another province of a lower class.

Done in the City of Manila, this 10th day of August ,
in the year of Our Lord, nineteen hundred and sixty-five.

By the President:


JUAN S. CANCIO

Acting Assistant Executive Secretary