

MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 142

ADMONISHING ACTING DIRECTOR SERAFIN D. QUIASON OF THE NATIONAL LIBRARY.

This refers to the administrative charges against Acting Director Serafin D. Quiason of the National Library filed separately by Atty. Samy Y. Militante, a private citizen, and Mrs. Constanca de Jesus and 34 other officials and employees of the National Library. The charges have been grouped together for convenience and to obviate needless repetition as follows: (1) violation of the Civil Service law and regulations, misrepresentation and falsification; (2) improper conduct, oppression and incompetence, and violation of the Anti-Graft Act; and (3) illegal, precipitate and disadvantageous purchases of books.

A formal investigation of the charges was ordered and conducted where complainants and respondent, assisted by counsel, were given full opportunity to support their respective sides. In his exhaustive report the investigator from the Malacañang Legal Office found respondent guilty under certain counts of charges (1) and (2) and innocent under charge (3), and recommended that respondent be admonished. A careful review of the records and weighing of respondent's liability in the premises sustain the investigator's findings and recommendation. Only those counts where respondent is found guilty or liable need be taken up.

Charge I

(a) It is alleged that respondent illegally permitted and authorized the non-use of the bundy clock by Manuel Portugal, his stenographer, despite disapproval by the Civil Service Commission (CSC) of his request to exempt Portugal from punching the bundy clock.

The evidence shows that from July 1966 to May 1967 Portugal used Form 48 for recording his attendance instead of the bundy clock which he used for part of the month of September 1966. Respondent would justify the non-use of the bundy clock by the fact that the nature of Portugal's additional duties as liaison officer, following up papers in other offices, made it impracticable for him to be in the office just to punch the bundy clock to record his arrival and departure. Respondent claims that under the Civil Service rules the use of the bundy clock is required whenever practicable (Sec. 4, Rule XV, Civil Service Rules). His explanation appears plausible as to the time covered before the denial by the CSC of his request for exemption in behalf of Portugal. Upon such denial by the Commission on October 27, 1967, he was supposed to be bound thereby and should not have allowed Portugal to continue using Form 48. It hardly avails him that, as

testified to by Portugal, they were told by people in the Department of Education that the use or non-use of the bundy clock was a matter of internal arrangement as allegedly confirmed by a certain Mr. Valdez from the CSC during a seminar. The officials referred to were obviously not competent to overrule the CSC.

(b) In connection with the charge on the alleged irregular appointment of Jose Rizal San Diego to the position of Shrine Guide, it was shown during the investigation that the position of Shrine Guide was reclassified or classified on January 27, 1967 (Exh. WW-1-De Jesus). However, as early as January 16, 1967, respondent wrote to the Secretary of Education that it was a "newly reclassified . . . position" (Exh. U-De Jesus) and certified to the Commissioner of Civil Service that the position to which San Diego was proposed for appointment "has been classified by WAPCO as Shrine Guide" (Exh. V-De Jesus), albeit his request for reclassification had been made earlier, or on January 13, 1967 (Exh. WW-De Jesus). It was also shown that the request for reclassification, though supposed to be coursed through the Department of Education pursuant to practice and regulations, was never received in the Department.

Counsel for complaining Library personnel claim in their memorandum that respondent was guilty of falsification and quote Article 171, paragraph 4 ("Making untruthful statements in a narration of facts"), of the Revised Penal Code. It is to be observed that this was not included in the charges against respondent. However, that does not preclude finding him guilty of falsification of the nature provided in the cited article of the Revised Penal Code if duly proven or established and respondent was given opportunity to refute the same, since an administrative investigation is a fact-finding one and any evidence adduced during the proceedings tending to prove the commission of any offense may be taken into account in the disposal of the case.

There are, however, certain requisites that should be established before one may be adjudged guilty of falsification under the cited article of the Revised Penal Code. Such a finding may not be predicated alone on the fact that there was a divergence between what was the true fact and what it was stated to be. One of the essential elements is that the act be committed with a criminal intent (Francisco, Revised Penal Code, Book 2, 3rd ed. p. 260). From the evidence presented, I agree with the investigator that said element has not been duly established. This matter appears to be the subject of a pending criminal complaint for falsification against respondent and San Diego in the Manila City Fiscal's office where both sides can squarely litigate the issue. As above observed, this was not one of the charges against respondent. However, it is undeniable that there was an erroneous or false statement of fact in subject official com-

munications of respondent for which he should be held liable administratively.

(c) Regarding the charge that respondent made appointments of casual or emergency employees without the approval of the higher authorities concerned, it has been established that a certain casual, Zenaida Revadabia, who belonged to the unclassified service, was assigned by respondent to perform some duties along clerical lines in the classified service. This is forbidden under Section 24(f) of the Civil Service Law. It is to be noted, however, that said casual had never performed manual duties since her original appointment in 1963 before the incumbency of respondent. In other words, respondent may be said to have merely continued and tolerated the practice under his predecessors which, of course, constitutes no legal excuse.

Charge II

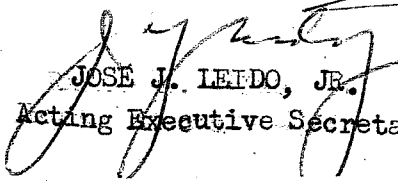
Three complainants-personnel of the National Library testified to some derogatory remarks supposedly uttered by the respondent on different occasions affecting the integrity, honesty and morality of certain government officials, past and present. The details thereof do not bear repeating, lest we dignify gossips or idle talk, there being nothing to show that the things attributed to respondent to have said were duly borne out by official investigation or record. These witnesses, while they may have every reason to be prejudiced against respondent, for being complainants, testified in a straightforward and natural manner, the investigator observed, and their testimony abounds in details, which circumstances tend to support the charge of improper conduct.

The above acts committed by the respondent are, on the whole, not of a serious nature to warrant drastic action. The making of an erroneous or false statement of fact in official communications would, on the surface, look serious, but I am inclined to agree with the investigator that it was more of an honest anticipation on the favorable outcome of the request for reclassification as he must have been assured, which proved to be true, than a deliberate and wilful act on his part to mislead the authorities concerned.

For his acts and omissions, which border on improper conduct and appear to be merely minor infractions of the Civil Service Law and rules under the attendant circumstances, Acting Director Serafin D. Quiason is hereby admonished to be more careful in the future to avoid repetition of similar occurrences.

Done in the City of Manila, this 12th day of October in the year of Our Lord, nineteen hundred and sixty-eight.

By the President:


JOSE J. LEIDO, JR.
Acting Executive Secretary