

MALACAÑANG
Manila

BY THE PRESIDENT OF THE PHILIPPINES
ADMINISTRATIVE ORDER NO. 186

IMPOSING THE PENALTY OF DISMISSAL ON DIRECTOR MONICO M. CHAVEZ OF FINANCE AND MANAGEMENT SERVICES, OFFICE FOR NORTHERN CULTURAL COMMUNITIES (ONCC), FOR DISHONESTY AND GROSS MISCONDUCT.

This refers to the administrative case of Mr. Monico M. Chavez, Director for Finance and Management Services, Office for Northern Cultural Communities (ONCC), for Dishonesty and Gross Misconduct.

Records show that, on September 23, 1991, a check numbered LP-129261-0 in the amount of ONE HUNDRED SEVENTY FIVE THOUSAND PESOS (P175,000.00) was issued for the Office for Northern Cultural Communities (ONCC), Region 03, in the name of Monico M. Chavez, who was then the Acting Regional Director. On September 24, 1991, Dir. Chavez authorized Ms. Johanna Ignacio (now Johanna Mambuay), an employee of the ONCC's Central Office, to encash the check at the Philippine National Bank, West Avenue, Quezon City Branch. Again on December 23, 1991, another check numbered LP-148688-D, in the amount of SEVENTY FIVE THOUSAND PESOS (P75,000.00) was similarly issued. In the same manner, Chavez authorized a certain Carmen P. Chavez to encash the check at the same bank.

The said amounts, which to this date remain unaccounted for, were intended for development projects, maintenance and operating expenses of the Office for Northern Cultural Communities, Region 03. For failure to submit an explanation or to account for the said funds, despite verbal and written notice to him, Dir. Chavez was administratively charged for Dishonesty and Gross Misconduct.

After having been notified of the charges against him, Dir. Chavez was directed to submit a detailed answer thereto, together with whatever evidence he may present in support of his side. He was also advised to avail of the services of a counsel and opt, if he so desires, for a formal investigation. Unable to comply therewith, Dir. Chavez was, nevertheless, afforded a formal investigation to determine whether or not he is administratively liable of the charges.

IN REPLYING, PLEASE CITE:

Order Letter # L950533



L950533

At the pre-trial conference, Dir. Chavez, acting as counsel for himself, admitted the charges against him and the evidence adduced by the ONCC Prosecutor and offered to return the funds on installment basis. Thus, with nothing else to determine other than Dir. Chavez's explanation for committing such omission or misconduct, the parties were ordered to submit their respective memoranda. Despite due notice, Dir. Chavez again failed to submit his memorandum.

Incidentally, Dir. Chavez claimed during the conference that he spent the said amounts for the Aetas displaced by the Mt. Pinatubo eruption; that, as a member of Task Force Mt. Pinatubo, he had requested the Department of Budget and Management (DBM) for the release of P 632,000 for the expenses incurred; and, that, upon the release thereof, the fund sought to be recovered would be paid. However, the same failed to materialize as the DBM did not favorably act upon the said request.

Whereupon, an "Investigation Report" was forthwith submitted by the hearing officer stating, among others, that even if the funds requested by Dir. Chavez from the DBM were released, the same is of no moment and immaterial in the case and that Dir. Chavez' averment that he applied the missing funds to assist the displaced Aetas and not for his personal benefit is untenable, in view of Article 217 of the Revised Penal Code, which provides that:

"the failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable upon demand by any duly authorized officer, shall be prima-facie evidence that he has put such missing funds or property to personal uses".

Considering that the said funds were in fact missing and not remitted nor entered in the accounts of ONCC-Region 03 and still remain unaccounted for to this date, Dir. Chavez's offer to return the funds is only a mitigating circumstance and cannot exempt him from administrative or criminal liability.

Moreover, even if Dir. Chavez spent the missing funds for a worthy cause such as giving assistance to the Aeta victims of Mt. Pinatubo's eruption, he is still liable for technical malversation because, according to the ONCC report, the said funds had been appropriated for specific public purposes and cannot just be diverted without proper authorization.

Finally, it was stated that even if there was no direct evidence or proof that Dir. Chavez applied the funds for his own personal benefit, he is still liable because, as an accountable officer, direct evidence of misappropriation is not necessary to sustain a conviction for malversation. Without satisfactory explanation, the evidence indicating that the funds are in fact missing is sufficient to hold an accountable officer liable therefor.

In his memorandum of December 12, 1994, ONCC Executive Director Ronald M. Cosalan requested confirmation of the order dismissing Dir. Chavez from the service for Dishonesty and Gross Misconduct.


Based on the foregoing facts and circumstances of the case in which I concur, Dir. Chavez has no justifiable or valid reason to exculpate himself from the responsibility of having caused the disbursements of the said amounts without proper authorization.

WHEREFORE, finding respondent Monico M. Chavez guilty as charged, he is hereby DISMISSED from the service.

Done in the City of Manila, Philippines, this 18th day of April in the year of our Lord nineteen hundred and ninety five.



By the President:



TEOFESTO T. GUINGONA, JR.
Executive Secretary

