

MALACANANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 171

CONSIDERING MR. FAUSTO P. VARELA RESIGNED AND SEPARATED AS DEPUTY COMMISSIONER OF CIVIL SERVICE.

This is an administrative case against Mr. Fausto P. Varela, Deputy Commissioner of Civil Service, filed by the then Commissioner (now District Judge) Amado del Rosario and two employees of the Civil Service Commission, for various alleged irregularities which may be simplified into (1) misconduct in office, (2) insubordination, (3) falsification and (4) violation of Administrative Order No. 46, series of 1937. The case was investigated by the then Undersecretary of Justice (now Court of Appeals Justice) Magno S. Gatmaitan, who found respondent guilty of charges (1) and (2) and innocent of the others although liable for presumptuous conduct under charge (3).

I. Misconduct

1. It appears that Mrs. Amanda Cabigao, a customs examiner, was originally recommended for outright dismissal by the respondent as against the recommendation of resignation without prejudice to reinstatement in another office; that thereafter respondent received a note from then Senator Quintin Paredes dated November 7, 1959, and he recommended her demotion to a position not involving inspection work.

Respondent claims that Cabigao verbally explained to him that possibly the cartons of cigarettes were placed in the truck after she had inspected the vehicle, and he entertained some reasonable doubt in her favor. But this would only indicate that he made an ex parte examination of the interested party in the absence of the accuser, an investigation apparently conducted not under oath. Considering the result of his investigation, coupled with the personal note of the senator, the only implication that may be deduced is that respondent, in his capacity as Deputy Commissioner of Civil Service, was influenced by the personal note of the senator to change his mind. This is certainly not complimentary to the standard that should be maintained by the Civil Service which would appear to be susceptible to political pressure and influence. Hence, he is guilty of conduct prejudicial to the discipline of the civil service.

2. It is alleged that around ten o'clock in the morning of February 16, 1962, respondent, in a very arrogant manner, went to the Legal Services Division inquiring for the whereabouts of an indorse-

the Varela, Fausto P.

ment signed by him in a case involving an employee (Godofredo Cases) of the Bureau of Internal Revenue; that when he found out that the correspondence was not given due course by the Legal Services Division, he got angry at the personnel thereof in the presence of outsiders, in the course of which he allegedly shouted, "Bolshet to the Commissioner," and "To hell with him and to this division," and that the Commissioner was not his superior.

Respondent in his defense claims that he was the one hurt and humiliated by his subordinates, as the action signed by him, a copy of which was mailed by him to Congressman Cases (who had interceded in behalf of the BIR employee), was not released but the one signed by his subordinate, Atty. Guillermo de Jesus, chief of the Legal Services Division.

According to respondent, when he confronted Mrs. Angelita Vera, chief legal officer, why she did not follow his instructions, she said she was so instructed by Atty. De Jesus whom she had to follow, being her superior. So respondent asked, "And what about me, am I not your superior also?" When Atty. De Jesus came, he also asked him why the indorsement signed by him was not released and the former answered that the Commissioner had ordered it, adding that the Commissioner was respondent's superior and his indorsement was not in conformity with the standard operating procedure. Respondent admits saying at this juncture, "Bolshet with that procedure, I am responsible for what I sign."

He denies having shouted at the top of his voice because they were not far apart from each other. According to him, he could not have meant the remarks for the Commissioner, as the latter was not involved in their conversation, and that the comment was intended for the standard operating procedure invoked by Atty. De Jesus which had provoked him.

A review of the records tends to support the investigator's belief that respondent intended the unsavory remarks for the Commissioner of Civil Service. While it may be true that he was angry at the standard operating procedure, it is a fact that his indorsement had been crossed out on orders of the Commissioner. It was therefore quite natural for him also to be sore with the Commissioner for having ordered the cancellation of his indorsement. However, provoked he might have been, he should not have uttered the vulgar remarks which were highly unbecoming of him

as the No. 2 man in the office with the rank of Department Undersecretary and were disruptive of the discipline in the Civil Service.

II. Insubordination

Respondent is charged with insubordination for issuing his memorandum of October 26, 1961, which allegedly countermanded an order of a superior authority, the Commissioner of Civil Service, who had given instructions to conduct an inspection and audit of different agencies.

Respondent denies the charge of insubordination. Precisely, he points out, his order to Messrs. Epi. Rey Pangramuyen and Jesus Carilao was subordinated to the superior authority of the Commissioner when he stated therein, "Unless countermanded by higher authorities"; hence it was subject to such action as the higher authority would take, i.e., the Commissioner of Civil Service.

The evidence shows that on or about November 16, 1959, a memorandum circular was issued by the Commissioner of Civil Service announcing that designated representatives of the Commission would conduct a program of periodic inspection of the personnel; that two years afterwards, or on October 26, 1961, having read in the newspapers that there would be an inspection and audit of the Civil Service Commission and not being agreeable thereto, respondent wrote a memorandum enjoining Messrs. Pangramuyen and Carilao from carrying out the proposed inspection and audit, with the warning, "This is an order and unless countermanded by higher authorities with due notice to me I shall hold you responsible for a violation of this order."

While it is true that the circular of the Commissioner was issued about two years before and was apparently obsolete, a reading of respondent's memorandum to the above-named employees shows that it was his intention to prohibit the inspection and audit contemplated in the Commissioner's memorandum. The Commissioner's memorandum, though not worded "Order," was intended and understood to mean an order and not a mere notice as contended by respondent.

As to respondent's contention that in his disputed order he subordinated himself to the authority of the Commissioner, the fact that he issued it without notice to and permission from the Commissioner would only mean that he had no regard at all for the previous memorandum or order of his superior. The interest

at the bottom of his protest. No harm was committed in the end because in due time the Commissioner required the preparation of a new appointment without any word "Acting" therein. However, respondent displayed some degree of presumptuousness in this case. The appointment of Mrs. Lim having been signed by the Commissioner without the word "Acting," even if it is true as he now alleges that the Commissioner had apparently agreed to his protest, what he should have done was not to modify the appointment made by the Commissioner but to tell him not to go ahead with the appointment, his protest having been heeded, and he should have asked the Commissioner to make the necessary correction. In modifying a written appointment signed by the Commissioner, respondent went too far. He is therefore guilty of misconduct prejudicial to the discipline of the Civil Service.

A perusal of the records shows the existence of animosities between the respondent Deputy Commissioner and the then Commissioner of Civil Service as well as certain subordinate employees of the Commission. Respondent ignored, disregarded and even challenged the authority of the Commissioner as shown in the following notes of his addressed to the Commissioner:

"To be frank with you, your protestation of innocence in this case does not impress me."

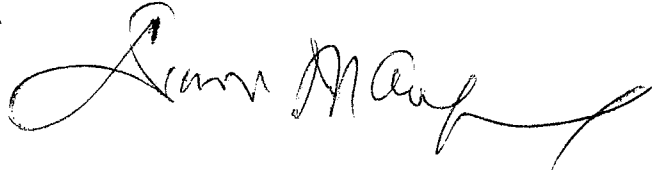
"So that you will stop pestering me about this record, I am informing you for the last time that I am not returning said record unless ordered by the President or by the courts because this record constitutes evidence against you."

In behaving as he did quite rebelliously and contemptuously towards his superior before his subordinates, using vulgar language in his outbursts against him and his subordinates, respondent undermined the morale and discipline in the Civil Service Commission, which was aggravated by his tendency to accord special consideration to parties sponsored by big politicians. It must be said, however, in favor of the respondent that no evidence exists indicating any corrupt motives on his part in his actions. He appears to have worked under strain because of his misunderstanding with his superior and subordinates who have shown no respect and regard for him, which may have contributed to his impulsive and indecorous behavior. Respondent has been in the government service for more than thirty (30) years, having risen from the ranks to his present position. These circumstances should be considered in the disposition of the case.

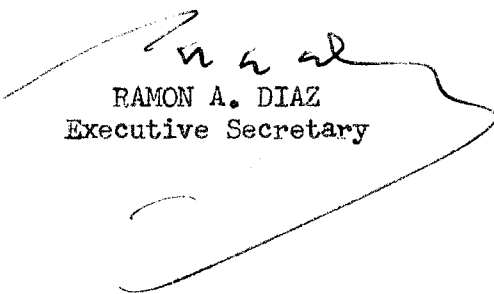
In view of the foregoing, and considering that respondent may not be returned to his position without undermining the morale and discipline in the Civil Service Commission, apart from his strained relations with subordinate employees thereof, it is believed in the public interest that he be not returned thereto.

Wherefore, Mr. Fausto P. Varela is hereby considered resigned and separated from the Civil Service Commission, without prejudice to receiving retirement and leave benefits to which he may be entitled. His separation shall also be without prejudice to his appointment to another position equivalent in rank to his present post.

Done in the City of Manila, this ^{21st} 21st day of December, in the year of Our Lord, nineteen hundred and sixty-five.



By the President:



RAMON A. DIAZ
Executive Secretary