

MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 251

IMPOSING THE PENALTY OF DISMISSAL FROM OFFICE WITH FORFEITURE OF RETIREMENT AND OTHER BENEFITS ON DR. AMIRBAHAL H. ALUK, CITY SUPERINTENDENT OF SCHOOLS, PAGADIAN CITY

This refers to the administrative case against Dr. Amirbahal H. Aluk, City Superintendent of Schools, Pagadian City, for alleged grave misconduct, conduct prejudicial to the best interest of the service and gross violation of the Civil Service Law (P.D. 807), Anti-Graft and Corrupt Practices Act (RA 3019) and the Code of Conduct and Ethical Standard for Public Officials and Employees (RA 6713).

Records show that the case stemmed from Resolution No. 104, dated April 15, 1988, of the Sangguniang Panlungsod of Pagadian City, after a fact-finding investigation, informing the Secretary of Education, Culture and Sports of certain anomalous activities committed by respondent, Dr. Amirbahal H. Aluk, consisting of receiving sums of money from teacher-applicants in consideration for their appointments or promotions to positions in public schools in Pagadian City. It further requested the Secretary to conduct an impartial fact-finding investigation thereof.

Acting thereon, a fact-finding committee was constituted to conduct a discreet inquiry on the matters alleged in the aforesaid resolution. In its report of July 25, 1991, the fact-finding committee found that a prima facie case exists and recommended the filing of appropriate charges against respondent.

On the basis thereof, together with the sworn statements of the teachers and the minutes of the fact-finding session of the Sangguniang Panlungsod of Pagadian City dated April 4 and 6, 1988, the Secretary of Education, Culture and Sports motu proprio filed, on August 6, 1991, formal charges against respondent for grave misconduct, conduct prejudicial to the best interest of the service and gross violation of the Civil Service Law (PD 807), Anti-Graft and Corrupt Practices Act (RA 3019) and the Code of Conduct and Ethical Standard for Public Officials and Employees (RA 6713), committed as follows:

"That sometime in May, 1990 you received the amount of FIFTEEN THOUSAND PESOS (P15,000.00) from Meriam Alviar at your residence at Kawit, Pagadian City in consideration of her appointment as substitute teacher at Macasing Elementary School, Macasing, Pagadian City and her reappointment in January 1991;

"That sometime in September, 1990 you received the amount of FIFTEEN THOUSAND PESOS (P15,000.00) from Miss Charissa C. Alcasid at your residence in Kawit, Pagadian City in consideration of her appointment as a school teacher at Macasing Elementary School.

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"That you received from Edwin Magatao the total amount of P9,000.00 and two goats costing P500.00 and requiring him to work in the construction of the extension of your house in consideration of his appointment.

"That you received the amount of
P3,000.00 from Mr. Marciano Mong;
P4,000.00 from Mr. Roque Alicorte;
P5,000.00 from Mrs. Zenaida Alaestante;
P5,000.00 from Mrs. Carmelita Dublin;
P5,000.00 from Mrs. Rallos and P5,000.00
from Mrs. Virginia Briones in consideration
of their appointments.

"That most of the applicants were not extended appointments but were only given order of assignments and therefore failed to receive the salary due them."

"That you appointed Angela Mariño, rank No. 14; Rhodora Roda, rank 44; Maria Cherrylyn Teves, rank 26 and Abella Tamayo, rank 133 ahead of Merlinda W. Gallos who was then rank No. 6."

In his "Answer with Motion to Dismiss", dated August 28, 1991, respondent parries the charges against him by resolute denials. He claims that the charges proffered are false, and initiated by people with ulterior motives.

The evidence for the complainant presented at the formal hearing are stated in the letter-report, dated September 18, 1991, of the Special Investigators, thus:

"1. Edwin Magatao, in his affidavit Exh. A and his testimony during the hearing claims that he was appointed substitute teacher in different schools; that he gave Supt. Aluk ₱4,000.00 in his office, ₱3,000.00 while in Dao, 2 goats costing ₱500.00 each while he was in Palpalan and ₱2,000.00 in the house of the respondent in Kawit, Pagadian City, a total amount of ₱10,000.00; that during his off days Mr. Aluk would invite him to his house in Kawit where he worked in the repair of the fence and extension of the house together with other teachers, 'gratis et amore'.

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"2. Marciano Mong, under oath confirmed his sworn statement that he gave ₱3,000.00 to Dr. Aluk in his house in consideration of his appointment in the year 1987.

"3. Charissa Alcasid testified and confirmed her allegations in her sworn statement, Exh. "E" that she gave ₱15,000.00 to Mr. Aluk in the latter's house in Kawit, Pagadian City sometime in September 1990 with her mother. She claims that Dr. Aluk returned the ₱10,000.00. She also mentioned that other teachers likewise gave certain amount only that they are afraid to testify in the open. She claims that she has not received any salary for the services rendered because she did not have an appointment but merely an order of assignment, Exh. 'F'.

"4. Mrs. Elsa Alcasid, the mother of Charissa Alcasid corroborated the testimony of her daughter Charissa.

"5. Meriam Alviar testified and confirmed her affidavit, Exh. 'H' that she was ranked #18 in 1990; that she gave the amount of ₱15,000.00 to Mr. Aluk sometime in May 1990 in his house at Kawit. She claims Mr. Felipe Caracut as Mr. Aluk's intermediary. Like Charissa, she was not issued an appointment but only an order of

assignment and did not receive her salary for services rendered in Deborok.

"5. Roel, Flora, Arsenio Beloy, Pableo dela Cruz and Baltazar Ampay corroborated the testimonies that school teachers like them worked in the house of Mr. Aluk without getting paid. (Exh. L). Marlinda Gallos reiterated her sworn statement, Exh. 'J' that she was ranked No. 6 in the rank list but others below her rank were appointed ahead of her. Other teacher-applicants who allegedly gave certain amount to Mr. Aluk either appeared but belied their allegations given before the Sangguniang Panglunsod and the others did not care to appear."

On the otherhand, the evidence for the respondent is briefly cited in the same report in the following manner:

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 "Respondent presented Ludy Detalla, Evelyn Callos, Rhodora Roda, Cadiguia Datukali, Rodrigo Ramirez, Armamen Fontanilla, Tita Martin, Evelyn Laurete, Hermogena P. Berdan, Oscar Dolorin, Judith Rivera, Monelto M. Benitez and Cherrylyn Teves, Welton Dequelito, Laura Zanogao (Exh. I-II inclusive) with a common allegation that respondent Aluk did not received any amount from them in exchange of their appointment nor from 6 other teacher-applicants and that they know Mr. Aluk as an honest and religious man. Mr. Welton Dequelito belied the claim that teachers were not paid for their services and renovation of his house.

"In his affidavit Exh. '12', Respondent Aluk denied the allegations of the teacher-complainants. On cross examination, however, he admits that he does not know of any motive on the part on the teacher-complainants in filing a case against him."

After due hearing, the Special Investigators found respondent guilty of grave misconduct for asking and receiving money in consideration of the teachers' appoint-

ments and taking undue advantage of his position by requiring teachers under him to work in his house without compensation, and recommended his dismissal (with qualification) from the service in this wise:

"VII. Comments and Observation

"1. The teacher-complainants gave straightforward and unwavering testimony that they gave certain amount to Supt. Aluk. Against this positive testimony, Supt. Aluk merely denied the charges and present witnesses who were not privy to the alleged giving of money and therefore are incompetent to testify that Mr. Aluk did not receive any amount from them (complaining teachers). This is because the witnesses of Mr. Aluk are not all the time with him in his house or in his office.

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"2. Mr. Welton Dequelito who testified in favor of Mr. Aluk to the effect that he was paid his salary when he worked in the house of Mr. Aluk during Sundays is also incompetent to testify that Mr. Edwin Magatao, the complaining teacher did not work in the house of Mr. Aluk because Mr. Magatao alleged that he worked not only during holidays but also during vacation time which means that Welton Dequelito would not have seen him since he (Dequelito) used to work in the house of Mr. Aluk only on Sundays.

"VIII. Findings and Recommendations

"After a very careful evaluation of the evidence presented by both parties, the undersigned finds Mr. Aluk guilty of Grave Misconduct (asking and receiving money in consideration of teachers' appointment) and taking advantage of his position by requiring the teachers under him to work in his house without compensation.

"Mr. Aluk is about to retire under compulsory retirement having been born in 1927. For which, he is entitled to a

mitigating circumstances of length of service which is offset by the aggravating circumstances of taking advantage of official position, taking undue advantage of subordinate and habituality.

"Memorandum Circular 30 s. of 1989 classifies the offense as Grave Misconduct punishable by dismissal from the service even as a first offense. In accordance thereto, the undersigned respectfully recommend the dismissal of Supt. Aluk from the service. However, should the Honorable Secretary feels that for humanitarian reasons, a lower penalty should be imposed, Supt. Aluk may be given a penalty short of dismissal which does not carry accessory penalty of forfeiture of retirement benefits and accrued leave of credit like suspension in Office until his compulsory retirement, but respondent Aluk should at least return the amount received by him from the teacher-complainants. Mr. Aluk claims to have been born on October 21, 1927, noted by the Civil Service Commission when he requested for correction of his date of birth from October 21, 1926 to October 21, 1927."

In his 1st Indorsement of September 20, 1991, the Secretary of Education, Culture and Sports concurred in the findings of the Special Investigators, and recommended that respondent be dismissed from the service with prejudice to retirement benefits.

I am in full accord with the findings of the Special Investigators, as subsequently concurred in by the Secretary of Education, Culture and Sports. The evidence presented by complainants, which are preponderant and convincing, have sufficiently established the guilt of respondent.

Respondent's main defense is mere denial. His denial cannot, however, prevail over the clear and positive testimonies of the complainants (People vs. Pasco, Jr., L-45715, June 24, 1985, 137 SCRA 137). Such denial constitutes self-serving evidence, which should not be afforded any evidentiary weight greater than the declarations of credible witnesses who testify on affirmative matters (People v. Abonada, No. 50041, January 27,

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1989, 169 SCRA 530). I am convinced that the statements given by the complainants deserve full faith and credit, it appearing that there is no evidence of any improper motive on their part to falsely testify against respondent.

As regards the common declarations of respondent's witnesses that they have not paid respondent sums of money in consideration of their appointments, the same are irrelevant, since their statements will not prove respondent's innocence because none of them has actual knowledge of the incidents complained of. At best, their testimonies are mere conjectures and surmises, which are not strong enough to exculpate respondent from liability.

The alleged exemplary conduct and good moral character of respondent is not also sufficient reason to acquit the latter, especially so in light of the overwhelming evidence sustaining the findings of his guilt.

WHEREFORE, premises considered, Dr. Amirbahal H. Aluk, City Superintendent of Schools, Pagadian City, is hereby found GUILTY of grave misconduct and, accordingly, DISMISSED from service with forfeiture of retirement and other benefits upon service hereof.

Done in the City of Manila, this 21st day of November in the year of Our Lord, nineteen hundred and ninety-one.

Prayer to Aquino

By the President:

Franklin M. Drilon
FRANKLIN M. DRILON
Executive Secretary