

Administrative Discipline

By Cosme S. Quinto

THE fact that public school teachers are government employees under the Civil Service laws and rules is enough reason for them to be interested in administrative discipline. Not a few of them, however, fell impertinent their reading of any kind of legal literature. Considering that the teachers are officially prohibited from taking courses which have no direct relation to their professional competence, they are with much justification in regarding Law as foreign to their profession. It is well to repeat here, notwithstanding its redundancy, that ignorance of the law is not an excuse for whatever infraction is committed on the legal provisions, statutory or constitutional.

Administrative discipline starts its legal binds on the teacher only after taking his oath of office. He swears among other things to uphold and defend the Constitution and to discharge well and willfully the duties incumbent to his position, so that any breach he commits thereto is enough ground for taking administrative disciplinary action against him. A particular instance where a lady teacher was separated from the service because she acquired the citizenship of her husband who is a Chinese illustrates how administrative discipline was applied in a case of a failure to fulfill an oath. While the teacher may have done nothing prejudicial to the Constitution itself, the reason for her separation is that she has become an alien and therefore she cannot be compelled to uphold and defend the Fundamental Law of the Land.

One feature of administrative discipline is that immoral acts heretofore committed, when taken cognizance by the Bureau of Civil Service, constitute a basis for administrative disciplinary action against the teacher or employee concerned. This is obvious in the filling up of an information sheet as a routine prior to being appointed to a government position where among the data called for is whether or not the appointee has ever been convicted in a court of justice. Not to mention other items asked in the information sheet, any falsification made in it is an act that warrants a penalty, both administrative and criminal. Meanwhile, the purpose of taking account of the past actuations of an employee is to have in

the government service only persons of good moral character and exemplary good conduct.

It may be a popular knowledge that a teacher, or any employee for that matter, cannot resign if a pending administrative case is filed against him, but this provision of a provincial circular remains only a fact to many. Obviously, the cause for non-acceptance of a resignation while an administrative charge is being investigated is that once the employee concerned has resigned, the Bureau of Civil Service can no longer take action against him. Resigning from one's position during the process of an investigation, if allowed, would be an excellent means of refuge for guilty employees from the penalties that will have been imposed on them by the Bureau of Civil Service. Likewise, when an employee who had run counter the Civil Service laws and rules, in the course of the investigation of his case, is permitted to resign, the chances are that he can again apply for a position in another public office and prejudice those who are worthy and are deserving to enter the government service.

With the apparent view of removing doubt and insuring faith on the people in the integrity, character, and fitness of an employee for public service, it is characteristic of administrative discipline that anonymous letters of complaint are investigated. This is upheld by Executive Order 370, series of 1941, where the head of an office can act *motu propu* against a subordinate employee and, under certain special circumstances, investigate an anonymous letter of complaint even if the complainant cannot be sworn in. An argument may be made to the effect that since taking action on an anonymous complaint is discretionary upon the head of an office, it is possible that such discretionary power would be abused. It follows, however, that an employee who becomes a respondent in an ex-parte investigation can engage the services of a legal counsel who will protect his rights and interests during the proceedings of the case. And if it were only to show how a head of an office is restrained from abusing his prerogatives vested in him by Executive Order 370, the respondent employee is not barred by law from filing an administrative charge of abuse of powers against his superior. It would not scare teachers, therefore, to

know that even a mere information from a news item is a sufficient basis for ordering an administrative investigation against the employee involved.

An ordinary classroom teacher may regard suspension from the service only as one of the various penalties imposed on erring employees by the Bureau of Civil Service. Considering the dual nature and purpose of suspending an employee from his office, there are two kinds of suspension from the service that may be mentioned. One is suspension as a form of penalty and the other is the so-called preventive suspension. The former is invariably imposed if the guilt as found after an administrative proceedings warrants it as a penalty, and which does not exceed two months. Of course, during the period of suspension the employee does not receive any salary, except in the case of preventive suspension when, as a result of the investigation, the employee is exonerated that he receives his full compensation covering the duration of his suspension.

The term "preventive suspension" may create a vague idea in the mind of the teachers without explaining to them its purposes and principles. Foremost fact to know is that preventive suspension is resorted to in cases where the accused employee or official performs duties that provide opportunity to oppress, intimidate, and coerce witnesses against him. A Memorandum Order of Governor General Francis Burton Harrison dated November 7, 1917, also contemplates that if there are strong reasons to believe that the respondent employee is guilty of the charges which, when finally proven, would warrant his removal from the service, then preventive suspension may be necessarily affected. There are instances when a criminal action against an employee is likewise ordered by the chief of an office or bureau with the approval of the proper head of the department.

Considering the loss the Government incurs in the payment of salaries of suspended employees who are exonerated and subsequently reinstated in the service, it is also intimated by Governor General Harrison in his Memorandum Order that the authority to order preventive suspension should be exercised with utmost caution. Where the position of a suspended employee cannot be left unfilled without detrimental effect on public service, it is obvious that in the event the suspended incumbent is exonerated the Government pays two salaries, one to the substitute employee and the other to the incumbent. On the premise that government interest is the primary concern of administrative discipline, Provincial Circular (Unnumbered) dated February 9, 1955, makes provincial governors, and municipal and city mayors who are responsible for any illegal suspension of employees under their offices personally liable for the payment of their salaries upon reinstatement in the service.

The salary paid to a suspended employee who is exonerated from the charges against him is surely a compensation without any services rendered and is not only a loss on government finances but also on the individual citizen's in the form of taxes.

Summary dismissal may be instituted against an employee who is convicted of a criminal offense in a court of justice. An appeal from the sentence before a higher court should not delay the institution of administrative proceedings for the removal of the employee and his immediate suspension be ordered. It is also in the interest of the Government that the convicted employee is immediately suspended pending his appeal before a higher court because the salaries he shall have received until after his appeal is decided would be forfeited in case the sentence of the lower court is affirmed.

It appears from all view that since decisions handed down by courts of justice are made the basis of summary penalties on Civil Service employees, the courts have a more superior prestige in the administration of justice than administrative bodies. However, it is much more logical to consider the standard of convicting an accused that court decisions are looked upon as having a greater weight in evidence. In the courts, proof beyond reasonable doubt is required to convict an indicted person while only moral certainty will suffice to establish the guilt of a respondent in an administrative action. The fact is clear, therefore, that it is far more safe to accept a court verdict than a decision on an administrative action.

The Commissioner of Civil Service makes decisions on all administrative cases, but which decisions may not be final upon appeal by the respondent or respondents to the Civil Service Board of Appeals. A 30-day period from receipt of a decision is allowed a respondent within which he should file his petition to the Chairman of the Civil Service Board of Appeals. The date of receipt of the decision which is the subject of an appeal is a significant item because failure to state it may technically cause its dismissal. If an appeal is sent by mail to the Civil Service Board of Appeals, the same is considered filed on the date shown by the postmark of the envelope which eventually would become a vital part of the records. New evidences which are material to the case may be included in an appeal to reinforce the arguments of the appellant.

The respondent in an administrative case is afforded with liberal chances to make his defense even after he has filed his appeal with the Civil Service Board of Appeals. Another 20-day allowance may be granted him if he so requests with justifiable reason, aside from the 30-day period previously mentioned. Furthermore, within 15 days after receipt of the Board's decision, a petition for reconsideration can be

filed by him through the Commissioner of Civil Service, specifying clearly his grounds for petitioning and presenting his arguments supporting each ground in an orderly and concise manner. Incidentally, the decision of the Civil Service Board of Appeals is still subject to modifications and reversions by the President of the Philippines.

Another essential information about administrative discipline is that administrative investigations are conducted to rid the Government of undesirable employees and not to give relief to the complainants who should merely play the role of government witnesses. On one occasion a complainant said, "My aim is mainly to inform the proper authorities of the respondent's act as a violation of the Civil Service Law and not an act that has caused damage to my personal interests." But, generally, a complaint is filed only as carry-over of a personal conflict between the prospective respondent and the prospective complainant. It seems that a wholesome human relationship among each other is the greatest defense for teachers from any future complaints against them.

A New Home Industry for Panay

By Hermogenes F. Belen

LITTLE DID the people of rural areas in Panay (Iloilo, Antique, Capiz, and Aklan) realize that a few feet below their low-yielding rice and corn crops lay a vast deposit of dormant gold. Lesser still did they suspect that the white, red, or bluish mud—hard during summer and extremely sticky during rainy days—can be turned to money with little effort.

Today, a new home industry is born with a bright prospect of development. This was not a product of mere accident. It was the offshoot of a well-directed technical research program at the Iloilo School of Arts and Trades that was started in July, 1954. Heretofore, this sticky mud was useless to the farmer. To the potter, it was used only for making the century-old types of cheap banga (drinking jar), Kolon (cooking pot), or ka-ang (flower pot). The research program at the trade school in Iloilo has supplied the missing link—technical know-how and technical know-why. It is now possible to transform this vast deposit of clay into usable products like plates, bowls, cups, wash basins, toilet bowls, saucers, decorative bric-a-bracs (flower vases, wall pockets, small figurines, ash trays), or electrical insulators. In the market these are known as ceramic wares or plain earthenware, stoneware, or porcelain. The process is simple: prepare the clay, form the ware, fire the raw ware in a kiln, and, finally, glaze the ware. The result would be a ceramic ware—may be a plate, electrical insulator, toilet bowl, or flower vase. Any farmer with average intelligence can easily learn the techniques which have been simplified at the trade school. Complicated chemical formulas have been reduced to simple proportions of clay, silica, and feldspar in terms of weight or volume.

We had always believed that China, Japan, England, France and the United States have a monopoly of manufacturing ceramic wares. Little did we dream that we have raw materials which could be utilized for this basic home industry. But that belief is not true any longer. The clay deposits of Panay have been tested and found to be comparable with any clay in the Philippines like those found in the Bicol region, Laguna, Marinduque, Cebu, and in Northern Luzon. Several towns in Iloilo have vast deposits of this raw

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