

MALACANANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 375

CONSIDERING MR. ALFREDO M. BUNYE RESIGNED AS DIRECTOR OF PRISONS AND REMOVING MR. ERIBERTO B. MISA, JR., FROM OFFICE AS ASSISTANT DIRECTOR OF PRISONS.

This is an administrative case against Messrs. Alfredo M. Bunye and Eriberto B. Misa, Director and Assistant Director, respectively, of the Bureau of Prisons, for (a) culpable neglect and gross inefficiency in the performance of duty and (b) maladministration with grave abuse of authority and violation of civil service laws, rules and regulations.

The first charge consists of eleven (11) specifications. Respondents were made to answer for the extreme but unwarranted and unnecessary congestion of prisoners in the New Bilibid Prison; their failure and indifference to decongest it adequately; the dismal consequences of the congestion - formation and growth of prison gangs such as the notorious Sigue-Sigue and OXO warring groups, making and keeping of deadly weapons by prisoners, killings, stabbings, bloody riots and mass jailbreaks; their failure to break up and stop the activities of the prison gangs; and their leaving together their posts for Tokyo on November 21, 1957, the chaotic conditions in the penitentiary notwithstanding.

Respondent Bunye alone is made to account on the first charge for leaving his post for Baguio on February 16, 1958, and returning the following day only, despite the explosion in the morning of that day of terrible prison violence caused by the tumultuous affray of the Sigue-Sigue and OXO gangs; leaving his post for New York to attend a United Nations Conference in April 1958, when conditions in the penitentiary were still abnormal; reinstating a prison guard who was suspended for maltreating a prisoner and recommending the guard's exoneration later; and ordering the transfer of Sigue-Sigue and OXO prisoners to newly built stockades, notwithstanding the security deficiency thereof for the confinement of prisoners, thus causing two abortive attempts of mass jailbreaks.

On the second charge, respondents were made to answer twelve (12) counts, namely; favoritism in the supervision and treatment of prison employees; assignment of personnel to positions and functions other than those appertaining to their appointments; detail of prison guards to clerical duties regardless of the compelling demand for more guards to maintain order in the penitentiary;

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failure to provide guards and drivers with free quarters inside the prison reservation; wanton disregard of existing rules of seniority and qualifications of prison employees in the consideration of promotions; abuse of their privilege to have prisoner-helps in their quarters; assignment of hardened Sigue-Sigue prisoners classified as incorrigibles in the prison "trustee force"; toleration of six women employees performing clerical duties to occupy items for guards; failure to impose administrative discipline on errant prison employees; and the shooting of four prisoners attempting to escape, resulting in the death of three and serious injuries on the fourth.

The factual aspects of the specifications on the first charge are admitted by respondents. However, they disclaim responsibility therefor on the ground that those were unavoidable contingencies beyond their control. They blame the congestion of prisoners in the New Bilibid Prison on their lack of control over the number of prisoners sent to and admitted in the penitentiary. Evidence was presented to show that they had exerted efforts in decongesting the penitentiary but failed for lack of necessary means and funds. As to the tumultuous happenings in the penitentiary - the riots, killings, stabbings, jailbreaks and other prison disorders - they impute these to the fact that the penitentiary was sadly over-populated and to the very low disproportion of guards in relation to the large number of inmates to be supervised and watched.

There is no doubt in my mind that the root cause of the dismal conditions and horrible occurrences in the New Bilibid Prison in 1958 which attracted nationwide attention was the congestion of prisoners. While respondents made attempts to decongest the penitentiary, I find that their efforts were not in earnest and devoted as the situation demanded. From the way they tried to wash their hands of the responsibility for the said state of things in the national penitentiary, I gather that their attitude towards their bounden duty is that of passive resignation to seemingly difficult problems necessarily arising from the very nature of a prison establishment. Had they taken to heart their sworn tasks as guardians of the welfare of the New Bilibid Prison, they could have easily achieved its proper decongestion as the present acting Director of Prisons did in a short time after taking over the supervision and management thereof.

I realize that the New Bilibid Prison is beset with several problems, such as the lack of adequate funds and the small number of personnel to cope with the proper supervision of the inmates. Decongestion, however, could have been easily attained, even with lack of funds, by the periodic transfer of a large number of the prisoners to the different penal colonies. But it is evident that respondents, instead of doubling their efforts to minimize the

deplorable state of affairs in the penitentiary, let matters ride as they were. Where they should have stayed in their posts, for trouble was then brewing in the penitentiary, they left together for Tokyo in 1957, seemingly complacent with the thought that after all their departure was approved by the Department of Justice. By this act, they have shown that to them the Tokyo affair, an opportunity to travel abroad, was of more paramount importance than the well-being of the penitentiary, the fact that the problem of congestion thereof was seething and ready to explode, as it actually did a few months thereafter, notwithstanding.

Anent the second charge, I find from the evidence that respondents have no deep respect for civil service rules and regulations. They admit that there are several misplaced employees in the Bureau of Prisons. But they justify the topsy-turvy placements of personnel on the fact that the assignment of employees to positions other than those corresponding to their respective appointments had already been an established practice in the Bureau before they assumed office. This practice naturally paves the way for the accommodation of favorites in select positions and consequently demoralizes those who are not in the good graces of their superiors.

It is not surprising if one of the primary causes of the prisoners' complaints against prison employees for maltreatment is the demoralization among the latter, it being natural that a disgusted employee would find it easier and more convenient to give vent to his anger and displeasure on the prisoners than on his superiors. Respondents should have tried their level best to stop such a condemnable practice which, however hoary with age, is contrary to civil service rules. Their adherence to the practice shows not only their lack of initiative to improve worsening conditions but also their proclivity to let matters turn from bad to worse.

I also note from the record that while respondents are wont to brush aside civil service rules and regulations, they are unduly harsh in the application of prison rules to the inmates. It has been established that on the night of June 30, 1958, four prisoners successfully sawed off the iron window grills of the cell where they were confined and escaped to the playground. Before they could scale the walls of the prison compound, a guard saw them. An alarm was made and respondent Misa with a number of guards hied off to the administration building at the control gate. On hearing the alarm, the four prisoners, completely naked except one who had his drawers on, started walking with hands raised above their heads towards the place where respondent Misa and his men were posted. Misa shouted, "Halt!" But the prisoners continued walking and Misa

ordered the guards to fire at them. The prisoners fell, three died on the spot and one suffered serious physical injuries.

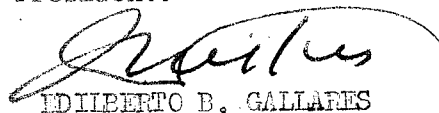
The mowing down of the four prisoners with gun fire was not warranted. Respondent Misa attempted to justify his order to shoot at the prisoners on the prison rule that a prisoner should immediately lie motionless on the ground, face downward and arms spread from his body, until ordered to stand up, at the sound of an alarm signal. The prisoners may not have obeyed the order to halt nor followed said prison rule but since they were naked, with their hands raised above their heads, a clear sign of surrender, only a warning shot should have been fired. Misa's action was not only a display of poor judgment but an indication that he does not have the capacity to treat prisoners with humane consideration. To my mind, the shooting of the four naked prisoners who had sufficiently evinced their willingness to surrender was indeed a cowardly act.

IN VIEW OF ALL THE FOREGOING, I feel that the retention of respondents in the service will not be in the public interest. Respondent Alfredo M. Bunye is therefore considered resigned without prejudice to his leave and retirement privileges, and respondent Eriberto B. Misa, Jr., is removed from office, effective as of the date of their preventive suspension.

Done in the City of Manila, this 18th day of December, in the year of Our Lord, nineteen hundred and sixty^{one}, and of the Independence of the Philippines, the sixteenth.



By the President:



ERIBERTO B. GALLANES
Assistant Executive Secretary