

MALACAÑANG
MANILA

ADMINISTRATIVE ORDER NO. 52

DISMISSING FROM THE SERVICE WITH FORFEITURE OF RETIREMENT
AND OTHER BENEFITS ARSENIO P. LUMIQUED, REGIONAL
DIRECTOR-CAR, DEPARTMENT OF AGRARIAN REFORM

This refers to the three (3) complaints filed with the Board of Discipline of the Department of Agrarian Reform by therein complainant Jeanette Obar-Zamudio, Regional Cashier, against Arsenio P. Lumiqued, Regional Director, both of DAR - Cordillera Autonomous Region.

The Department of Justice, through DOJ Order No. 145, dated May 30, 1992, constituted a Committee to investigate the aforementioned complaints and to recommend appropriate action thereon.

Last October 22, 1992, Secretary of Justice Franklin M. Drilon sent a Memorandum for the President recommending the dismissal of Arsenio P. Lumiqued with forfeiture of all privileges.

This Memorandum discussed the Committee findings as follows:

"The complaint dated November 16, 1989, charged the respondent with malversation through falsification of official documents. It is alleged that during the period from April to September, 1989, the respondent submitted 124 falsified receipts for reimbursement of gasoline purchases. With the use of these falsified receipts, respondent claimed for and was paid reimbursement in the total amount of P64,279.44.

The complaint dated November 22, 1989 charged the respondent with violation of COA rules with intent to defraud the government. It is alleged that during the months of April, May, July, August, September, and October, 1989, respondent made cash advances in the amount of P116,800.00, purportedly for expenses for a seminar. These cash advances were never liquidated.

The complaint dated December 15, 1989, charged respondent with oppression and harassment. It was alleged by the complainant that by reason of her having filed the aforesaid complaints, the respondent relieved her of her duties as Regional Cashier on December 1, 1989. Another complaint dated July 6, 1992 was submitted for a charge similar to that of November 16, 1989, involving gasoline purchase for April 1989.

This Office issued Department Order No. 145, dated May 20, 1992, constituting a committee composed of Regional State Prosecutor Apolinario G. Exevea, Baguio City Prosecutor Rodolfo V. Balajadia, and Provincial Prosecutor Felix Cabading to investigate the charges and recommend appropriate action.

After conducting hearings wherein the parties were given the opportunities to prove their respective positions, the Committee rendered its report finding the respondent Arsenio P. Lumiqued administratively culpable of all the charges.

The Committee found the charge of malversation through falsification sufficiently substantiated. The evidence submitted showed that of the 124 receipts respondent submitted for reimbursement, 15 were verified to have been altered. A comparison of the duplicates with the issuing gasoline stations showed the average daily purchases made by respondent is 8.46 liters at the price of P50.00. The receipts submitted by respondent showed an average daily purchase of 108.5 liters at the price of P550.00.

The evidence presented by complainant was not rebutted by respondent. He admitted having claimed reimbursement for 108.45 liters, but justified the same as being used for four vehicles utilized for servicing five provinces and sixty four municipalities; that the payments were made on the basis of falsified receipts should be the responsibility of the auditors.

The Committee likewise found sufficient evidence to support the charge of unliquidated cash advance. The 'requests' for allotments and vouchers covering the amount were signed by respondent. These evidence cannot be overcome by respondent's uncorroborated denial or by the certification issued by the DAR Administrative Officer to the effect that respondent had no unliquidated cash advance.

Finally, the charge of oppression and harassment was sufficiently established. The fact that respondent ordered complainant's relief barely three weeks after the filing of the charges and the intimidating tenor of respondent's memorandum ordering the relief indicates it was intended as a retaliation. The allegation that the relief was made upon the recommendation of Jose G. Medina of the COA is nothing but a mere subterfuge. The recommendation came three months after the relief was effected.

The evidence thus far adduced proves the propensity of the respondent to take advantage of his position to

the detriment of public interest he has sworn to serve. Time and again, it has been emphasized that a public office is a public trust. A public servant must exhibit at all times a highest sense of honesty and integrity (*Ancheta vs. Hilario*, 26 SCRA 819). In the instant cases, the offenses charged against respondent are serious and the circumstances surrounding the commission and the evidence of guilt is strong and overwhelming as to warrant the penalty of dismissal (*Alcolala vs. Tolentino*, 83 SCRA 789).

It was noted that complainant filed an affidavit of desistance on July 10, 1991. This will not, however, prevent this office from rendering a resolution in this case. At stake in this investigation is not only the violation of complainant's personal rights. It is the competence and fitness of the respondent to remain in public office. At any rate, the evidence on record may call for a punitive action against the respondent on the initiative of DAR. (*Cruz vs. Mudlong*, 96 SCRA 819)." (Underscoring Ours.)

To this Memorandum, respondent Lumiqued, through counsel, submitted a Motion for Reconsideration dated December 17, 1992.

From the foregoing, we find respondent Lumiqued administratively liable for DISHONESTY in the alteration of fifteen (15) gasoline receipts.

That the receipts were merely turned over to him by his drivers and that the auditor and accountant of the DAR-CAR should be the ones to be held liable is untenable. The receipts in question were signed by respondent for the purpose of attesting that those receipts were validly issued by the commercial establishments and were properly disbursed and used in the official business for which it was intended.

This Office is not about to shift the blame for all these to the drivers employed by the DAR-CAR as respondent would want us to do.

This Office, however, believes that the charges of oppression and harassment as well as charges of unliquidated cash advances have not been satisfactorily established.

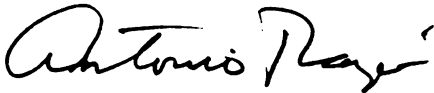
WHEREFORE and as recommended by the Secretary of Justice, ARSENIO P. LUMIQUED, Regional Director - Cordillera Autonomous Region, Department of Agrarian Reform, is hereby DISMISSED from the

service, for Dishonesty, with all the accessory penalties of dismissal including the forfeiture of retirement and other benefits.

DONE in the City of Manila, this 12th day of May in the year of Our Lord, Nineteen Hundred and Ninety-Three.

A handwritten signature in black ink, appearing to be 'Antonio Carpio', written in a cursive style.

By the President:

A handwritten signature in black ink, appearing to be 'Antonio Carpio', written in a cursive style.

ANTONIO T. CARPIO

Chief Presidential Legal Counsel