



MALACAÑANG
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 271

IMPOSING THE PENALTY OF SUSPENSION ON PROVINCIAL TREASURER MIGUEL YUVIENCO OF CAVITE AND REINSTATING HIM IN THE SERVICE.

This is an administrative case against Mr. Miguel Yuvienco, provincial treasurer of Cavite, for alleged (1) illegal reversion of trust funds, (2) overappraisal of real property for fraudulent purposes, (3) falsification of election returns and (4) gross insubordination. The charges were formally investigated by the Department of Finance.

After a review of the record, I find that respondent's guilt under charges (2) and (3) has not been duly established.

As to the first charge, it appears from the ledger for 1954-1955 of respondent's office that balances from 1946 to 1953 in the aggregate sum of ₱140,572.04 which had remained unclaimed and unadjusted up to September 30, 1954, were on the latter date reverted to the general fund of the province, taken up under revenue classification as prior years adjustment and appropriated by the provincial board of Cavite for provincial purposes under two supplemental budgets. Of said sum, the amount of ₱115,092.04 was used for construction of the provincial capitol and the purchase of its site.

In his defense respondent alleged that the amounts involved were taken from miscellaneous accounts payable which were listed as such by his predecessor, Mr. Rafael Morelos; that the listing down of the accounts for the purpose of reversion was made by his bookkeeper; that the supplemental budgets appropriating the amounts were approved by the Department of Finance (one actually and the other by operation of law); that as said amounts had remained unpaid for more than one year, they were proper items for reversion; and that he had not received any notice suspending the vouchers carrying the appropriation of the sums in question.

The amounts involved which were reverted by the respondent were national funds intended for some specific purposes and were, therefore, in the nature of trust funds. Under the provisions of

Section 70 of the Manual of Instructions to Provincial Treasurers and Section 614 of the Revised Administrative Code, trust funds are available only for the specific purpose for which they were created or came into the possession of the branch of the Government concerned.

His claim that as the accounts had remained unsettled for more than one year they could be reverted and considered as prior years adjustment is not correct. Under Section 68 of the same Manual of Instructions only the unpaid wages of laborers employed by the province, city or municipality which have remained unsettled for more than one year may be reverted to other incidental revenues, Account 39. Neither may the accounts be considered as prior years adjustment since this particular revenue account constitutes refunds made to the branch of the Government or political subdivision concerned, during a current year, of disbursements illegally or erroneously made during the preceding year or years, but under which the accounts in question do not fall because, as a matter of fact, they had not then been disbursed.

There is no merit in respondent's defense that the classification was made by his predecessor. Under the law and regulations he was not bound by the classification made by his predecessor, for the new treasurer should "carefully investigate the circumstances and examine the nature of the same before having them entered in his accounts." When a new treasurer adopts the mistakes of his predecessor, he makes them his own. Respondent assumed direct responsibility for the reversion when he claimed that the reversion was legal.

Neither may he find relief in the fact that the listing of the amounts for purposes of reversion was done by his bookkeeper. The nature of his position and responsibility demands that he be careful with papers passing his hands and not rely merely on the initials of his subordinates, however reliable they may be, more so when big amounts of money are involved as in this case. He should have ascertained and verified for himself whether the amounts listed by his subordinate were proper for reversion.

Under Section 637 of the Revised Administrative Code, "persons accountable for government funds shall be liable for all losses resulting from the unlawful or improper deposit, use or application thereof and for all losses attributable to negligence in the keeping of same."

Similarly unmeritorious is respondent's defense that the supplemental budgets appropriating the amounts in question were approved by the Department of Finance. The budgets on their faces were legal.

There was no detailed explanation of what the accounts identified therein as prior years adjustment consisted. In fact it was only when the provincial auditor of Cavite examined the corresponding journal voucher in post-audit that the illegal reversions were discovered and the account was suspended.

In the light of the above, I find the respondent guilty under the first charge.

With respect to the last charge, it appears that the Philippine National Bank wrote to the Department of Finance concerning the alleged overappraisal of lands involved in charge (2). The letter was indorsed on March 11, 1955, to the respondent for comment and/or explanation within ten days from receipt thereof. No reply having been received from the respondent, a call-up letter was sent to him on July 8, 1955, which was handed over to the assistant provincial treasurer for delivery to him. Another follow-up letter was sent on February 11, 1956, by registered mail. The Department of Finance has no record of any reply sent by respondent to said communications.

Respondent admits having received the indorsement of March 11, 1955, but denies receipt of the two call-up letters. He alleges that the desired explanation was sent to the Department of Finance on July 20, 1955, but through inadvertence the letter was coursed by ordinary mail. A purported copy thereof was presented as exhibit during the investigation.

I am not impressed by respondent's explanation. His claim that he did not receive the call-up letters is incredible, being contrary to the ordinary course of things and the legal presumptions on the matter. Even considering as proven only the facts admitted by him, still his responsibility is clear. If he were to be believed, he allowed a period of more than four months to pass before replying to an official communication of his supervisor which called for action within ten days. If as claimed the pertinent records were unavailable and he needed time to recollect what transpired in the inspection of the properties in question, he should have asked for an extension of the period to submit his answer. His alleged answer of July 20, 1955, was obviously too belated.

I, therefore, find the respondent guilty of insubordination.

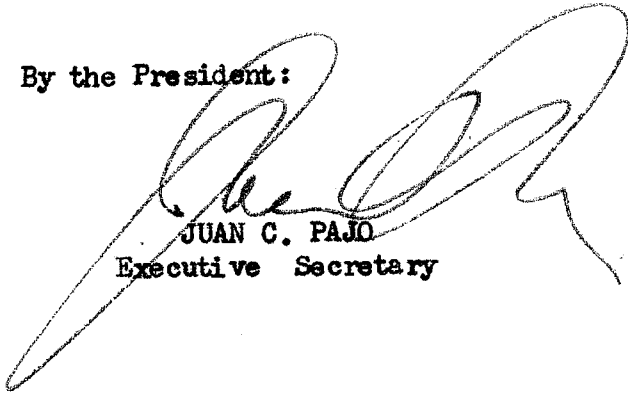
In view of all the foregoing, Mr. Miguel Yuvienco is hereby meted out the penalty of suspension without pay corresponding to the period of his preventive suspension. He is further reprimanded and warned that commission of similar irregularities in the future will be dealt with more drastically. His suspension is hereby lifted and he is reinstated in the service.

Let a copy of this order be furnished the Auditor General for such steps as he may deem proper to take for the recovery of the amount illegally reverted from the national fund to the provincial fund of Cavite.

Done in the City of Manila, this 29th day of May, in the year of Our Lord, nineteen hundred and fifty-eight, and of the Independence of the Philippines, the twelfth.

Leah Garcia

By the President:



JUAN C. PAJO
Executive Secretary