

# MALACAÑANG

Manila

## ADMINISTRATIVE ORDER NO. 37


**IMPOSING A FINE ON CORAZON B. MARCOS, FORMER CHAIRMAN OF THE TARIFF COMMISSION, EQUIVALENT TO HER THREE (3) MONTHS' SALARY TO BE DEDUCTED FROM WHATEVER RETIREMENT AND OTHER BENEFITS SHE MAY RECEIVE FROM THE GOVERNMENT.**

This refers to the administrative case filed by Ms. Herminia J. Tayco, Special Assistant to the Chairman of the Tariff Commission, against Ms. Corazon B. Marcos, then Acting (later regular) Chairman of the said Commission, for "grave abuse of authority, oppression and conduct unbecoming" of an official arising from respondent's refusal to pay the former's salaries as such Special Assistant, notwithstanding the decisions of the Civil Service Commission (CSC), and the Office of the President, and, as updated by complainant's subsequent letters and as later particularized, from respondent's continued refusal to pay said salaries despite the decisions/orders of the Office of the President, the CSC, the National Economic and Development Authority (NEDA), the Budget Commission, Commission on Audit (COA), and the Minister of Justice, all upholding the validity of such complainant's appointment and directing the payment of her salaries.

The complaint, dated December 26, 1974, was filed with the NEDA to which the Tariff Commission was attached. NEDA indorsed it to this Office on April 12, 1976. On February 22, 1977, this Office required the respondent to submit her answer to the complaint within seventy-two (72) hours. No compliance with this order is shown by the record of the case.

On January 17, 1983, this Office required the complainant to "make statement of particulars and/or specifications of the charges" to enable it "to arrive at an intelligent decision or take appropriate action on the case." The record is bare on complainant's compliance with this order.

In 1986, this Office received letters from the complainant, dated March 12, April 7, 16, and 23, 1986, all expressing her relentless pursuit of the case. Likewise, this Office received a communication from the new Chairman of the Tariff Commission, Chula J. Alarcon, dated April 28, 1986, seeking information on the status of the case in order that the Commission could act on the application of the respondent who resigned as Chairman of the Commission, effective April 16, 1986, "for administrative clearance as a requirement for her retirement benefits x x x."



In view thereof, and considering that the complainant and the respondent have not yet complied with the aforesaid orders of February 22, 1977 and January 17, 1983, respectively, this Office, on June 25, 1986, directed the complainant to submit verified specifications of her charges and the respondent to file a verified answer thereto.

Briefly, complainant's charges, as particularized, are based on respondent's refusal to pay her salaries as Special Assistant to the Chairman of the Tariff Commission, notwithstanding the decision of this Office confirming the authority of Tariff Commission Chairman Razon T. Haresco to issue her appointment as such Special Assistant and the decisions of the CSC upholding the validity of her said appointment and dismissing the protest of Rosalia A. Saldaña against her appointment; on respondent's continued refusal to pay her said salaries, to act on her GSIS loan and on her request for payment of her MEDICARE premiums, despite the directives of the NEDA and this Office for payment of her salaries as such Special Assistant; on respondent's subsequent act of revoking her appointment and considering her position as vacant; on respondent's act of proposing for the abolition of her item after failing to invalidate her appointment; on respondent's act of withholding from Chairman Haresco the directives of the Budget Commissioner and this Office directing the payment of her salaries, and of disclaiming knowledge of such directives and refusing to act on her salary vouchers; on respondent's determined effort to cause the nullification of her appointment, notwithstanding decisions of appropriate government agencies upholding its validity; on respondent's act of requesting General Fabian C. Ver for a thorough and immediate investigation of all officials and employees who caused the issuance of her appointment and payment of her salaries; on respondent's act of requesting her recall and questioning her services from February 17, 1975 (the effective date stated in Special Order No. 9 terminating her detail) although said Order No. 9 was issued only on March 11, 1975 and she received it only on March 17, 1975; on respondent's act of issuing Office Order No. 6-A dated February 17, 1975 or while she was still on detail at the Development Management Staff (Malacañang), assigning her to the Office of the Executive Director and requiring her to use the bundy clock although personnel of lower rank were not required to do the same; and on respondent's act of questioning the directive of Chairman Manuel L. Alba directing the Cashier of the Tariff Commission to pay her accumulated salaries. All these acts of the respondent, so complainant asserts, show harassment, oppression, and vindictiveness on the part of the respondent, done in wanton disregard of her rights and in gross and evident bad faith utilizing the powers of her office and her affinity with then President Marcos, with clear malice and obvious intent to cause damage and prejudice to her. To further support her charges, complainant submitted a copy of the decision of the then Court of First Instance of Quezon City (Branch IX) in Civil Case No. Q-20481, ordering respondent to pay moral and exemplary damages, among others.

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Respondent, in her answer, interposed the defense of good faith and honesty in her belief on the nullity of complainant's appointment and that she was just overzealous in protecting the people's money.

After the submission of the above-required pleadings, this Office created a Committee under Memorandum Order No. 41, dated September 25, 1986, to investigate the charges of the complainant against the respondent.

During the November 6, 1986 hearing, respondent presented a Motion to Dismiss, dated October 29, 1986, anchored on the grounds (a) that the case has been rendered moot and academic by the acceptance by the President of respondent's resignation, effective April 16, 1986; and (b) that this Office has lost jurisdiction over the person of the respondent. The Committee, however, deferred the resolution of said motion until the reception of evidence, and allowed the complainant to file a written opposition thereto, which she did, and required the parties to submit their evidence, in addition to those already filed with this Office. The additional evidence being all documentary, the parties agreed to submit them together with their respective position papers/memoranda, after which the case shall be deemed submitted for decision.

The Report of the Committee, insofar as pertinent, reads as follows:

"Respondent, in seeking the dismissal of the case based on the acceptance by the President of her resignation as Chairman of the Tariff Commission effective April 16, 1986 - which, according to her, rendered the case moot and academic and deprives this Office of jurisdiction over the person - relies upon the case of Diamalon vs. Quintillan (Adm. Case No. 116, August 29, 1969 SCRA 347) wherein the Supreme Court ruled that an administrative proceeding against a judge may be dismissed after the judge's resignation has been accepted by the President during the pendency of the case, because an administrative proceeding is predicated on the holding by the respondent of an office or position in the Government (at p. 350). This ruling, however, was explained and modified, if not superseded, by the subsequent cases of Perez vs. Abiera (Adm. Case No. 223-J, June 11, 1975, 64 SCRA 302); Pesole vs. Rodriguez (Adm. Case No. 755-MJ, January 31, 1978, 81 SCRA 208); and People vs. Valenzuela (L-63950-60, April 19, 1985, 135, SCRA 712).

"In explaining the Quintillan ruling and in disposing Judge Abiera's theory of mootness and lack of jurisdiction similar to that of respondent's in this case, the Supreme Court said:

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'It was not the intent of the Court in the case of Quintillan to set down a hard and fast rule that the resignation or retirement of a respondent judge as the case may be renders moot and academic the administrative case pending against him; nor did the Court mean to divest itself of jurisdiction to impose certain penalties short of dismissal from the government service should there be a finding of guilt on the basis of the evidence. In other words, the jurisdiction that was ours at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased to be in office during the pendency of his case. The Court retains its jurisdiction either to pronounce the respondent public officials innocent of the charges or declares him guilty thereof. A contrary rule would be fraught with injustices and pregnant with dreadful and dangerous implications. For what remedy would the people have against a judge or any other public official who resorts to wrongful and illegal conduct during his last days in office? What would prevent some corrupt and unscrupulous magistrate from committing abuses and other condemnable acts knowing fully well that he would soon be beyond the pale of the law and immune to all administrative penalties? x x x. If innocent, respondent official merits vindication of his name and integrity as he leaves the government which he served well and faithfully; if guilty, he deserves to receive the corresponding censure and a penalty proper and imposable under the situation." (Perez vs. Abiera, supra, at pp. 306-307; Pesole vs. Rodriguez, supra, at p. 211; People vs. Valenzuela, at p. 718; Underscoring supplied.)

"Thus, notwithstanding the retirement of Judge Abiera shortly after the filing of the administrative case against him, the Supreme Court required him to answer the complaint and the case investigated and finding him guilty of serious misconduct in office, imposed upon him a fine equivalent to three (3) months salary, deductible from whatever retirement benefits he is entitled to and will receive from the government. (Perez vs. ABiera, supra, at pp. 109-110). Likewise, an administrative case against a municipal judge was pursued and investigated notwithstanding his compulsory retirement (Rañeses vs. Tomines, Adm. Matter No. 518-MJ, May 28, 1974, 57 SCRA 94; Daily Papa vs.

Almora, Adm. Matter No. 543-MC & 1525-MJ, Dec. 19, 1981, 110 SCRA 376) and even after the death of the respondent official (Hermosa vs. Paraiso, Adm. Case No. P-189, February 14, 1975, 62 SCRA 361), if only to determine if his heirs are entitled to retirement benefits on account of such death which are deemed forfeited in the event that his guilt is established at the investigation. (Ibid, at p. 362.)

"Indeed-

'the cessation from office of a respondent judge either because of resignation, retirement or some other similar cause does not per se warrant the dismissal of an administrative complaint which was filed against him while still in the service. Each case is to be resolved in the context of the circumstances present thereat.' (Perez vs. Abiera, supra, at p. 308; Underscoring supplied.)

But before we examine the facts of this case to determine if circumstances warranting its dismissal exist, we must first dispose of respondent's theory of double jeopardy invoked by respondent in her motion to dismiss, albeit the opening paragraph of said motion indicates that the same is based only on two (2) grounds, namely: (a) mootness, and (b) jurisdiction.

"Respondent's theory of double jeopardy proceeds from her characterization of her resignation as 'forced resignation' and is, therefore, a penalty within the meaning of CSC Memorandum Circular No. 8, series of 1970, prescribing guidelines in the application of penalties in administrative cases and other matters relative thereto. She argues that, since such penalty of 'forced resignation' was imposed by the acceptance of her resignation by the President without imposing therein any condition adversely affecting her right to enjoy benefits, she should be allowed to enjoy retirement and other benefits due her under existing laws, because 'forced resignation' as a penalty under MC No. 8, supra, may or may not contain condition with respect to the enjoyment of benefits or reinstatement or reemployment.

"The urgency of the need to dispose of this case expeditiously was precisely precipitated by respondent's application for retirement benefits. If the acceptance by the President of her resignation was in fact an imposition of the penalty of 'forced resignation' as respondent now contends, there would be no legal basis for the payment of retirement benefits to her, for, contrary to her allegation, the very CSC MC No. 8 invoked by her mandates the forfeiture of her retirement benefits as Clause III(2) thereof reads as follows:

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- '2. The penalty of forced resignation shall carry with it that of forfeiture of leave credits and retirement benefits, and the disqualification for employment in the government service for a period of one year. However, where the resignation contains conditions or disqualification regarding reemployment in a class of position, the respondent shall be disqualified for reemployment in such position.'  
(Underscoring supplied.)'

This must however be read in relation to the provision invoked by respondent, namely Clause VII (1, 2), MC No. 8, supra, providing that 'the penalty of forced-resignation' carries with it the forfeiture of leave credits and retirement benefits and disqualification for employment in the government service unless otherwise provided therein. So that, in the absence of such qualification, the penalty of 'forced resignation' shall be deemed to include forfeiture of retirement benefits, among others.

"Clause III(2) and Clause VII(.2.) may be restated thus: the penalty of 'forced resignation' carries with it the forfeiture of leave credits and retirement benefits and disqualification for employment in the government service unless otherwise provided therein. So that, in the absence of such qualification, the penalty of 'forced resignation' shall be deemed to include forfeiture of retirement benefits, among others.

"As admitted by respondent, the President's acceptance of her resignation does not contain a condition that she shall enjoy retirement benefits. Hence, the same shall be deemed to carry with it the forfeiture of her retirement benefits.

"This is so because 'forced resignation' is the same as 'considered resigned' as explicitly admitted by respondent when she invoked Opinion No. 50, series of 1977, of the Minister of Justice relative to the cases of officers and employees 'purged' or 'considered resigned' in September 1975 whose petitions for reinstatement or for reconsideration of the acceptance of their resignations were then pending before the Appeals Committee created under Administrative Order No. 370, series of 1975, as shown by the portion of the opinion quoted in respondent's motion to dismiss. And the penalty of 'considered resigned' has been construed by no less than the Supreme Court as dismissal for cause with forfeiture of retirement benefits (Aquino vs. General Manager, GSIS, L-24859, January 31, 1968, 22 SCRA 415). It was in recognition of the disabilities inherent in the penalty of 'forced

resignation' or 'considered resigned' that then President Ferdinand E. Marcos, in order to remove such disabilities issued Letter of Instructions No. 647, dated December 27, 1977, granting executive clemency to those officers and employees 'purged in September 1975 who were not recommended for reinstatement by the Appeals Committee, so that they may be allowed to be reemployed in the government (par. 1) and, with respect to those who cannot be reinstated or reemployed for any reason, to retire and receive retirement and other benefits granted by law (par. 2).

"And Section 4 of PD 1146 (Revised GSIS Charter) as amended by PD 1981, provides that a government officer or employee-member of the GSIS who is separated for cause or considered resigned automatically forfeits whatever benefits that shall have accrued or been earned at the time of separation.

"However, as our duty here is to render justice, we cannot seize this opportunity to pin down the respondent on the basis of her misapprehension of the true character of her separation from the service and of the rule (CSC No. 8, supra) she invokes. We must decide the case on the basis of the law applicable and of the true facts of the case.

"Not much reliance can we place on CSC MC No. 8, series of 1970, even if we assume its continued operation (it was issued to implement the provisions on discipline of R.A. 2260, as amended by R.A. 4380 and 6040) notwithstanding the promulgation of Presidential Decree No. 807, otherwise known as the 'Civil Service Decree of the Philippines', on October 6, 1975 (or before the filing of the instant case on December 27, 1974) because it must be deemed consistent with the subsequent law, particularly P.D. 807, and the provisions of the latter law on discipline are applicable only in 'Administrative Cases Against Non-Presidential Appointees' (Sec. 38, P.D. 807); hence, inapplicable to respondent being a presidential appointee.

"And we cannot go along with respondent's characterization of her separation from the service as 'forced resignation'. It was a voluntary act, a courtesy resignation usually tendered by raking government officials whenever a new administration comes into power. Respondent herself so described it in her resignation letter dated February 26, 1986 in this clear language: 'To pave the way for the reorganization of the government on account of the assumption to office by the President, I have the honor to tender my resignation as Chairman of the Tariff Commission.'

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"'Courtesy resignation' has never been characterized in this jurisdiction as a 'forced resignation'. Neither the acceptance thereof considered as an imposition of the penalty of 'forced resignation'. It has always been considered as a voluntary act done by key officials in the government in the interest of the nation and of good government, to give the new leadership a free hand in running the affairs of the government.

"There is, therefore, no basis for respondent's invocation of the rule on double jeopardy as the acceptance by the President of her courtesy resignation is, in no proper sense, an imposition of the penalty of 'forced resignation'. Hence, such acceptance, by itself alone, cannot deprive her of whatever benefits due her under existing laws.

"Moreover, double jeopardy applies only in criminal cases (see: Rule 117, Sec. 9, Rules of Court; Art. IV, Sec. 22, 1973 Constitution; Art. 11, Sec. 21, 1987 Constitution). Pascual, Jr. vs. Board of Medical Examiners (L-25018, May 26, 1969, 28 SCRA 344) invoked by respondent, is wholly inapplicable to the instant case as it involves the self-incrimination clause (not double jeopardy rule) in that petitioner therein was being compelled to testify against himself (so also in the case cited therein, namely: Cabal vs. Kapunan, 6 SCRA 1059) and the administrative proceeding therein involves the imposition of sanction, criminal or penal in character (see: Pascual vs. Board of Medical Examiners, supra, at p. 348), namely the revocation of Pascual's license as medical practitioner, and in the Cabal case the forfeiture of properties under the Anti-Graft and Corrupt Practices Act. (Ibid.).

"The instant case possesses no criminal or penal aspect, but is an ordinary administrative disciplinary proceeding involving only, if the circumstances so warrant, the suspension or dismissal of the respondent from public office (and the other administrative disabilities inherent thereto) which is a public trust (Santos vs. Secretary of Labor, L-21524, Feb. 27, 1968, 22 SCRA 848, 450; Morfe vs. Mutuc, L-20387, Jan. 31, 1968, 22 SCRA 424, 432; Art. XIII, Sec. 1, 1973 Constitution; Art. XI, Sec. 1, 1987 Constitution) from which no vested right can arise (Segovia vs. Noel, No. 23226, March 4, 1925, 47 Phil. 543, 547) and the holder thereof may be removed the moment he loses the faith and trust of the public or the moment he fails to 'serve (them) with the highest degree of responsibility, integrity, loyalty, and efficiency' (Art. XIII, Sec. 1, 1973 Constitution), or in the language of the 1987 Constitution (Art. XI, Sec. 1)

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to 'serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest (life)' because it is required that he 'must at all times be accountable to the people.' (Ibid; see also: Art. XII, Sec. 1, 1973 Constitution.)

"Respondent, in her REPLY TO COMPLAINANT'S OPPOSITION TO DISMISS, dated December 15, 1986, also seeks dismissal of the instant case on the ground that this Office, per 5th Indorsement of then Presidential Assistant Juan C. Tuvera, dated January 31, 1977, had long considered this case 'closed'. For a full appreciation and clarity, we quote hereunder the said Tuvera 5th Indorsement as follows:

'Respectfully returned, through the Honorable, the Director General, National Economic and Development Authority, to the Chairman, Tariff Commission, Quezon City, the within preceding 4th indorsement dated December 24, 1976, relative to the appointment of Herminia J. Tayco as special assistant to the Chairman, that Commission, with the information that the same has been duly noted and the case accordingly considered closed insofar as this Office is concerned.' (Underscoring supplie.)'

"As clearly suggested by the language of the said 5th Indorsement, the case that was therein 'considered closed' was the case involving the validity of complainant's appointment as Special Assistant to the Chairman of the Tariff Commission and her right to receive the corresponding salary, because those were the only matters that were then decided upon by this Office in at least four (4) decisions, dated March 7, 1974; June 26, 1975; OP Decision No. 2269, dated October 8, 1976; and OP Decision No. 2389, dated December 3, 1976, let alone the 2nd Indorsement of this Office, dated May 30, 1975, authorizing the payment of complainant's accumulated salaries as such Special Assistant from February 1, 1974.

"Then Presidential Assistant Tuvera could not have contemplated in his said 5th Indorsement of January 31, 1977 the instant administrative case against the respondent, not only because no investigation has yet then been conducted on the case, much less decision rendered thereon, but also because he subsequently requested, in a 1st Indorsement dated February 22, 1977, the respondent to submit 'her reply within 72 hours from receipt (of said Indorsement) to the letter-complaint of Herminia J. Tayco, Special Assistant to the Chairman, x x x.' Likewise, this Office

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requested on January 17, 1983 complainant to make specifications of her charges against the respondent. It is thus highly incongruous for this Office to require respondent to answer or reply to, and complainant to make specifications of the charges in, the complaint in a case it had already 'considered closed'.

### "III. FACTS OF THE CASE"

"From the evidence submitted by the parties and from the records of this Office, the following sequence of events, from which the guilt or innocence of respondent may be determined, emerges:

"Complainant was a former Administrative Officer II of the Tariff Commission. On January 31, 1974, then Tariff Commissioner Razon T. Haresco issued an appointment to complainant as Special Assistant to the Chairman of the Tariff Commission, effective February 1, 1974, with an annual compensation of P12,516.00. On February 6, 1974, this Office, thru Assistant Executive Secretary Roberto V. Reyes, advised the Civil Service Commission (CSC) that the said appointment, together with that of Mr. Abundio R. Querson, as such Special Assistant may be given due course, effective February 1, 1974, as an exception to Memorandum Circular No. 593 of this Office, dated August 8, 1972. Likewise, in a 1st Indorsement, dated February 6, 1974, Director Tomas W. Flores of Wage and Position Classification Office (WAPCO), Budget Commission, forwarded to the CSC the said appointments of complainant and of Mr. Querson, with the WAPCO classification of the position indicating as Special Assistant to the Chairman, Tariff Commission, and the salary allowable in the amount of P12,516.00 per annum, and informing, among other things, that said positions are embodied in the staffing pattern of the Tariff Commission. Complainant's appointment as such Special Assistant was subsequently approved by the CSC as permanent pursuant to Section 24(b) of Republic Act No. 2260, as amended.

"On February 13, 1974, a protest was filed with the CSC by Rosalia A. Saldaña, another employee of the Tariff Commission, against the appointment of complainant, upon the grounds of (a) violation of CSC laws, rules and regulations and (b) prematureness of the appointment allegedly because the reorganization of the Commission has not yet then been effected. In view thereof, on February 20, 1974, respondent, then Assistant Commissioner, requested the deferment of the payment of complainant's salary.

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"Due to the doubt on her authority to appoint personnel of the Tariff Commission engendered by the conversion of said Commission from a single-headed entity to a collegiate body, then Commissioner Haresco, in a letter dated February 22, 1974, inquired from this Office whether she was empowered by law to sign and issue the appointment extended to the complainant, among others, and on February 26, 1974, recalled said appointments.


"In a decision dated March 7, 1974, this Office (thru Assistant Executive Secretary Ronaldo B. Zamora) answered the same in the affirmative. For this reason, Commissioner Haresco withdrew the recall of the said appointments.

"In May, 1974, then Acting Chairman Haresco left for Bangkok, Thailand as UN-ASEAN MTN Team Leader. As her temporary replacement, respondent, then Commissioner, was designated by then President Ferdinand E. Marcos, in a letter dated March 22, 1974, as Acting Chairman of the Commission. As such Acting Chairman, she ordered the deferment of the payment of complainant's salaries as Tariff Commission Chairman's Special Assistant pending resolution by the CSC of Saldaña's protest against complainant's appointment.

"On June 10, 1974, the CSC dismissed the protest of Saldaña against complainant's appointment and upheld the validity thereof. In view thereof, complainant, on July 1, 1974, requested the payment of her salaries as Special Assistant, but respondent, as Acting Chairman, denied the same in her letter of July 3, 1974, due to the pendency of Saldaña's motion for reconsideration of said CSC decision. Likewise, respondent did not act on or indorse to the Government Service Insurance System (GSIS) complainant's application for GSIS salary loan.

"On September 16, 1974, the CSC denied Saldaña's motion for reconsideration and accordingly reiterated its original decision on June 10, 1974 and its prior approval of complainant's appointment as Special Assistant to the Tariff Commission Chairman. Saldaña did not elevate the case to higher authority.

"In a letter to the CSC, dated November 19, 1974, respondent, as Acting Chairman of the Tariff Commission, declared complainant's position of Special Assistant to the Tariff Commission as vacant and so informed the CSC as she is revoking complainant's appointment thereto.



"The following day, November 20, 1974, complainant, apparently unaware of said respondent's latest move, requested respondent to allow the payment of her accumulated salaries as Tariff Commission Chairman's Special Assistant. Respondent, in a letter dated November 25, 1974, denied the same, insisting that, as conveyed in her aforesaid November 19, 1974 letter to the CSC, complainant is, for all legal intents and purposes, an Administrative Officer II. On November 22, 1974, complainant requested a copy of respondent's letter to the CSC, dated November 19, 1974. Respondent did not honor said request.

"On December 27, 1974, complainant filed her aforesaid administrative complaint against the respondent with the NEDA to which the Tariff Commission was attached.

"In the meantime, respondent submitted under 1st Indorsement dated January 31, 1975, to the Budget Commission, thru the NEDA Director General, the Tariff Commission Budget Estimates for Fiscal Year 1975-76, proposing therein the abolition of the 'positions of Special Assistant to the Chairman and Executive Assistant to the Member-Commissioners' of the Tariff Commission.

"On the same day, in a 1st Indorsement (dated January 31, 1975), the CSC answered respondent's November 19, 1974 letter by holding that the Tariff Commission, 'thru the designated Acting Chairman (respondent herein) has no longer authority to revoke the said approved appointment' of complainant, 'much more declare said position already filled by virtue of a valid appointment, vacant,' and directing that complainant 'be allowed to assume the office of Special Assistant to the Chairman, (Tariff) Commission, with all the rights, compensation and privileges thereof, as provided in said appointment and under existing laws.'

"On February 13, 1975, respondent requested the recall of complainant who was then on detail with the Development Management Staff (DMS), Office of the Executive Secretary, this Office.

"On February 17, 1975, respondent issued Office Order No. 6-A assigning complainant to Executive Director Emilio M. Cruz, effective immediately, and requiring her to use bundy clock for her daily attendance.

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"On February 18, 1975, then Economic Planning Secretary and NEDA Director General Gerardo Sicat submitted to the Budget Commission the Budget Estimates of the Tariff Commission for Fiscal Year 1975-76, stating, among other things, that '(T)hat other position of Special Assistant must be retained in view of a recent decision of the Civil Service Commission upholding the appointment of a certain employee of the Commission to the said position.'


"On February 24, 1975, Secretary and NEDA Director General Sicat, thru whom the aforesaid CSC's 1st Indorsement of January 31, 1975 was coured, indorsed the same to the respondent as Acting Chairman of the Tariff Commission, enjoining immediate compliance therewith.

"On February 26, 1975, Secretary and NEDA Director General Sicat enjoined the Tariff Commission Acting Chairman to comply with the CSC decision of January 31, 1975.

"Thereafter, in a letter dated March 7, 1975, respondent advised this Office that her office cannot allow the payment of complainant's salaries as Special Assistant for several reasons, among which, the said position does not appear in the staffing pattern recommended by the NEDA on October 19, 1973, pursuant to Sections 501, 503 and 512 of Presidential Decree No. 34 and its creation and funding were proposed subsequent to the approval of the staffing pattern and was incorporated and itemized only under Presidential Decree No. 503; that complainant's appointment was of doubtful validity as it was recalled by Commissioner Haresco herself; and that the Saldaña protest against complainant's appointment was decided by the CSC on doubtful technicality.

"On March 11, 1975, this Office issued Special Order No. 9, terminating complainant's detail effective February 17, 1975. This was received by complainant on March 17, 1975.

"On March 14, 1975, respondent wrote this Office questioning the fact that complainant did not report to the Tariff Commissioner effective February 17, 1975. In answer thereto, this Office, thru DMS Head Executive Assistant Lorenzo B. Ballecer, in a letter dated April 14, 1975, advised respondent that complainant's services for February 18, 1975 to March 11, 1975 are counted as services rendered to DMS.



"In May 1975, Haresco returned from Bangkok and re-assumed her responsibilities as Acting Chairman of the Tariff Commission, and ordered the preparation of voucher for the payment of complainant's accumulated salaries as Special Assistant. Respondent objected thereto, prompting Acting Chairman Haresco to inquire from the Budget Commission and the Department of Justice relative to the legality of such payment.

"In a 1st Indorsement, dated May 30, 1975, Budget Commissioner F. Sy-Changco recommended to this Office that the Tariff Commission be directed to pay complainant's accumulated salaries. In conformity thereto, this Office thru Deputy Executive Secretary Roberto V. Reyes, in a 2nd Indorsement of May 30, 1975, authorized the payment of said accumulated salaries. These communications of the Budget Commissioner and this Office were both forwarded to respondent's office on June 2, 1975.

"On June 10, 1975, Acting Chairman Haresco issued Office Order No. 24, recalling Office Order No. 6-A issued by the respondent (requiring complainant to use the bundy clock in recording attendance).

"The following day, June 11, 1975, respondent issued a Memorandum for Acting Chairman Haresco, advising the latter that the salaries of the complainant and Aurelio R. Orig are being held in abeyance pending receipt of further instructions from Malacañang. In answer thereto, Acting Chairman Haresco, in a memorandum to the respondent, dated June 19, 1975, reiterated her stand that the CSC decision is executory and that payment of complainant's accumulated salaries is already long overdue, and inquired about the whereabouts of the aforesaid authority from this Office for payment of said accumulated salaries and of the Budget Commission's 1st Indorsement, both dated May 30, 1975, which were both forwarded to respondent's office on June 2, 1975, and reminded respondent about her (Haresco's) pending request for a copy of respondent's letter to the Executive Secretary, dated March 7, 1975.

"Subsequently, this Office, in a 1st Indorsement, dated June 26, 1975, thru then Deputy Executive Secretary Roberto V. Reyes, ruled that the objections raised by respondent in her letter of March 7, 1975, were all untenable and accordingly ordered that complainant be allowed to assume her office of Special Assistant to the Chairman of the Commission, with all the rights, compensation and privileges appertaining thereto.

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"At about this time, Acting Chairman Haresco left again for Bangkok, Thailand, as UN-ASEAN MTM Team Leader, and the respondent was again designated as Acting Chairman in her absence.

"On June 30, 1975, then Secretary of Justice (later Supreme Court Associate Justice) Vicente Abad Santos rendered Opinion No. 96 holding that he possesses no revisory authority over the decisions of the CSC, the Office of the President, the NEDA Director General who has administrative supervision over the Tariff Commission, and the Commissioner of the Budget, stating that the same decisions are presumed to be valid and legal and should therefore be obeyed by government officials and employees concerned and inviting attention to the decision of the Supreme Court in Mitra vs. Subido (21 SCRA 130, 142) holding that the moment the appointee assumes a position in the civil service under a completed appointment, as complainant did, he acquires legal right protected not only by law but also by the Constitution and the same cannot be revoked nor the appointee be removed except for cause. This was received by respondent's office on July 2, 1975.

"On July 21, 1975, Economic Planning Secretary and NEDA Director General Sicat, in a 2nd Indorsement, enjoined the Tariff Commission Acting Chairman to execute the decision of this Office, dated June 26, 1975, on complainant's claim for accumulated salaries.

"Undaunted, respondent once again acting as Acting Chairman of the Commission, in her letter, dated August 4, 1975, advised this Office that her office is holding in abeyance complainant's claim for accumulated salaries as Special Assistant notwithstanding that 1st and 2nd Indorsements by the Deputy Executive Secretary and Secretary of Economic, Planning dated 28 May 1975 and 21 July 1975, respectively, directing and enjoining to pay said claim' as she insisted therein that complainant's appointment is null and void ab initio.

"On August 15, 1975, Secretary and NEDA Director General Sicat issued memorandum to the Tariff Commission Acting Chairman for the immediate release of complainant's accumulated salaries as Special Assistant.

"On August 21, 1975, complainant advised respondent that she is refiling her application for GSIS salary loan in view of the deadline for payment of school fees of her children, and on the following day, August 22, 1975, requested respondent to make immediate payment of her MEDICARE premiums, which have not been paid for more than a year already, in view of the need of her daughter to enter the hospital for the removal of a cyst. No action was taken by the respondent on both requests.


"On September 15, 1975, complainant filed Civil Case No. Q-20481, for damages, against respondent with the then Court of First Instance of Rizal 17th Judicial District, Branch IX, Quezon City.

"On September 23, 1975, then newly appointed Chairman of the Tariff Commission, Manuel S. Alba, issued Memorandum to the Cashier of the Commission ordering the payment of complainant's accumulated salaries as Special Assistant to the Chairman. Respondent objected thereto in her note of October 13, 1975, to which Chairman Alba replied (Memorandum of October 15, 1975) that his memorandum merely implements the decisions of the Office of the President, the Budget Commission, the NEDA Director General and the Civil Service Commission, and that the civil case for damages has nothing to do with the case already resolved by higher authorities and that he cannot understand respondent's idea of contempt of court, and that, in any case, his directive for payment of complainant's accumulated salaries still holds. Thus, complainant was paid in November 1975 of her accumulated salaries.

"On March 9, 1975, complainant wrote the NEDA Director General complaining about the inaction on her administrative complaint against the respondent and about the alleged non-compliance by the respondent with the directive requiring her to submit her answer to or comment on said complaint, and submitting additional documents to substantiate her charges, including acts and actions done or taken after the filing of her administrative complaint.

"On April 12, 1976, Acting NEDA Director General Manuel S. Alba indorsed to this Office complainant's administrative complaint against the respondent, the latter being a presidential appointee. Thus, complainant followed up the case in this Office in 1976 thru her letters of June 9 and July 30, 1976.

"In the meantime, this Office rendered OP Decision No. 2269, dated October 8, 1976 directing the Chairman, Tariff Commission, for the immediate implementation of its decision, dated June 26, 1975, warning that 'otherwise it will be constrained to take such disciplinary action as may be deemed warranted under the circumstances.' On October 26, 1976, Chairman Alba advised Presidential Assistant Tuvera that upon his assumption of office, he ordered the payment of complainant's accumulated salaries and the same were paid in November, 1975 and the only issue pending is the administrative case filed by complainant against the respondent.





"The following day, or on October 27, 1976, respondent wrote this Office reiterating her previous opinion to the effect that complainant's appointment as Special Assistant to the Chairman of the Tariff Commission was a nullity. Finding her arguments advanced therein to be rehash of those already resolved in the June 26, 1975 decision, this Office dismissed the same for lack of merit and confirmed and reiterated the said decision in OP Decision No. 2389, dated December 3, 1976.

"Thereafter, or on December 16, 1976, respondent wrote Major General Fabian C. Ver, then Commanding General of the Presidential Security Command (PSC) and Director General of the National Intelligence Security Authority (NISA), urging the latter to conduct an immediate and thorough investigation and prosecution of all officials and employees who caused the issuance, preparation, processing, release, recording and approval of the appointment of the complainant as Special Assistant to the Chairman of the Tariff Commission and those who caused the payment, accounting and auditing of her accumulated salaries as she still clings to her position that the same appointment is null and void ab initio.

"In a 5th Indorsement, dated January 31, 1977, this Office thru then Presidential Assistant Juan C. Tuvera, returned to the Chairman of the Tariff Commission, thru the Director General of the NEDA, the 4th indorsement dated December 25, 1976, relative to the appointment of Herminia J. Tayco (complainant herein) as special assistant to the Chairman, that Commission, with the information that the same has been duly noted and the case considered closed insofar as this Office is concerned.'

"Thereafter, this Office, in a 1st Indorsement dated February 22, 1977 signed by then Presidential Assistant Juan C. Tuvera, required respondent, then Commissioner of the Tariff Commission, to answer or reply to the aforesaid letter-complaint of the complainant within 72 hours.

"On March 30, 1977, then Acting Chairman Francisco S. Tantuico, Jr. of the Commission on Audit, to whom respondent's letter of December 16, 1976 was referred by then Major General Ver, rendered Opinion No. 207, holding that the legality of the appointment of complainant and the auxiliary issue of payment of her salary as special assistant are no longer open to question.

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On May 12, 1981, the CFI of Quezon City (Branch IX) promulgated its decision in Civil Case No. Q-20481 ordering respondent to pay complainant P20,000.00 as actual and moral damages; P10,000.00 as exemplary damage; P5,000.00 as attorney's fees; and the costs of suit, a copy of which decision this Office was furnished by complainant in her letter dated July 13, 1981.

On January 17, 1983, this Office wrote complainant requesting her to 'make a statement of particulars and/or specifications of the charges in order to enable this Office to arrive at an intelligent decision or take appropriate action on the case.'

On February 26, 1986, respondent, then already Chairman of the Tariff Commission, tendered to the President her resignation as such Chairman 'to pave the way for the reorganization of the government on account of the assumption to office by the new President.'

On March 21, 1986, complainant wrote this Office regarding her complaint against the respondent.


Five (5) days thereafter, or on March 26, 1986, the Executive Secretary informed the respondent of the acceptance by the President of her resignation as Chairman of the Tariff Commission effectively immediately.

Subsequently, this Office received from complainant a series of letters, dated April 7, 16 (coursed thru then Budget Minister Alberto G. Romulo), and 23, 1986, all about her administrative case against the respondent.

On April 28, 1986, the new Chairman of the Tariff Commission wrote this Office inquiring about the status of the instant administrative case which was forwarded by NEDA to this Office on April 14, 1976, in order that it can act on the application for retirement benefits filed by the respondent who has resigned as Chairman of the Tariff Commission effective April 16, 1976.

#### "IV. FINDINGS ON THE CHARGES

"The complainant charges respondent of oppression, grave abuse of authority, and conduct unbecoming of a public official.



"'Oppression' has been defined as an 'act of cruelty, severity, unlawful exaction, domination or excessive use of authority.' (Ochate vs. Deling, L-13298, March 30, 1959, 105 Phil. 384, 390.)

"'Abuse' means 'to make excessive or improper use of a thing, or to employ it in a manner contrary to the natural or legal rules for its use. To make an extravagant or excessive use, as to abuse one's authority' (Black's Law Dictionary Fifth Ed., p. 11). It includes 'misuse' (City of Baltimore v. Cornellsville & S.P. Ry, Co., 6 Phils. 190. 191, 3 Pitt 20, 23). The word 'grave', as modifier in 'grave abuse of discretion' which is akin to 'grave abuse of authority' means 'wanton and capricious' (Caoile vs. Puno, SP-0022, June 19, 1971, cited in Moreno's Philippine Law Dictionary, p. 270).

"'Grave abuse of authority' may thus be defined as the use or misuse of one's authority in a wantonly and capriciously excessive or extravagant manner contrary to the natural or legal rules for its use.

"'Conduct unbecoming of public official' means that conduct of public official 'which has a great tendency to destroy public respect' (Carlisle Borough v. Adams, Pa., 12 Cumb. 53).

"Now, does the above narration of facts show commission by respondent of these administrative offenses?

"The ominous suggestion from the facts narrated above is toward an affirmative answer. With Saldaña keeping her peace with the said CSC decisions, complainant's agony should have ended upon the receipt by the Tariff Commission of the CSC resolution of September 16, 1974 holding, among other things, that Saldaña's motion for reconsideration was filed outside the reglementary period. But it was not to be so. A more formidable obstacle was soon thrown her way, not by a mere co-employee like Saldaña, but by no less than her boss, the respondent, who was determined to block at all costs her appointment even if it meant an open defiance of laws and decisions and orders of higher authorities.

#### "Respondent's acts of defiance

"Under Republic Act No. 2260, as amended by Republic Act No. 6040 (approved on August 4, 1969), under whose regime complainant's appointment as Special Assistant to the

Chairman of the Tariff Commission was issued by then Tariff Commissioner Haresco and approved by the CSC, appointments do not require previous approval by the CSC for their effectivity [Sec. 24(d)] and, therefore-

"... such appointments shall become immediately effective upon the assumption of duties of the appointees, entitling them to receive all the corresponding salaries and benefits, until notice of the final decision of disapproval x x x." (Sec. 16(h), R.A. 2260, as amended by R.A. 6040; underscoring supplied.)'


As found in the decision of this Office, dated June 26, 1975, complainant assumed and performed her duties as such Special Assistant 'since the effective date of her appointment on February 1, 1974'. She was, therefore, entitled to receive her salaries as such Special Assistant from February 1, 1974, even without prior approval by the CSC, pursuant to Section 16(h) of R.A. 2260, as amended by R.A. 6040. And better still, her appointment was approved by the CSC in February 1974.

"However, notwithstanding this statutory command for the immediate payment of complainant's salaries as Special Assistant to the Tariff Commission Chairman, we nonetheless grant good faith in respondent's act of holding in abeyance payment of complainant's salaries during the pendency of Saldaña's protest against complainant's appointment. But, after this Office has upheld and confirmed then Tariff Commissioner Haresco's authority to issue complainant's appointment and after the CSC has dismissed Saldaña's motion for reconsideration of said decision which had become final and executory it not having been elevated by Saldaña to higher authorities, there was no more valid reason for respondent, as Acting Chairman of the Tariff Commission, to further delay the payment of complainant's accumulated salaries. Instead of abiding by and respecting the decisions of this Office and the Civil Service Commission (CSC) by paying complainant's salaries, respondent, as such Acting Chairman, recalled complainant's CSC-approved appointment and declared her position as vacant and, to insure complainant's ouster from the Commission, proposed to the Budget Commission for its abolition to which then Economic Planning Secretary and NEDA Director General Sicat (who has administrative supervision over the Tariff Commission) objected to, for, in his own fair and just rationalization, the said position 'must be retained in view of a recent decision of the CSC upholding the appointment of a certain employee (complainant Tayco) of the (Tariff) Commission to the said position.' (1st Indorsement, dated Feb. 18, 1975.)

"Again, after the CSC (in its decision of January 31, 1975) rebuked her act of recalling complainant's appointment and declaring her position vacant, and directed her to allow complainant to assume her position 'with all the rights, compensation and privileges thereof', it became respondent's bounden responsibility as head of the Tariff Commission, and in pursuance of the rule of law, to cause the immediate payment of complainant's accumulated salaries. And the very agency institutionalized in the 1973 Constitution as an independent body (Civil Service Commission) to decide matters of appointment in the civil service has already made its decision on the matter. Then there was that order (dated February 24, 1975) of respondent's immediate supervisor and superior (Economic Planning Secretary and NEDA Director General Sicat) enjoining her to immediately comply with the said CSC decision of January 31, 1975.

"But not even her said superior could change respondent's stand. And not even after this Office has authorized (2nd Indorsement dated May 30, 1975) the payment of said accumulated salaries, upon recommendation of the Commissioner of Budget who had expressed the view that complainant's 'right to her accumulated salaries is legally unassailable' (1st Indorsement, dated May 30, 1975). Notwithstanding this authority given by no less than this Office, respondent, as Acting Chairman of the Tariff Commission, still refused to pay complainant's accumulated salaries insisting that her appointment is null and void ab initio.

"Again, after this Office has brushed aside (decision of June 26, 1975) all respondent's grounds for holding complainant's appointment a nullity and accordingly ordered her, as Acting Chairman of the Tariff Commission, to allow the complainant to assume her position 'with all the rights, compensation and privileges appertaining thereto', still respondent continued to refuse to pay complainant's accumulated salaries when, as aptly held by then Secretary of Justice Vicente Abad Santos (Opinion No. 96, dated June 30, 1975), the said decision of this Office (and that of the Civil Service Commission, of the NEDA Director General and of the Budget Commissioner) is 'presumed to be valid and legal and should therefore be obeyed by the government officials and employees concerned'. Concerned and irritated by respondent's open defiance not only of the decisions of the Civil Service Commission, the NEDA Director General and the Budget Commissioner but also of its own decision (sustained by no less than the Legal Counsel of the Republic of the Philippines - the Secretary of Justice), this Office (whose jurisdiction was sought by respondent herself precisely to resolve the grounds of her objections



to the validity of complainant's appointment and the payment of her accumulated salaries), directed the immediate implementation of its decision of June 26, 1975 and warned: 'otherwise, it (this Office) will be constrained to take such disciplinary action as may be deemed warranted under the circumstances.' (OP Decision No. 2269, s. 1976.) Respondent's objections were once again brushed aside by this Office in OP Decision No. 2389, series of 1976.

"Again, when newly appointed regular Tariff Commission Chairman (later Minister of the Budget) Manuel S. Alba ordered the immediate payment of complainant's accumulated salaries in faithful compliance with the orders of higher authorities, respondent, then reverted to mere Commissioner, objected thereto with threats of contempt of court. Chairman Alba, however, brushed aside respondent's objections and contempt threats and stood firm on his order for the payment of complainant's accumulated salaries.

"Unable to further delay the payment of complainant's accumulated salaries and smarting from the decisions of this Office and of the abovementioned competent agencies, respondent urged, in her letter of December 16, 1976, Major General Fabian C. Ver, then Commanding General of the Presidential Security Command (PSC) and concurrently Director-General of the National Intelligence Security Authority (NISA), 'to conduct a thorough and immediate investigation and prosecution (not only) all officials and employees who were responsible for the issuance, preparation, processing, release, recording and approval of the appointment of Mrs. Herminia J. Tayco as Special Assistant to the Chairman, Tariff Commission (but also) those who caused the payment, accounting and auditing of the corresponding salaries arising from said appointment,' as if then Major General Ver, as such PSC Commanding General and NISA Director General, can overturn the decisions of those officials whom she wanted to be investigated and prosecuted, including Deputy Executive Secretary Roberto Reyes and Presidential Assistant Ronaldo B. Zamora who rendered the aforesaid OP decisions 'by authority of the President'; Civil Service Commissioners Epi Rey Pangramuyen and F.P. Valera; Budget Commissioner F. Sy-Changco; Justice Secretary Vicente Abad Santos; Economic Planning Secretary and NEDA Director General Gerardo Sicat; and Tariff Commission Chairman Manuel S. Alba. Again, respondent was rebuffed in her new attempt to invalidate complainant's appoint-

ment and to harass complainant and said officials through military intervention, when COA Chairman Francisco Tantuico, Jr., to whom her said letter was indorsed by General Ver, rendered his Opinion No. 207, series of 1977, holding that 'the legality of the appointment of Mrs. Tayco and (the) ancilliary issue of payment of her salary are no longer open to question.'

"Reasons for the defiance

Why had respondent risked herself of insubordination charge (as in fact she was warned by no less than this Office that disciplinary action may be taken against her should she continue to defy its decision on complainant's appointment and salaries) by repeatedly defying the decisions and orders of her superior officials, particularly that of her immediate supervisor, Economic Planning Secretary and NEDA Director General Sicat; that of the Civil Service Commission (the very agency vested by the Constitution and by law with jurisdiction over matters involving appointment in the civil service); and that of the Office of the President (which has control over all departments, bureaus and offices in the executive branch of the government)? Respondent offers, as her only defense, good faith or honesty or sincerity of belief on the grounds of her continued refusal to recognize complainant's appointment and to pay her salaries.

"We cannot now in this proceeding pass upon the validity of her said grounds or objections as they had long been put to rest by the final decisions of the Civil Service Commission and of this Office.

"But, good faith on the part of respondent may be conceded at the start. But, after the appropriate superior authorities (whose jurisdiction she herself had sought to precisely resolve her objections to complainant's appointment and her right to receive the corresponding salaries) had dismissed her said objections as legally untenable and sustained the validity of complainant's appointment and ordered the payment of complainant's accumulated salaries, her subsequent acts of repeatedly refusing to recognize said appointment and to pay complainant's accumulated salaries simply negate her defense of good faith. One's good faith or honesty or belief, being a process of the mind, may only be approximated by her actions.

"The actions taken by the respondent in complainant's case show that they were done not because of the honesty of her belief in the nullity of complainant's

appointment, but because of personal hostility, passion, partiality, vindictiveness, malice, and cruelty. Her acts were clearly intended to harass, prejudice and cause sufferings on the complainant through excessive use of authority as further shown by the following acts of respondent:

"1) Her partiality towards Rosalia Saldaña who filed with the CSC a protest against complainant's appointment, as shown by her note to the latter found on her draft-memorandum for the complainant, dated April 22, 1974, reading as follows:

'Sally, pls take a look at this. Comment if necessary. See the implication of this re your protest, future adjustments, etc.

if you recall terms use by the Queen Pig, use them here. Pls. finalize.'

2) After the CSC dismissed Saldaña's protest and sustained the validity of complainant's appointment, respondent, as Acting Chairman of the Tariff Commission, recalled complainant's appointment and declared complainant's position (special assistant) vacant.

3) Then respondent, again as Acting Chairman of the Tariff Commission, apparently sensing the futility of her act of declaring complainant's position as vacant, proposed to the Commissioner of the Budget, through the NEDA, the abolition of said position. It is coincidental that respondent's letter bearing her Budget Estimates for the Tariff Commission where such abolition proposal was made, is dated January 31, 1975, or on the day the CSC rendered its decision holding that the respondent can no longer recall complainant's appointment and directing her to allow complainant to assume her position with all the rights, compensation and privileges appertaining thereto.

4) Respondent repeatedly refused to indorse complainant's applications for GSIS salary loans, knowing that the proceeds thereof were to be used in paying the school tuition fees of complainant's children.

5) Respondent likewise did not act on complainant's request for the payment of her MEDICARE premiums which had not been paid by the Tariff Commission for more than a year then, even with the knowledge that one of complainant's daughters was scheduled to be confined in a hospital for the removal of her cyst and will avail of complainant's MEDICARE benefits.

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6) After the filing of the instant case with the NEDA and while complainant was on detail with the DMS, this Office, respondent requested the termination of complainant's detail with this Office despite the strained relationship they had brought about by the filing of the instant case.

7) Again, respondent issued on February 17, 1975 Office Order No. 6-A assigning complainant to the Executive Director of the Tariff Commission and requiring her to use the bundy clock, albeit positions lower than that of complainant's were not required to use the same, and despite the fact that Special Order No. 9, terminating complainant's detail with this Office, was issued only on March 11, 1975. This Office Order No. 6-A was later revoked by Ms. Haresco upon her return and resumption of her duties as Acting Chairman of the Tariff Commission.

8) Again, seeing that the effective date of the termination of complainant's detail as contained in Special Order No. 9 was February 17, 1975, respondent questioned complainant's failure to immediately report to the Tariff Commission and brought the matter to this Office, although the said Special Order No. 9 was issued only on March 11, 1975 (the date it bears) and was received by complainant only on March 17, 1975.

9) Respondent concealed from the knowledge of Acting Chairman Haresco, who had then resumed her duties as such and thus terminating respondent's temporary designation as Acting Chairman, the 1st and 2nd Indorsement of the Commissioner of the Budget and of this Office, both dated May 30, 1975, both authorizing the payment of complainant's accumulated salaries, which were both received by respondent on June 2, 1975. Acting Chairman Haresco inquired, in her Memorandum dated June 19, 1975, from the respondent the whereabouts of the said two (2) indorsements.

"Because of all these unwarranted 'acts of harassment and vindictiveness', to use the language employed by the CFI of Quezon City in its decision of May 12, 1981 in Civil Case No. Q-20481 (Herminia Tayco vs. Corazon Marcos), complainant 'felt very bad and there was financial problem as she was not receiving her salaries, could not also sleep and not at ease. She resorted to work for loans and had to go back and forth to the province to borrow money with interest, and therefore, had no peace of mind and could not sleep thereby incurring damages.'




"The said Court continued:

'A perusal of all evidence presented shows that indeed defendant (respondent herein) employed a pattern of harassment as she was never satisfied with decisions and rulings of higher authorities, not to mention that of His Excellency, President Ferdinand E. Marcos because the indorsement and decisions of Malacañang were done 'By authority of the President.' Not only that, but despite directives from other higher authorities, defendant did not implement the same and insisted on her personal view, holding the payment of salaries of plaintiff (complainant herein), even when she was no longer Acting Chairman, and continued to do so up to the last, when finally plaintiff was given what is due her by Chairman Manuel Alba. She acted beyond the scope of her authority and what is called for by virtue of her official position, and therefore, could be held liable in her personal capacity. Her insistence and defiance to comply with decisions called for to make decisions, aggravated the situation, as she took it upon herself to appear as the lone crusader under the New Society. Personality crept in when plaintiff did not consider the appointment of her protegee, and the fact that it was not Miss Saldaña who got the position of Special Assistant to the Chairman. Harassment by her actuations could be deduced and patently shown, and as such, she is liable for damages for her acts. Such actions of defendant should not be countenanced in a government of laws, as it borders upon anarchy when one person demands that her opinion or belief should prevail over the decisions, rulings and directives of superior agencies and/or authorities such as the Civil Service Commission, the NEDA, the WAPCO, the Office of the President, the Budget Commission, the Commission on Audit and even the Department of Justice.

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It is not right for those who hold the rein of an office to let their own doubts preclude the judgment of superior authorities especially so, if these authorities are the very ones who are given the power or prerogatives to pass judgment and render decision, like in the case at bar. There is no journey that does not begin with a single step, but certainly, overzealousness has some limits.' (CFI Decision, dated May 12, 1981, supra.)'

"Indeed, 'overjealous(ness)' or 'overzealousness' in protecting the people's money', as the basis of respondent's defense of good faith, finds no concurring reflections from her acts of further refusing to pay complainant's accumulated salaries after the CSC (the agency vested by the Constitution and by law with authority to determine the validity of appointments in the civil service), the NEDA (the agency that has direct administrative supervision over the Tariff Commission or over the respondent as Acting Chairman thereof then), the Budget Commission (the agency charged by law with the determination of classification and compensation of positions in the government), and this Office (the highest office in the land with the power of control and supervision over all offices in the executive department, including the Tariff Commission) had all sustained the validity of complainant's appointment and ordered the payment of her accumulated salaries. Her defense of good faith was umbrageous from the start, considering that complainant was entitled to receive her salaries even before the approval of her appointment by the CSC (it was already approved by the CSC when complainant demanded payment of her salaries) pursuant to Section 16(h) of R.A. 2260, as amended (her appointment was issued/approved before P.D. 807), and that it was not respondent but then Commissioner (later Acting Chairman) Haresco (being the official who issued complainant's appointment) who was liable for any unlawful payment of salaries pursuant to said Section 16(h). Thus, even if complainant's appointment and payment of her salaries were held illegal and invalid, the government would not have lost a single centavo, because then Commissioner Haresco was by law liable therefor. There was then no basis for respondent to be, to quote her words, 'overjealous in protecting the people's money'.



"The true nature of respondent's 'overjealousness' or overzealousness is unmasked and her defense of good faith crumbles into pieces as we unfold the subsequent actions she had taken in this case: After her protegee (Miss Saldaña) kept her peace with the CSC decision (dismissing the latter's protest against complainant's appointment), respondent, in her capacity as Acting Chairman of the Tariff Commission, recalled complainant's appointment and declared complainant's position as vacant and later proposed for its abolition - to insure complainant's ouster from the Tariff Commission and to render the CSC decision (sustaining the validity of complainant's appointment) ineffective and ineffectual. These acts betray lack of good intention on the part of respondent, taken, as they were, on the heels of the decisions of this Office (upholding the authority of then Commissioner Haresco to issue complainant's appointment), for, in the language of then Economic Planning Secretary and NEDA Director General Gerardo Sicat, the 'other position of Special Assistant must be retained in view of a recent decision of the Civil Service Commission upholding the appointment of (complainant) to the said position.'

"Evidently, as found by the Court of First Instance (CFI) of Quezon City, personality crept into the case. And correctly so, because respondent, again taking advantage of her position as Acting Chairman, had to seize every opportunity, however insignificant, trivial and unmeritorious, to pin down the complainant, like her act of questioning complainant's failure to report to the Tariff Commission from the effective date (February 17, 1975) of the termination of complainant's detail with this Office, although the special order terminating such detail was issued (and dated) only on March 11, 1975 and complainant received it only on March 17, 1985.

"Although the filing of the instant case on December 27, 1974 had further strained their relationship, respondent sought complainant's return to the Tariff Commission by requesting on February 13, 1975 the termination of her detail with this Office. And while complainant was still on detail with this Office, respondent, again as Acting Chairman of the Commission, issued on February 17, 1975 an office order (No. 6-A) assigning complainant in the Office of the Executive Director Emilio Cruz, effective immediately, and requiring her to use the bundy clock in recording her daily attendance, although personnel of lower rank were not required to do the same. (This office order was revoked by Acting Chairman Haresco when she returned from Bangkok.)

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"Again, as Acting Chairman of the Tariff Commission and knowing that complainant was not then receiving her salaries as she withheld the same, respondent refused to act on or indorse to the GSIS complainant's applications for salary loans - even after being apprised that complainant needed the same loans for the school tuition fees of her children. Complainant had to shuttle between Manila and her province to secure loans with interest.

"Likewise, respondent, again as Acting Chairman, stopped the remittance of or did not remit complainant's MEDICARE premiums from February 1974 and slept on complainant's request made in August 1975 (her premiums unpaid for more than a year then) to remit her unpaid MEDICARE premiums as her daughter was then scheduled to be confined in a hospital for the removal of her cyst. Respondent should have remitted even just the premiums corresponding to the position she insisted upon as the one legally occupied by the complainant, namely: Administrative Officer II.

"Offenses committed

Clearly, respondent had excessively used, in a hostile, inordinate and cruel manner, the authority of her position as Acting Chairman of the Tariff Commission in unduly causing much difficulties, hardship, and sufferings to her lowly subordinate, the complainant. She is thus guilty of oppression.

"The charge of grave abuse of discretion is absorbed by the offense of oppression as the latter is committed by, among others, an excessive use of one's authority. (see: *Ochate vs. Deling*, supra, at p. 390.)

"The charge of 'conduct unbecoming of a public official' may only be traced to respondent's continued defiance of the decisions and directives of her superior officials which, as held by then Secretary of Justice Abad Santos, 'are presumed valid and legal, and should therefore be obeyed by the government officials and employees concerned' and to respondent's acts of harassment causing much difficulties, hardship and sufferings on the part of the complainant (when other heads of offices take special concern over the welfare and interests of their subordinates). But all such acts of respondent involved only the relationship of a superior and a subordinate, or internal matters.

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"As this particular administrative offense has been defined as referring to conduct which 'has a great tendency to destroy public respect (Carlisle Borough v. Admas, Ps., 12 Cum. 53), the constitutive acts therefor must necessarily involve or affect the public rather than the public official's subordinates, in such a manner and to such an extent as to lose public respect on the public official concerned.

"We, therefore, rule that respondent's acts did not constitute conduct unbecoming of a public official.


"But respondent's open defiance of superior authorities' decisions and directives constitute another offense - insubordination. And this defiance becomes even more reprehensible as it was taken mainly to accomplish respondent's desire to prejudice and harass her lowly subordinate, under the cloak of overjealousness and overzealousness of protecting the people's money, when, as head of office, respondent has to care for the welfare and interests of her subordinates. Indeed, respondent has acted in such a way as if the Tariff Commission was her exclusive domain over which no higher authority, not even this Office nor the Civil Service Commission, can change or vary her position or stand on the validity of an appointment thereto and the payment of the corresponding salary, solely for the purpose of harassing and prejudicing one subordinate.

"Although insubordination is not specifically mentioned in the complaint, as updated, the allegations thereof show that the offense of insubordination is likewise charged therein.

"Considering the one-penalty-for-one-case rule and following Perez vs. Abiera, supra, respondent may be fined in an amount equivalent to her 3-months' salary as Chairman of the Tariff Commission, deductible from whatever retirement and other benefits she will receive from the government.

#### "V. RECOMMENDATION

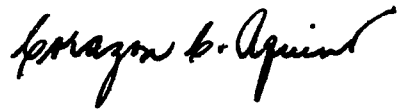
"The Committee hereby recommends that respondent be fined in an amount equivalent to her 3-months salary as Chairman of the Tariff Commission, deductible from whatever retirement and other benefits she will receive from the government.



I agree with and adopt the above findings and recommendation supported, as they are, by the evidence on record.

WHEREFORE, and upon recommendation of the Committee created under Memorandum Order No. 41, dated September 25, 1986, respondent CORAZON B. MARCOS, former Chairman of the Tariff Commission, is hereby fined in an amount equivalent to her 3-months' salary as such Chairman, deductible from whatever retirement and other benefits she may be entitled to and will receive from the Government.

Done in the City of Manila, Philippines, this 30th day of September in the year of Our Lord, nineteen hundred and eighty-seven.



By the President;



CATALINO MACARAIG, JR.  
Acting Executive Secretary