

## **MODIFYING ADMINISTRATIVE ORDER NO. 289, DATED JUNE 4, 1992, CONCERNING SUPERINTENDENT LEONORA O. BASALO OF THE CITY SCHOOL DIVISION OF DUMAGUETE CITY**

*ADMINISTRATIVE ORDER NO. 6, September 01, 1992*

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This refers to the motion of Ms. Leonora O. Basalo, Superintendent of the City Schools Division of Dumaguete City, thru counsel, for reconsideration of Administrative Order No. 289, dated June 4, 1992, suspending her for one (1) year for simple misconduct and conduct prejudicial to the best interest of the service, on the grounds that:

“1. The respondent raised the issue on the legality and constitutionality of the Administrative Proceedings No. 1991-1 the same being violative of your Excellency’s Memorandum dated August 7, 1991. This substantive issue was not passed upon in Administrative Order No. 289;

“2. The Administrative Order pre-empted a prejudicial question which is subject of Civil Case No. 10159 now pending with the RTC, Branch 39 of Dumaguete City, Region VII;

“3. The Administrative Case, was not viewed in its entirety particularly the documentary evidence, but gave premium to unfounded insinuations;

“4. The Administrative Order violates the right to due process because it was made ‘effective upon notice hereof.’”

Anent the first issue, respondent challenged Administrative Proceedings No. 1991-1 because the motu proprio administrative complaint of June 18, 1991, was addressed by the then Secretary of Education, Culture and Sports to respondent, not to the Executive Secretary as required in the Executive Secretary’s Memorandum of August 17, 1990.

Respondent’s argument is not well-taken. It is true that, per the Executive Secretary’s Memorandum of August 17, 1990, in administrative case/complaints wherein the Secretary of Education, Culture and Sports is the direct/immediate complainant, the complaint should be filed directly with this Office; and that the motu proprio administrative complaint of June 18, 1991, and the formal answer of respondent of July 27, 1991, were made during the effectivity of the Executive Secretary’s Memorandum of August 17, 1990.

However, on August 7, 1991, the Executive Secretary promulgated the revised rules of administrative proceedings wherein the Secretary of Education, Culture and Sports was authorized to file appropriate formal proceedings against erring subordinates without the previous requirement that the motu proprio administrative complaint be filed with this Office. Hence, the Secretary of Education, Culture and Sports, instead of referring the complaint and answer to this Office, created an Investigating Committee on August 27, 1991, in accordance with the Executive Secretary’s Memorandum of August 7, 1991.

It will thus be appreciated that respondent’s substantive and procedural rights were not violated. In fact, the Investigating Committee required respondent to answer the complaint on August 27, 1991, and respondent answered on September 16, 1991. Thereafter, formal hearings commenced with due observance of the requirements of due process. Accordingly, and insofar as the first issue is concerned, this Office finds no

irregularity in Administrative Proceedings No. 1991-1.

With respect to the second issue, suffice it to state that the Regional Trial Court of Dumaguete City did not issue any restraining order or mandatory injunction against this Office in Civil Case No. 10159, entitled “Leonora O. Basalo, petitioner, vs. Hon. Franklin Drilon, et al., respondents,” for annulment of proceedings, prohibition, with preliminary injunction or restraining order. At any rate, respondent is a presidential appointee subject to the administrative disciplinary authority of the President, which authority is being exercised in this administrative case.

Regarding the third issue, this Office finds, after careful restudy, that the findings of the Investigating Committee and the Secretary of Education, Culture and Sports are supported by the evidence on record.

Concerning the fourth issue, respondent alleged a denial of due process because Administrative Order No. 289 was made “effective upon notice thereof”. There was no denial of due process. However, as a matter of procedure, Administrative Order No. 289 should have been made final and executory fifteen (15) days after receipt of a copy thereof by respondent pursuant to Book VII, Section 15, of the 1987 Administrative Code.

Finally, respondent claims that the penalty of suspension for one (1) year for the offense of simple misconduct is excessive. Actually, the offense is simple misconduct and conduct prejudicial to the best interest of the service. However, considering that this is respondent’s first offense, this Office is inclined to be compassionate by reducing the penalty of suspension for six (6) months by modifying Administrative Order No. 289, dated June 4, 1992.

WHEREFORE, Administrative Order No. 289, dated June 4, 1992, is hereby modified in the sense that Superintendent Leonora O. Basalo of the City Schools Division of Dumaguete City is hereby meted the penalty of suspension to six (6) months, effective fifteen (15) days after receipt of a copy of this Order by respondent.

DONE in the City of Manila, this 1st day of September, in the year of Our Lord, nineteen hundred and ninety-two.

By authority of the President:

(Sgd.) DIONISIO C. DE LA SERNA

Senior Deputy Executive Secretary

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