PRESCRIBING REGULATIONS GOVERNING THE DISCHARGE OR SEPARATION BY ADMINISTRATIVE ACTION OR OFFICERS OF THE REGULAR FORCE AND RESERVE OFFICERS ON EXTENDED TOUR OF ACTIVE DUTY IN T...

EXECUTIVE ORDER NO. 337, September 13, 1989

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Pursuant to the authority conferred upon me by the Constitution and existing laws, I, CORAZON C. AQUINO, President of the Philippines, do hereby prescribed the following rules and regulations governing the discharge or separation by administrative action of officers of the Regular Force and Reserve Officers on extended tour of active duty for six months or more in the Armed Forces of the Philippines.

I. DISCHARGE OR SEPARATION FROM THE SERVICE

1. Officers of the Regular Force and Reserve Officers serving on extended tour of active duty for six months or more in the Armed Forces of the Philippines shall be administratively discharged or separated from the service only upon the approval of the President. Unless otherwise specifically provided by law, such discharge or separation shall be in accordance with the regulations and procedures set forth in this Order and in implementing regulations not inconsistent therewith.

2. a. When an officer of the Regular Force or a Reserve Officer on extended tour of active duty for six months or more commits any act of misconduct of such nature and gravity as to warrant his discharge or separation from the service, his name and record shall be referred by the Chief of Staff, Armed Forces of the Philippines or by the Commander of the Major Service to which he belongs, to the appropriate Efficiency and Separation Board as hereinafter provided, for the determination of his suitability or fitness for retention in the service.

b. The Chief of Staff, Armed Forces of the Philippines, and the Major Service Commanders shall from time to time, or as the need arises, cause the review of the personal records and efficiency of officers under their command and refer to the appropriate Efficiency and Separation Board the names and records of those officers who failed to demonstrate satisfactory qualifications and efficiency as another.

c. When an officer’s elimination is made mandatory by operation of that provisions of Republic Act No. 291 as mended, or other pertinent law, his name and record shall be referred forthwith to the appropriate Efficiency and Separation Board. It shall be the sole function of the Board in such case to determine whether the officer’s separation is due to his misconduct, willful failure to perform his duties, the intemperate use of drugs or alcoholic liquor or vicious or immoral habits.

3. Any officer discharged or separated from the service for reasons other than his own misconduct, willful failure to perform his duties, the intemperate use of drugs or alcoholic liquor, or vicious or immoral habits, shall be entitled to such gratuity, pension, separation pay, or retirement benefits as may be authorized by law.

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II. EFFICIENCY AND SEPARATION BOARDS

4. An Efficiency and Separation Board shall be and is hereby established for the General Headquarters, Armed Forces of the Philippines, and for each of the Major Services of the Armed Forces of the Philippines. The members of the several Boards shall be appointed upon recommendation of the Chief of Staff, Armed Forces of the Philippines, by the Secretary of National Defense, who shall designate the Chairman thereof.

b. An Efficiency and Separation Board shall be composed of not less than five nor more than seven officers, one of whom is a member of the Judge Advocate General's Service and who shall be appointed from among officers assigned to the command to which the Board pertains. As for as practicable, the members shall be senior in permanent grade to any officer being considered for discharge or separation by the Board and shall not be below the permanent grade of Colonel or Captain in the Navy.

c. The members of each Efficiency and Separation Board shall serve for a term of two years unless sooner relieved by the Secretary of National Defense. Before entering upon the discharge of their duties, the members shall take their oath of office.

d. No member shall serve in the Efficiency and Separation Board for more than sufficient competence, prudence, impartiality and judicial temperament shall be appointed as members of the Board.

e. The Chief of Staff, the Vice Chief of Staff, the Deputy Chief of Staff, and the Deputy Chief of Staff for Personnel, Armed Forces of the Philippines; and the Commander, Deputy or Vice Commander, Chief of Staff and Assistant Chief of Staff for Personnel of any Major Service shall not be eligible for appointment as a member of Efficiency and Separation Board.

5. a. The Commander of the command to which the Efficiency and Separation Board pertains shall designate an officer of suitable rank to serve, without vote, as Secretary for the Board. The Secretary shall have the power to issue subpoena and subpoena duces tecum, when directed by the Chairman of the Board, in connection with cases pending before said Board.

b. The Commander of the command to which the Board, pertains shall also designate a Prosecuting Officer to prosecute cases before the Board, present evidence of alleged misconduct and/or inefficiency against the respondent officer, and refute his defense. The commander shall also designate a Military Defense Counsel to assist the respondent officer.

c. The Commander of the command to which the Efficiency and Separation Board pertains shall also provide such office supplies, logistical support, clerical assistance and office space as may be required by the Board.

6. Each Efficiency and Separation Board shall have jurisdiction to pass upon the discharge or separation of officers assigned to the Major Service to which the Board pertains. All general and flag officers, irrespective of their assignment, and officers assigned to the General Headquarters, Armed Forces of the Philippines, and units directly under it shall fall under the jurisdiction of the Efficiency and Separation Board for the said General Headquarters.

7. a. The Board shall act with utmost dispatch in each case. To promote expeditious action in every case referred to it, the Board shall adopt such summary proceedings as are consistent with the minimum requirement of administrative due process, avoiding technicalities tending to unreasonably delay the disposition of cases; Provided, that in all hearing and deliberations, the member belonging to the Judge Advocate General's Service must be present.

b. The proceedings and decisions of the Board shall be confidential. A majority of all the members shall constitute

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a quorum. All decisions should be reached by a majority vote of the members present.

8. In determining an officer's suitability or fitness to remain in the service, the Efficiency and Separation Board shall weigh his proficiency, experience, accomplishments, attitude, ability, and his character and general value to the service. Due weight shall be given to such findings and recommendations of a Selection Board, pursuant to Republic Act No. 291, as amended, as may have a bearing on the officer's fitness for retention in the service. No weight shall be attached to any political, social, financial, or any other factor not military in nature.

9. Any officer under consideration for discharge or separation pursuant to this Order shall be notified of such fact. He shall be permitted counsel of his own choice. He shall have the right to appear before the Board personally or through counsel and to present any fact, argument or witness in his behalf or any matter pertinent to his case. He shall be informed of all the evidences, charges, and reports against him and shall be given full opportunity to refute the same.

10. The Board shall recommend specifically in each case that the officer be retained or that he be separated from the active service, subject to the limitation in paragraph 2c of this Order. It shall submit a complete report of the case and the record of investigation to the commander to which it pertains. If retention s recommended and concurred in by the Commander to which the board pertains, the case shall be considered closed and the officer shall be notified thereof in writing.

11. a. The following recommendations of the Board shall be forwarded to the President thru the Secretary of National Defense for final decision:

(1) Separation from the service concurred in by the Commander of the command to which the board pertains.

(2) Retention/Separation not concurred in by the Commander of the command to which the board pertains.

b. The Commander to which the board pertains may remand a case to the Efficiency and Separation Board of origin for such further action or proceedings as, in his opinion, is necessary for full, fair and impartial investigation.

c. In all cases the investigation report shall specify the particular provisions of paragraph 2 of this Order under which the board took cognizance of the case; whether the recommendation for separation is based on the officer's own misconduct, willful failure to perform his duties, the intemperate use of drugs or alcoholic liquor, or vicious or immoral habits; and such other matters as the Board may deem pertinent.

d. If the Efficiency and Separation Board determines that an officer's separation is not due the foregoing causes, and he is eligible for retirement, the Board shall recommend his retirement under the applicable provisions of the AFP Retirement Law (P.D. No. 1638, as amended).

III. MISCELLANEOUS

12. The Secretary of National Defense shall promulgate from time to time such rules and regulations, not inconsistent with the foregoing provisions as may be necessary to carry out the purpose and intent of this Order.

13. Executive Order No. 475, s-76, is hereby rescinded. All cases pending before the AFP Efficiency and Separation Board established under Executive Order No. 475, with the exception of those where proceedings have actually been commenced with presentation of substantial evidence shall be transferred to the appropriate major service command Efficiency and Separation Board for the appropriate proceedings.

DONE in the City of Manila, this 13th day of September, in the year of Our Lord, nineteen hundred and eighty-eight.

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CORAZON C. AQUINO
President of the Philippines

By the President:

CATALINO MACARAIG, JR.
Executive Secretary

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