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

EXECUTIVE ORDER NO. 475, October 28, 1976

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Pursuant to the authority conferred upon me by the Constitution and existing laws, I, FERDINAND E. MARCOS, President of the Philippines, do hereby prescribe the following rules and regulations governing the discharge or separation by administrative action of officers in 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, Armed Forces of the Philippines and Officers of the Reserve Force, on extended tour to active duty for six months or more 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, Armed Forces of the Philippines, 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 the Commander of the Major Service to which he belongs, to the AFP Efficiency and Separation Board, as hereinafter provided, for the determination of his fitness or suitability 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 AFP Efficiency and Separation Board those whose qualifications and efficiency are unsatisfactory.

c. When an officer’s elimination from the Regular Force or the Reserve Force, as the case may be, is made mandatory by operation of the provisions of Republic Act No. 291, as amended, or other pertinent laws, his name and record shall likewise be referred to the AFP Efficiency and Separation Board. It shall be the sole function of the Board in such cases to determine whether the officer’s separation was due to misconduct, willful failure, 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.

II. THE AFP EFFICIENCY AND SEPARATION BOARD

4. a. The Armed Forces of the Philippines Efficiency and Separation Board shall be and is hereby established which shall expeditiously pass upon the discharge or separation of all officers of the Armed Forces of the Philippines on the grounds specified in paragraphs 2a, 2b and 2c hereof. The members of the Board shall be appointed by the Secretary of National Defense, who shall designate the Chairman thereof.

b. The members of the AFP 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.

5. a. The AFP Efficiency and Separation Board shall be composed of six voting members, one member to be appointed from each of the four Major Services, one from the General Headquarters, Armed Forces of the Philippines or from any of the AFP Wide Separate and Support Units, and one officer of the Judge Advocate General's Service. As far as practicable, the members shall not be below the permanent grade of Colonel or Captain in the Navy.

b. The Chief of Staff, Armed Forces of the Philippines shall designate an officer of suitable rank who is a member of the Philippine bar to serve, without vote, as counsel for the Board. Said officer shall assist the Board in the examination of witnesses and evidence pertaining to cases referred to it. He shall have power to issue subpoena and subpoena duces tecum, when directed by the Chairman of the Board, in connection with cases pending determination before said Board.

c. The Chief of Staff, the vice Chief of Staff, the Deputy Chief of Staff, and the Deputy Chief of Staff for Personnel of the 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 the AFP Efficiency and Separation Board.

d. No member shall serve in the AFP Efficiency and Separation Board for more than two consecutive terms. Only officers with sufficient competence, prudence, impartiality and judicial temperament shall be appointed as members of the Board.

e. 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 requirements of administrative due process, avoiding technicalities tending to unreasonably delay the disposition of cases; Provided that in all hearings and deliberations, the member belonging to The Judge Advocate General's Service must be present.

f. The proceedings and decisions of the Board shall be confidential. A majority of all the members shall constitute a quorum. All decisions should be reached by a majority vote of the members present.

g. An administrative assistant who is an officer on active military duty shall be designated by the Chief of Staff, Armed Forces of the Philippines, to serve as Secretary of the Board. He shall be in charge of all clerical personnel and shall attend to all other administrative requirements of the Board.

6. In determining an officer's suitability to remain in the service, the AFP 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 291, as amended, as may have a bearing on the officer's present fitness for retention in the service. No weight shall attach to any political, social, financial, or any other factor not military in nature.

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7. Any officer under consideration for discharge of separation pursuant to this order shall be notified of such fact. He shall be permitted counsel of his own selection. The officer 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.

8. a. 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 Chief of Staff, AFP who shall review its findings and recommendations.

b. 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 Chief of Staff, Armed Forces of the Philippines.

(2) Retention/Separation not concurred in by the Chief of Staff, Armed Forces of the Philippines.

c. If a recommendation for retention is concurred in by the Chief of Staff, AFP, the case shall be considered closed and the officer shall be notified thereof in writing.

d. The Chief of Staff, AFP may remand a case to the AFP Efficiency and Separation Board for such further action or proceedings as, in his opinion, is necessary for a full, fair and impartial investigation.

e. 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.

f. If the AFP Efficiency and Separation Board determines that an officer's separation is not due to the foregoing causes, and he is eligible for retirement, the Board shall recommend his retirement under the applicable provisions of Republic Act No. 340, as amended.

III. MISCELLANEOUS

9. 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.

10. Executive Order No. 302, s-58, as amended by Executive Order No. 209, s-70, is hereby rescinded. All cases pending before the difficult Efficiency and Separation Boards established under Executive Order No. 302, s-58, as amended, shall be transferred to the AFP Efficiency and Separation Board for completion of investigation. All cases pending before the Board of Review established under Title III of the said Executive Order shall be transmitted to the Chief of Staff, AFP for purposes of review in accordance with the provisions of paragraph 8 of this Order.

Done in the City of Manila, this 28th day of October, in the year of Our Lord, nineteen hundred and seventy-six, and of the Independence of the Philippines, the thirtieth.

(SGD.) FERDINAND E. MARCOS
President of the Philippines

By the President:

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