

SEBASTIAN GARCIA, PETITIONER, VS. JUANITO A. PAJARO AND THE CITY OF DAGUPAN, RESPONDENTS.

G.R. No. 141149. July 05, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The city treasurer of Dagupan has the authority to institute disciplinary actions against subordinate officers or employees. The essence of due process in an administrative proceeding is the opportunity to explain one's side, whether written or verbal. The constitutional mandate is satisfied when a petitioner complaining about an action or a ruling is granted an opportunity to seek reconsideration.

Statement of the Case

Before us is a Petition for Review under Rule 45 of the Rules of Court, assailing the June 17, 1999 Decision[1] and the December 14, 1999 Resolution[2] of the Court of Appeals[3] (CA) in CA-GR SP No. 48285. The decretal portion of the Decision reads as follows:

“WHEREFORE, finding no reversible error in the appealed decision, [this Court hereby affirms it] in toto. No costs.”[4]

The assailed Resolution denied petitioner's Motion for Reconsideration.

The affirmed Decision of the Regional Trial Court (RTC) of Dagupan City (Branch 40), disposed as follows:

“WHEREFORE, this case is hereby DISMISSED, without costs.”[5]

The Facts

The factual antecedents of the case, as summarized by the RTC and adopted by the CA, are reproduced as follows:

“Evidence for the petitioner tends to show that petitioner SEBASTIAN GARCIA, 61, married, employee at the City Treasurer's Office, Dagupan City and resident of Lucao, Dagupan City, has been employee thereat since June 15, 1974 as Revenue Collector appointed to that position by then City Mayor Cipriano Manaois. He was ordered suspended by City Treasurer Juanito Pajaro from June 1, 1990 to March 15, 1992 and directed the withholding of his salary because of the Formal Charge filed against him. He resumed work on March 16, 1992 as Local Treasury Officer III. When he was suspended, his position was Local Treasury Officer and Revenue Officer with a salary of P6,800.00 a month. When he resumed work, his salary was already P7,615.00 monthly. From June 1, 1990 up to March 15, 1992, he had been reporting for work because he did not honor the suspension order as the City Treasurer acted as the complainant, investigator and judge and there was no complaint against him from the Office of the City Mayor. He did not believe in the Order; he did not submit himself for investigation. He was not paid his salary because of the suspension order which caused his sleepless nights, his two (2) children stopped schooling, he has to beg from his relatives. He has a wife with four (4) children in college, one in Commerce, another taking up Dentistry. During the 1990 earthquake, there

was calamity loan granted to employees but he could not avail of it because the City Treasurer would not approve the loan. He is asking P1,000,000.00 for his mental anguish and sufferings. From July to October, 1987 the City Treasurer refused to give him his COLA, differential, cash gift, salary and mid-year bonus amounting to P6,800.00 up to the present. His salary now is P13,715.00 as Treasury Officer III. Contrary to the charges of the City Treasurer, he has been doing his duties and obligations; that for the acts of charging him in the Department of Finance and for charging him for neglect of duties, he felt deeply hurt and is asking P250,000.00 for that; his agreement with his counsel is P25% of what will be awarded to him.

“Petitioner’s documentary evidence consists of the following:

Exhibit ‘A’, Order of Preventive Suspension dated June 1, 1990;

Exhibit ‘B’, Memorandum addressed to the disbursing Officer dated June 1, 1990;

Exhibit ‘C’, Formal Charge;

Exhibit ‘D’, Subpoena issued by respondent Pajaro;

Exhibit ‘E’, Communication dated June 1, 1990 to Regional Director, Bureau of Local Government, Department of Finance by the City Treasurer;

Exhibit ‘F’, Answer by respondent.

“Evidence for Respondent PAJARO tends to show that

“JUANITO PAJARO, 65, married, City Treasurer of Dagupan City, first served in concurrent capacity and OIC on December 4, 1981 and was regularly appointed as City Treasurer on January 2, 1986 up to the present. Petitioner Sebastian Garcia is at present the Local Treasury Officer III but way back in 1990 he was Senior Revenue Collector whose immediate superior was the late Mr. Viray, the Chief of the Local Taxes, then the Assistant City Treasurer, and the City Treasurer himself. Petitioner has been rating Unsatisfactory in his performance for several semesters which is the reason a [Formal] Charge was filed against petitioner received by him on June 1, 1990, 10:00 a.m. and, as a matter of procedure, if the charge is a major offense, by civil service laws, he was preventively suspended for ninety (90) days, also duly received by Mr. Garcia on June 4, 1990 at 2:00 p.m. Then an investigation was scheduled and a subpoena was issued to Mr. Garcia to appear and testify on August 15, 1990 duly received by him on August 1, 1990, 8:55. Again Mr. Garcia did not Answer and refused to honor the subpoena to submit himself for investigation. So he proceeded with ex-parte investigation and gathered and submitted testimonies to support the allegations in the Formal Charge then submitted the result of their findings to the Department of Finance for decision. A Decision was promulgated by the Department of Finance on August 1, 1991. The matter of preventive suspension of Mr. Garcia was submitted to the Regional Director, Bureau of Local Government Finance which was ‘favorably approved’ by the Regional Director. This case stemmed from the application of the petitioner for the position of supervising revenue collector and he was duly appointed. The same appointment was opposed by Mrs. Evangeline Estrada and by a resolution of the Civil Service Commission, the appointment of Mrs. Evangeline Estrada was duly confirmed. Mrs. Estrada was recommended first and she was issued an appointment by the City Mayor and was submitted to the CSC. It was contested by Mr. Garcia. The first ruling of the CSC was adverse to Mrs. Estrada and she requested for reconsideration. In the meantime, Mr. Garcia was able to get an appointment from the same City Mayor but it was not approved. The CSC reconsidered the request of Mrs. Estrada favorably as shown by Resolution 91-359 dated March 14, 1991. That position was affected by the reorganization and it was changed to Local Treasury Operations Officer III now occupied by Mrs. Estrada. Despite the fact that he was always u[p]held by the CSC and the Department of Finance, this case based on unfounded allegations was filed against him, he is confirming his counterclaim against the petitioner with 25% attorney’s fees and P1,000.00 per appearance. Petitioner’s charge that his benefits were unduly withheld from him is not true because the law states when you are charged and preventively suspended, the salary could not

be collected. As a matter of fact, the petitioner was not acquitted; there was additional penalty. He was penalized with a suspension of six (6) months without pay so he could not by any means collect his salary. On the other hand, he was the one being harrassed (sic) by the petitioner; it has affected his performance and efficiency in the office, including sleepless nights. In explaining the entries in the Performance [A]ppraisal Report, he said that the forms were given to the personnel to rate themselves and then the final rating goes to the supervisor. The personnel gave themselves excellent ratings but the basis of their record is the true assessment made by the supervisor. In this case, the petitioner should have protested when he received his copy but he did not. During the period of his preventive suspension, of course, the petitioner did not receive his salary. He is not aware of the petitioner's allegation that he reported for work during the period of his preventive suspension, but that his co-employees testified that petitioner timed-in at 8:00 a.m. and 1:00 p.m. but did not make 'time-outs'.

"The respondent City of Dagupan adopted the evidence of respondent Treasurer Pajaro.

"At the pre-trial conference, the parties agreed to limit the litigation on the following issues:

- 1) whether or not petitioner is entitled to right of action against the respondents; and
- 2) who is entitled to damages." [6] (Citations omitted.)

Ruling of the Court of Appeals

Affirming the RTC Decision, the CA held that private respondent was vested with legal power and authority to institute disciplinary action against subordinate officers and employees. [7]

The appellate court further held that the requisites of administrative due process had been fully observed by Respondent Pajaro while investigating petitioner. But despite being informed of the charges against him and being given the opportunity to be heard in a formal investigation, petitioner chose not to answer those charges. [8]

Hence, this Petition. [9]

Issues

In his Memorandum, petitioner raises the following issues for the Court's consideration:

"First: Who has the power to remove, suspend or discipline the petitioner as a local employee, appointed by the City Mayor, the latter o[r] the City Treasurer?

"Second: Is the filing of the formal charge by the [private respondent] with himself valid?

"Third: Is the suspension of the petitioner by virtue of the formal charge valid?

"Fourth: Who is liable for the unpaid salaries and benefits of the petitioner?

"Fifth: Is the respondent personally liable for the damages suffered by the petitioner?" [10]

Simply stated, the issues boil down to two:

1. Whether the city treasurer of Dagupan can discipline petitioner
2. Whether petitioner's right to due process was violated

This Court's Ruling

The Petition is not meritorious.

First Issue:

Disciplinary Authority of the City Treasurer

Petitioner claims that the officer empowered to institute disciplinary proceedings against him is the city mayor of Dagupan -- not the city treasurer. He further asserts that under Section 78 of the Local Government Code of 1983,[11] the city treasurer does not have the power to discipline him.

We are not persuaded.

At the outset, it should be pointed out that under the old and the present Local Government Codes, appointive officers and employees of local government units are covered by the Civil Service Law; and such rules, regulations and other issuances duly promulgated pursuant thereto,[12] unless otherwise specified. Moreover, the investigation and the adjudication of administrative complaints against appointive local officials and employees, as well as their suspension and removal, shall be in accordance with the Civil Service Law and rules and other pertinent laws.[13]

The Administrative Code of 1987,[14] -- specifically Book V on the civil service -- is the primary law governing appointive officials and employees in the government.[15] This Code enumerates the grounds for disciplining them.[16] They may be removed or dismissed summarily “(1) [w]hen the charge is serious and the evidence of guilt is strong; (2) [w]hen the respondent is a recidivist x x x; and (3) [w]hen the respondent is notoriously undesirable.”[17] Technical rules of procedure and evidence are not strictly applied; due process in the administrative context cannot be fully equated with that in the strict judicial sense.[18]

The power to discipline is specifically granted by Section 47 of the Administrative Code of 1987[19] to heads of departments, agencies and instrumentalities, provinces and cities.[20] On the other hand, the power to commence administrative proceedings against a subordinate officer or employee is granted by Section 34 of the Omnibus Rules Implementing Book V of the said Administrative Code[21] to the secretary of a department, the head of office of equivalent rank, the head of a local government unit, the chief of an agency, the regional director or a person with a sworn written complaint.

Further, the city treasurer may institute, *motu proprio*, disciplinary proceedings against a subordinate officer or employee. Local Administrative Regulations (LAR) No. 2-85,[22] which was issued by the Ministry of Finance on March 27, 1985, authorized the minister (now secretary) of finance, the regional director, and head of a local treasury or an assessment office to start administrative disciplinary action against officers or employees subordinate to them. The pertinent portions of LAR 2-85 are reproduced hereunder:

“RULE I - INSTITUTION OF ADMINISTRATIVE DISCIPLINARY ACTIONS

“Sec. 1. How commenced. – Administrative disciplinary action may be commenced against a subordinate officer or employee by the Minister of Finance, Regional Directors or heads of the local treasury or assessment offices at their own instance (*motu proprio*) or upon sworn written complaint by any other person.

“In the case of a complaint filed by any other person, the complainant shall submit sworn statements covering his testimony and those of his witnesses together with his documentary evidence.

x x x x x x x x

“RULE IV - HEARING

“Sec. 1. Officer authorized to conduct hearings. -- The investigation shall be conducted by the Minister of Finance or the Director for Local Government Finance or his/her assistants or regional director or head of office concerned or the duly designated representatives of said officials. The duly designated representatives shall make the necessary report and recommendation to the chief of office, regional director or this Ministry, as

the case may be. The investigation shall be held not earlier than five (5) days not later than ten (10) days from date of receipt of respondent's answer by the disciplining authority and shall be finished within thirty (30) days from commencement of the hearing, unless the period is extended or continuance allowed in meritorious cases.”[23]

In the case at bar, the city treasurer is the proper disciplining authority referred to in Section 47 of the Administrative Code of 1987.[24] The term “agency” refers to any of the various units of the government including a department, a bureau, an office, an instrumentality, a government-owned or controlled corporation, or a local government or a distinct unit therein.[25] Respondent Pajaro, as the city treasurer, was the head of the Office of the Treasurer; while petitioner, a senior revenue collector, was an officer under him. Thus, the city treasurer is the proper disciplining authority who could investigate petitioner and issue a preventive suspension order against him.[26]

Petitioner's contention that it is only the city mayor who may discipline him[27] is not persuasive. Section 455 (b-1-x)[28] of the 1991 Local Government Code states that the city mayor “may cause to be instituted administrative or judicial proceedings against any official or employee of the city.” This rule is not incongruent with the provisions of the 1987 Administrative Code, which authorizes the heads of agencies to discipline subordinate employees.[29] Likewise, the old Local Government Code does not vest in city mayors the sole power to discipline and to institute criminal or administrative actions against any officers or employees under their jurisdiction.[30] In fact, there is no provision under the present Local Government Code expressly rescinding the authority of the Department of Finance to exercise disciplinary authority over its employees.[31] By the same token, there is nothing that prohibits the city treasurer from filing a complaint against petitioner.[32]

As a corollary, the power to discipline evidently includes the power to investigate.[33] In *Hagad v. Gozo-Dadole*,[34] we explained the rationale for preventive suspension as follows:

“x x x. Be that, as it may, we have heretofore held that, not being in the nature of a penalty, a preventive suspension can be decreed on an official under investigation after charges are brought and even before the charges are heard. Naturally, such a preventive suspension would occur prior to any finding of guilt or innocence.”[35]

“x x x. Suspension is a preliminary step in an administrative investigation. If after such investigation, the charges are established and the person investigated is found guilty of acts warranting his removal, then he is removed or dismissed. This is the penalty. There is, therefore, nothing improper in suspending an officer pending his investigation and before the charges against him are heard and be given opportunity to prove his innocence.”[36]

In the present case, Respondent Pajaro was authorized to issue the assailed Preventive Suspension Order against petitioner, because the latter was charged with gross neglect of duty, refusal to perform official duties and functions, and insubordination[37] -- grounds that allowed the issuance of such Order, as provided by Section 51 of the 1987 Administrative Code.[38] Clearly, the city treasurer acted within the scope of his power when he commenced the investigation and issued the assailed Order.[39]

Second Issue:

Due Process

Petitioner argues that his right to due process was violated, because he was not heard during the administrative proceedings.[40] We are not convinced.

In an administrative proceeding, the essence of due process is simply the opportunity to explain one's side.[41]

Such process requires notice and an opportunity to be heard before judgment is rendered.[42] One may be heard, not solely by verbal presentation in an oral argument, but also -- and perhaps even many times more creditably and practicably -- through pleadings.[43] So long as the parties are given the opportunity to explain their side, the requirements of due process are satisfactorily complied with.[44] Moreover, this constitutional mandate is deemed satisfied if a person is granted an opportunity to seek reconsideration of an action or a ruling.[45]

In the case at bar, the administrative proceedings were conducted in accordance with the procedure[46] set out in the 1987 Administrative Code and other pertinent laws. First, petitioner was furnished a copy of the May 30, 1990 formal charge[47] against him. Second, Respondent Pajaro requested the approval of the Order of Preventive Suspension[48] in his June 1, 1990 letter[49] addressed to the Bureau of Local Government Finance regional director, who approved the Order in the First Indorsement[50] dated June 4, 1990.

Third, a subpoena[51] dated July 31, 1990 was issued to petitioner ordering him to testify during an investigation on August 15, 1990. However, he admittedly[52] refused to attend the investigation; thus, it was conducted ex parte. Fourth, the Department of Finance affirmed Respondent Pajaro's findings in its August 1, 1991 Decision,[53] the dispositive portion of which reads as follows:

“PREMISES CONSIDERED, [petitioner] is hereby found guilty of Inefficiency in the Performance of Official Duty and is hereby meted the penalty of six (6) months suspension from Office without pay to take effect upon receipt of this Decision, pursuant to Memorandum Circular No. 30, series of 1989 of the Civil Service Commission, with a stern warning that a repetition of the same or similar acts in the future shall be dealt with more severely.”[54]

We need only to reiterate that parties who choose not to avail themselves of the opportunity to answer charges against them cannot complain of a denial of due process.[55] Petitioner's refusal to attend the scheduled hearings, despite due notice, was at his own peril.[56] He therefore cannot validly claim that his right to due process was violated.[57]

As to petitioner's claim for damages, the extant rule is that a public officer shall not be liable by way of moral and exemplary damages for acts done in the performance of official duties, unless there is a clear showing of bad faith, malice or gross negligence.[58] There was no such showing in the present case.

WHEREFORE, the Petition is hereby DENIED and the assailed Decision AFFIRMED. Costs against petitioner.

SO ORDERED.

Puno, (Chairman), Sandoval-Gutierrez, and Carpio, JJ., concur.

[1] Rollo, pp. 13-32.

[2] Rollo, pp. 37-38.

[3] Second Division. Written by Justice Bernardo P. Abesamis with the concurrence of Justices Artemon D. Luna (Division Chairman) and Conchita Carpio Morales (member).

[4] CA Decision, p. 19; rollo, p. 31.

[5] RTC Decision, p. 11; rollo, 78; records, p. 173; penned by Judge Deodoro J. Sison.

[6] CA Decision, pp. 2-5; rollo, pp. 14-17.

[7] CA Decision, p. 15; rollo, p. 27.

[8] Ibid., pp. 19 & 31.

[9] The case was deemed submitted for decision on March 14, 2001, upon this Court's receipt of public respondent's Memorandum signed by Atty. Roy S. Laforteza. Private respondent's Memorandum, filed on December 14, 2000, was signed by Atty. Ma. Victoria D. Cabrera. Petitioner's Memorandum, filed on November 9, 2000, was signed by Atty. Hermogenes S. Decano.

[10] Petitioner's Memorandum, p. 5; rollo, p. 108.

[11] Batas Pambansa Blg. 337, approved on February 10, 1983 -- predecessor of the Local Government Code of 1991. Section 78 of this Code provides: "Sec. 78. Disciplinary Jurisdiction. – (1) Except as otherwise provided by law, the head of a local government unit shall have authority to remove, separate, suspend and otherwise discipline officials and employees under his jurisdiction. If the penalty imposed is suspension without pay for not more than thirty days, his decision shall be final. If the penalty imposed is heavier, the decision shall be appealable to the Civil Service Commission which has final authority upon all matters relating to the conduct, discipline and efficiency of local government officials and employees. If the respondent is in the career executive service, appeal shall be made to the Career Service Board.

"(2) An appeal shall not prevent a decision from becoming executory, and in case the penalty is suspension or removal, the respondent shall be considered as having been under preventive suspension during the pendency of an appeal in the event he wins such appeal. However, the respondent shall be paid his salary corresponding to the period during which the appeal is pending in the event he is completely exonerated."

[12] §78 of The Local Government Code of 1991 provides: "SEC. 78. Civil Service Law, Rules and Regulations, and Other Related Issuances. – All matters pertinent to human resources and development in local government units shall be governed by the civil service law and such rules and regulations and other issuances promulgated pursuant thereto, unless otherwise specified in this Code."

On the other hand, §72 of the Local Government Code of 1983 states: "Sec. 72. Responsibility for Personnel Administration. – Each head of a local government unit shall be responsible for personnel administration in his unit and shall take all personnel actions in accordance with the constitutional provisions relative to the civil service and all laws and rules thereon, including such policies, guidelines and standards as the Civil Service Commission may establish."

[13] §84 of The Local Government Code of 1991 states: "SEC. 84. Administrative Discipline. – Investigation and adjudication of administrative complaints against appointive local officials and employees as well as their suspension and removal shall be in accordance with the civil service law and rules and other pertinent laws. The results of such administrative investigations shall be reported to the Civil Service Commission."

On the other hand, §77 of the Local Government Code of 1983 provides: "Sec. 77. Administrative Discipline. – Investigation and adjudication of administrative complaints against appointive local officials and employees of local governments as well as their suspension and removal shall be in accordance with the civil service law and rules and other laws affecting the civil service. The results of such administrative complaints and investigation shall be reported to the Civil Service Commission."

[14] Executive Order No. 292 took effect on November 24, 1989.

[15] *Joseon v. Torres*, 290 SCRA 279, May 20, 1998.

[16] "SEC. 46. Discipline: General Provisions.-x x x

"(b) The following shall be grounds for disciplinary action:

- (1) Dishonesty;
- (2) Oppression;
- (3) Neglect of duty;
- (4) Misconduct;
- (5) Disgraceful and immoral conduct;
- (6) Being notoriously undesirable;
- (7) Discourtesy in the course of official duties;
- (8) Inefficiency and incompetence in the performance of official duties;
- (9) Receiving for personal use a fee, gift or other valuable thing in the course of official duties or in connection therewith when such fee, gift, or other valuable thing is given by any person in the hope or expectation of receiving favor or better treatment than that accorded other persons, or committing acts punishable under the anti-graft laws;
- (10) Conviction of a crime involving moral turpitude;
- (11) Improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from school children;
- (12) Violation of existing Civil Service Law and rules or reasonable office regulations;
- (13) Falsification of official documents;
- (14) Frequent unauthorized absences or tardiness in reporting for duty, loafing or frequent unauthorized absence from duty during regular office hours;
- (15) Habitual drunkenness;
- (16) Gambling prohibited by law;
- (17) Refusal to perform official duty or render overtime service;
- (18) Disgraceful, immoral or dishonest conduct prior to entering the service;
- (19) Physical or mental incapacity or disability due to immoral or vicious habits;
- (20) Borrowing money by superior officers from subordinates or lending by subordinates to superior officers;
- (21) Lending money at usurious rates of interest;
- (22) Wilful failure to pay just debts or wilful failure to pay taxes due to the government;
- (23) Contracting loans of money or other property from persons with whom the office of the employee concerned has business relations;
- (24) Pursuit of private business, vocation or profession without the permission required by Civil Service rules and regulations;
- (25) Insubordination;
- (26) Engaging directly or indirectly in partisan political activities by one holding a non-political office;

(27) Conduct prejudicial to the best interest of the service;

(28) Lobbying for personal interest or gain in legislative halls and offices without authority;

(29) Promoting the sale of tickets in behalf of private enterprises that are not intended for charitable or public welfare purposes and even in the latter cases if there is no prior authority;

(30) Nepotism as defined in Section 60 of this Title.”

[17] Section 50, Chapter 6, Book V, Administrative Code of 1987.

[18] *Espinosa v. Office of the Ombudsman*, 343 SCRA 744, October 19, 2000.

[19] “SEC. 47. Disciplinary Jurisdiction. – x x x

(2) The Secretaries and heads of agencies and instrumentalities, provinces, cities and municipalities shall have jurisdiction to investigate and decide matters involving disciplinary action against officers and employees under their jurisdiction. Their decisions shall be final in case the penalty imposed is suspension for not more than thirty days or fine in an amount not exceeding thirty days’ salary. In case the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department and finally to the Commission and pending appeal, the same shall be executory except when the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary concerned.”

[20] *Macalincag v. Chang*, 208 SCRA 413, May 6, 1992.

[21] “SEC. 34. Administrative proceedings may be commenced against a subordinate officer or employee by the following officials/person:

(a) Secretary of Department;

(b) Head of office of equivalent rank;

(c) Head of local government unit;

(d) Chief of agency;

(e) Regional director; or

(f) Upon sworn, written, complaint of any person.”

[22] Exhibit “11.”

[23] Local Administrative Regulations No. 2-85, March 27, 1985.

[24] *Macalincag v. Chang*, *supra*.

[25] §1, Administrative Code of 1987.

[26] *Macalincag v. Chang*, *supra*.

[27] Petitioner’s Memorandum, p. 6; rollo, p. 109.

[28] “SEC. 455. Chief Executive; Powers, Duties and Compensation.--(a) The city mayor, as chief executive of the city government, shall exercise such powers and perform such duties and functions as provided by this Code and other laws.

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the city and

its inhabitants pursuant to Section 16 of this Code, the city mayor shall:

(1) Exercise general supervision and control over all programs, projects, services, and activities of the city government, and in this connection, shall:

x x x x x x x x

(x) Ensure that all executive officials and employees of the city faithfully discharge their duties and functions as provided by law and this Code, and cause to be instituted administrative or judicial proceedings against any official or employee of the city who may have committed an offense in the performance of his official duties.

x x x x x x x x.”

[29] Aguirre Jr. v. De Castro, 321 SCRA 95, 103, December 17, 1999, per Panganiban, J.

[30] “Sec. 171. Chief Executive; Compensation, Powers and Duties. – (1) The city mayor shall be the chief executive of the city government, and shall exercise such powers, duties and functions as provided in this Code and other laws. He shall receive such compensation, emoluments and allowances as may be prescribed by law or ordinance.

(2) The city mayor shall:

x x x x x x x x

(d) See to it that executive officers and employees of the city faithfully discharge their respective duties, and for the purpose, cause, if necessary, the institution and filing of appropriate criminal or administrative action;

x x x x x x x x.”

[31] Aguirre Jr. v. De Castro, *supra*, p. 102.

[32] *Id.*, p. 103.

[33] Joson v. Torres, *supra*.

[34] 251 SCRA 242, December 12, 1995.

[35] *Ibid.*, p. 254, per Vitug, J.

[36] Lastimosa v. Vasquez, 243 SCRA 497, 507, April 6, 1995, per Regalado, J., citing *Nera v. Garcia*, 106 Phil. 1031, 1034, January 30, 1960, per Montemayor, J.

[37] See Exhibit “C”; records, p. 11.

[38] “SEC. 51. Preventive Suspension. -- The proper disciplinary authority may preventively suspend any subordinate officer or employee under his authority pending an investigation, if the charge against such officer or employee involves dishonesty, oppression or grave misconduct, or neglect in the performance of duty, or if there are reasons to believe that the respondent is guilty of charges which would warrant his removal from the service.”

[39] Macalincag v. Chang, *supra*.

[40] Petitioner’s Memorandum, p. 6; rollo, p. 109.

[41] *Lumiqued v. Exevea*, 282 SCRA 125, November 18, 1997.

[42] *Calma v. Court of Appeals*, 302 SCRA 682, February 9, 1999.

- [43] Ocampo v. Office of the Ombudsman, 322 SCRA 17, January 18, 2000.
- [44] Calma v. Court of Appeals, *supra*.
- [45] Lumiqued v. Exevea, *supra*.
- [46] See §§32, 34, 36, 37, 38, 39 and 40 of Rule XIV of the Omnibus Rules Implementing Book V of the Administrative Code of 1987.
- [47] Exhibit “C”; records, p. 11.
- [48] Exhibit “A”; *ibid.*, p. 9.
- [49] See Exhibit “E.”
- [50] Exhibit “4.”
- [51] Exhibit “D”; records, p. 12.
- [52] TSN, p. 13, January 28, 1998.
- [53] Exhibit “5.”
- [54] Annex “4”; records, p. 106.
- [55] Esber v. Sto. Tomas, 225 SCRA 664, August 26, 1993.
- [56] Garcia v. Court of Appeals, GR No. 100579, June 6, 2001.
- [57] Ocampo v. Office of the Ombudsman, *supra*.
- [58] §38 (1), Chapter 9, Book I, Administrative Code of 1987. Cojuangco Jr. v. Court of Appeals, 309 SCRA 602, July 2, 1999; Suarez v. Commission on Audit, 294 SCRA 96, August 7, 1998; Yulo v. Civil Service Commission, 219 SCRA 470, March 3, 1993; Orocio v. Commission on Audit, 213 SCRA 109, August 31, 1992; Chavez v. Sandiganbayan, 193 SCRA 282, January 24, 1991.

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