

**PLAZA, Amparo M.**

**PRADO, Minda G.**

**Re: Dishonesty; Grave Misconduct, etc.;**

Motion for reconsideration

(CSC Resolution No. 98-1963)

X-----X

### **RESOLUTION NO. 990256**

Amparo M. Plaza, then Teacher III (now Principal I of Tabon M. Estrella National High School), and Minda G. Prado, then Assistant Secondary School Principal (now Principal II of Bislig National High School) both of Bislig, Surigao del Sur, move for the reconsideration of CSC Resolution No. 98-1963 dated 20 July 1998 which found them guilty of Grave Misconduct and imposed them the penalty of dismissal from the service. The pertinent portion of the said Resolution reads, as follows:

*"It is without doubt that the Plaza and Prado, on their own and without proper authority, concealed the fact that Mangin was not reporting to duty and at the same time appropriated the salary of Mangin to pay Ponio et al., as substitute teachers even if they did not have any approved appointments.*

*"The respondent's unauthorized payment of the salaries of Ponio, Guillen and Montelbon, who were not issued appointments, constitutes Grave Misconduct. Respondents' contention, that to follow the proper procedure of appointment would be too tedious and that the same would be detrimental to the rendering of service to the pupils, previously under Mangin, deserves scant consideration. It is also of no moment if use of the salary intended for Mangin for any another purposes was through the request of Mangin herself. As a matter of fact, Mangin should be investigated for her participation in the scheme to conceal her absence, so that her contributions or premiums to the Government Service Insurance system will be continued.*

*"With regard to the payment of salary, since there was no valid appointment issued to Ponio, Guillen and Montebon, the officials responsible for the actual services they have rendered are liable for the payment of their salaries.*

X X X

*"WHEREFORE, Amparo M. Plaza and Minda G. Prado are found guilty of Grave Misconduct. They are hereby imposed the penalty of dismissal from the service, including the accessory penalties of perpetual disqualification from holding public office and from taking the government examinations. Furthermore, they are directed to refund the amount paid to Eugenio P. Ponio, Myrna M. Montebon and Marivel T. Guillen as their salaries for being substitute teachers for Leonarda L. Mangin."*

The material allegations of Plaza and Prado in their motion read, as follows:

X X X

*"This motion for reconsideration is premised basically on the following grounds:*

*"1. That the Honorable commission overlooked the evident good faith and apparent lack of wrongful intent on the part of the respondent;*

*"2 That the Honorable Commission failed to consider the long years of honorable service in the government by both respondents.*

*"3. That the government practically sustained no damage from the acts of the respondents.*

*"4. That the penalty of dismissal is too harsh for the respondents taking into consideration all the circumstances obtaining in the case.*

X X X

*"In the case, the elements of corruption and clear intent to violate the law is absent. Respondents had shown their candor and good faith since the start of the investigation until the end. There was never an attempt on the part of the respondents to cover-up the pertinent and material records of the case and they did readily confess on their counter affidavits and evidences that they did locally arranged the leave of Mrs. Leonarda L. Mangin and her engagement of their substitutes. It was during the year when fiscal management was devolved to the school.*

*"Respondent Prado was moved by her compassion to a colleague who came to her ( Prado ) for a help so that her (Leonarda A. Mangin) contribution to the GSIS will continue despite her being on sickleave Respondent Plaza had no authority to decide on the matter of the request of Mrs. Leonarda Mangin because at the time she was yet a classroom Teacher III in the year 1989. Respondent Plaza's only involvement in this case was her being the disbursement officer designate then. However, she made the disbursement based on approved payroll.*

X X X

*"The payrolls themselves explicitly reveal respondents' good faith. If they indeed had the intention to defraud the government, they could have easily forged the signature of Mrs. Leonarda Mangin and made it appear that Mangi received her pay. If the respondents did not have their honest and good intention, they would not have hired substitute teachers to take the place of Mrs. Mangin."*

In their supplemental motion, Prado and Plaza alleged, as follows:

X X X

*"3. That there is no sufficient evidence to prove the afore-said finding. Records will show that respondents did not conceal or hide the fact that Mangin was on leave.*

*"4. That there was no malice and/or intent on the part of respondent to either benefit or gain from the arrangement or defraud the government. Respondents were just driven by compassion and sympathy to a co-teacher who pleaded and even suggested to a local arrangement. Respondents would like to point out that they merely acted in good faith.*

*"5. That, as respondents were just then designated OIC Principal and Disbursement Officer, respectively, not knowing well of the intricacies of appointments, and honestly believing then that said local arrangement will not in any way cause damage to the government and further knowing that there were precedents in the past, they give due course to the request of Mangin.*

*"6. That likewise there is no sufficient evidence to prove that respondents appropriated the salaries of Mangin. As testified to by the three (3) substitutes during the formal hearing and as appearing on the payrolls, the salaries of Mangin for three (3) periods of her sick leave of absence were actually paid and received directly by the substitutes as payment for actual services they rendered to the school, in fairness to them. In other words, respondents had no hand on the salaries of Mangin. Respondents did not benefit for themselves a single centavo from said arrangement or transaction.*

*"7. That, if indeed respondents committed and/or violated Civil Service Law, rules and regulations on appointments and payments of salaries of government employees, definitely respondents were not motivated with personal interests, malice and/or corruption. It was mere lapses and/or error of judgment on respondents' part, who were new to their position. Hence, respondents may only be held liable for gross violation of existing civil service laws and rules and/or simple misconduct.*

*"8. That imposing the penalty of dismissal to respondents under the circumstances availing, is too harsh and inhuman considering the fact that respondents have dedicatedly served the teaching service, molding the youth to become responsible citizens in the*

*future, during the entire prime days of their lives."*

After a careful reevaluation of the records, taking into reconsideration the respondents' motion, the Commission finds the motion of Prado and Plaza meritorious.

The Commission takes note of the fact that Prado and Plaza did not gain nor did they intend to gain anything from the salary appropriated in the name of Mangin. As shown by the affidavits executed and signed Ponio, et al., the substitute teachers for Mangin, the amount intended for Mangin were actually received by them in payment for the services they have rendered in favor of the school.

In the case of **ARTECHE, Jesuita, CSC Resolution No. 98-1432, dated 10 July 1998**, the Commission defined Misconduct as follows:

*"Misconduct is defined as a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence of the public officer. Also the word misconduct implies a wrongful intention, and not a mere error of judgment. If the transgression is done with deliberate intent or in complete disregard of established rules, it becomes Grave Misconduct. Otherwise, it is only Simple Misconduct."*

There was no intention on the part of Plaza and Prado to defraud the government or to gain personally from the acts complained of. The salaries released in the name of Mangin were duly received by the substitute teachers as compensation for the services rendered by the latter and did not benefit Prado and Plaza in any manner. Apparently, their acts were mere error of judgment compelled by a misplaced sense of altruism.

The claim of Prado and Plaza that they have acted in good faith when they where hired the substitute teachers without a valid appointment is impressed with merit. The Commission takes note of the reason behind their act, which is, *"Mangin's absence was known to everyone in the school. In fact, Mangin had an approved sick leave of absence applications (January 9, 1989-February 23, 1989-April 2, 1989; and, April 23, 1989-December 31, 1989), by Prudencio Mabanglo, then Schools Division*

*Superintendent. In her stead and so as not to disrupt classes during the school year, three (3) substitute teachers were locally hired. Said teachers were actually rendered teaching service to the school."*

Good faith refers to the state of the mind which is manifested by the acts of the individual concerned. It consists of the honest intention to abstain from taking an unconscionable and unscrupulous advantage of another. It is the opposite of fraud, and its absence should be established convincing evidence (**Hilario V. Galvez, 45494-R, August 19, 1971**).

Moreover, after a closer scrutiny of the records of this case, the Commission found that Plaza and Prado did not conceal the absence of Mangin. This can be inferred from the fact that Mangin was required to submit an application for sick leave, which was subsequently approved, to cover the period of her absence and that the substitute teachers (Ponio, et al) were required to sign their names in the space, in the payroll sheets, intended for Mangin. These acts reveal that Plaza and Prado had no intention to conceal the absence of Mangin.

However, Plaza and Prado are liable for disregarding the pertinent civil service rules and regulations on the hiring of substitute teachers which are, as follows:

1. Section 15, Rule V of the Omnibus rules Implementing Book V of Executive Order No. 292 which reads as follows:

*"SEC.15. In the case of teachers, the Commission recognizes the provisional and substitute status of appointment as provided for and defined under the Magna Carta for Public School Teachers (RA 4670)."*

2. **OMNIBUS GUIDELINES ON APPOINTMENTS AND OTHER PERSONNEL ACTIONS**  
(Memorandum Circular No. 38, Series of 1993)

X X X

*"1. Forms(submit 3 copies)*

X X X

*"c. All appointments of substitute teachers shall be prepared in CS Form 33 and submitted to the CSC Office concerned for approval. The use of Special Orders for subsequent appointments of teachers within a school year shall be discontinued.*

X X X

*"6) Employment status of teachers are those defined by the Magna Carta for Public School Teachers (RA 4670), viz:*

X X X

*"Provisional (Substitute) - for those who meet the minimum educational qualification but without teacher eligibility and appointed in a substitute capacity.*

*"Regular (Substitute) - for those who meet the educational and eligibility requirements and appointed in a substitute capacity."*

Prado and Plaza are duty bound to follow the proper procedure in the appointment of substitute teachers. They could not resort to procedural short-cuts in disregard of existing civil service rules on the matter. In this respect, they are liable for Conduct Grossly Prejudicial to the Best Interest of the Service.

**WHEREFORE**, the motion for reconsideration of Amparo M. Plaza and Minda G. Prado is hereby granted. Accordingly, CSC Resolution No. 98-1963 dated 20 July 1998 is hereby modified. Plaza and Prado are found guilty of Conduct Grossly Prejudicial to the Best Interest of the Service and are meted out the penalty of fine equivalent to six (6) months salary.

Quezon City. JAN 25 1999

**(SGD)CORAZON ALMA G. DE LEON**  
Chairman

**(SGD)THELMA P. GAMINDE**  
Commissioner

Attested by:

**(SGD)ARIEL G. RONQUILLO**  
Director III

CADL-RES/plaza/NLA/ABR/S-16/plaza-r/mjp5/D-95-0485