



MC No. 49 s. 1990

MEMORANDUM CIRCULAR

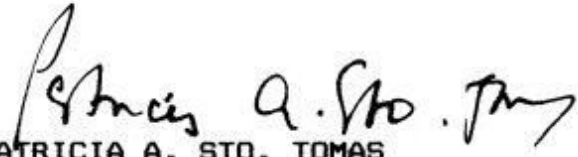
TO : ALL HEADS OF DEPARTMENTS, BUREAUS AND
AGENCIES OF THE NATIONAL AND LOCAL
GOVERNMENTS, INCLUDING GOVERNMENT-OWNED
OR CONTROLLED CORPORATIONS WITH ORIGINAL
CHARTERS

SUBJECT : PREVENTIVE SUSPENSION

The Civil Service Commission in its Resolution No. 90-1066 dated November 22, 1990 adopted the policy that the ninety (90) days preventive suspension of an erring officer or employee cannot be deducted from the penalty imposed upon them.

All circulars, guidelines, rules and regulations inconsistent with this Memorandum Circular are repealed, revoked or amended accordingly.

This Memorandum Circular shall take effect immediately.


PATRICIA A. STO. TOMAS
Chairman

November 22, 1990
OLA/RCL/18-L/19-S/rsa



PREVENTIVE SUSPENSION

X-----X

RESOLUTION NO. 90-1066

WHEREAS, the Civil Service Commission, as the central personnel agency of the Government, is mandated under the 1987 Constitution to adopt measures to promote morale, efficiency, integrity, courtesy and responsiveness in the Civil Service;

WHEREAS, pursuant to Executive Order No. 292, otherwise known as the Administrative Code of 1987, the Commission shall prescribe, amend and enforce suitable rules and regulations for carrying into effect its functions;

WHEREAS, it is provided under Section 51, Chapter 7, Book V of Executive Order No. 292 that "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".

WHEREAS, the Commission in a Memorandum of the CSC Chairman Jesus N. Borromen to Director Vicente Ramos in the case of Rogelio Maglaqui and Lilia Cunanan (Interpretation of Suspension in Administrative Case) ruled that the counting of the penalty of one year suspension meted against Maglaqui and Cunanan, shall include their 90-day preventive suspension;

WHEREAS, the Commission has ruled on several instances that preventive suspension in administrative cases is not a penalty in itself. The Supreme Court in Bautista vs. Peralta (18 SCRA 223) has declared that "an order of preventive suspension is but a precautionary measure so that an employee who is formally charged of an offense may be separated from the scene of his alleged misfeasance while the same is being investigated;

PREVENTIVE SUSPENSION/ p. 2
X-----X

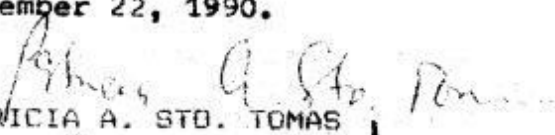
WHEREAS, preventive suspension is not a punishment or penalty for misconduct in office but is considered to be a preventive measure (Nera vs. Garcia Phil. Reports, Vol. 106, January 30, 1960). Conformably, it is only a preliminary step to the proceedings for the termination of a public officer or employee;

WHEREAS, the period within which a public officer or employee charged is placed under preventive suspension shall not be considered as part of the actual penalty of suspension imposed upon him after formal investigation;

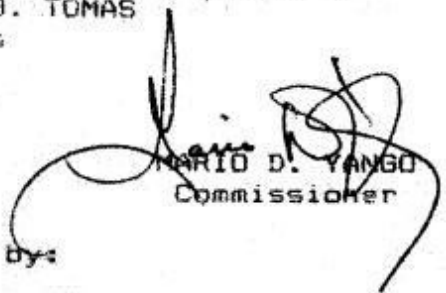
WHEREAS, to construe otherwise, would unduly diminish the effect of the suspension as a penalty and discriminate against other penalties prescribed by law such as demotion, transfer and fine;

WHEREFORE, foregoing premises, the Commission resolved to hold that the ninety (90) days preventive suspension of an erring officer or employee cannot be deducted from the penalty imposed upon them.


Quezon City, November 22, 1990.


PATRICIA A. STO. TOMAS
Chairman


SAMILO N. BARLONGAY
Commissioner


MARIO D. YANGO
Commissioner

Attested by:


C. V. USAC
Board Secretary VI

OLA/EIF/RCL/18-L/19-S/marlyn117