



REPUBLIC OF THE PHILIPPINES
MINISTRY OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE MINISTER
MANILA

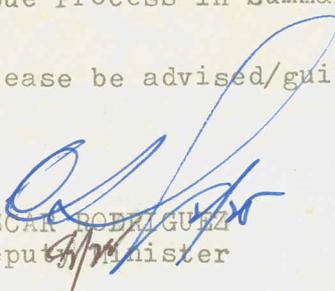
22 February 1983

MINISTRY ORDER)
NO. 12)
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TO ALL : Deputy Ministers
Assistant Ministers
Service Chiefs
Bureau Directors
Regional Directors
Chief Civil Engineers (District Engineers)
City Engineers
And all others concerned
This Ministry

For information and guidance, attached is Memorandum-
Circular No. 1 dated January 14, 1983 issued by the
Chairman, Civil Service Commission, on the subject:
"Due Process in Summary Proceedings".

Please be advised/guided accordingly.


OSCAR SOBRIQUEZ
Deputy Minister

Handwritten notes:
HR
2/28/83
for file



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Republika ng Pilipinas
KOMISYON NG SERBISYO SIBIL
(Civil Service Commission)
Manila

MC No. 1, S. 1983

MEMORANDUM CIRCULAR

TO : ALL HEADS OF MINISTRIES, BUREAUS, AGENCIES,
LOCAL GOVERNMENTS, AND GOVERNMENT OWNED OR
CONTROLLED CORPORATIONS.

SUBJECT : Due Process in Summary Proceedings

A number of appeals has been made to this Commission by officials and employees who were dismissed from the service summarily under Section 40 of Presidential Decree No. 807 who alleged that no charges were ever preferred against them nor were they given any opportunity to explain their side. Although this defect in procedure can be rectified by remanding the cases, it is to the interest of public service to prevent its occurrence since it results in a waste of time and effort **both** on the part of the agency and employee concerned and the Commission.

For this reason, it is imperative that the concept of summary proceedings under Section 40 of Presidential Decree No. 807 be clarified. Said Section provides:

"Section 40. Summary Proceedings. - No formal investigation is necessary and the respondent may be immediately removed or dismissed if any of the following circumstances is present:

- (a) When the charge is serious and the evidence of guilt is strong.



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- (b) When the respondent is a recidivist or has been repeatedly charged and there is reasonable ground to believe that he is guilty of the present charge.
- (c) When the respondent is notoriously undesirable.

Resort to summary proceedings by disciplining authority shall be done with utmost objectivity and impartiality to the end that no injustice is committed: Provided, That removal or dismissal except those by the President, himself, or upon his order may be appealed to the Commission".

It will be noted that throughout the section, the word "respondent" is used repeatedly. This signifies that the employee concerned has been apprised of the charges and been given an opportunity to be heard or to submit his explanation because it is only then that an employee becomes a respondent in a case.

In summary proceedings, therefore, these two requirements must be observed:

- (1) the employee shall be formally charged or given a copy of the complaint under oath together with all supporting documents after finding that a prima facie case exists; and
- (2) he must be given a reasonable time of not less than 72 hours within which to submit an explanation.

These requirements cannot be dispensed with because these are basic requirements of due process. What is dispensed with in summary proceedings is the formal investigation. After the answer or explanation is filed, a decision can be rendered on the basis of the records and the attendant circumstances of the case.



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Under the provision quoted above, a decision rendered in summary proceedings may be appealed to the Civil Service Commission within fifteen (15) days from receipt thereof by the respondent. This is another compelling reason why the basic requirements of due process should be complied with, as the Commission would have almost nothing on which to make a reasonable review of the case on appeal if even the filing of the charges or referral of the sworn complaint, and the explanation of the respondent which are basic requirements of due process, are also totally dispensed with.

To forestall, therefore, unnecessary appeals on grounds of denial of due process, compliance with the above requirements is enjoined.

This Memorandum Circular shall take effect immediately.

(SGD.) ALBINA MANALO-DANS
Chairman

January 14, 1983.