

## EN BANC

[ A.M. No. MTJ-92-687, December 08, 2008 ]

**ENGR. EDGARDO C. GARCIA, COMPLAINANT, VS. JUDGE MELJOHN DE LA PEÑA, MUNICIPAL CIRCUIT TRIAL COURT, CAIBIRAN-CULABA, LEYTE (ACTING JUDGE, MUNICIPAL TRIAL COURT, NAVAL, LEYTE ), RESPONDENT.**

### R E S O L U T I O N

**REYES, R.T., J.:**

MAY the Court now lift the ban on reemployment against respondent and order the payment of all his financial benefits? This is the sole issue to be resolved in his plea for judicial clemency and compassion.

In its Resolution dated February 9, 1994, the Court dismissed respondent Judge Meljohn de la Peña from the service for partiality, abuse of authority and grave abuse of discretion relative to Criminal Case No. 2577. The dispositive portion of the resolution states:

**ACCORDINGLY, respondent Judge Meljohn de la Peña (Acting Judge of Municipal Trial Court of Naval, Leyte) of the Municipal Circuit Trial Court of Caibiran-Culaba, Leyte is hereby DISMISSED from the service with forfeiture of all benefits and with prejudice to reinstatement or reappointment to any public office, including government-owned or controlled corporations.**

SO ORDERED.<sup>[1]</sup>(Emphasis supplied)

Filed on August 28, 2007, respondent now presents for consideration of the Court a "Plea for Judicial Clemency and Compassion," alleging that his dismissal from the service made him and his family suffer the insult and ridicule of his peers and the general public for many years; that his dismissal made him realize that the most valuable things in life - honor, honesty, dignity, service to the public and respect for fellowmen - can be obtained only through a simple and honorable life and honest service to fellowmen; that consistent with this realization, he devoted himself to his church by serving as a member of the Knights of Columbus and as a member of the Parish Pastoral Council of the Sto. Rosario Parish of Naval, Biliran; that he devoted substantial time to the Biliran Chapter of the Integrated Bar of the Philippines where he served as its president from 2003-2005 and from 2007 to the present.<sup>[2]</sup>

He also says that after living in the path of righteousness and respectability, the trust and confidence in him of the people in his community were restored. As proof of this trust, he was chosen as the legal counsel of the Rural Bank of Naval, Biliran which is composed of the prominent and influential businessmen and residents of Biliran Province.<sup>[3]</sup>

Furthermore, respondent states that his reformation and redemption from his unenviable fate did not escape the attention of the very person who filed the administrative case against him.<sup>[4]</sup> Respondent attached to his plea an "Affidavit of No Objection," executed by Engr. Edgardo Garcia, complainant in the administrative case that merited his dismissal. According to Engr. Garcia, since the dismissal of respondent from the service, he has been closely observing respondent; that he has noticed that respondent "has reformed and has conducted himself in our locality with decency, dignity and honorably befitting of a lawyer and a judge"; that when respondent asked for his forgiveness, "my family willingly forgave him"; that he had no objection to any appeal or petition of respondent for the lifting of his (respondent's) disqualification from government employment and/or for the payment of the financial benefits that he (respondent) would have been entitled to if he were not dismissed from the service.<sup>[5]</sup>

Also, in his Comment<sup>[6]</sup> filed on October 14, 2008, complainant reiterated that he interposes no objection to respondent's plea.

Respondent thus seeks the lifting of the prohibition on reemployment in the government service and the payment of all financial benefits he might otherwise be entitled to.

To be sure, the penalty imposed on respondent was made pursuant to Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292 (Administrative Code of 1987) which provides:

The penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of leave credits and retirement benefits, and the disqualification for re-employment in the government service. Further, it may be imposed without prejudice to criminal or civil liability.

However, there have been instances in the past when this Court has shown compassion in modifying already final decisions in administrative cases.<sup>[7]</sup>

In *Cathay Pacific Airways, Ltd. v. Romillo, Jr.*,<sup>[8]</sup> this Court, out of humanitarian considerations, allowed dismissed Judge Romillo, Jr. to enjoy all vacation and sick leave benefits that he earned during his government service. In *Prudential Bank v. Castro*,<sup>[9]</sup> this Court likewise allowed respondent Judge to enjoy the money equivalent of all his vacation and sick leave benefits.

Furthermore, Civil Service Commission Memorandum Circular (MC) No. 41, Series of 1998, as amended by MC No. 14, Series of 1999, provides:

Section 37. *Payment of terminal leave.* - Any official/employee of the government who retires, voluntarily resigns, or is separated from the service and who is not otherwise covered by special law, shall be entitled to the commutation of his leave credits exclusive of Saturdays, Sundays and Holidays without limitation and regardless of the period when the credits were earned.

Section 65. *Effect of decision in administrative case.* - An official or