

CARREON, Marilyn A.  
Re: Motion For Reconsideration  
(CSC Resolution Mo. 002258)

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### **RESOLUTION NO. 010705**

Marilyn A. Carreon, an employee of Land Transportation Office (LTO) and recipient of the Local Scholarship Program for Masteral Degree (LSP-MD) for School Year 1999-2000 of the Civil Service Commission, moves for the reconsideration of CSC Resolution No. 00-2258 dated October 9, 2000 cancelling her LSP-MD Scholarship Grant.

The pertinent portions of the assailed decision read, as follows:

*“Assistant Secretary Benjamin G. Calima, Land Transportation Office (LTO), is recommending the revocation of the Scholarship Contract he signed in behalf of Ms. Marilyn A. Carreon, employee of LTO and a LSP-MD Grantee for School year 1999-2000.*

*"Based on his representation, Ms. Carreon has a pending Administrative Case (Adm. Case No. LTO-0098-0008 dated April 13, 1998) for Grave Misconduct, Violation of Existing Office Rules and Regulations, and Conduct Prejudicial to the Best Interest of the Service. She was issued an order of preventive suspension starting April 13, 1998.*

*“Upon verification from CSC-NCR, Ms. Carreon filed her application form the LSP Written Examination which was subsequently approved on July 10, 1998. It appears that she answered ‘NO’ regarding pending administrative case in the application form.*

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*“WHEREFORE, in view of the misrepresentation or non-disclosure of such vital information made by Ms. Carreon, the Commission hereby cancels her scholarship grant.*

*“RESOLVED further that Ms. Carreon be charged of dishonesty for misrepresentation.”*

Movant anchors her motion for reconsideration on the following grounds:

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*“20. The CSC Resolution No. 002258 is not only indeed repulsive to the due process of law, as the Constitution upholds in its Article III, Section I of the Bill of rights, xxx but indeed an assault against her person and her civil service career, which even the Uniform Rules on Administrative Cases in the Civil Service Rule II Section 11 and 12 provides that:*

*'Section 11. Action on the Complaint. Upon receipt of a complaint which is sufficient in form and substance, the disciplining authority shall require the person complained of to submit a counter-affidavit/comment under oath within three (3) days from receipt.*

*"Section 12. Preliminary Investigation. A preliminary investigation involves the ex-parte examination of records and documents submitted by the complainant of records and documents submitted by the complainant and the person complained of, as well as the documents readily available from other government offices. During said investigation, the parties are given the opportunity to submit affidavits and counter-affidavits.*

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*"25. The person complained of did not immediately avail of the benefits of the said scholarship and informed the agency that said scholarship be deferred.*

*"26. Nonetheless, the person complained of, an LSP-MD grantee, having passed the competitive, written examination administered on 26 July 1998 and the interview phase thereof on 17 November 1988 received a letter from CSC-NCR dated 8 February 2000 in the first week of March informing her that she is*

*expected to start her master's degree studies in June 2000, for no further deferment will be granted,*

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*“27. Thus, guided with the pronounced entitlement to the said LSP-MD grant, pursuant to the letters of the complainant dated 28 October 1998 and 18 January 1999 or hereto attached as ANNEXES G and G-1 and the apprehension that the said much coveted grant will lapse pursuant to ANNEX 'I', thus the person complained of or the grantee proceeded to secure from the Assistant Secretary Benjamin Q. Calima, now the herein complainant, the Scholarship Contract which in fact should have been submitted to the CSC in 1998 yet,, or the most in the last week of January 1999, after the CSC General Assembly for the scholarship grantees for the said batch.*

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*“a. There is no truth to allegation of the complainant together with his designated Chief of personnel section, Ms. Patria T. Ogsimer that the said case has been pending since 1998.*

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*“The person complained of has no pending administrative case when she applied for the CSC-LSP-MD Competitive Written Exam in July 1998. There is no truth to the allege issuance of an Order for Preventive Suspension starfinq April 13, 1998. This is a blatant lie. xxx*

*“The said letter dated 15 July 1998 or ANNEX J, summarily pertains to the LTO Adm. Case No. 98 008 against grantee/person complained of that ‘guided with the instruction to give her the requisites of due process, the service of the Formal Charge and the Order of Preventive Suspension was held in abeyance. As a result thereof, the said documents are not yet valid nor effective primarily because the Office has not yet acquired jurisdiction over the person of the said respondent.’*

*“Moreover, for your careful scrutiny, PROOF OF SERVICE of the said formal charge and preventive suspension was only made on March 1999, xxx*

*“XXX*

*“THUS, grantee/person complained of was not issued the said formal charge nor preventively suspended starting 13 April 1998 as alleged.*

*“b. There is no truth that complainant was misled in approving the contract due to the old personal data sheet she attached, whereby she checked the answer NO to the question, do you have any pending administrative case. The only document which grantee/person complained of brought to the complainant’s office for his signature which she left with his personal Secretary, Sandy was the Scholarship Contract.*

*“There was no OLD personal data sheet attached thereto. If what was referred to was the document where grantee or person complained of, was the personal data sheet he submitted to the CSC-NCR at the time of her application for the CSC-LSP-MD Competitive Written Exam where she answered the controversial NO, said data sheet was only offered by complainant as evidence of her alleged misrepresentation after securing a copy from the CSC-NCR LSP files.*

*“c. The alleged complaint which unduly bloated into an administrative case almost in April 1998, until having been recalled and realized that their conduct was repulsive undue process or law as pronounced in ANNEX J, and authorization for issuance of the said Formal Charge sought in January 1999xxx*

*“After having been issued the said Formal Charge and preventive suspension on 04 March 1999 to an officemate, MS. MITZI MAMON, as grantee/person complained of was attending at that time to her very important function as EMCEE or the project then being launched, Kilusang Disiplina sa Kalsada by her late superior, Col. Frenie del Rosario, then Chief of the LTO Field Enforcement Division and Special Task Force.*

*“Thereafter, after serving the said preventive suspension from 01 March 1999 till 31 May 1999, although said suspension should have been contested pursuant to the provision on preventive suspension, Sec. 19, Rule II, xxx*

*The said preventive suspension should not have been issued to her for the following considerations, as follows:*

*‘1.) Misfeasance or malfeasance to warrant disciplinary action must have direct relation to and be connected with the performance of official duties (Salcedo vs. Iriting 91 SCRA)*

*‘2.) It is settled that misconduct or malfeasance or*

*misfeasance warranting removal from office of an officer, must have direct relation to and be connected with the performance of official duties, amounting to either maladministration, or willful, intentional neglect and failure to discharge the duties of the office. (Sarigumba vs. Pasok, 156 SCRA 646)*

*'3.) Pursuant to the latitude of the discretion of the issuance of preventive suspension, it not being mandatory, as the language of the Rules stipulate MAY BE ISSUED, the grantee or the person complained of in the said controversy, has obviously no capacity or (sic) exerting undue influence nor pressure on the witnesses against her. In fact, the subject of the alleged complaint which bloated into LTO-98-008, did not even pertain to her official function, as at the time of the allege (sic) complaint, she was assigned/detailed at the public Assistance Center although her plantilla position as Statistician II is with the Management Information Division. Her function thereat was to answer telephone calls and prepare communications. Said Office was not even a plantilla for it was only created under the Assistant Secretary 's Office in 1992 till half of 1998 or in the time of Gen. Manuel F. Bruan to receive and answer complaints more particularly any violations*



*of taxi drivers, bus drivers and operators and other public utility vehicles.*

*'4.) Moreover, upon the assumption of the complainant in July, '98 as ' the new head of office or Assistant Secretary, the person complained of was the sole organic employee thereat, as the Public Assistance Office was abolished, and the person complained of was requested to be transferred to the Law Enforcement Service by Col. Frenie del Rosario and Atty. Robert D. Lansang, respectively Chiefs of the Field Enforcement Division and the Law Enforcement Service.*

*"It was here when the said Formal Charge and Preventive Suspension were issued on 04 March 1999 until 31 May 1999. xix Thereafter, person complained of was reinstated after ninety (90) days, or started to officially report again on 01 June 1999.*

*“Again for reasons unexplained, person complained of was detailed from the Special Task Force/Field Enforcement Division to the Registration Section from July to August, 1999, performing menial functions which were aside from being insignificant and demeaning as sorting old copies/receipts at their storeroom, with another*

companion who was only an OJT, office trainee or non-employee,  
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*“Thereafter, on her own initiative, she chanced to communicate with her present immediate supervisor ATTY. ROBERT D. LANSANG, Chief of the Law Enforcement Service, She was fortunately invited to join his staff and as such was transferred in September 1999 to her present office where she is given important functions as research and preparation of official communication.*

*“The LTO-98-008 Administrative Case has been pending since the issuance of the Formal Charge and the Order of Preventive Suspension to her in (sic) 04 March 1999 for reasons which the person complained of are not privy of.*

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*“30. Complainant ATTY. BENJAMIN G. CALIMA, Assistant Secretary of the Land Transportation Office together with his designated Chief or personnel; MS. PATRIA T. OGSIMER, have thus colluded and confederated with one another in deliberately withholding from the person complained of/grantee opportunity to be heard of the said complaint, depriving her of her right to the (sic) due process of law and to her being unduly the subject of an unpardonable assault against her person in making it appear that she was*

indeed guilty of dishonesty by selectively submitting documents pertinent to the said LTO-98-008 Administrative Case.

“31. Moreover, the derogatory letter-complaint of ATTY. BENJAMIN G. CALIMA, Assistant Secretary and his designated Chief of personnel section, MS. PATRIA T. OGSIMER, per her initial under his signature had unduly put the grantee/person complained in such a bad light as on top of her civil service career which is being impugned, the choice of words of language therein were calculated to cast aspersion and ridicule on her person.

“32. It is unfortunate, in fact that the said CSC Resolution No. 002258 which was ex-parte resolved on the recommendation of the Head of Office of LTO, Assec Calima, the herein complainant, against the person complained of/grantee, was not even furnished to the cancellation of the LSP-MD grant and dishonesty, so that she can competently come up with remedies or answer or defense in her behalf.

“33. And as the said CSC Resolution No. 002258 was only issued to her on 12 January 2001 on her own initiative as already mentioned in paragraphs 8, 9, and 10, in the interest of fairness and equity and substantial justice, it is respectfully prayed that the date be reckoned from the date of the receipt of her copy of the said CSC Resolution, and pursuant to the

*Uniform Rules on Administrative Cases in the Civil Service provision on Remedies, Rule III Section 38, xxx “the grantee or the person complained of, from the date of the receipt of her copy of the CSC Resolution No. 002258, which was not furnished to her by the disciplining authority which in the instant case is the Civil Service Commission by personal delivery nor, by mail, but on her own initiative pursuant to her Manifestation dated 10 January 2001 but filed with the CSC on 12 January 2001 which requested foremost her copy of the said CSC resolution or decision, is thus given until 27 January 2001 to seasonably file her motion for reconsideration and have the said resolution or decision stayed or held in abeyance.*

*“34. And as such that the CSC Office for Legal Affairs was thus tasked by the Commission per their CSC Resolution No. 002258 to charge the person complained of/grantee, as follows:*

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*"It is thus further respectfully prayed of this Honorable Commission that the case/charge of dishonesty and falsification of official document being addressed to the person complained of 'be set aside in lieu of this representation.*

*“35. The person complained of/grantee has been on study leave since 01 June 2000 having been enrolled in June 2000 for the first semester of 2000 and in the first week of hlovember 2000 for the second semester of 2000 at the University of the Philippines under the Local Scholarship Masteral Degree Grant having satisfied the requirements and passed equally the competitive written examination on July 26, 1998 and the interview phase on November 17, 1998.*

*“36. The complainants, Calima and Ogsimer (per her initial under Calima’s signature) obviously motivated by bad faith, after having sought a comfortable and presumed ally in the CSC Resolution No. 002258; after having deliberately withheld the information and the intention that they were to recommend the cancellation of the Scholarship Contract to which complainant, Calima was a party to, that despite her being monthly physically present to attend personally to her purpose in collecting her salaries and other compensation as instead of the inclusion in the regular payroll thru the ATM facilities of the Land Bank of the Philippines at the premises of the LTO, East Avenue, Quezon City, NOW proceeds to direct her to submit her verified explanation/comment to in (sic) the subject CSC Resolution.*

*“37. Moreover, as a result thereof, the grantee/person complained of was expected to report for work already by the Chief of Personnel, MS. PATRIA T. OGSIMER, without the clear issuance of a Memorandum directing her to officially report for work already in December 2000, having received the letter of LTO IID and Legal Task Force Chief, Atty. Percival A. Cendana or ‘ANNEX A’ on 01 December 2000, which cited by mere reference the aforementioned CSC Resolution No. 002258 in the Order from the CSC-OLA signed by Atty. Florencio P. Gabriel.*

*“38. And as such, her name was AGAIN omitted in the January roster of the payroll allegedly for failure to file the leave of absence for working days absented in the month of December, 2000.*

*“39. WHEREFORE, this Honorable Commission, (sic) the disciplining authority which rendered the subject CSC Resolution No. 002258, most respectfully prays that:*

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*‘a. Pursuant to the reasons cited in this representation, among which was, with the kind indulgence of the Honorable Commission Proper, it seeming inadvertence to provide the movant HER COPY of the said resolution neither by personal nor postal delivery, and as such to be able to avail of the remedies provided for in the Uniform*

*Rules on Administrative Cases in the Civil Service, on her own initiative. formally requested for her copy by way of her Manifestation dated 10 January 2001 and filed on 12 January 2001. After having received her copy of the said resolution only on 12 January 2001, it is thus requested in the interest of substantial justice, that the date for the filing of the motion for reconsideration be reckoned from 12 January 2001, the date of receipt.*

*'b. Pursuant to the constitutional provisions in the Bill of Rights in Article III Section I on due process and the provisions in the Uniform Rules on Administrative Cases in the Civil Service, Section 40, 38, 42, 80 and 84, the CSC Resolution No. 002258 be urgently reconsidered.*

*'c. Moreover, since the Orders from the Office for Legal Affairs, respectively dated (1) 14 November 2000 and (2) 10 January 2001 and received on 01 December 2000, and 16 January 2001 respectively by herein movant, were anchored on the subject Resolution which is the object of this Urgent Motion for Reconsideration, be set aside meanwhile the motion for reconsideration is being resolved.*

*"40. FURTHERMORE, it is respectfully urged that in the interest of justice,*

*fairness, equity, the following considerations be granted in her favor, as follows:*

*'a. pursuant to the provisions of the Uniform Rules on Administrative Cases in the Civil Service Rule III, Section 38 and 42 and Rule VI, Section 80 this Motion for Reconsideration having been seasonably filed which is within fifteen (15) days from receipt thereof, the date of reckoning having been accounted from the date of the receipt of her copy which was 12 January 2001, the execution thereof shall be stayed or held in abeyance upon the filing of this Motion for Reconsideration.*

*'b. And as such, the grantee's availment of the study leave on official time and her entitlement to the salaries and other compensation for the said period which was never expressly cancelled by her complainant remain uninterrupted to include also the months of December and January where Ms. Patria T. Ogsimer, Chief of Personnel Section has instructed to have the grantee's name omitted in the roster for the payroll period of January 2001, for the absences as alleged of working days not reported, until grantee files the corresponding leave of absence for the said days in December 2000.*



*“41. Finally, this Motion for Reconsideration shall be furnished to the Commission Proper, thru its Secretariat, to the Office for Legal Affairs thru its Records Section, and to the Office of the Assistant Secretary Benjamin G. Calima thru its LTO IID and Legal Task Force Chief Atty. Percival A. Cendana.*

*“WHEREFORE, in the light of the foregoing premises, justice and fairness and equity will best be served in the urgent reconsideration of the matters brought before this Honorable Commission in this Urgent Motion for Reconsideration, as follows:*

*'5. The recommendation of the L.T.O. Assistant Secretary Atty. Benajamin G. Calima and his designated Chief of Personnel, Ms. Patria T. Ogsimer for the cancellation of the Scholarship Contract for allegatoris which are false and misleading as discussed lengthily in this representation be set aside.*

*'2. The cancellation of the LSP-MD grant which was ex-parte resolved pursuant to the said false and misleading information of the complainants in this case be deferred, stayed, reconsidered, and finally be set aside.*

*'3. The CSC Local Scholarship Program for Masteral Degree Studies grant be restored to the herein movant/person complained of and as such the benefits attached to the said grant be*

*uninterrupted in the entire duration of the said masteral degree program, such as:*

*‘a. Study leave on official time pursuant to the Scholarship Contract.*

*‘b. Salaries, PERA, and other compensation in the pendency of the said grant.*

*‘c. On the part of the CSC, tuition fees, book allowance, and thesis allowance in the amount fixed by the LSP.’”*

After re-evaluation of the case, the Commission finds the instant motion meritorious.

Records show that although the Formal Charge and Order of Preventive Suspension, both dated April 13, 1998, were issued by then Assistant Secretary Manuel Bruan, they were held in abeyance to give movant a chance to talk to her accusers in line with the requisites of due process. This is shown in a letter dated July 15, 1998 of Atty. Percival A. Cendana, Chief, IID 8 Legal Task Force, addressed to Mrs. Herminia SD Aquino, COA State Auditor IV, LTO Resident Auditor. Relevant portions of said Memorandum read, as follows:

*“In reply, please be informed that the LTO Legal Task Force and the Chief of the LTO-CO Personnel, Section exerted all efforts to effectively serve the Formal Charge and Order of Preventive Suspension on the respondent Ms. Marilyn Carreon. However, the said service was not carried out as explained in the enclosed indorsement dated 25 May 1998 (Annex ‘A’) of the*

*Personnel Chief. Moreover, a vote dated 06 May 1998 (Annex 'B') was received from then Assistant Secretary Bruan, who is the head arbiter of the administrative disciplinary system in LTO, with the instruction to give Ms. Carreon a chance to talk to her accusers in line with requisites of due process.*

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*“Guided by the aforesaid instruction, the service of the Formal Charge and order of Preventive Suspension was held in abeyance. As a result thereof, the said documents are not yet valid nor effective primarily because the Office has not yet acquired jurisdiction over the person of the said respondent.” (underscoring ours)*

Nevertheless, a proof of service of said Formal Charge and Order of Preventive Suspension shows that they were received by Mitzie U. Mamon, in behalf of the movant only on March 4, 1999. Also, a Memorandum dated January 6, 1999 of Atty. Percival A. Cendana states that: *“In view thereof, and to allow the rule of law to take its natural course, authorization is hereby requested for the original Formal Charge and Order of Preventive Suspension to be finally served on Ms. Carreon.”*

Hence, these pieces of new evidence duly discovered only show that at the time Carreon filed her application for the CSC-LSP-MD Competitive Written Examination in July 1998, there was no pending case filed against her. While there was a Formal Charge, the same is of dubious validity per representation of Atty. Cendana himself.

Section 34, Rule II, of the Uniform Rules on Administrative Cases in the Civil Service states that:

"Section 34. *Effect of the Pendency of an Administrative Case.* –

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*"For this purpose, a pending administrative case shall be construed as follows:*

*'a. When the disciplining authority has issued a formal charge; or*

*'b. In case of a complaint filed by a private person, 'a prima facie case is found to exist by the disciplining authority."*

Hence, the Commission finds the herein explanation (answer) denominated as a Manifestation and Motion for Reconsideration of CSC Resolution No. 00-2258, satisfactory.

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WHEREFORE, the instant motion for reconsideration is hereby GRANTED. Consequently, CSC Resolution No. 00-2258 is set aside.

Quezon City, March 29, 2001

**(SIGNED)**

**JOSE F. ERESTAIN, JR.**

Commissioner

**(SIGNED)**

**KARINA CONSTANTINO-DAVID**

Chairman

**(SIGNED)**

**J. WALDEMAR V. VALMORES**

Commissioner

Attested by:

**(SIGNED)**

**ARIEL G. RONQUILLO**

Director III

*CPS/AGR/pvp/cm08-2001*

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