

**AYUMA, Ernesto G.**

Re: Dropping from the Rolls;  
Preventive Suspension;  
Motion for Reconsideration  
(CSC Resolution No. 02-0220)

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**RESOLUTION NO. 021128**

Municipal Mayor Eliseo D. Rodriguez of Patnanungan, Quezon, moves for the reconsideration of Civil Service Commission (CSC) Resolution No. 02-0220 dated February 12, 2002, reversing and setting aside the Order dated August 17, 2000 of the Civil Service Commission Regional Office (CSCRO) No. IV, Quezon City, and directed the immediate reinstatement of Ernesto G. Ayuma as Municipal Budget Officer of said municipality.

Said Resolution reads, in part, as follows:

*" . . . (I)t must be made clear that the Commission will not pass upon the legality of the suspension from office of then Mayor Sarmiento. Neither will the Commission resolve whether the assumption as Acting Mayor by then Vice-Mayor Rodriguez is valid and in accordance with law. Rather, the only issue to be resolved is whether the preventive suspension and subsequent dropping from the rolls of Ernesto G. Ayuma by then Acting Mayor Rodriguez has any legal basis. . .*

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*"It is explicit from the aforequoted provision of law that an official or employee must first be formally charged before said official or employee may be placed under preventive suspension. In the present case, except only for the bare allegation of then Acting Mayor Rodriguez, there is no evidence that will establish that Ernesto G. Ayuma was issued a formal charge before he was preventively suspended. Moreover, there is nothing in the records to indicate what specific acts or omissions were supposedly committed by Ernesto G. Ayuma to constitute the infractions being leveled against him. There is, thus, no basis to preventively suspend Ernesto G. Ayuma. . .*

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*"The Commission likewise finds no basis to drop Ernesto G. Ayuma from the rolls of employees of the Municipal Government of Patnanungan, Quezon. Be it noted that then Acting Mayor Rodriguez dropped Ernesto G. Ayuma from the rolls on the ground that he was purportedly absent without any approved application for leave from September 1999. The records disclose, however, that Ernesto G. Ayuma has a duly filled-up Daily Time Record signed by his immediate superior for the months of September, October, November, December, 1999, and January 2000. He was also paid his salaries for the said months as shown by a Land Bank check bearing number 1004573. In fact, his premiums for said months to the Government Service Insurance System (GSIS) were all remitted. These facts and circumstances demolish the claim of then Acting Mayor Rodriguez that Ernesto G. Ayuma was absent without official leave (AWOL) prior to his dropping from the rolls.*

*"Considering, therefore, that the Orders dated January 18, 2000 and February 23, 2000 preventively suspending and dropping Ernesto G. Ayuma from the rolls, respectively, were issued without any factual and legal bases; and considering further that said Orders were issued in clear violation of Ayuma's constitutional right to due process, such are deemed an absolute nullity that has no force and effect ab initio. . .*

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*"WHEREFORE, the appeal/petition for review of Ernesto G. Ayuma is hereby GRANTED. Accordingly, the incumbent Mayor of Patnanungan, Quezon, is directed to immediately reinstate Ayuma as Municipal Budget Officer. The Order dated August 17, 2000 of the Civil Service Commission Regional Office No. IV is REVERSED and SET ASIDE."*

Mayor Rodriguez vigorously assails the above quoted decision by arguing, as follows:

*"4. . . . Except for the information given that Ernesto Ayuma has filed an appeal to the CSC questioning his dropping from the rolls which was upheld by CSRO-IV, this Mayor have not been informed, much less received, any copy of Ayuma's pleadings including the two (2) supplemental motions dated October 23 and 27, 2000 (4 days apart). Thus, NO OPPORTUNITY has been given to the undersigned Mayor to rebut or disprove allegations contained in Ayuma (sic) supplemental motions clearly violating the former's right to due process. Thus, the issues raised and quoted in the CSC Resolution sought to be reconsidered and treated as 'material allegations of Ayuma in his third pleading' are ONE SIDED and thus unfair.*

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*"5. At the outset, it has to be stressed that this appeal/petition for review filed by Mr. Ernesto Ayuma with this Commission involved only his dropping from the rolls as Municipal Budget Officer, and no other. As a matter of fact, the questioned CSRO-IV ruling subject matter of Ayuma's appeal/petition to this Commission does not mention nor tackle any other subject outside of the order of his dropping from the rolls which was*

*correctly upheld by CSRO-IV. It is thus strange that all of a sudden the appeal of Mr. Ernesto Ayuma would now include his purported preventive suspension which in the first place was NEVER imposed by this Municipal Mayor. The allegation of Mr. Ayuma that he was issued a PREVENTIVE SUSPENSION order is FABRICATED, A PURE LIE and a violation of the law on PERJURY. Whatever document he has produced and submitted to this Commission was FALSIFIED and/or FORGED. This Mayor is thus reserving his right to institute a criminal case against Ernesto Ayuma for falsification and/or perjury before the proper investigating bodies.*

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*"10. This Mayor has filed a letter manifestation dated March 19, 2001 informing the Honorable Commission that Mr. Ernesto Ayuma has filed his Certificate of Candidacy for the position of Sangguniang Bayan Member of the Municipality of Patnanungan on February 26, 2001. This letter-manifestation was duly received by this Commission on April 20, 2001 at 1:35 P.M. as shown in the letter hereto attached . . . Also attached . . . is a copy of the COMELEC certification dated March 10, 2001 which states that 'a certain candidate named Ernesto G. Ayuma filed his certificate of candidacy for the position of Sangguniang Bayan Member of said Municipality on February 28, 2001 at 8:30 P.M.' . . . Thus, when Ayuma filed his certificate of candidacy to run for public office, he has effectively abandoned whatever appeal he has taken challenging his removal from the service. In short, it is as if he has withdrawn his appeal for lack of interest. This Mayor therefore felt it strange that this matter was not at all considered by the Commission despite the timely filing of the said letter-manifestation.*

*"11. This Mayor submits that there is basis in the dropping from the rolls of Mr. Ernesto Ayuma. First, there is no question that this Mayor has effectively assumed the duties and powers of the Office of the Municipal Mayor when the then sitting (sic) Mayor was suspended from office for six (6) months. Second, Ernesto Ayuma was dropped from the rolls during the six (6) months period that this Mayor was the Acting Mayor. Third, there was no approved application for leave at the time of dropping from the rolls and that the approved leave of Ayuma was only subsequently secured when then Sarmiento reassumed his position as Mayor, although the same should not have been allowed or considered by this Commission as the period of leave shown to have been approved falls within the period when he was serving the penalty of suspension. Fourth, for the same reason of lack of authority of the approving official, the daily time record (DTR) subsequently submitted by Ernesto Ayuma to support his appeal/motion for review should not have been considered, much less given probative value, it appearing that the same was also signed by an official at a time he was serving the penalty of suspension from the service. Fifth, the GSIS remittances made in the name of Ayuma was in previous months and not the months covered when he was on AWOL. Sixth, Mr. Ayuma occupy a position which is considered a department head of the municipality. He should be responsible enough to know his obligations and the rules specifically governing employees declared on AWOL status. . ."*

The facts, as found by the Commission when it promulgated CSC Resolution No. 02-0220 dated February 12, 2002, are summarized, as follows:

On June 7, 1999, the Sangguniang Panlalawigan of Quezon, as a consequence of a complaint filed by a certain Aida B. Oquindo, passed Kapasiyahan Blg. 440 suspending from office then incumbent Mayor Alfredo G. Sarmiento of Patnanungan, Quezon, for a period of six (6) months. As a result of the suspension of Mayor Sarmiento, then Vice Mayor Eliseo D. Rodriguez became the Acting Mayor.

On January 18, 2000, Acting Mayor Rodriguez issued an "Order" preventively suspending Ayuma for a period of ninety (90) days. On February 23, 2000, Acting Mayor Rodriguez issued another Order dropping Ayuma from the roll of employees of the Municipal Government of Patnanungan.

In the meantime, Mayor Sarmiento supposedly assumed his position. On March 9, 2000, he issued a memorandum nullifying the two above mentioned Orders of Acting Mayor Rodriguez and directed Ayuma to continue discharging his functions as Municipal Budget Officer. Because of this, Leovino V. Ayuma, the Municipal Treasurer of Patnanungan, sought the opinion of CSCRO No. IV on the legality and validity of Mayor Sarmiento's memorandum. Hence, on August 17, 2000, CSCRO No. IV issued an Order, the dispositive portion of which reads, as follows:

*"WHEREFORE, this Office opines that Mayor Alfredo G. Sarmiento can no longer validly set aside or recall the Order dated February 23, 2000 of then Acting Mayor Eliseo D. Rodriguez dropping Mr. Ernesto G. Ayuma from the rolls as Municipal Budget Officer of the Municipal Government of Patnanungan, Quezon; and that Mayor Alfredo G. Sarmiento can not validly issue a Memorandum dated March 9, 2000, as then Acting Mayor Eliseo D. Rodriguez is (sic) still exercising his powers, duties and functions as the local chief executive of the Municipal Government of Patnanungan, Quezon, until March 10, 2000."*

Ayuma appealed the aforementioned Order and the Commission resolved the same in his favor through the Resolution now being sought to be reconsidered.

In his motion for reconsideration, Mayor Rodriguez, the incumbent Mayor of Patnanungan, Quezon, vehemently denies issuing the Order dated January 18, 2000 preventively suspending Ayuma for a period of ninety (90) days. Except only for his bare allegations, however, he never presented any competent piece of evidence to buttress the same. In fact, Mayor Rodriguez did not present any evidence to prove that the signature appearing on said Order was not his. The allegation, therefore, of Mayor Rodriguez that he did not order the preventive suspension of Ayuma for a period of 90 days cannot be given much weight or credence.

Significantly, even on the assumption that Mayor Rodriguez did not preventively suspend Ayuma, such will not detract from the findings that the latter was arbitrarily and illegally dropped from the roll of employees. Stated differently, even if we are to assume that Ayuma was not actually placed under preventive suspension, this will not make his dropping from the roll of employees legal. For the facts, as duly established by the records, remain that for the months of September, October, November, December 1999, and January 2000, the period within which Ayuma was purportedly absent without any approved application for leave, Ayuma had accomplished Daily Time Records duly certified by his immediate superior. Ayuma received

his salaries for all these months and his GSIS contributions for these months were all remitted. It is, thus, not difficult to comprehend that there is absolutely no basis to drop Ayuma from the rolls.

True, the Order dated August 17, 2000 of CSCRO No. IV, which was appealed to the Commission, does not make any mention about the preventive suspension of Ayuma. It is of record, however, that among the issues raised by Ayuma in his appeal was the illegality of his preventive suspension and subsequent dropping from the rolls. Hence, both issues are inextricably related such that one cannot be resolved without passing upon the other. His dropping from the rolls cannot be thoroughly resolved without passing upon the legality of his preventive suspension.

The Commission has noted, however, that on February 28, 2001, Ayuma filed his certificate of candidacy for Sangguniang Bayan member of the Municipality of Patnanungan, Quezon. This is evident from the certification dated March 10, 2001 issued by Atty. Adolfo M. Ilagan, Provincial Election Supervisor of the Province of Quezon, which reads, as follows:

*"This is to Certify (sic) that as per report submitted by the office of Election Officer of the Municipality of Patnanungan, Quezon, a certain candidate named ERNESTO G. AYUMA, filed his certificate of candidacy for the position of Sangguniang Bayan Member of said Municipality on Feb. 28, 2001 at around 8:30 pm.(sic)"*

The foregoing material fact escaped the attention of the Commission when it promulgated the Resolution now being sought to be reconsidered. At any rate, in his comment to the instant motion for reconsideration, Ayuma does not deny that he indeed filed his certificate of candidacy as member of the Sangguniang Bayan. On the contrary, he implicitly admitted the same, to wit:

*"6. Going now to issue (sic) of my candidacy, the same considered not bar on (sic) the implementation of my reinstatement in the service. It may be noted that somebody filed for (sic) candidacy for Sangguniang Bayan position on (sic) May 14, 2001 local election, but, that was withdrawn. Besides, such filing of candidacy was done during the period when I am out of the service. Contrary to the Movant (sic), I was not considered resigned for I am no where (sic) to resign (sic). . . The fact that I did not run nor participate in the past local election campaign, constituted (sic) my eligibility for reinstatement because I was not lost (sic) in an election."*

As already discussed earlier, the preventive suspension and subsequent dropping from the rolls of Ayuma are illegal as the same were imposed without any factual or legal basis. Accordingly, the Commission ordered his reinstatement as Municipal Budget Officer. Hence, prior to February 28, 2001 - the date he filed his certificate of candidacy - for all intents and purposes, Ayuma is still considered in the government service even on the assumption that he was not allowed to report for work. This principle was explained by the Supreme Court in the case of **De Guzman vs. CSC, 231 SCRA 169**, to wit:

*"When an official or employee was illegally dismissed and his reinstatement has later been ordered, for all legal purposes he is considered as not having left his office. Therefore, he is entitled to all the rights and privileges that accrue to him by virtue of the office he held. . ."*

However, effective February 28, 2001, the date when he filed his certificate of candidacy as member of the Sangguniang Bayan of Patnanungan, Quezon, Ayuma had effectively severed his employment relation with the government. This is pursuant to **Section 66, Article IX of the Omnibus Election Code**, which categorically mandates that:

*"Sec. 66. Candidates holding appointive office or position.—Any person holding a public appointive office or position, including active members of the Armed Forces of the Philippines, and officers and employees in government-owned or controlled corporations, shall be considered ipso facto resigned from his office upon the filing of his certificate of candidacy."*

Indeed, when Ayuma filed his certificate of candidacy, he was deemed automatically resigned from his office. He need not tender his resignation as the law considers him to have been resigned from that moment he filed his certificate of candidacy. Even on the assumption that he subsequently withdrew his certificate of candidacy, such will not restore him to his former position as Municipal Budget Officer. In an intimately similar case, the High Tribunal ruled in **Nicolasura vs. CSC, G.R. No. 85400, April 26, 1990**, that:

*"Section 66, Art. IX of the Omnibus Election Code makes the forfeiture automatic and permanently effective upon the filing of the certificate of candidacy for another office. Only the moment and act of filing are considered. Once a certificate is filed the seat is forfeited and nothing save a new election or appointment can restore the ousted official."*

Thus, although his preventive suspension and subsequent dropping from the rolls have been declared to be contrary to law, the reinstatement of Ayuma as Municipal Budget Officer, however, can no longer be ordered, since he is deemed automatically resigned effective February 28, 2001 when he filed his certificate of candidacy as member of the Sangguniang Bayan.

**WHEREFORE**, the motion for reconsideration of Municipal Mayor Eliseo D. Rodriguez is **PARTLY GRANTED**. Accordingly, CSC Resolution No. 02-0220 dated February 12, 2002 is hereby modified in the sense that Ernesto G. Ayuma is deemed resigned and separated from the service effective February 28, 2001.

Quezon City, SEP 03 2002

(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

*FPG/KPZ/Y9/w30 / rad79*  
*Ayuma/vog*  
*NDC 00-0961*