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SENATE

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COMMITTEE REPORT NO. 21

Submitted by the Committee on National Defense and Security on 03 MAY 2005.

Re: P.S. Resolution No. 101, filed by Senators Pimentel Jr., Osmeña III, Enrile, Lacson, Estrada (J.), Lim and Angara.

Recommending the adoption of this Report and the immediate implementation of its recommendation.

Sponsor: Senator Biazon

MR. PRESIDENT:

The Committee on National Defense and Security to which was referred P.S. Resolution No. 101, filed by Senators Pimentel Jr., Osmeña III, Enrile, Lacson, Estrada (J.), Lim and Angara, has considered the same and has the honor to submit this report back to the Senate, after careful scrutiny and perusal of all the pertinent testimonies and documents/records gathered in the hearing held on 7 October 2004.

I. Committee's Action

Pursuant to the said referral, the Committee conducted a public hearing on 7 October 2004 at the Senator Claro Recto Room, Second Floor, Senate of the Philippines, Pasay City.

Those who were invited to the hearing in order to testify and share their views and comments were officials from the Department of National Defense (DND) and the Armed Forces of the Philippines led by Undersecretary Edgardo Batenga and Lt. Gen. Efrén Abu, the commanding general of the Philippine Army.

Lt. Col. Oscarlito P. Mapalo (PA) was assisted during the hearing by his counsel, Atty. Abelardo L. Aportadera, Jr.

II. Background

Lt. Col. Mapalo (PA), a member of PMA Class 1979, was a candidate for promotion for CY2003, but the PA Board of Senior Officers (PABSO) CY2003, after thorough deliberation, did not select him for promotion to O6 (next higher

rank). In fact, he was recommended for first deferment of promotion by the same board.¹

As a result of deferment of promotion, he sent letters of appeal for re-evaluation of the decision of the PABSO to Her Excellency, President Gloria Macapagal-Arroyo; then Maj. Gen. Efren L. Abu, chairman, Board of Senior Officers CY2003; Gen. Narciso A. Abaya, Chief of Staff of the AFP; and Secretary Eduardo R. Ermita of the Department of National Defense.

In batting for the re-evaluation of the decision of the PABSO, he claimed that the result of the Quantitative Ratings (QRS), his being no. 37 in the Seniority Lineal List (SLL) included, put him on the 61st place, which was still within the quota of 66 officers to be promoted for CY2003.

He also asked for re-evaluation of his rating for Service Reputation under the Qualitative Criteria which constitutes 30% of the over-all rating, the other being 70% representing rating under the Quantitative Criteria.

A formal complaint against the members of the PABSO was also lodged with the Ombudsman. The formal complaint against these officials include alleged violations related to the performance of their officials administrative duties and functions taking into account provisions of RA 3019, the Ombudsman Act of 1989, and Article 171 of the Revised Penal Code.

III. Issue

The issues put before the Committee to address pertains to the complaint of Lt. Col. Mapalo (PA) for having been deferred for promotion for CY2003 based on the allegations that:

- a. Standard Operating Procedure (SOP) No. 10, issued on 21 November 1994, entitled "Officers Promotion System in the Armed Forces of the Philippines", contains subjective criteria that discriminate against qualified senior officers for promotion to the next grade, resulting in their being deferred or passed over by junior officers; and
- b. He was discriminated against and was passed over for promotion by junior officers due to the subjective criteria used against him by the Philippine Army Board of Senior Officers CY2003.

IV. Discussion

The complaint of Lt. Col. Mapalo was directed at the seven-member PABSO CY2003 and also their decision for the first deferment of his promotion.

It must be pointed out that PABSO takes its mandate based on SOP No. 10 and pursuant to RA 291 entitled, "An Act to Provide for the Procurement, Promotion and Elimination of Regular Officers of the Armed Forces of the Philippines, and for Other Purposes".

The SOP No. 10 establishes the framework in the selection of officers for promotion as well as their separation from service where implementing rules, policies and guidelines of laws, orders, regulations and directives are observed.²

¹ Copy of Col. Tabaquero's letter dated 24 Oct 2003

Under SOP No. 10, officers considered for promotion to Grade 06 (Colonel) and to Grade 07 (brigadier general) are evaluated both on the quantitative criteria and the qualitative criteria.

On this score, it must be noted that Lt. Col. Mapalo did not raise questions during the hearing in relation to the rating he obtained under the Quantitative Criteria, which put him at 61st place. Likewise, there was no opposition to the claim that he was still within the quota for promotion as buttressed by the statement of Lt. Gen. Abu, to wit:

“MR. ABU: your Honor, when he was rated of his QRS, he was rated 61. So, in other words, he is qualified as far as number...However..”

THE CHAIRMAN: Iyong QRS is what, quantitative...

MR. ABU: Quantitative rating, yes, sir.

THE CHAIRMAN: Quantitative, Meaning iyong 70 points na iyon assigned to the other components other than service rep.

MR. ABU: Yes, sir. He was rated 61.³

Lt. Col. Mapalo's point of contention revolved around the rating he obtained in Service Reputation under the Qualitative Data which he claimed as subjective, at the same time advancing the view that he possessed the integrity, competence, dedication, acceptability, communicative skill, knowledge, stability, decisiveness and the necessary bearing for promotion, comparable if not better than the other candidates.⁴

The alleged subjectivity of the PABSO CY2003 was articulated during the hearing when he said the following:

SENATOR FLAVIER: Mr. Chairman, I heard earlier your reference that some subjective criteria. Can you enumerate these for my education, please?

MR. MAPALO: Yes, your Honor, in fact, I do think the distinguished representatives from the Department of National Defense and Armed Forces of the Philippines will be briefing the body regarding the promotion system, Your Honor. But as far as I am concerned, Your Honor, the subjective criteria being per service reputation. I do think, Your Honor, is very subjective. I have complained that the members of the board of senior offices have rated me in my service reputation when in fact I have never had the chance of working with them. Neither do I know them personally.⁵

While claiming that his three previous service commanders submitted to the PABSO an "above average" evaluation report, it was the board, he said, that rated him after only about eight minutes of interview.⁶

² TSN SNTupaz IV-I Oct 7, 2004 9:26 am p 3.

³ TSN Lpamorca II-3 Oct 7, 2004 10:26 am p.1

⁴ His letter dated 28 Oct 2003

⁵ TSN PLManuel III-1 Oct 7, 2004 9:16 am p. 5-6

⁶ SNTupaz IV-I Oct. 7, 2004 9:26 am p. 2

The rating result of PABSO on the Service Reputation (Qualitative Criteria) made Lt. Col. Mapalo's earlier 61st place to further slide down to No. 82 ranking or position. He was therefore not included as one of the 66 candidate officers who were eventually promoted for CY2003.

The individual ratings for Service Reputation of each member of the PABSO for Lt. Col. Mapalo are shown below:

MGEN ABU, EP	- 21.2
MGEN RELANO, RD	- 21.3
MGEN CABUAY, PR JR.	- 21
MGEN CABALQUINTO, AD	- 20.06
MGEN TOLENTINO, RP	- 22.5
MGEN CRUCERO, AP	- 20.9
BGEN NARCIDA, RF	- 21
Average rating	- 21.214

Lt. Col. Mapalo's rating for the 70% Quantitative Criteria is **48.116**, and adding this to his average rating of **21.214** for the 30% Qualitative Criteria (Service Reputation) will result in the total sum of **69.330**. Thus, Lt. Col. Mapalo, with the total evaluation/overall rating of only **69.330%**, was ranked or placed at 82nd place and was therefore not considered for promotion.

V. Findings

What was apparent in the action taken by the PABSO CY2003 was the pattern of consistency in their ratings that rendered his non-inclusion for promotion as shown below:

Rater	Ranking/Position of Lt. Col. Mapalo (1 st to 118 th)
1) Gen. Abu	84 th
2) Gen. Relano	81 st
3) MGen. Cabua	87 th
4) Gen. Cabalkin	94 th
5) Gen. Tolentino	80 th
6) MGen. Crusero	99 th
7) BGen. Narcida	99 th

	82 nd ⁷

As regards the perception that the promotion system contains subjective criteria, particularly the Service Reputation which falls under the Qualitative Criteria, it must be noted that this is an integral part of SOP No. 10 which application can be traced to as far back from its issuance on 21 November 1994. As it applies to all concerned candidate officers who vie for promotion, so it is with Lt. Col. Mapalo and the rest of his fellow candidates who have to be evaluated by the PABSO CY2003 and, in the end, to be recommended for promotion.

It was accepted that the subjective criteria varies in application to the different individuals but it does not frustrate the end purpose which is to promote the best qualified.

⁷ TSN PLManuel 111-3 Oct 7, 2004 10:36am p 6

Defense Undersecretary Edgardo Batenga put it more succinctly:

MR. BATENGA: "xxx This SOP is tried and tested evolving from experiences xxx. So, therefore, the application of this although it was earlier stated by General Abu, could differ from individual to individual, but at the end of the line, the application of this SOP is consistent to judge and assess the officers due for promotion. The subjective requirement and that is service reputation, as indicated by the seven raters of subject individual, will show us that there is consistent rating of the seven members. Although there are little deviation but we can see, Mr. Chairman, that on the basis of available records and information, the seven members of the board rated, with due respect to Lt. Col. Mapalo, consistently in the rates 84 to 90, something like that, and this is very material to our discussion, Mr. Chair. Xxx

But let me just say as my concluding statement that this SOP is time-tested using various parameters in evaluating possible promotees especially from 05 to 06, then 06 to 07. By the way, Section 9 of this SOP precisely provides the selection for promotion to Grade 06 to 07. So there is a specific section that provides the necessary guidelines for the selection of possible promotees to 06 and 07."⁸

In the case of Lt. Col. Mapalo, the subjective criteria was applied to all the candidates and thus no discrimination was made.

To the issue that he was discriminated against and was passed over for promotion by junior officers, due to the subjective criteria, it bears explaining that he came out 82nd place in the list, based on the result of the overall rating, when the Quantitative and the Qualitative Criteria (subjective criteria on service reputation) were factored in. His non-inclusion for promotion was the necessary consequence of the overall rating he obtained.

Peering into his derogatory record would do well to explain the deferment for promotion for CY2003 as summed up in the testimony of Col. Ralph Villanueva, G2, Assistant Staff for Intelligence, Philippine Army.

The record of Lt. Col. Mapalo indicated that: he was involved in the failed 1989 *coup de etat*; he was twice reprimanded for throwing invectives at PFC Jesus Fernandez and illegal use of firearms while under the influence of liquor; he hatched "*hulidap*" sometime in 1984; he victimized his *La Restaurant's* business partner by way of financial maneuvering that resulted in the closure of the establishment; he issued Memorandum Orders (MOs) and Memorandum Receipts (MRs) to some influential and wealthy businessmen; he engaged in fund-raising activities by selling raffle tickets to reservists; and he also engaged in partisan politics by urging his PMA classmates to support the presidential bid of Fernando Poe Jr.

By all indications, the charge of Lt. Col. Mapalo was bereft of any basis while the attendant circumstances fortify the view that the PABSO CY2003 did not base its decision/deliberation on any alleged detractor's false, malicious and unfounded accusation, but on the merits.⁹

⁸ SNTupaz IV-3 Oct. 7, 2004 10:46 am p. 3-4

⁹ PLManuel II-3 Oct. 7, 2004 10:36 am p. 5

Finally, it must be stressed that discrimination should not be equated to a case where the junior officers were promoted rather than the senior officers. This will be contrary to the contemplation of SOP 10, in conjunction with RA 291, that the "best qualified" be the basis for promotion.

An array of cases along this line is guided by the provision of Section 8 of RA 291 which stipulates, thus:

Section 8: Promotion to grades of colonel and brigadier-general-
*(a) Based upon the number of vacancies existing and anticipated in the grade of colonel and brigadier-general, the Secretary of National Defense shall select from among officers in the permanent grade of lieutenant-colonel and colonel those who, in his opinion, have demonstrated by actual duty and experience their capability for holding the next higher grade, and are **best qualified** to hold the grade of colonel and brigadier-general, respectively; xxx"*

The same point was stressed in the ruling of the Office of the Ombudsman in resolving the petition for a preventive suspension against the PABSO CY2003 filed by Lt. Col. Mapalo, quoted as follows:

*"Pursuant to the aforequoted provision of the cited law, seniority need not be followed in promotions from lieutenant colonel to colonel. The selections should be made from the **best qualified** of those eligible for promotion provided that the officer concerned must have a time and grade of at least one year in the permanent rank of lieutenant colonel.*

Premises considered, it is recommended that the instant motion for preventive suspension be denied since the action of the respondents in their capacity as members of the Selection/Promotion board appears to have a legal basis.

So ordered, Quezon City, Philippines

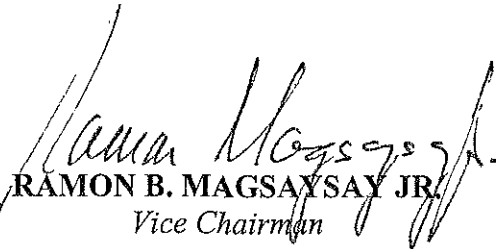
Felix B. Baldonado
Graft Investigation and Prosecution Officer

With the foregoing considerations, the Committee recommends the adoption of the following:

- 1) the termination of the inquiry /investigation in connection with the complaint regarding the AFP's promotion system; and
- 2) for the AFP to review and come out with possible legislative proposal in relation with SOP No. 10 as component of the AFP promotion system, particularly on the Service Reputation where members of the Promotions Board exercise subjectivity in rating the officers being considered for promotion, to guide Congress in introducing amendatory legislation.

Respectfully submitted,


RODOLFO G. BIAZON
 Chairman


RAMON B. MAGSAYSAY JR.
 Vice Chairman

Members of the Committee:


EDGARDO J. ANGARA

JOKER P. ARROYO


COMPAÑERA PIA S. CAYETANO

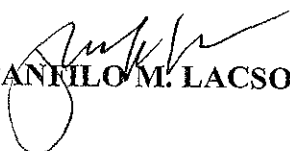

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JUAN PONCE ENRILE



RICHARD J. GORDON

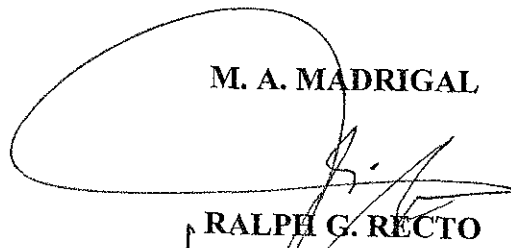

PANFILO M. LACSON

MANUEL "LITO" M. LAPID

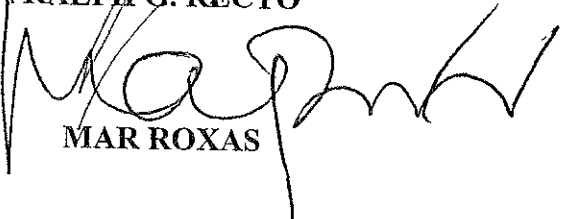

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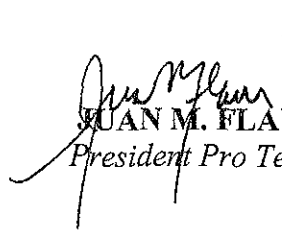

SERGIO OSMEÑA III



RALPH G. RECTO

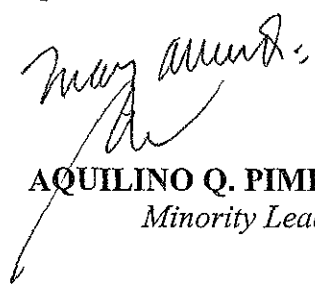

RAMON BONG REVILLA JR.


MAR ROXAS

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