

**RESOLUTION NO. 002394**

Ricardo A. Wagan, OIC-President, Romblon State College, Odiongan, Romblon seeks a ruling from the Commission relative to the request for reinstatement of Emmanuel G. Mi<sup>29</sup>on to his former position as Secondary School Teacher of Romblon State College.

Wagan represented, as follows:

*"Said Mr. Emmanuel G. Mi<sup>29</sup>on in April 25, 1998 had filed his 'IRREVOCABLE' RESIGNATION while the Criminal Case filed against him in Court for the crime of the rape of a minor Romblon State College (RSC) student is pending. (People vs. Emmanuel Mi<sup>29</sup>on y Guirnalda, Criminal Case No. OD 1028, RTC, Br. 82, Odiongan, Romblon).*

*"Upon his acquittal in the said case on account of the retraction of the witness, he now requests for his reinstatement to his position and for payment of his back salaries.*

*"The undersigned since the aforementioned resignation is irrevocable is in serious doubt that said resignation means to be final, notwithstanding to (sic) the import and usual meaning of said word.*

*"However, since the construction of the said term "IRREVOCABLE" would affect the security of tenure of said Mr. Emmanuel Mi<sup>29</sup>on in Office, the undersigned, after consultation with the Board of Trustees of the RSC xxx, formally refer this matter for legal opinion to the Civil Service Commission (CSC) for the determination under the Civil Service rules of the issue as to whether or not such teacher is entitled to be reinstated or not, with back salaries, and/or to whether or not his subject "irrevocable resignation terminated irrevocably his term of office even in the absence of the acceptance thereof by the authorities of the Romblon State College (RSC), prior to the undersigned's assumption of office as OIC President of the Romblon State College (RSC).*

Records show that on February 23, 1998, Mi<sup>29</sup>on was issued a suspension Order following the institution before the regular court by Maria Shiela O. Garcia of a criminal complaint against him for rape. His suspension ran for a period of sixty

(60) days reckoned from February 24, 1998.

After the expiry of his suspension, or on April 25, 1998, Mi <sup>29</sup>/<sub>21</sub> on filed with the Romblon State College (RSC) his irrevocable resignation effective on even date. Said letter reads:

*"April 25, 1998*

*"PROF. VICTORINO L. AGUILA  
President  
Romblon State College  
Odiongan, Romblon*

*"Sir:*

*"May I have the honor to file my IRREVOCABLE RESIGNATION as Secondary School Teacher of the Romblon State College effective today, April 25, 1998.*

*"x x x ."*

On April 30, 1998, Mi <sup>29</sup>/<sub>21</sub> on likewise notified the Civil Service Commission, Regional Office No. IV, Quezon City, through then Director IV Elmer Bartolata, relative to his resignation from the said College. The Commission noted that Mi <sup>29</sup>/<sub>21</sub> on has a pending administrative case with CSCRO No. IV, Quezon City.

Thereafter, Mi <sup>29</sup>/<sub>21</sub> on no longer reported to work. On December 22, 1998, Mi <sup>29</sup>/<sub>21</sub> on wrote the Romblon State College requesting for his reinstatement and payment of salaries and other benefits in view of the dismissal by the court of the criminal complaint on November 19, 1998.

Hence, the present request.

After a circumspect examination of the documents obtaining on records, the Commission finds the request for reinstatement of Emmanuel G. Mi <sup>29</sup>/<sub>21</sub> on bereft of merit.

***Rule XII, Section 1, CSC MC No. 40, s. 1998, as amended by CSC MC No. 15, s. 1999, mandates:***

*"Sec. 1. Resignation. The following documents shall be submitted to the Commission for record purposes:*

*"a. The voluntary written notice of the employee informing the appointing authority that he is relinquishing his position and the effectivity date of said resignation; and,*

*"b. The acceptance of resignation in writing by the agency head or appointing authority which shall indicate the date of effectivity of the resignation.*

*"An officer or employee under investigation may be allowed to resign pending decision of his case without prejudice to the continuation of the proceedings until finally terminated."*

It is explicit that resignation, as a mode of terminating the employee's official relations, is preconditioned on the (i) written notice of the concerned employee to sever his employment tie coupled with an act of relinquishing the office; and, (ii) acceptance by the appointing authority for which the employee shall have been properly notified. In the case of **Elisa O. Gamboa, et al. vs. Honorable Court of Appeals, et al., No. L-38068 dated September 30, 1981**, the Supreme Court thus ruled:

*"xxx. To constitute a complete and operative resignation of public office, there must be an intention to relinquish a part of the term, accompanied by the act of relinquishment and a resignation implies an expression of the incumbent in some form, express or implied, of the intention to surrender, renounce, and relinquish the office and the acceptance by competent and lawful authority. In our jurisprudence, acceptance is necessary for resignation of a public officer to be operative and effective, otherwise the officer is subject to the penal provisions of Article 238 of the Revised Penal Code xxx.*

*"Clearly, a public officer cannot abandon his office or position before his resignation is accepted but the incumbent official would not be in a position to determine the acceptance of his resignation unless he has been duly notified therefor. xxx"*

There is no dispute that Emmanuel G. Mi<sup>29</sup>on signified to then Romblon State College (RSC) President Professor Victorino L. Aguila his intention to relinquish his office effective April 25, 1998. He likewise made the same representations to the Civil Service Commission, Quezon City, through then Director Elmer Bartolata. Further, he no longer reported to work since then.

However, the Commission noted that as admitted by the Romblon State College, the College failed to accept (in writing) the said resignation. The absence of acceptance, which is an indispensable requirement, indisputably makes Mi<sup>29</sup>on's resignation incomplete and ineffective in accord with the aforequoted rules and jurisprudence.

The foregoing notwithstanding, Mi<sup>29</sup>on cannot be restored back to his position as Secondary School Teacher as he completely divested himself of his title thereto. Notably, he allowed the period of eight (8) months to lapse without, at all, asserting his right to the said office. On this score, he is deemed to have relinquished his office through non-use. In the case of **Sanguniang Bayan of San Andres, Catanduanes vs. Court of Appeals, et al., G.R. No. 118883, January 16, 1998**, the Supreme Court ruled:

*"Even if the resignation is not valid for absence of an acceptance by the proper authority, a public officer may be deemed to have relinquished his office due to his voluntary abandonment of said post.*

"X X X.

*"Abandonment of an office has been defined as the voluntary relinquishment of an office by the holder, with the intention of terminating his position and control thereof. Indeed, abandonment of office is a species of resignation; while resignation in general is a formal relinquishment through non-user. Non-user refers to a neglect to use a privilege or a right (Cyclopedic Law Dictionary, 3<sup>rd</sup> ed.) or to exercise an easement or an office (Black's Law Dictionary, 6<sup>th</sup> ed.)."*

**WHEREFORE**, the Commission resolves that Emmanuel G. Mi<sup>29</sup><sub>11</sub>on can no longer be reinstated to his former position as Secondary School Teacher of Romblon State College, Odiongan, Romblon, without prejudice to re-application subject to Civil Service Law and Rules.

Quezon City, **OCT 18 2000**

(SGD.)

**CORAZON ALMA G. DE LEON**  
Chairman

O.B.

**JOSE F. ERESTAIN, JR.**  
Commissioner

(SGD.)

**J. WALDEMAR V. VALMORES**  
Commissioner

Attested by:

(SGD.)

**ARIEL G. RONQUILLO**  
Director III

abr/rtm/s4/y15/(jrl)  
disk22/eman  
CPS/O-99-0373