

PUBLIC SERVICE (PAPUA AND NEW GUINEA)
ORDINANCE, 1963-1965

DECISION OF AN APPEAL BOARD CONSTITUTED
TO HEAR AND DETERMINE AN APPEAL BY NAU-LEVA,
AN OFFICER OF THE DEPARTMENT OF EDUCATION

The appellant, Nau-Leva, was charged on the 4th October, 1967, with a breach of the provisions of the Public Service Ordinance in that he did wilfully disobey a lawful order given by Mr. H.R.J. Amesbury, Headmaster, to remain on duty for the period commencing 8 a.m. on the 28th day of August, 1967, and ending at 7 a.m. on the 4th day of September, 1967.

The appellant did not reply to the charge and was found guilty and his dismissal recommended by the Director of Education to the Public Service Commissioner.

The appellant has appealed against the sentence of dismissal.

The Board notes that the order given by the Headmaster was in extremely wide terms and apparently required the appellant to remain on duty for the whole period of the second term holidays.

The Board also notes that the Director in recommending dismissal based his recommendation on three factors:

- (1) that the conduct, diligence and efficiency of the appellant was unsatisfactory;
- (2) that despite several warnings he made no attempt to comply with instructions;
- (3) that his continued employment as a teacher would cause embarrassment to the Department.

From the record the Board further notes that his probationary appointment was confirmed on the 27th July, 1966, and that although he had been charged and convicted of a minor offence some two years previously, he had not been convicted of any Public Service offence since the date of his confirmation.

The Board finds that in the circumstances of this case, the punishment recommended, namely dismissal, is excessively severe.

It is the opinion of the Board that in cases of this nature the duties which an officer is formally required to perform should be more specifically defined by way of rostered hours, or other similar means, than was apparently done in this case.

Secondly, it feels that to proceed to the most severe punishment which can be awarded under the Ordinance, without utilizing the disciplinary provisions of the Ordinance to give adequate warning to the officer of the unsatisfactory nature of his conduct is inappropriate. The Board notes that the officer did have a warning, but believes that if there were matters in which the officer was in breach of the provisions of the Public Service Ordinance, the provisions of the Ordinance should have been utilized and the officer charged so that the seriousness of his conduct would be apparent to him.

The Board considers that with proper supervision and effective use of the disciplinary powers in the Public Service Ordinance, this teacher need not be the cause of any embarrassment to the Department.

Moreover, the third reason given by the Director for the dismissal could be interpreted to mean that the appellant is not being punished for the offences charged, but for anticipated offences in the future.

Accordingly, the Board varies the decision recommending dismissal and imposes upon the appellant a reduction in salary at the rate of \$200.00 per annum for the period of one year. It further directs his transfer, subject to his being so qualified, from the office in the Technical Division to an equivalent office in the Primary "I" School Division in a rural area position, under supervision.

The Board notes that the provisions of Section 65, sub-section 5(b) and (c) have apparently been rendered inoperative by reason of the non-reduction allowance, thus limiting the range of punishment in cases such as the present where it might be desirable that it should take effect over a considerable period in order that the officer may be encouraged to regain an increment by the exercise of greater diligence.

DATED this tenth day of July, 1968.

(Signed by Chairman and two Members).