

Declassified E.O. 12356 Section 3.3/NND No. 785016

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Declassified E.O. 12356 Section 3.3/NND No. 785016

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DEFASCISM, ORG ITAL, SALARY, ITALIAN
OFFICIALS
JAN. 1945

LT. COL. S. H. WHITE
C. A. SECTION ✓
FRANKLY I FEEL ALL
OF THIS BEYOND MY
COMPREHENSION. I THEREFORE
SENT A LETTER (AS PER
COPY ATTACHED) WHICH
PUTS THE WHOLE QUESTION
UP TO THE ITALIANS
WHOSE PIGION IT IS ANYHOW

4706 W. W. Duvall
Lt Col.

HEADQUARTERS ALLIED COMMISSION
AFU 394
FINANCE SUB-COMMISSION

28 January 1945

13005/F

SUBJECT: Personnel Discharged by the Allied Command.

TO : Civil Affairs Section,
(Attn: Lt-Col. S.H. White).

1. Reference minute h, attached file.

2. The arguments of Legal Sub-Commission do not take into consideration the instructions in force at the time which required the removal from office of the employees concerned. Presumably action was taken under General Administrative Instructions No. 2 paragraph 5 (j) which states: "Officials whose performance is not satisfactory should be discharged and their pay will then cease". Discharge is not equivalent to suspension, but to dismissal. Such persons cannot be regarded as having been "suspended" as being subject to expiation proceedings, for D.L. No. 159 was not then law, and final action had already been taken by the Allied authorities. Such action involving discharge from service must be accepted, in the absence of other legislation, as binding by the Italian Government according to Arts 1 and 2, D.L. 20 July 1944 No. 162 and Arts 1 and 2 of R.D. 11 February 1944 No. 31.

3. It was in view of this state of affairs that we made the suggestion contained in our 13006/F of 23 January.

BEL Tinnings
Joint Director,
Finance Sub-Commission.

4705

HEADQUARTERS ALLIED COMMISSION
APO 394
FINANCE SUB-COMMISSION
TEL: 47600h

13006/F

23 January 1945

SUBJECT: Personnel discharged by the Allied Command.

TO : Civil Affairs Section
(Attn: Lt. Col. E.H. White)

3

1. Reference minute 2, attached file.
2. Finance Sub-Commission letter 13006/F of 12 January, 1945, did not state an Allied view of the matter in hand but described the way the Italian Government proposes to treat personnel suspended, discharged, or dismissed by us prior to D.D.I. 159 of 29 July, 1944.
3. If it is desired as a matter of equity to treat employees dismissed prior to the promulgation of D.D.I. 159 under its provisions, then the Italian Government should be approached at a high level and requested to pass the necessary decree.

A. P. Grassby
Col.

Joint Director,
Finance Sub-Commission.

4

> Finance

> Communications

Refer min 3 above

The information contained in para 4 of SA is not consistent with the information which this Section has received from the JAC. It is with the instructions which have been issued by the JAC to the JAC, which was

"... Those suspended under Regional ordinances of the Allied authorities ... shall receive only the salary without any other allowances as from the date of suspension and in accordance with Article 164 of the 1944 law."

These persons are regarded as suspended and not as

OK
24 Jan 1945

4704
VP

Sheet 1.

TO: CA Sec.

1.

1. Finance S/C states that the payment of salary to a state employee "suspended" or "dismissed" by the Allied authorities prior to 29 Jul 44 (date of coming into force of DIL No. 159) is governed by Arts. 51, 64, 65 and 67 of RDL No. 2060 of 30 Dec 1923, and that as a consequence they are to be regarded as "compulsorily retired" ("revoce dell'impiego") under Art. 64 thereof; and moreover that on readmission into service they are not entitled to payment of arrears of salary under Art. 67 thereof.

2. This interpretation appears to be erroneous for the following reasons:

a. The removal from employment by the Allied authorities does not possess the character of a "disciplinary sanction", but on the contrary is a precautionary measure of a political nature, ^{rather} awaiting definite epuration measures.

b. The "revoce", on the other hand, is a true punishment incurred for serious infractions and abuses, calling for a specific charge of violation of an official obligation.

3. Art. 22 of DIL No. 159 provides that:

"The employee subjected to epuration proceedings may be automatically suspended. In such a case he shall receive his stipend, exclusive of all other emoluments, as a means of subsistence."

4. Thus, if such employees are to be the subject of epuration proceedings, it seems only just that they should be treated as prescribed by Art. 22 of DIL No. 159 and also in respect of the period prior to 29 July 1944.

The same spirit of equity has in fact inspired the drafting of Gen Order No. 35 wherein it is provided in Art. 11 that "any person against whom a suspension order is made shall, during the period of his suspension, receive for his support, his basic salary without any further allowance."

5. The above reasoning is rendered all the more conclusive by the fact that whenever the Epuration Commission decides on the readmission into service of such an employee, it does so on the basis that all acts of the Allied authorities during their period of occupation are recognized as having the same validity and effect as if performed by the competent Italian authority (RDL No. 31 - 11 Feb 44).

6. Of course a dismissal based upon misconduct in office under Art. 64 does constitute a "revoce d'impiego" with all its attendant consequences.

A. R. Thackeray

A. R. THACKERAY,
Lt. Col.,
Italian Branch,
for Chief Legal Advisor.

LEGAL Sub-Commission,
17 January 1945.

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6. Of course a dismissal based upon misconduct in office under Art. 64 does constitute a "revoca d'impiego" with all its attendant consequences.

LEGAL Sub-Commission,
17 January 1945,
/rlp.

A. R. Thackeray
A. R. THACKERAY,
Lt. Col.,
Italian Branch,
For Chief Legal Advisor.

4703

Minutes
This section is not in agreement with the views expressed in SA. We are they consistent with the views expressed in SA. The views expressed in SA are obviously somewhat broader of general antecedents and would under Art. 64 of the Statute be applied to dismiss the position as if there were some doubt as to the validity of the position. The views of the Commission are not in agreement with the views of the Commission.

Perhaps you would like to consider the views of the Commission. It seems that the Commission should not treat employees whose names are on the list as if they were not employed by the Commission. The Commission should be treated as if they were not employed by the Commission.

17 JAN 1945

HAB/epc

HEADQUARTERS
ALLIED COMMISSION
APO 394
Communications Sub-Commission
Tel: 489081 Ext: 555

26th January, 1945

In reply
refer to: T.22.24.08

Subject: Personnel Suspended by Allied Authorities

To: H.E. The Under-Secretary of State for F.T.

1. Reference is made to your letters of January 2nd, 1945
Prot. S/S.O/30016 and 260899 Servizio II Div. III in which you
raise question of payment to employees suspended by Allied authorities
for suspected Fascist tendencies.

2. This question is answered by Memo 4 of High Commissioner
for Defascism dated October 24th, 1944 in the paragraph dealing
with officials removed by Regional orders.

3. In the case of officials found not guilty by Espionage
Commissions there would seem to be no doubt that they are entitled
to full pay and allowances from date of suspension.

4. In order to avoid conflicting treatment in different
Governmental agencies it is suggested that you take up any such
questions with the High Commissioner for Defascism.

J.L. HENDERSON
Colonel,
Director.

4702

HEADQUARTERS ALLIED COMMISSION
APO 394
FINANCE SUB-COMMISSION
Tel. 478604

3R

12 January 1945

13006/F

SUBJECT: Personnel discharged by the Allied Command.

TO : Civil Affairs Section.

1. With reference to the enquiry by the Under Secretary of State for Communications, prot.n.5/80/300016 of 2 January, 1945, the position of State employees who were suspended or dismissed from service prior to 29th July 1944, is governed by the provisions of RDL 30th December 1923, n. 2960.
2. The amount of any salary or pension payment that may be made will depend on the decision of the central administration as to the nature of the offence which justified the suspension or dismissal of the employee.
3. If an employee has been suspended or dismissed from service under Art.51, or 64 or 65 his salary ceases from the date of his suspension.
4. Employees removed from employment by the Allied Authorities are regarded as compulsorily retired (la revoca dall'impiego) and are subject to the conditions of Art. 64. This penalty involves the loss of all salary, but not the loss of pension rights. An employee so retired cannot be reinstated in service unless a disciplinary commission finds that the reasons for such compulsory retirement were insubstantial - but even in such a case the payment of arrears of salary is not permitted (Art.67).

J.J. Zucchi
Joint Director,
Finance Sub-Commission 6701

48

Translation by Selan.

Prot. no. S/80/30016

Subject: Personnel discharged by the Allied Command
Allied Commission - Posts and Telecoms. -
Sub-Commission - APO 394 -

RECEIVED
8 JAN 1945
FINANCE SUB-
COMMISSION

In some liberated Provinces, already returned to the control of the Italian Government, the Allied Command, as soon as they arrived, decided (as at Palermo) to discharge from the service several employees and officials of our Administration, because they were belonging to the P.T. Militia, or for other political reasons.

It is known that, since 29th July 1944, date on which the I.D. 27/7/1944 no.159 was put into force, ~~against~~ the aforesaid personnel were affected by para 22 of the said decree, which states the only payment will be of a bonus.

Now it should be stated what is the treatment to be used with such personnel for the period before the 29th July 1944, or in the cases in which the personnel have been initially dismissed (case of Palermo), or suspended.

Until 29th July 1944 they did not get any sort of payment, so that at the present it is deemed important to state, whether, if the concerned personnel were retaken into service by the Epuration Commissions, they should have to get the arrears of stipends for the period of suspension; or whether the dismissing or suspension without payment must keep in force its economical effects.

We would be grateful to you, if you could oblige us with precise instructions on the matter.

Director
D/Director
Chief, Telecoms.
Chief, Posts
H. Q. Coms. C.
Asst. Chief Postal
Censorship
Chief Clerk

CROSS REFS	
FILE	B/fwd

The Under Secretary of State 4700
for P.F.TT.

6 JAN 1945

4102



MINISTERO DELLE COMUNICAZIONI

SOTTOSCRITTORIO DI STATO ALLE POSTE E TELECOMUNICAZIONI

SEGRETERIA

Prot. N° 5/80/80006

Risposta al foglio N.

del

Allegati

OGGETTO: Personale esonerato dal
Comando Alleato.

ALLA COMMISSIONE AMERICA
POSTE AND TELECOMMUNICATIONS
SUB-COMMISSION

R. O. M. A.

In alcune province liberate, già ritornate sotto la
giurisdizione del Governo Italiano, il Comando Alleato al
suo arrivo dispone, (come è noto), l'esonero dal servizio
di diversi impiegati ed agenti di questa amministrazione
e persona appartenenti alla Milizia P.V. o per altre cause
politiche.

S' è noto che dal 27 maggio 1944, data dell'entrata in
vigore del D.L.L. 275/1944 n. 159, nel confronto del perso-
nale predetto è stato dato il trattamento previsto dall'ar-
ticolo 22 del predetto decreto, il quale comporta il paga-
mento del solo stipendio e titolo alimentare.

Occorre ora stabilire quale deve essere il tratta-
to da usare a detto personale per il periodo anteriore al
29 luglio 1944, sia nel caso in cui il personale ~~sia~~ stato
inizialmente esonerato (caso di riarro), sia nel caso in
cui detto personale ~~sia~~ stato invece sospeso; fino al 29 lu-
glio esso lo è stato senza assegni di sorta, talché impor-
tante appare oggi il problema di stabilire, se nel caso di
riassunzione in servizio del personale stesso la parte della
Commissione di Esplorazione, si debba o meno corrispondere agli
stessi tassi di arretrati per il periodo in cui sono stati
allontanati dal servizio o se l'esonero o la sospensio-
ne senza assegni debba continuare a mantenere i suoi effetti
economici.

OGGETTO

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2° luogo che dal 29 luglio 1944, data dell'entrata in vigore del D.L. n. 2757/44 n. 159, del conferimento del permesso prefetto è stato usato il trattamento previsto dall'articolo 22 del predetto decreto, il quale conferisce il pagamento del solo stipendio e titolo alimentare.

[illegible]

...to the fact that the ...

Director _____
 Asst. Director _____
 Chief Telephone _____
 Chief Postal _____
 Mr. C. C. Clegg _____
 Chief Clerk _____
 Chief _____
 Chief _____

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CR035	B/ord
FILE	

3 CEN 1945

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TREATMENT OF SUSPENDED STATE EMPLOYEESPart I

1. Employees of the State, parastatal offices, autonomous state organizations, provinces or communes who are suspended from duty for Fascist reasons by A.M.C. officers will be treated as follows:-

2. If suspension occurred

(a) Because of Fascist activities after the liberation of the area by the Allies.

No salary, wages or any other allowances shall be paid; unless, exceptionally, some payment shall be expressly authorized by the Regional Commissioner, to the dependents for assistance; (see para 8);

(b) Under the provisions of R.D.L. 27 July 1933, n. 159.

Basic salary will be paid from the date of suspension under the provisions of Art. 22 of R.D.L. 159, [except that no payment of salaries will be made to employees within the categories mentioned in Art. 14, viz:-

Squadrista
Sansepolcrista
Antemarcia
Marcia au Roma
Sciara Littorio.

(Basic salary does not include addition for active service, family allowance, indemnity of bombardment or any other allowance bonus or premium.)

3. Suspended officials shall thereafter be subject to the provisions of R.D.L. 159. If a suspended official is reinstated his future salary and grade will be one for decision by the High Commission as provided in Art. 21.

Part II

to Col SH White.
Admin Sec.
A note from you
Story - for you
see

all
24/8

Not to be
used
for
classification

For further details
see R.D.L. 159

unless, exceptionally, some payment shall be expressly authorized by the Regional Commissioner, to the dependents for assistance; (see para 6);

(c) Under the provisions of R.D.L. 27 July 1933, n. 159.

Basic salary will be paid from the date of suspension under the provisions of Art. 22 of R.D.L. 159, except that no payment of salaries will be made to employees within the categories mentioned in Art. 14, viz:-

*Forced to leave service
subsequently killed*

Squadrista
Sassapolista
Antenarista
Marcin su Roma
Sciappa Littorio.

(Basic salary does not include addition for active service, family allowance, indemnity of bombardment or any other allowance bonus or premium.)

3. Suspended officials shall thereafter be subject to the provisions of R.D.L. 159. If a suspended official is reinstated his future salary and grade will be one for decision by the High Commission as provided in Art. 21.

Part II

4. Officials who were suspended from duty by the Republican Fascist Government since 8th Sept. 1943 or who were constrained to absent themselves from duty since that date, because of their anti-Fascist views, will be treated as under:-

(a) Payment of such a sum as will represent the difference between full salary (with addition for active service, family allowance and any other appropriate allowances, subsidy or bonus to which the official would have been entitled had he been at work), and the sum he actually received during the same period. In the interests of these officials such arrears of salary and allowances shall be paid in the manner provided for in Executive Memorandum N. 73, Parts III and IV.

4690

(b) If such officials were compulsorily retired in advance of the normal age of retirement, or treated as "impiegato disponibile" they shall be paid as arrears the difference between full salary and allowances and the sums they actually received as salary, wages or pension during the period in question.

(c) Temporary employees (avventizi) dismissed by the Republican Fascist Government since 8th September 1943, will be paid a sum equal to one month's earnings and thereafter will be considered as dismissed.

Part III

5. Officials who were suspended from duty prior, or subsequent to 8th September 1943, for any other causes, shall be dealt with as provided in R.D.L. 30 December 1923 N. 2960 (Gaz. Uff. 21st January 1924 n. 17).

This decree in addition to SUSPENSION deals also with EARLY RETIREMENT, COMPULSORY RETIREMENT and DISMISSAL, from service.

6. SUSPENSION - (La sospensione dal grado).

-Arts. 62 and 63-. This is temporary in nature varying from one to six months, but in more serious cases it may be prolonged indefinitely and may involve dismissal. Suspension is inflicted for major disciplinary offences and it is always imposed when an employee is under prosecution for a penal offence.

Suspension involves deprivation of salary but a proportionate part of an employee's salary may be conceded in favour of his dependents as a food allowance (Art. 57).

7. EARLY RETIREMENT - (La dispensa dal servizio).

-Art. 51-. Officials may be retired from service, before the normal age for retirement when they are considered to be incompetent; in permanent bad health; unfitted to perform the duties of their grade; lacking in industry or zeal, untrustworthy or whose actions are incompatible with the political directions of the government.

5. Officials who were suspended from duty prior, or subsequent to 8th September 1943, for any other causes, shall be dealt with as provided in R.D.L. 30 December 1923 N. 2960 (Gaz. Off. 21st January 1924 n. 17).

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7. EARLY RETIREMENT - (La dispensa dal servizio).

-Art. 51- Officials may be retired from service, before the normal age for retirement when they are considered to be incompetent; in permanent bad health; unfitted to perform the duties of their grade; lacking in industry or zeal; untrustworthy or whose actions are incompatible with the political directions of the Government.

Early retirement does not deprive an employee of pension rights, if any.

8. COMPULSORY RETIREMENT - (La revoca dall'impiego).

-Art. 64- This penalty is inflicted for a serious abuse of authority or of trust or for any major shortcoming which shows a moral defect.

Compulsory retirement does not involve the loss of pension rights.

9. DISMISSAL - (La destituzione).

-Art. 65- This is inflicted following conviction for a penal offence, or for serious abuses of the duties of office or grave acts of insubordination, etc.

Dismissal usually involves the loss of all pension rights (see T.U. on pensions, Arts. 183 and 187 of R.D.L. 21 February 1895 N. 70 and R.D.L. 3 June 1938 N. 1032).

10. All salary payments cease with (a) EARLY RETIREMENT (b) COMPULSORY RETIREMENT and (c) DISMISSAL.

11. Employees removed from employment by the Allied authorities are regarded as COMPULSORILY RETIRED (La revoca dal l'impiego). This penalty involves the loss of all salary but not the loss of pension rights.

According to the law an employee so retired cannot be reinstated in service unless a disciplinary commission finds that the reasons for such compulsory retirement were insubstantial. But even in such a case the payment of arrears of salary is not permitted (see Art. 67).

Declassified E.O. 12356 Section 3.3/NND No. 785016

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that the reasons for such compulsory retirement were insub-
stantial. But even in such a case the payment of arrears of
salary is not permitted (see Art. 67).

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