

ACC 10000/146/313 LSC/1305 GENERAL ORDER NB 46

June 1945

RAIL ORDER NE 46

June 1945

HEADQUARTERS ALLIED COMMISSION

APO 394

CIVIL AFFAIRS SECTION

DS/3.11/CA.

13 June 1945.

SUBJECT: General Order No. 46.

TO: Regional Commissioners, EMILIA, LIGURIA,
PIEMONTE, LOMBARDIA and VENEZIE REGIONS.

1. The Milan Province Epuration Commission has raised certain questions upon the construction of General Order No. 46.

2. The English words "workers or employees" are translated throughout the Order by "operai o impiegati". It is suggested that the Italian text does not include managers and a request has been made that the translation be altered.

The epuration of company directors is under consideration by the Italian Government in a decree which, if passed, will deal with all "amministratori e sindaci". It is not the intention of this Commission to take any step which will prejudice the enactments of this decree. It is not, therefore, intended to amend the Italian translation of General Order No. 46. It is the opinion of this Commission that the words "operai o impiegati" are in law sufficiently wide to cover the class of managers when it is designed to epurate under this Order, and it should therefore be pointed out to any Epuration Commissions who may question this decision that the English text is the ruling text and that under that text the words "workers or employees" undoubtedly cover the managers.

It is suggested that the words "amministratori o commissari" should be substituted for the words "Dirigenti o sequestratori" wherever they occur throughout the Order as a translation of the English "Manager or Receiver". There is no objection to this substitution if it is desired.

3. Article X. Indennita di licenziamento.

This article as drafted provides that dismissed employees shall receive nothing in respect of the indennita di licenziamento except amounts contributed by such employees. Employees do not contribute to the general indennita di licenziamento but in certain cases employers establish private funds out of which to supplement the indennita. To this private fund employees do contribute.

It is the intention of the article as drawn that employees should receive only such contributions when any have in fact been made.

Milan suggests that it would be preferable to ensure the payment of the basic indennita di licenziamento in all cases and to make no reference to the private funds.

It appears to this Commission that even if the basic

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It is suggested that the words "amministratori e commissari" should be substituted for the words "Dirigente o sequestratore" wherever they occur throughout the Order as a translation of the English "Manager or Receiver". There is no objection to this substitution if it is desired.

3. Article X. Indennita di licenziamento.

This article as drafted provides that dismissed employees shall receive nothing in respect of the *indennita di licenziamento* except amounts contributed by such employees. Employees do not contribute to the *general indennita di licenziamento* but in certain cases employers establish private funds out of which to supplement the *indennita*. To this private fund employees do contribute.

It is the intention of the article as drawn that employees should receive only such contributions when any have in fact been made.

Milan suggests that it would be preferable to ensure the payment of the basic *indennita di licenziamento* in all cases and to make no reference to the private funds.

It appears to this Commission that even if the basic *indennita* is paid, the employees should receive in addition the contributions which they have made to the private fund.

Will Regional Commissioners please consider this question and advise whether the present policy is satisfactory or whether an amendment of the Order is required along the lines indicated above.

It will not be necessary to delay the operation of the Order pending such amendment although any Order for dismissal made before the amendment is published may require rectification.

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4. Article XIII. Appeal Commission.

It is suggested that the Appeal Commission should be increased to five members both on political grounds and because the commissions of the first instance consist of three members.

As at present advised this Commission does not consider that an amendment is necessary. Will regional Commissioners please advise as to their views.

By command of Rear Admiral STONE.

W. H. Stone

G. R. UPJOHN, Brig.,
VP C. A. Sec HQ AC

Copy to:

- Regional Legal Officers,
- EMILIA, LIGURIA, PIEMONTE,
- LOMBARDIA and VENEZIA.
- Legal Sub-Commission.

ALLIED MILITARY GOVERNMENT
OF OCCUPIED TERRITORY

GENERAL ORDER NO. 46

EXCLUSION IN PRIVATE INDUSTRY

WHEREAS it is necessary that persons in private industry who through Fascist activities or for Fascist motives or for the purpose of collaboration with the Fascist-Republican Government or the German invaders have abused their position in such industry, shall be removed from their employment in such industry,

AND WHEREAS it is necessary that such removals be carried out in accordance with the principles of justice and good order

NOW, THEREFORE, I, ELLERY WHEELER STONE, Rear Admiral, United States Naval Reserve, Chief Civil Affairs Officer, for and on behalf of the Supreme Allied Commander and Military Governor, hereby order as follows:

ARTICLE I

This Order shall apply to any company or firm within territory subject to the Allied Military Government in which the name is posted and shall come into force on the date of such posting therein. Such company or firm is hereinafter called the said firm.

ARTICLE II

No worker or employee who now is or may hereafter be employed by the said firm may be dismissed or suspended from his employment with the said firm in consequence of any alleged act, neglect or omission which was earlier in date than the effective date of this Order unless the order for such dismissal or suspension is made in writing and is signed by the manager or receiver of the said firm.

Any person other than such manager or receiver or his duly authorized agent who gives to any worker or employee an order purporting to dismiss or suspend him from employment or who otherwise prevents or endeavours to prevent him from continuing in that employment shall be guilty of an offence.

ARTICLE III

When it is necessary that a worker or employee who now is or may hereafter be employed by the said firm should be dismissed or suspended from his employment on account of any act, neglect or omission which was occasioned by Fascist motives or resulted from fascist activities or collaboration with the Fascist-Republican Government or the German invaders, the procedure set out in this Order shall be followed and the order of dismissal

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for activities or for fascist motives or for the purpose of
action with the Fascist Republican Government or the German invaders have
abused their position in such industry, shall be removed from their em-
ployment in such industry.

AND WHEREAS it is necessary that such removals be carried out in
accordance with the principles of justice and good order.

NOW, THEREFORE, I, HARRY WHEELER STONE, Rear Admiral, United States
Naval Reserve, Chief Civil Affairs Officer, for and on behalf of the Supreme
Allied Commander and Military Governor, hereby order as follows:

ARTICLE I

This Order shall apply to any company or firm within territory subject
to the Allied Military Government in which the same is posted and shall
come into force on the date of such posting therein. Such company or firm
is hereinafter called the said firm.

ARTICLE II

No worker or employee who now is or may hereafter be employed by the
said firm may be dismissed or suspended from his employment with the said
firm in consequence of any alleged act, neglect or omission which was earlier
in date than the effective date of this Order unless the order for such
dismissal or suspension is made in writing and is signed by the manager or
receiver of the said firm.

Any person other than such manager or receiver or his duly authorized
agent who gives to any worker or employee an order purporting to dismiss or
suspend him from employment or who otherwise prevents or endeavours to
prevent him from continuing in that employment shall be guilty of an offence.

ARTICLE III

When it is necessary that a worker or employee who now is or may here-
after be employed by the said firm should be dismissed or suspended from
his said employment on account of any act, neglect or omission which was
occasioned by fascist motives or resulted from fascist activities or col-
laboration with the Fascist Republican Government or the German invaders,
the procedure set out in this Order shall be followed and the order of dismis-
sal or suspension of the said worker or employee shall be made by the manager
or receiver of the said firm in accordance with this procedure and not otherwise.

ARTICLE IV

All complaints of the character set forth in Article III against workers
and employees of the said firm shall be investigated and determined by an
Inquiry Commission which shall consist of a President and two members who
shall all be ex officio, subject to the approval of the Allied Military Govern-
ment, by the Provincial Commission established in accordance with General
Order No. 30 of the Allied Military Government.

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In appointing the said two members the Provincial Commission shall select one member to represent the workers and employees of the said firm and the other to represent the association of employers of the industry concerned, or in the absence of such association to represent the manager/receiver of the said firm.

In making the appointments aforesaid the Provincial Commission shall have regard to the reasonable wishes of the employees and workers and to the association of employers or the manager/receiver of the said firm in the case may be.

Nothing in this Order shall prevent the Eputation Commission when so appointed from being constituted by the Provincial Commission as the Eputation Commission of other firms and companies to which this Order applies in addition to the said firm.

No person, body of persons or commission other than the manager/receiver of the said firm or his duly authorized agent and the said Eputation Commission appointed as aforesaid shall exercise any power purporting to affect the employment of any worker or employee of the said firm.

ARTICLE V

The office of the Eputation Commission shall for the purposes of the said firm be at the office of the said firm.

ARTICLE VI

Any complaint of the nature hereinbefore mentioned against any worker or employee of the said firm shall be made in writing and signed and addressed to the Eputation Commission at the said office and shall state in detail the act, neglect or omission of which complaint is made.

ARTICLE VII

Within two days after receipt of a complaint the Eputation Commission shall inform the person accused either orally or in writing of the fact that such complaint is made and of the substance thereof and shall notify that person that unless he is willing for an order of dismissal or suspension to be made against him he must attend before the said Commission to answer the said complaint.

ARTICLE VIII

If the person accused is not willing for such an order to be made against him the Eputation Commission shall proceed within five days to investigate and hear the said complaint. At such hearing the Commission shall hear such relevant evidence as the complainant and the person accused may wish to give or call before it.

The Eputation Commission shall not proceed against any worker or employee unless it has received notice of the complaint against him in

so appointed from being constituted by the Provincial Commission as the Expiration Commission of other firms and companies to which this Order applies in addition to the said firm.

No person, body of persons or commission other than the manager/proprietor of the said firm or his duly authorized agent and the said Expiration Commission appointed as aforesaid shall exercise any power pertaining to effect the employment of any worker or employee of the said firm.

ARTICLE V

The office of the Expiration Commission shall for the purpose of the said firm be at the office of the said firm.

ARTICLE VI

Any complaint of the nature hereinbefore mentioned against any worker or employee of the said firm shall be made in writing and signed and addressed to the Expiration Commission at the said office and shall state in detail the act, neglect or omission of which complaint is made.

ARTICLE VII

Within two days after receipt of a complaint the Expiration Commission shall inform the person accused either orally or in writing of the fact that such complaint is made and of the substance thereof and shall notify that person that unless he is willing for an order of dismissal or suspension to be made against him he must attend before the said Commission to answer the said complaint.

ARTICLE VIII

If the person accused is not willing for such an order to be made against him the Expiration Commission shall proceed within five days to investigate and hear the said complaint. At such hearing the Commission shall hear such relevant evidence as the complainant and the person accused may wish to give or call before it.

The Expiration Commission shall not proceed against any worker or employee who has not received notice of the complaint against him in accordance with Article VII hereof or who has not been given proper and adequate opportunity to appear before the Expiration Commission for the hearing.

ARTICLE IX

At such hearing the Expiration Commission shall consider only whether the person accused has been guilty of the act, neglect or omission specified

in the said complaint and if so whether such guilt has been occasioned by fascist activities or has been a result of fascist activities or of collaboration with the present Republican Government or the German invaders. For this purpose the Epuración Commission shall apply by analogy the principles established in Part II of D.L. 159 of 27 July 1944. The Epuración Commission shall then decide (if necessary by a majority vote) and shall report in writing to the manager/receiver of the said firm and to the complainant and to the person accused:

- a) Whether the complaint is found to be proved; and if so
- b) Whether the Epuración Commission decides that the person accused be dismissed from his said employment or be suspended therefrom for a period to be specified by the Epuración Commission and not to exceed one year from the date of the hearing.

ARTICLE X

Upon receipt of the said report the manager/receiver of the said firm shall make in writing and serve upon the person accused an order in accordance with the said report.

An order of suspension shall have effect to suspend the worker or employee from his employment with the said firm for the period specified without any salary or allowances.

An order of dismissal shall have effect to dismiss the worker or employee from his employment with the said firm without any salary or allowances save that he shall be entitled to receive the indemnity of *di licenciamiento* up to the amount of any contributions previously made by him.

ARTICLE XI

Any worker or employee who since the liberation from the Germans of the town in which the said firm is situate and before the date of this Order has been dismissed from employment with the said firm on any of the grounds mentioned in this Order and who claims to be entitled to reinstatement may apply to the Epuración Commission for such reinstatement. The Epuración Commission shall thereupon give public notice of such application and unless within three days after such notice the Epuración Commission receives a complaint as laid down in Article VI hereof the Epuración Commission shall recommend and the manager/receiver of the said firm shall order such reinstatement.

If any such complaint is received the same shall be investigated as hereinbefore mentioned.

ARTICLE XII

It is further provided that for the purpose of Arts VI, VII, and XI hereof in all cases where the guilt (within the meaning of this Order) of any worker or employee is notorious to the Epuración Commission and

ARTICLE X

Upon receipt of the said report the manager/receiver of the said firm shall make in writing and serve upon the person accused an order in accordance with the said report.

An order of suspension shall have effect to suspend the worker or employee from his employment with the said firm for the period specified without any salary or allowances.

An order of dismissal shall have effect to dismiss the worker or employee from his employment with the said firm without any salary or allowances save that he shall be entitled to receive the indemnity, di-licenziamento up to the amount of any contributions previously made by him.

ARTICLE XI

Any worker or employee who since the liberation from the Germans of the town in which the said firm is situate and before the date of this Order has been dismissed from employment with the said firm on any of the grounds mentioned in this Order and who claims to be entitled to reinstatement may apply to the Eparation Commission for such reinstatement. The Eparation Commission shall thereupon give public notice of such application and unless within three days after such notice the Eparation Commission receives a complaint as laid down in Article VI hereof the Eparation Commission shall recommend and the manager/receiver of the said firm shall order such reinstatement.

If any such complaint is received the same shall be investigated as hereinbefore mentioned.

ARTICLE XII

It is further provided that for the purpose of Arts VI, VII, and XI hereof in all cases where the guilt (within the meaning of this Order) of any worker or employee is notorious to the Eparation Commission and well authenticated, it shall not be necessary for any formal complaint to be made and the Eparation Commission shall itself take cognizance of the facts, provided always that the Eparation Commission shall inform the person accused of such facts and afford him the opportunity of making his defence thereto in all respects in accordance with the provisions of this Order.

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ARTICLE XIII

It shall be open to the person accused to file an appeal against a decision of the Eputation Commission under Arts. IX, XI or XII hereof. Such appeal shall be made to an Appeal Group to consist of a President and two members and to be appointed by the Provincial Commission mentioned in Article IV hereof, subject to the approval of the Allied Military Government. The appeal shall be made within 14 days after the decision complained of, shall be in writing and shall specify the grounds upon which it is based. The Appeal Group shall forthwith consider such appeal and shall notify the decision thereon to the person accused, the complainant, the Eputation Commission and the receiver/manager of the said firm. For the purposes of the said appeal the Appeal Group is not required to hear evidence but may hear such evidence as it considers necessary.

ARTICLE XIV

This Order shall come into effect in any province or part thereof on the date of its first posting therein.

FOR THE SUPREME ALLIED COMMANDER AND MILITARY GOVERNOR:

/s/ HARRY WHEELER STONE,
Rear Admiral,
United States Naval Reserve,
Chief Civil Affairs Officer.

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