

# The Governmental Order to Dismiss Disreputable and Tainted University Officers

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## ABSTRACT

This study was a descriptive research, of which the objectives were to investigate relationship among concept, background, legal and practical issues related to this dismissal of university's officer as for being disreputable and tainted and propose methods or rules to amend or withdraw university' discipline of this dismissal order matching with moral discipline of human resource management. The research instruments used in this study were by collecting and analyzing research data related to legal discipline, regulations and notices of public universities, along with case studies from orders of the supreme administrative court and also by interviewing scholars and administrative judges. The research found that broad conditions of superior's consideration without specific regulations were perhaps a major cause to damage the university and to unsecure a government officer was one of the main principles in a merit system and dispute arising out injustice in administrative court and researcher has a suggestion by following matters: 1. It should be additionally described, "There is a very sound reasonable suspicion why the officer adversely acts against the university's regulations". 2. It is better to add, "If the officer continues working, this will cause severe damages". 3. "Council's consideration" is required apart from committee of disciplinary enquiry for suggesting the president to consider any dismissal order. 4. It should be additionally described that "as a dismissal of university's officer because of disreputable and tainted manners, the officer will receive a severance payment following university's rules". 5. "University Officer's Human Resources Management Act" should be enacted.

**Keywords:** Disreputable and Tainted, University's Officers, Dismiss

## INTRODUCTION

Disciplinary Rules and disciplinary procedure is a tool and an important measure for human

resource management in public universities in order for university lecturer and officer, which are university personnel, to obey an order and work in a merit pattern which will not later harm the universities. Disciplinary rules and disciplinary procedures have two

categories which legislation is prohibition and procedure. (Surasak, 1996) In case of violation or omission to abide by disciplinary rule of university's regulation or notices, university officers will impose upon disciplinary which is disciplinary breach or gross disciplinary breach. However, in some cases the disciplinary procedure cannot penalize university lecturers and university officer even after having disciplinary investigation. According to dictionary of Thai royal institute (B.E. 2542), disrepute means the state of being disfavor and bad reputation and taint means the state of being blemished or impure.

Dismissal order of university officer due to taint or disrepute is a tool used by several public universities to protect themselves from a risk of possible harms from unreliable officer as accused of gross disciplinary breach. Although the disciplinary investigation is unable to finalize that the officer acted against discipline, the university's president or university council's president will order to dismiss the officer considering probably incurring harms if they remain continue working. The order is not treated as a disciplinary penalty and they will receive a severance pay as determined in the university rules.

For example, a student made a complaint to an inquiry committee that a male university lecturer commit obscene act to exchange grade revision, therefore, the university arranged disciplinary investigation that university lecturer adversely act against the university regulation but the investigation report founded that university lecturer acted in a closed room where only the student and the university lecturer were eyewitnesses. There is not any other evidence to prove his fault and the investigation committee would not be able to impose gross disciplinary breach penalty to this university lecturer.

However, his behavior to stay with a female student in his closed private room and this compliant was raised up. Then, he could not prove himself to the public expression of apology. Although the disciplinary investigation report is unable to finalize that the university officer acted against discipline, his behaviour would defame the university and university lecturer honour, then, the university dismissed him from the position as a reason of taint and disrepute. (Nathee, 2014) According to the research, this kind of dismissal order has similar effect to the dismissal order of civil servants in universities, teachers, police officers, public prosecutors and judges and administrative judges due to taint and disrepute as following important matters:- (Chairat, 1995)

1) Appointment of an inquiry committee for gross disciplinary breach, it shall be deemed to be suspected or in accused of committing gross disciplinary breach. The president as a superior will appoint disciplinary committee. In case of the university's president is suspected or accused of gross disciplinary breach, the authority to appoint disciplinary committee is the secretary-general of board of the office of the higher education commission. The investigation method is following the regulations and notices of each university.

2) In case of there is a very sound reasonable suspicion for a gross disciplinary breach, the investigation report cannot certainly ensure for punishment; the investigation committee is unable to search for clear evidence or witness or in case of facts of the case is weak for prove to impose upon gross disciplinary breach penalty, which there merely has a very sound reasonable suspicion for a gross disciplinary breach and

need more further evidence of the commission of the acts.

3 ) An investigation conclusion may not impose disciplinary punishment mean there is not enough to prove beyond reasonable doubt for gross disciplinary breach. Then, proof for consideration of credible evidence to impose gross disciplinary breach penalty depending on case by case basis.

4 ) Possibility of damages to a university if still working means in case of allowing accused university lecturer to continued working will effect to lose university's benefit or contrary to public order or good moral or infringe fame and honour to other university officers.

Even though the procedures mentioned above are beneficial for the university, they authorize the university's president or university council's president in a broad scope of discretion without specific regulations, the authority is used to prosecute university officer and it will cause trouble in human resource management which is opposed to the merit system bringing dispute to the administrative court. (Pensri, 1971)

Accordingly, this research aims at studying problems and solving methods, such as regulations or notices of several public universities regarding the order to dismiss university officer due to taint or disrepute in order to improve the acts appropriately to the merit system.

## **RESULTS AND DISCUSSIONS**

This study use a quantitative research method by collecting related research data to the governmental order to dismiss disreputable and tainted university officer under the investigation by legal discipline, regulations

and notices of public universities, along with study cases from central personnel, civil servants, police officers, public prosecutors, judges teachers in higher education, and officers working in public universities and other universities under the government control. Besides, those data would be analyzed for penalty comparison to criminal cases, profound understanding about human resource management of government officers and university officer and several concepts for fairness and job stability to those officers. Also, this study use a field research method by interviewing people whose job is dealing with discipline in civil servant, university officers, scholars, public prosecutors and judges and administrative judges to hear their thoughts and include them in the research reference.

According to the discipline of dismissal order by public universities due to taint and disrepute, actions within the scope of taint or disrepute were similar to gross disciplinary breach, corruption and bad conduct of civil servants, while disciplinary breach was not within this dismissal scope due to taint and disrepute. (Surasak, 1996) Also, these discipline gave broad scope discretion to authoritarians (university's president or university council's president) in weighing of evidences for example "In a case of a doubtful reason that a suspect committed gross disciplinary breach" by not consideration about any credible evidence of fact of the case, and in another case that if the alleged university officer was allowed to continue working, the university would be damaged, the disciplines did not indicate the damage level. Even if the damage was just tiny or during the damage had not yet happened but it can be expected that the suspicious officer would damage to the university, the university officer would be

dismissed due to taint or disrepute; however, this might be unfair and may bring in dispute at the administrative court. According to the research, administrative court will not directly challenge administrative discretionary power and court will only look at the method or formality in which the decision was arrived at, validity of an administrative order which law give the power to issue an administrative order. Administrative court has power to examine validity of authority and discretion of superior and have no power to consider and make order to university officers instead of superior. (Irin, 2010)

This research learned dismissal order due to disreputable and tainted university from the study and interview with experts about intentions, wordings and problems on practices, as well as, actual examples, whereas providing two opinions as follows:

1) To maintain acts about taint or disrepute in order to protect the university from damages (Prakong, 2015) and believe that the dismissal order was not a disciplinary penalty but an administrative measure of university's executives to protect the university and effect on qualifications of the university officer so that it was not necessary to prove beyond reasonable doubt. If such measure did not exist, it was unable to dismiss a perpetrator out of the university which superior must exercise discretionary power appropriately. (Somkid, 2015) Anyway, after dismissing, the officer would lose his or her right in profession, therefore, the discipline should be indicated in legal acts which are central laws to set minimum standards of human resource management in public universities.

2) To withdraw the acts about taint or disrepute because in case of the investigation could not prove beyond reasonable doubt, the suspect was attributed to an innocent. (Sattaya, 2014) It was unfair to apply

assumption to predict or believe that the university officer had to be dismissed because the dismissal order depended on discretion of each director and this affected the job security of university officer which is state official who continuity exercise public service so that the act are against the human resource (merit system). (Adul, 2014)

## CONCLUSION

The acts, regarding dismissal order to the university officer due to taint or disrepute in public universities are the tool to protect themselves from a risk of possible harms from unreliable officer as accused of gross disciplinary breach, have similar discipline:

- (1) Appointment if an inquiry committee for gross disciplinary breach.
- (2) In case of reasonable suspicion of committed gross disciplinary breach.
- (3) An investigation conclusion may not impose disciplinary punishment.
- (4) Possibility of causing damages to a university if still working.

About consideration in optimistic, a disciplinary punishment was used when certain evidences were only found that the university officer acted against discipline. Hence, without credible evidences, if the university considered that credible evidences from disciplinary investigation report and if the university officer is allowed to continued working, and this would damage the university, the university then should dismiss university officer due to taint or disrepute to prevent any incoming harms and maintain the university's fame and honor. On the contrary, although dismissing due to taints or disrepute was not a disciplinary penalty, the

consequence had bad effect to the university officer, as the severity was same as a layoff. In the case of disciplinary offense, a broad authority given to the university's president or university council's president to consider to dismiss the officer due to taint or disrepute without clear regulations might be used to dismiss that university officer too easily and then troubled the university's human resource management as against the merit system. In addition, the university officer would be lack of confidence in encouraging internal and external motivation career and this would finally result in bringing dispute to the administrative court. The dismissal order could be a channel to help companions by referring to disciplinary investigation as the evidence was not clearly enough that the officer made the commitment to dismiss for severance pay from the university.

The researcher has a suggestion to improve discipline to be more specific in order to control the university management and president's consideration for following matters.

1) Weight of evidence – it should be additionally described, “there is a very sound reasonable suspicion why the officer adversely acts against the university's regulations”.

2) Damage types – it is better to add, “if the officer continues working, this will cause severe damages”.

3) “Council's consideration” is required apart from committee of disciplinary enquiry for suggesting the president to consider any dismissal order. The authoritarian - a chancellor should be an authoritarian who

raises the issue to a university commission for consideration.

4) It should be additionally described that “To dismiss the university officer due to taint or disrepute without good supportive report to disciplinary investigation report impose gross disciplinary breach punishment. However, in case of a very sound reasonable suspicion, and president of university see possibility of causing damages to university if university officer still working, university's president should propose this to the university council to consider for dismissal order. If the university council' resolution determine to dismiss the university officer, the president will dismiss the officer and pay a severance pay following the university regulation.”

5) “University Officer's Human Resources Management Act” should be enacted to set minimum standards of human resource management for protecting the officer' operation

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