The principle of gradualism, a legislative control for the fairness of disciplinary punishment

مبدأ التدرج ضابط تشريعي لعدالة العقوبة التأديبية

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Abstract:

The Algerian legislator required the disciplinary authorities to adopt a rule grading disciplinary penalties, seeking to achieve a kind of proportionality between the disciplinary error committed by the public employee and the disciplinary penalty imposed on him, as one of the most important guarantees established for the public employee, through formulating a scale of disciplinary penalties so that they are graduated from the least severe to the most severe. This legislative progression regarding disciplinary penalties is a reflection of the legislator's desire to force the disciplinary authority to select a just punishment; rationality, justice, fairness, and the skill of drafting legislation will all be taken into consideration.

Keywords: penalty gradation, guarantee, employee, legislator, justice.

الملخص:

ألزم المشرع الجزائري السلطات التأديبية بقاعدة تدرج العقوبات التأديبية، سعيا منه إلى تحقيق نوع من التناسب بين الخطأ التأديبي المرتكب من الموظف العام والعقوبة التأديبية الموقعة بشأنه، كإحدى أهم الضمانات المقررة للموظف العام، من خلال صياغة سلم للعقوبات التأديبية، بحيث تكون متدرجة من الأخف إلى الأشد.

إن هذا التدرج التشريعي في العقوبات التأديبية يعكس في الحقيقة إرادة المشرع في دفع السلطة التأديبية إلى اختيار عقوبة تأديبية عادلة، ويمكن رد هذه الإرادة إلى اعتبارات المنطق والعدالة والإنصاف وفن الصياغة التشريعية.

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الكلمات المفتاحية: تدرج العقوبات، ضمانة، الموظف، المشرع، العدالة.

Introduction:

According to the General Basic Law of the Algerian Public Service, any employee appointed to a permanent position with the government and any rank on the administrative ladder is regarded as a public employee[1] Therefore, in exchange for the services he provides for the benefit of the users, each person in this position is entitled to several rights; as long as they follow the rules set by the law and do everything that is needed to keep the public facility running smoothly. Any failure to fulfill these obligations, however, is considered a professional mistake that entails disciplinary action according to the guidelines outlined in the public service industry.

One of the most significant factors that can alter the legal status of public employees is the imposition of disciplinary penalties in the workplace, which increases the responsibilities of the disciplined employee, and gains a portion of his rights back after making disciplinary errors. Undoubtedly, the legislators bestowed upon the administration significant authority in the form of disciplinary penalties, which it uses to prevent these employees from making the same errors in the future, which implies that the administration is free to use its judgment when applying disciplinary sanctions. Firstly, it has the authority to assess a disciplinary error. For that reason, the legislator granted it the freedom to evaluate what is considered contrary to the public job and its requirements in the behaviour of the public employee, and this is due to the impossibility of limiting these disciplinary errors, in addition to the freedom to choose a specific penalty from among the penalties specified exclusively and in advance by the legislator, which resulted in an increase and expansion of the powers and management tasks. This reality has revealed the existence of many cases in which the disciplinary authority is arbitrary and punishments are imposed that are not commensurate with the mistakes committed, and thus the punishment deviates from the principle of legality. Although these penalties have been classified and limited to four levels, the administration can choose the appropriate penalty from among them.

The significance of this study becomes apparent when considering the grading of disciplinary punishments as one of the controls that attain the fairness of disciplinary punishment- as long as it is graduated hierarchically, with the most severe punishment at the top of the pyramid and the least

[1]- Article 4 of Order No. 06-03, dated July 15, 2006 includes the General Basic Law of the Algerian Public Service, Official Gazette of the People's Democratic Republic of Algeria, No. 46, of 2006. Amended and supplemented by Law No. 22-22, dated December 18, 2022, c. Issue No. 85, 2022.

severe punishment at the base. As such, it is a critical safeguard against administrative misuse for the public employee.

Research question:

To delve into the subject, the following question is asked:

Is the grading of disciplinary penalties principle a legal requirement that needs to be implemented and adhered to ensure the fairness of disciplinary punishment in the public service sector, or is it merely a logical requirement associated with punishment?

This study follows the descriptive analytical approach by analyzing the legal and regulatory texts related to the imposition of disciplinary punishment, as well as the relevant judicial rulings and decisions. Hence, the topic moves from the theoretical limits to the practical horizons, without neglecting the descriptive aspect through theoretical coverage of the various aspects related to the subject of the study.

To find answers to the issue brought up earlier, the first section will discuss the content of the gradual rule; the disciplinary punishments and the needs of this concept will then be clarified in the second section.

The first section: The content of the gradual rule in mentioning disciplinary penalties

The functional legislator has approved that disciplinary punishments begin with a warning, reaching the most severe, which is the penalty of dismissal, thus ending the connection between the employee and the facility once and for all, and that this progression is arbitrary and established by the legislator, so the assumption is that each disciplinary punishment is milder than the one that follows it and more severe than the previous one.

The legislator deliberately intended this gradual disparity in disciplinary punishments in type and amount, from the lightest to the most severe to the most severe, aiming to give the administration a wide margin of flexibility to enable it to choose the disciplinary punishment that is truly and fairly proportional to the disciplinary error committed.

However, this matter was the subject of a jurisprudential dispute that was, **first** raised regarding the feasibility of the principle of gradual disciplinary punishments, and **second**, provided that we define the concept of disciplinary punishment in the field of public service due to its connection to this rule.

First: The jurisprudential disagreement over the importance of the rule of grading disciplinary penalties:

Some administrative law experts have argued that the legislator's gradualness in mentioning disciplinary penalties is logical and part of the nature of matters, not legislative wisdom, which made the discussion about the principle of graduality of disciplinary penalties a matter of jurisprudential controversy. The first approach believes that the progression does not in itself express anything **(A)**. The second trend believes that the legislator's gradual progression when introducing disciplinary punishments has a legislative meaning and wisdom, to ensure the fairness of the disciplinary punishment **(B).**

A- The principle of gradation of disciplinary penalties does not in itself express any meaning

Supporters of this trend believe that the progression does not express anything in itself and that the appropriateness of the disciplinary punishment for the error committed is a matter for the disciplinary authority to decide independently. Therefore, every action taken by the public employee may be viewed as either a good or negative disciplinary error by the authority that has the power to discipline under the supervision of the judiciary. If it is not consistent with the duties and requirements of the job, then it is not possible to limit the disciplinary errors that would determine the responsibility of the public employee, in advance, as is the case in criminal crimes[1].

As a result, there was a separation between the disciplinary error and the disciplinary punishment, so it became extremely hard to determine disciplinary errors in advance; consequently, it was impossible to establish a particular sanction for each disciplinary error based on the Penal Code, and at the same time, it did not leave the disciplinary authority free to impose any disciplinary punishment it deems appropriate[2].

Additionally, when the legislator mentions disciplinary punishments, he is obligated to start with the simple ones and end with the most severe ones, and this has no meaning other than the rules of logic alone.

The legislator did not want to leave the disciplinary authority free to impose any punishment it pleases, as it is not reasonable to mention the punishments without regulations, such as mentioning For example, the

[1]- Sami Gamal El-Din, Principles of Administrative Law, Mansha'at Al-Maaref, out of print, Alexandria, Egypt, 2004, p. 340.

[2]- Mustafa Bawadi, Public Employee Guarantees in the Disciplinary Field, "A Comparative Study between French and Algerian Jurists," Ph.D. thesis, Faculty of Law and Political Science, Abu Bakr Belkaid University, Tlemcen, Algeria, academic season 2013/2014, p. 252.

disciplinary penalties that may be imposed involve the following: warning, then dismissal, then removal from the rehabilitation list, etc.[1]. Gradualism is meaningless in this context because it would lead to the elimination of the disciplinary authority's discretionary powers.

B- The principle of gradual disciplinary penalties was established due to legislative wisdom

The rule of gradualism is one of the established principles in the human conscience, and the disciplinary authority must respect it. Thus, it is considered a vital area for the disciplinary authority to achieve consistency between the disciplinary error committed and the punishment imposed in connection with it, by requiring it to follow the sequence contained in the list of disciplinary punishments according to the seriousness of the errors and the circumstances of their commission, and the disciplinary authority must Respect this principle regarding those addressed by the legal rule as long as their positions are similar[2].

On the other hand, could it not be considered that limiting disciplinary penalties to a list that varies in severity while allowing the disciplinary authority to move within them according to the severity of the error is a minimum and maximum limit? This grants this authority freedom of discretion within its scope[3].

Additionally, it is not acceptable to argue that the gradual punishment guidelines were based solely on logic. It is not reasonable for logic to be inconsistent with considering the principle of gradual punishment as one of the things that must be taken into account for the justice of disciplinary punishment, or that the controls and proportionality of punishment must be considered. Isn't it logical? For our part, we see that the rule or principle of gradualness in mentioning disciplinary punishments is one of the most important controls that govern disciplinary punishment. This is because the claim that the principle of gradualism in disciplinary punishments is an obligation that restricts the disciplinary authority and deprives it of any discretionary authority cannot be accepted as absolute, as discretionary

[1]- Suleiman Muhammad Al-Tamawi, The General Theory of Administrative Decisions, "A Comparative Study," Dar Al-Fikr Al-Arabi, 5th edition, Cairo, Egypt, 1984, p. 656.
[2]- Mustafa Bawadi, Public Employee Guarantees in the Disciplinary Field, op. cit., p. 253.
[3]-Khaled Abdel Fattah Muhammad, The Comprehensive Encyclopedia explaining the disciplinary system for civil servants in the state, the public sector, and private cadres, "in light of the rulings of the Egyptian Supreme Administrative Court until 2003," Al-Alamiyya for Binding and Publishing, 02nd edition, Egypt 2004, p. 163.

authority does not mean the disciplinary authority acts according to its whims without any legal controls, and despite all this, it remains free to choose the type of disciplinary punishment that it deems proportionate to the committed error.

The legislator sought to limit the disciplinary authorities' discretionary power and prevent them from acting arbitrarily by approving the gradualism principle, particularly in situations where they impose disciplinary sanctions that are completely out of proportion to the committed errors. This means that the gradual mention of disciplinary punishments is a path that the legislator must follow functionally, as it must recognize punishments that accept gradualism and division so that their amount can be determined accurately so that it is proportional to the circumstances of the case for which the estimation is intended, which is what disciplinary punishment is supposed to be. It is flexible in the hands of the person entrusted with imposing it, so he can determine it to suit the circumstances of the situation for which it is imposed[1].

The Egyptian Council of State used the gradualism rule as an objective standard to evaluate the equity of disciplinary actions. The text explained the rationale behind the judiciary's gradualism, stating, "The law has aimed for this type of gradualism in imposing punishment when it includes in the body's list of penalties ranging from reduction in salary to dismissal." "It is compatible with the offense that has been established against the defendant[2]." In general, when the legislator included stipulations of disciplinary penalties that could be imposed on the violating employee, he did not aim for the disciplinary authorities to be independent by imposing them without following up on them. Instead, he intended for the severity of the punishment to depend on how serious the disciplinary error was to ensure that there is a degree of appropriateness between the two limits of punishment.

Second: Definition of disciplinary punishment

We would like to point out, at the outset, that most of the legislation concerned with public employment did not define disciplinary punishment[3]

[1]- Hanan Muhammad Al-Qaisi, Judicial Control of Appropriateness in Disciplinary Decisions, Arab Center for Publishing and Distribution, 1st edition, Cairo, Egypt, 2017, p. 153.

[2]- Ruling of the Egyptian Supreme Administrative Court, dated 06/08/1963, eighth-year group, p. 1292.

[3]- It should be noted that the designation **"disciplinary punishment"** was also not the subject of agreement between functional or disciplinary systems in particular. The Iraqi legislator called it **"disciplinary punishment."** The Egyptian legislator called them "disciplinary penalties."

-As for Omani law, the Qatari and the Emirati have adopted the name **"administrative penalties."** While Syrian law calls them **"behavioral penalties,"** Tunisian law, Jordanian law, and Yemeni law are the general basic laws of the Algerian public service. They adopted the name **"disciplinary penalties.".**

similar to the Algerian legislator, and all it included was an exclusive enumeration of these disciplinary punishments. This prompted us to present the jurisprudential definitions provided regarding disciplinary punishment **(A),** and then what the administrative judiciary presented regarding disciplinary punishment **(B).**

A- The jurisprudential definition of disciplinary punishment

There have been many jurisprudential definitions provided regarding disciplinary punishment depending on the point of view of each jurist. Below, some of them are enumerated to give a comprehensive understanding of disciplinary punishment.

Disciplinary punishment is defined as: **"**the administrative penalty imposed by a disciplinary authority as a result of the proven disciplinary crime, such that this punishment deprives of the rights and benefits of the job**"**[1] , and what is meant by the word crime mentioned in the definition is criminalization in its broad sense, not the narrow sense.

It has also been defined as **"**the legal effect resulting from an employee or worker committing administrative or financial violations, which is entrusted to the disciplinary authority that the law specifies to impose on him**"** [2].

"The job penalties imposed by the competent disciplinary authorities on the worker who is accused of committing disciplinary violations by the established legal, regulatory, and procedural rules and provisions**"**[3]. is one definition offered by Algerian administrative jurisprudence. An additional interpretation is: "that particular action taken by the administration to suppress the disciplinary violation, which would have negative consequences for the worker's personal life"[4].

Despite the differences in the definitions presented regarding disciplinary punishment, they do not deviate from the basic elements of:

1- The punishment must be legally stipulated, and thus it is not permissible to impose a punishment that was not decided by the legislator.

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[1]- Ammar Abbas Al-Husseini, Criminalization and Punishment in the Disciplinary System, Al-Halabi Legal Publications, first edition, Beirut, Lebanon, 2015 p165.

[2]- Bilal Amin Zein Al-Din, Administrative Discipline, "A Jurisprudential Study in Light of the Rulings of the Supreme Administrative Court," Dar Al-Fikr Al-Jami'i, first edition, 2015, p 372.

[3]- Ammar Awabdi, The Principle of Graduality of the Idea of Presidential Authority, National Book Foundation, no. 1, Algeria, 1984, 335.

[4] - Hisham Bahi and Marwan Al-Dahma, Disciplinary Penalties for Public Employees in Algerian Legislation, Journal of Rights and Liberties, published by Mohamed Kheidar University, Biskra, Algeria, Volume Five, First Issue, 2019, p 23.

2- That the disciplinary punishment be imposed by the authority that has the authority to discipline[1].

3- The supposed basis for imposing disciplinary punishment is available, which is in the capacity of a public employee.

4- Punishment shall be imposed in return for the violation committed by the public employee regarding the duties and requirements of the public job.

5- The purpose of imposing disciplinary punishment is to ensure the regular and steady functioning of public facilities.

B- Judicial definition of disciplinary punishment

The principle of legality within the scope of disciplinary law does not establish a relationship between disciplinary errors and the penalties prescribed for them because of the difficulties surrounding identifying disciplinary errors. Therefore, the principle of legality in this field has been known to be applied, but concerning disciplinary penalties only. That is, there is no punishment except for a text.

Among the judicial applications of the Algerian administrative judiciary regarding the legality of disciplinary punishment, especially those cases that are known to be a direct violation of the specific penalties stipulated in the text of the law, is the case of the Wali of Biskra against the employee (Ch.A.)[2].

By extrapolating the definitions presented in their entirety. The disciplinary punishment can be defined as "a material or moral punishment that affects the job benefits of a public employee who violates a professional duty or commits a prohibited matter that undermines the dignity of the job and its requirements, whether during or outside of work".

Section 2: The regulation's requirements for assigning grades to disciplinary sanctions

Applying the rule of grading disciplinary penalties in the field of public service as one of the controls and guarantees for the suitability and fairness of the disciplinary penalty requires the presence of two necessary elements for its achievement. The legislator first begins by mentioning the lighter disciplinary penalties. Second, he mentioned the most severe

[1]- Sabah Hamayati, Legal Mechanisms to Confront Public Employee Disciplinary Decisions in Algerian Legislation, Master's Thesis, Faculty of Law and Political Science, University of the Valley, Algeria, academic season 2013/2014, p 41.

[2]- Decision of the Administrative Chamber, Algerian Supreme Court, No. 11567, dated May 1, 1997, Judicial Journal of the Supreme Court, first issue, Algeria, 1997, pp. 101–105.

disciplinary penalties affecting the public employee's job benefits in second place.

First: less severe disciplinary sanctions

Legislators must begin grading disciplinary penalties according to the rule that states that the least severe penalties will not affect the public employee's job benefits; consequently, these penalties are at the top of the list of disciplinary penalties[1]

The Algerian legislator's commitment to the rule of grading disciplinary penalties has become clear and evident through an analysis of the texts of the General Basic Law for Public Service, as Article 163 of it stipulates, which states at the beginning: "Disciplinary penalties are classified according to the severity of the errors committed into four (4) degrees:

1- First-degree disciplinary penalties:

a- Warning **b-** Written warning **c-** Reprimand.

2- Second-degree disciplinary penalties:

a- Suspension from work for one to three days**.**

b- Removal from the rehabilitation list.

This means that the Algerian legislator decided to divide disciplinary punishments into four degrees, ranging in severity from the lightest to the most severe, in compliance with the rule of gradation of punishments, where first- and second-degree punishments are considered the lightest disciplinary punishments, so that a kind of justice and fairness in punishment can be achieved, and not out of idle talk.

Thus, in order to achieve proportionality between the disciplinary error committed and the disciplinary penalty imposed on it, it can be said that the progression of disciplinary penalties is an important mechanism and a rule that the competent disciplinary authority must adhere to. This would make it easier for the courts to review the judgments and choices made by the disciplinary authorities. When applying disciplinary sanctions, did they follow the gradualist principle, or did they just apply any punishment they thought was appropriate without giving it much thought? This is because progression entails following the order specified in the particular list of penalties. Given the privacy of some wires, however, specific basic laws

[1]- Abdel Qader Abdel Hafez Saleh Al Sheikhly, Disciplinary Penalty for Public Employees in Iraqi Law, "A Comparative Study," PhD thesis, Faculty of Law, Cairo University, Egypt, academic season 1977/1978, p. 269.

must not be disregarded as they may provide for additional penalties within the parameters of the four degrees outlined in Article 163 of the same law.

Generally speaking, the legislative progression regarding disciplinary penalties was designed to ensure that the penalty was determined by the gravity of the error committed, rather than leaving the disciplinary authorities to determine the punishment on their own with no repercussions. The disciplinary decision has to be overturned if it turns out that it was made based on apparent disproportionality because that is against the law[1].

Another thing that makes the rule of gradation of disciplinary punishment even more important is that the French Council of State uses it to check whether the punishment is within the legal maximum and minimum limits of punishments. This is because it is a type of gradation in punishment. The gradual discipline principle was viewed by the French Council of State as an adequate way to ensure that disciplinary punishment was both fair and proportionate[2].

All of us hope that the proportionality principle will be specifically stated by the Algerian legislator in the legislation governing public employment, along with the justice that the principle brings to the penalized employee[3]. This leads us to conclude that attaining proportionality between the disciplinary infraction and the punishment meted out for it requires adherence to the principle of grading disciplinary punishment.

The disciplinary error represents an action and the disciplinary punishment constitute a reaction to it, which requires that the reaction be equivalent to the action and proportionate to it without excessive or neglect.

Second: Stricter disciplinary sanctions

To achieve a proportionate disciplinary punishment, the rule of gradualism in disciplinary punishments necessitates the addition of a second element. This second element is the existence of a second group of disciplinary punishments that follow the lighter punishments, which are the most severe sequentially. This category includes very serious penalties and has two levels: the first is the financial penalties that affect the employee's salary and the bonuses associated with it, while the second level is related to

[1]- Abdel Aziz Abdel Moneim Khalifa, Disciplinary Guarantees in the Public Service, out of print, Dar Al-Kutub Al- Qaniya, Al-Mahalla Al-Kubra, Egypt, 2004, p 75.
[2]- C.E., 10 January 1969, MELER, REC, p 24.
C.E., 28 April 1976, GORIN, REC, p 975.
[3]- Ammar Aishouba, Recent Developments in Judicial Oversight on the Proportionality of Disciplinary Sanctions, Journal of Law and Political Science, published by the Salehi Ahmed University Center, Naama, Algeria, Issue 8, June 2018, p 664.

the more severe penalties. It is crystallized in the penalties that result in terminating the job association temporarily, such as suspension from work for a specific period, or permanently, such as layoff [1].

The gradualism principle applies to both more severe and lighter disciplinary penalties in Algeria, just as it did to lighter penalties from a procedural perspective. It stipulates in Article 165/2 that: "the authority that has the powers to appoint penalties of the third and fourth degree shall be taken by a justified decision after taking the opinion." Binding with the Equal Administrative Committee, the competent members gathered as a disciplinary council... ". The severity of third-degree and fourth-degree punishments requires the necessity of involving another body in addition to the appointing authority as a matter of consultation between them in their opinion, so that there is wisdom and rationality in the ruling imposed and the percentage of arbitrariness or error in the disciplinary punishment estimated by the disciplinary councils held in this regard is reduced. Accordingly, Article 163, in its third and fourth paragraphs, of the previously mentioned Algerian employment legislation included the most severe disciplinary penalties affecting the public employee. So she stipulated that:

3 - Disciplinary penalties of the third degree:

- Suspension from work from four to eight days, Demotion from one to two grades

4- Disciplinary penalties of the fourth degree:

- Demotion directly to the lower rank, then dismissal."

As for the gradualism principle, we think that for it to be more effective, the limits of the disciplinary penalties included in the gradual scale of penalties need to be brought closer together, and the differences between them need to be reduced so that the disciplinary councils or the presidential authority can respond to the exercise of their authority in determining disciplinary responsibilities for the actions committed. It is imperative to adhere to the principle of gradualness when stating fines to avoid breaking any applicable laws and producing a variation in their estimates.

[1]- Mustafa Afifi, The Philosophy of Disciplinary Punishment and Its Objectives, "A Comparative Study," Alam al-Kutub for Publishing and Distribution, Egypt, 1976, p. 220.

It is unacceptable for an employee to commit a simple mistake and be subjected to severe punishment, such as dismissal, for example, as this defeats the purpose of determining disciplinary penalties from the least to the maximum. This is because disciplinary penalties are included as a legislative requirement. The Algerian legislator, when it stipulated the necessity of adhering to the gradualism mentioned in the text of Article 163 of Order 06-03, only stipulated it as an obligation as a peremptory rule from which it is not permissible to deviate or agree to violate it; otherwise, the disciplinary decision is invalid, a project that had to be cancelled.

The rule of gradualness in mentioning disciplinary punishments as one of the governing rules in the context of disciplinary matters is embodied in creating a gradual disparity between disciplinary punishments in type and amount, which gives the administration a margin of freedom in choosing the punishment that is commensurate with the act committed according to its gravity and seriousness, as avoiding the rule of gradualism results in the existence of a disparity between the error and the punishment, which takes it from the scope of legality to the scope of illegality due to the similar exaggeration and apparent disproportionality. If the error is simple according to the circumstances of the incident, the punishment according to the rule of grading disciplinary penalties is simple, and its severity increases with the severity of the committed act.

Conclusion:

In light of the above, it becomes clear to us that the principle of gradualness in mentioning disciplinary penalties is considered one of the most important and strongest guarantees established for the public employee, through which it is possible to ensure the imposition of a disciplinary penalty that is truly and fairly proportional to the disciplinary error committed by the public employee because it is taken as evidence and a hint of transgression. The administration has its discretionary authority within the framework of the disciplinary authority granted to it by the legislator for practical and scientific necessities, and then the administration disputes it before the administrative judiciary to determine the proportionality and fairness of the disciplinary punishment. Also, the principle of punishment is its reasonableness, so intervention can only be to the extent necessary, and it cannot be so if the principle of gradation of punishment is not respected.

We prevent it from being an unjustified pain that emphasizes its unnecessary cruelty. To this extent, the punishment imposed will be to the extent necessary, without excess or negligence.

The principle of gradualism, a legislative control for the fairness of disciplinary punishment

Arriving at a disciplinary punishment that is truly proportionate and just for the error committed by the public employee requires a proper assessment of the disciplinary error to determine its seriousness, and that seriousness is the basis on which the appropriate disciplinary punishment is chosen in terms of its severity. The greater the seriousness and importance of the disciplinary error, the more consequentially it is necessary to increase the punishment.

Disciplinary quality and quantity. Provided that the disciplinary authorities adhere to the classification enacted by the legislator, starting with the least serious errors and proceeding to the most severe ones. The most severe of them is in successive degrees, as a means of assistance in light of the impossibility of limiting disciplinary errors. In all of this, the assessment is accompanied by taking into account the set of circumstances that produce and constitute this error, whether those aggravate or mitigate the disciplinary penalty.

Hence, we call on the authorities in charge of imposing punishment not to neglect the grading officer, according to which the functional legislator provided a list of disciplinary penalties in four grades - according to the Algerian legislator - according to the enumeration followed for disciplinary errors to achieve proportionality between the two limits of disciplinary punishment. The degree corresponds to the degree, provided that it is of the same rank and that the terms and intervals are close. If pursuing the erring employee is an inherent right of the administrative authority, then the employee has the right to guarantee a fair punishment away from capriciousness and cruelty. Accordingly, the principle of gradual punishment emerged as an effective guarantee in the face of the administration's hegemony. At the same time, it contributes to the good functioning of the public facility.

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