

MILA MANALO, PETITIONER, VS. RICARDO GLORIA, IN HIS CAPACITY AS THE ACTING SECRETARY OF SCIENCE AND TECHNOLOGY, AND PATRICIA STO. TOMAS, IN HER CAPACITY AS THE CHAIRMAN OF THE C...

G.R. No. 106692. September 01, 1994

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

This is a petition for "certiorari and mandamus" filed on 3 September 1992 urging us to render judgment:

"(1) Declaring the 1st Indorsement dated 14 December 1990 of the respondent Secretary of Science and Technology, (Annex "E" hereof), and Resolution No. 91-1036 of the respondent Civil Service Commission, (Annex "G" hereof) null and void;

(2) Ordering the respondent Secretary of Science and Technology to pay the back wages of the petitioner for the period from April 16, 1988, the date she was illegally dismissed, to June 14, 1989, the date she was reinstated; and

(3) Ordering the respondent Secretary of Science and Technology to pay the petitioner the salary equivalent to the salary of a Planning Assistant from the time of her reinstatement and thenceforward."[1]

In their comment filed by the Office of the Solicitor General for the respondents on 2 December 1992, the respondents claim that the petitioner received a copy of respondent Civil Service Commission's (CSC) Resolution No. 91-1036 of 29 August 1991 on 5 September 1991 and pray that the petition be dismissed because, on procedural grounds, it was filed out of time and the petitioner violated paragraph 4 of Revised Circular No. 1-88 and Circular No. 28-91; and, on substantive grounds, the decision in G.R. No. 81495 of 4 June 1990[2] cannot apply to her since she is not a party therein. Moreover, her position was legally abolished, she did not appeal from the abolition, and instead of joining her other co-employees in assailing the legality of their separation from the service, she requested appointment to a position comparable to her former position. Thus, she was appointed to the position of Clerk II on 15 May 1989, which she accepted without reservation.

Indeed, the petitioner failed to comply with the aforesaid Circulars. She does not also deny that she received a copy of the challenged Resolution No. 91-1036 on 5 September 1991. Pursuant to Section 7, subdivision A (Common Provisions), Article IX of the Constitution,[3] the petitioner had only thirty days from 5 September 1991 within which to bring the said resolution to this Court via a petition for certiorari under Rule 65 of the Rules of Court.[4] The instant petition was filed only on 3 September 1992 or eleven months and twenty-eight days after her receipt of a copy of the challenged resolution, indisputably beyond the constitutionally mandated period. On this score alone, the petition must be dismissed.

Even on its merits, the petition must likewise fail. The uncontroverted facts culled from the pleadings' of the parties, as well as from our decision of 4 June 1990 in *Mendoza vs. Quisumbing*[5] and companion cases, render

this conclusion inevitable.

Before 16 April 1988, the petitioner held the position of Planning Assistant in the Philippine Nuclear Research Institute (PNRI), an agency of the Department of Science and Technology (DOST), with an annual salary of P26,250.40.

On 30 January 1987, the President of the Philippines issued E.O. No. 128 reorganizing the DOST. Section 21 thereof provides for the reorganization of the Philippine Atomic Energy Commission (PAEC) and the PNRI. Conformably therewith, PNRI was reorganized and a new staffing pattern or position structure, which abolished certain positions, was adopted. A list of employees who would be retained under the new position structure was posted in the PNRI premises. Those excluded were placed in a manpower pool for possible placements in other DOST agencies. Appointments under the new position structure were thereafter issued to the retained employees.

Among the abolished positions was that of the petitioner. The petitioner, however, "made an appeal with the DOST/RAB to place her to any comparable position to which her qualification would fit,"[6] which was favorably acted upon by her appointment to the new position of Clerk II with an annual salary of P17,640.00 on 15 May 1989.[7] She accepted her appointment as Clerk II, a position she presently holds.

In view of our Decision of 4 June 1990 in *Mendoza vs. Quisumbing* and more particularly of the companion case, G.R. No. 81495 (*Arizabal vs. Leviste*), wherein we held:

"4) In G.R. No. 81495, the petition is DISMISSED. Except in the cases of those who have retired or opted to be phased out and who have received their separation and retirement benefits, the petitioners are ordered to retain the private respondents-employees in the reorganized department under the new staffing pattern with positions and salaries comparable or equivalent to their former positions but not lower than their former ranks and salaries."

the petitioner (who was neither a party in G.R. No. 81495 nor in the case before the Regional Trial Court of Quezon City subject thereof) sent a letter to the Director of the PNRI, dated 3 September 1990,[8] requesting the payment of back salaries for the period commencing from the abolition of her office until she was appointed as Clerk II and the payment of salary "comparable or equivalent to her former position as Planning Assistant from the time she was phased out up to the present." The PNRI referred this request to the DOST on 12 November 1990.[9]

In a 1st Indorsement dated 14 December 1990,[10] the DOST denied the request because she was not a party in G.R. No. 81495 and because there was no finding under Section 9 of R.A. No. 6656 (Reorganization Law) that the petitioner was illegally terminated.

On 4 March 1991, the petitioner, through counsel, sent a letter[11] to the public respondent CSC requesting that in view of the DOST denial of her request, the CSC should "order the PNRI to pay Ms. Manalo back wages during the period she was phased out up to her reinstatement to the lower position of Clerk II, and, in addition that she be paid the difference between the salary of a Planning Assistant and that of a Clerk II."

In its Resolution No. 91-1036 of 29 August 1991,[12] the CSC denied the request because the petitioner was not a party in G.R. No. 81495, and although the position of Clerk II is admittedly lower in rank and salary than her previous position of Planning Assistant, upon her request after she had been phased out, she assumed the duties of Clerk II without reservation.

From these facts, it is clear that both the indorsement and the resolution were not issued with abuse, much less grave, of discretion. The petitioner was not compelled to accept the new position. Instead of questioning the new position structure or taking the other alternatives of either accepting separation pay or retiring from the service,

she expressed preference for appointment to the new position, voluntarily accepted the appointment thereto, and assumed the new position without reservation. Reluctance or involuntariness in relation thereto is not asserted in her petition and in her letters of 3 September 1990 and 4 March 1991.

The mandamus aspect of this case refers to the payment of the petitioner's (a) "back wages ... for the period from April 16, 1988, the date she was illegally dismissed, to June 14, 1989, the date she was reinstated," and (b) "salary equivalent to the salary of a Planning Assistant from the time of her reinstatement and thenceforward."

Mandamus under Rule 65 of the Rules of Court is a special civil action available to an aggrieved party when any tribunal, corporation, board, or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes a person from the use and enjoyment of a right or office to which that person is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law. The petitioner's claim for "back wages" could be the appropriate subject of an ordinary civil action and there is absolutely no showing that the said remedy is not plain, speedy and adequate. It does not even seem that the petitioner has given some priority to her claim. She did not claim for it in her 3 September 1990 letter to the PNRI. The first time she mentioned it was in her 4 March 1991 letter to the CSC. Thereafter, and before she filed this petition, she did nothing.

As for the payment of salary equivalent to that of a Planning Assistant, it is clear that the petitioner does not seek reinstatement to the position of Planning Assistant. Since she had in fact asked for her retention in the PNRI and for her appointment to a new position and was accordingly appointed as Clerk II, a position which she voluntarily accepted and which she continues to hold until now, estoppel, which is clearly present, bars her obtainment of the desired relief.

We are not persuaded by the suggestion that the petitioner is only seeking execution of the decision in *Arizabal vs. Leviste*. The petitioner is not a party therein and is not, therefore, entitled to its execution.

Nor do we agree with the plea in the dissenting opinion that we take this case as one for mandamus in the light of our decision in *Cristobal vs. Melchor*.^[13] The factual milieu therein does not obtain in this case. Unlike *Cristobal* who was never reinstated despite his persistent pleas, the herein petitioner asked for and was appointed to the new position of Clerk II, which she accepted without reservation. In *Cristobal*, this Court considered the viability of an action for mandamus and the grant of favorable relief thereunder even if the said action was filed after one year from the accrual of the cause of action, because it was the "act of the government through its responsible officials more particularly then Executive Secretary Amelito Mutuc and his successors which contributed to the alleged delay in the filing of *Cristobal's* ... complaint for reinstatement."^[14] It appeared therein that *Cristobal* and the other dismissed employees were assured by Executive Secretary Mutuc that he would work for their reinstatement; however, Mr. Mutuc was replaced by other Executive Secretaries to whom *Cristobal* "over and over again presented his request for reinstatement and who gave the same assurance that *Cristobal* would be recalled and re-employed at the 'opportune time.'" This "continued promise of government officials concerned led *Cristobal* to bide his time and wait for the Office of the President to comply with its commitment."^[15]

Even granting that the petitioner can avail herself of the writ of mandamus, we find no special or cogent reason to justify acceptance of this petition as an exception to this Court's policy concerning the hierarchy of courts in relation to cases where it has concurrent jurisdiction with the Regional Trial Court and the Court of Appeals. In *People vs. Cuaresma*,^[16] this Court stated:

"A last word. This court's original jurisdiction to issue writs of certiorari (as well as prohibition, mandamus, quo warranto, habeas corpus and injunction) is not exclusive. It is shared by this Court with Regional Trial Courts (formerly Courts of First Instance), which may issue the writ, enforceable in any part of their respective

regions. It is also shared by this court, and by the Regional Trial Court, with the Court of Appeals (formerly, Intermediate Appellate Court), although prior to the effectivity of Batas Pambansa Bilang 129 on August 14, 1981, the latter's competence to issue the extraordinary writs was restricted by those 'in aid of its appellate jurisdiction.' This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and should also serve as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ('inferior') courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is established policy. It is a policy that is necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket. Indeed, the removal of the restriction of the jurisdiction of the Court of Appeals in this regard, *supra* -- resulting from the deletion of the qualifying phrase, 'in aid of its appellate jurisdiction' -- was evidently intended precisely to relieve this Court *pro tanto* of the burden of dealing with applications for extraordinary writs which, but for the expansion of the Appellate Court's corresponding jurisdiction, would have had to be filed with it." (citations omitted)

And in *Defensor-Santiago vs. Vasquez*,^[17] this Court said:

"One final observation. We discern in the proceedings in this case a propensity on the part of petitioner, and, for that matter, the same may be said of a number of litigants who initiate recourses before us, to disregard the hierarchy of courts in our judicial system by seeking relief directly from this Court despite the fact that the same is available in the lower courts in the exercise of their original or concurrent jurisdiction, or is even mandated by law to be sought therein. This practice must be stopped, not only because of the imposition upon the precious time of this Court but also because of the inevitable and resultant delay, intended or otherwise, in the adjudication of the case which often has to be remanded or referred to the lower court as the proper forum under the rules of procedure, or as better equipped to resolve the issues since this Court is not a trier of facts. We, therefore, reiterate the judicial policy that this Court will not entertain direct resort to it unless the redress desired cannot be obtained in the appropriate courts or where exceptional and compelling circumstances justify availment of a remedy within and calling for the exercise of our primary jurisdiction."

WHEREFORE, IN VIEW OF ALL OF THE FOREGOING, judgment is hereby rendered DISMISSING the instant petition.

No pronouncement as to costs.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Romero, Quiason, Puno, and Mendoza, JJ., concur.

Feliciano and Melo, JJ., in the result.

Bellosillo, J., separate concurring opinion.

Vitug, J., join J. Kapunan in his dissenting opinion.

Cruz and Bidin, JJ., on official leave.

[1] Rollo, 6.

[2] One of the companion cases in *Mendoza vs. Quisumbing*, 186 SCRA 108 [1990].

[3] Said section provides in part as follows: "Unless otherwise provided by this Constitution or by law, any

decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof."

[4] Dario vs. Mison, 176 SCRA 84, 111 [1989].

[5] Supra footnote no. 2.

[6] Annex "D" of Petition; Rollo, 14.

[7] Annex "B"; Id., 10.

[8] Annex "C"; Id., 11-12.

[9] Annex "D"; Id., 13.

[10] Annex "E" of Petition; Rollo, 15.

[11] Annex "F"; Id., 16-17.

[12] Annex "G"; Id., 18-19.

[13] 78 SCRA 175 [1977].

[14] Id. at 183.

[15] Id. at 184.

[16] 172 SCRA 415, 423-424 [1989].

[17] 217 SCRA 633, 651-652 [1993].

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CONCURRING OPINION

BELLOSILLO, J.:

I concur subject to my ponencia in *Aldovino v. ALunan*.^[1] I will explain.

I agree with the dissent of Mr. Justice Kapunan that the declaration of nullity of the assailed reorganizations in *Arizabal v. Leviste*^[2] nullified also in effect the separation of petitioner from the service; hence, theoretically, she could not be deemed to have been terminated. However, her act of signing up for another position, albeit lower, within the same office amounted to an abdication of her right to hold her former position. In other words, despite her separation, petitioner remained, in legal contemplation, as incumbent Planning Assistant of DOST. But the effect of her unqualified assumption as Clerk II is resignation from her former office as she cannot be holding both offices at the same time.

Significantly, it appears from the statement of facts of the majority opinion that after the reorganization, petitioner never questioned her removal until the decision in *Arizabal*. She seemed contented with what fate befell her. Before then, there was no indication whatsoever that she resented her separation. She assumed the position of Clerk II without any condition or qualification; neither did she express interest in her reinstatement as Planning Assistant. Her actuation is indicum that she "opted to be phased out," to use the language of *Arizabal*. Consequently, she is not entitled to reinstatement to her former position.

Her situation is far different from that of most petitioners and intervenors in *Aldovino* who, from the start of their separation, unceasingly fought for their positions and demanding reinstatement, although in different fora - some administratively, others judicially and extra-judicially. The ruling in *Cristobal v. Melchor*[3] cannot save her as it should only be applied sparingly and only in extreme cases of injustice. Her case is not one of them. She does not appear to be a victim of injustice.

I also vote for the denial of the petition.

[1] G.R. No. 102232, 9 March 1994.

[2] G.R. No. 81495, 4 June 1990, 186 SCRA 108, a lesser known companion case of *Mendoza v. Quisumbing*, G.R. No. 78053.

[3] No. L-43203, 29 July 1977, 78 SCRA 175.

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DISSENTING OPINION

KAPUNAN, J.:

Arizabal vs. Leviste and the consolidated cases involving the reorganization of various government departments and agencies, emphatically held:

We are constrained to set aside the reorganization embodied in these consolidated petitions because the heads of departments and agencies concerned have chosen to rely on their own concepts of unlimited discretion and 'progressive' ideas on reorganization instead of showing that they have faithfully complied with the clear letter and spirit of the two constitutions and the statutes governing reorganizations.[1]

In dismissing the petition of the Secretary of the Department of Science and Technology (DOST) and the Director and members of the Reorganization Evaluation Committee of the Philippine Nuclear Research Institute seeking annulment of the orders of the Regional Trial Court of Quezon City restraining them from dismissing various employees of the PNRI under Executive Order No. 128, we ordered the petitioners therein to retain the said employees under the new staffing pattern with positions comparable or equivalent to their former ranks and salaries. Specifically, we ruled that:

4) In G.R. No. 81495, the petition is DISMISSED. Except in the cases of those who have retired or opted to be phased out and who have received their separation and retirement benefits, the petitioners are ordered to retain the private respondents-employees in the reorganized department under the new staffing pattern with positions and salaries comparable or equivalent to their former positions but not lower than their former ranks and salaries.[2]

The clear import of our decisions in these consolidated cases was that without exception 1) all the reorganizations embodied in the consolidated cases were set aside, and; 2) in cases where it was plainly impossible and impracticable to comply with our holding in *Mendoza*, we allowed a modification of our holding, provided those affected were restored to positions of similar rank and salary, if said employees did not opt for retirement or separation. Even assuming that petitioner allowed to have her name placed in a manpower pool for purposes of being assigned to another job, consistent with this Court's holding in *Arizabal vs Leviste*, equity demands that she should have been automatically reassigned to a position both of comparable rank and salary.

A lot has been said about the fact that herein petitioner was not among the original private respondents in G.R. No. 81495. Considering our decision in *Arizabal* and the subsequent case, *De Guzman v. CSC*, *infra*, her failure to join the petitioners in *Arizabal* was not fatal to her petition for reinstatement and back salaries. In *Cristobal vs. Melchor*[3] where the doctrine of laches was invoked to defeat the petitioner's demand for reinstatement to his former position with the Office of the President, this Court held the statute of limitations (provided for in Section 16, Rule 66, of the Rules of Court) inapplicable because there was no acquiescence or inaction on the part of *Cristobal* which would amount to an abandonment of his right to reinstatement. Addressing the contention that he was not one of the parties to the civil case and could not benefit from the lower court's decision in the said civil case, we held that:

Cristobal was not one of the plaintiffs in the civil case, it is true, but his non-participation is not fatal to his cause of action (Emphasis ours). During the pendency of the civil case *Cristobal* continued to press his request for reinstatement together with the other employees who had filed the complaint and was in fact promised reinstatement as will be shown more in detail later.

More importantly, *Cristobal* could be expected - without necessarily spending time and money by going to court - to rely upon the outcome of the case filed by his co-employees to protect his interests considering the similarity of his situation to that of the plaintiffs therein and the identical relief being sought. On this point, We find a statement of Justice Louis Brandeis of the United States Supreme Court in *Southern Pacific vs. Bogert*, relevant and persuasive, and We quote:

The essence of laches is not merely lapse of time. It is essential that there be also acquiescence in the alleged wrong or lack of diligence in seeking a remedy. Here plaintiffs, or others representing them, protested x x x and ever since they have x x x persisted in the diligent pursuit of a remedy x x x. Where the cause of action is of such a nature that a suit to enforce it would be brought on behalf, not only of the plaintiff, but of all persons similarly situated, it is not essential that each such person should intervened (sic) in the suit brought in order that he be deemed thereafter free from the laches which bars those who sleep on their rights. (250 U.S. 483, 39 S. Ct. 536, 63 L. Ed. 1099, 1106?1107; Italics supplied. See also *Overfield vs. Pennroad Corporation, et al.* 42 Fed. Supp. 586, 613).[4]

Significantly, in *Cristobal*, the plaintiff filed his complaint for reinstatement on August 10, 1971 or more than nine (9) years after his services as private secretary in the President's Private Office were terminated.

The similarity in the circumstances of the petitioner and the private respondents in *Arizabal* and our ruling in *Cristobal* militates against public respondents' assertion that petitioner herein could not benefit from our decision in the former case. Furthermore, we did not limit our holding in the *Mendoza* and *Arizabal* cases only to the petitioners therein. The decision was obviously broad enough to include all of those employees affected by the reorganizations we set aside in those consolidated cases such that 1) reinstatement should have been automatic, and; 2) it was not essential that petitioner should have intervened in *Arizabal* or joined the other PNRI employees in assailing the legality of their separation, for her to benefit from our holding.

Petitioner's demotion to a mere Clerk II position with a salary of P17,640.00 from that of Planning Assistant II with compensation of P26,250.00 and the respondents' failure to rectify this situation were clearly in blatant contravention of both the letter and spirit of our orders in *Mendoza* and *Arizabal*.

With due respect, I cannot simply reconcile myself with the majority's rationalization that petitioner was not compelled to accept the new position, that instead of questioning the new position structure or taking the alternative of separation or retirement, she expressed preference for the new position and voluntarily accepted appointment thereto. On April 16, 1988 petitioner was removed from her earlier job as a result of the PNRI reorganization. She was unemployed for fourteen months. On June 15, 1989, she accepted a Clerk II position with

a salary considerably less than the one which was abolished as result of the new staffing structure. From these circumstances, one can hardly assume that she accepted the unconscionable demotion "voluntarily." She did not have much choice. It was an option between the degradation of having to accept a lowly position with a salary reduced by more than one third and the pangs of hunger out of joblessness, at a time when heads of government departments and agencies were engaged in their orgy of throwing out from office hordes of government workers in the guise of reorganization, running roughshod on their rights of due process and security of tenure. In her unfortunate plight, petitioner, like the dismissed clerk in *Cristobal* who did not have the luxury, time and money to go to court to protect his rights, must also have relied on the outcome of the case filed by her co-employees, given the similarity of her situation to that of theirs.

As I see it, the majority opinion assumes that this case merely involves the validity of final orders of the Civil Service Commission on the separation, removal or termination of a public officer. I beg to disagree. The issue brought before us affects the extent to which DOST has complied with our decision (in *Mendoza*) setting aside the reorganizations involving these government agencies and our holding (in *Arizabal*) directing petitioners in G.R. No. 81495 to reinstate their employees to positions of similar rank and salary. Such being the case, it would be inappropriate, in my mind, to misdirect our attention to petitioner's failure to comply with procedural steps relating to the the CSC's order, rather than on the results of the abolition of the office itself. That would be mistaking the trees for the forest.

There is no disagreement on the proposition that a valid abolition of an office is neither a separation nor a removal. Where, however, the abolition is void, the incumbent is deemed never to have ceased to hold office.[5] In *Cruz vs. Primicias*[6] where the validity of the reorganization of provincial departments in the Province of Pangasinan was assailed by government employees terminated as a result of abolition of their offices, the Court, said:

No removal or separation of petitioners from service is here involved, but the validity of the abolition of their offices. This is a legal question that is for the Courts to decide. It is a well-known rule also that a valid abolition of offices is neither removal or separation of the incumbents. And of course, if the abolition is void the incumbent is deemed never to have ceased to hold office.

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As well settled is the rule that the abolition of an office does not amount to an illegal removal of its incumbent is the principle that, in order to be valid, the abolition must be made in good faith. Where the abolition is made in bad faith, for political and personal reasons, or in order to circumvent the constitutional security of tenure of civil service employees, it is null and void.[7]

One of the points raised by the respondents in *Primicias* to defeat the petitioners' challenge against the validity of the abolition of their offices was precisely a procedural point: their failure to exhaust administrative remedies. In laying the question to rest, the Court emphasized that the petitioners therein never actually ceased to hold office if the abolition was null and void. Being null and void, their failure to exhaust available administrative remedies was clearly beside the point.

As recently as March 11, 1994 in *De Guzman vs. Civil Service Commission*[8] where we clearly reiterated the fact that "we nullified the reorganization of respondents DOST and PNRI,"[9] in *Arizabal vs Leviste*, we held, citing *Arizabal*, that:

An abolition which is not bona fide but is merely a device to circumvent the constitutional security of tenure of the civil service employees is null and void.[10]

In the case at bench, therefore, the effect of our decision in the above-cited consolidated cases and in *De Guzman*

was to bring back those employees adversely affected by these reorganizations as far as practicable to the status quo on the day their positions were abolished. Consequently, as petitioner is deemed never to have ceased to hold office, it follows that the appealed decisions of the DOST and the Civil Service Commission have no practical force and effect, to begin with. By operation of law, she was entitled to all the rights and privileges which accrued to her by virtue of the office she held. Her failure to appeal the respondent Commission's decision within the thirty-day period required by the Constitution was, therefore, immaterial because in the eyes of the law, her entitlement to the position of Planning Assistant (or to an equivalent one) and to the emoluments and privileges attached to the same had never actually ceased. From a practical point of view, her initial request for reinstatement to the position of Planning Assistant II, was in effect a request for compliance with our earlier orders in the Mendoza and Arizabal cases. The DOST's refusal to comply with the said orders, its failure to restore petitioner to the status quo, and the CSC's Resolution of 29 August 1991 were therefore made in excess of respondents' jurisdiction. Compliance with our decision ordering the public officials concerned to restore employees affected by the reorganization of the PNRI to the status quo as far as practicable in *Arizabal vs. Leviste* was not discretionary, but made obligatory by our orders in the Mendoza and Arizabal.

The majority opinion has made much out of the petitioner's failure to comply with Article IX of the Constitution requiring that such petitions be filed within thirty days from receipt of the assailed resolutions, and Circular I-88 which requires a verified statement of material dates in these petitions. As we had already made a clear and unequivocal pronouncement in *Arizabal* to restore the illegally dismissed employees to positions comparable or equivalent to those they formerly held, "but not lower than their former ranks and salaries" (except in the cases of those who have retired or opted to be phased out and who have received their separation and retirement benefits), the only thing left to do for DOST was to implement or execute the directive. Petitioner's recourse to CSC from the adverse ruling of DOST was a superfluity as petitioner could have come to this Court to execute or implement its final orders. Hence, the prescriptive period mandated by Article IX of the 1987 Constitution could not have run. Moreover, the constitutional guarantee of security of tenure mandates that, as in *Mendoza vs. Quisumbing* and the *Dario vs. Mison*^[11] cases, we disregard the procedural roadblocks erected by the public respondent in order to defeat what is otherwise a valid claim. A much more equitable result would have followed had we proceeded to treat the case at bench essentially on its own merits, particularly when we consider that the questioned delay in this case was even far less than the assailed delays in *Dario vs. Mison* and in the earlier case of *Cristobal vs. Melchor*.

In *Dario*, which we cited with favor in *Mendoza vs. Quisumbing*, we stated that:

The Court disregards the questions raised as to procedure... and other technical objections, for two reasons, "[b]ecause of the demands of public interest, including the need for stability in the public service... and because of the serious implications of these cases on the administration of the Philippine civil service and the rights of public servants."^[12]

The Constitution, no less, demands a similar treatment of the procedural roadblocks that stand in the way of petitioner's valid claim.

I vote to grant due course to the petition and to enter judgment as follows:

1. Declaring Resolution No. 91-1036 of respondent Civil Service Commission as null and void for being issued in grave abuse of discretion;
2. Ordering respondent Secretary of Science and Technology to reinstate the petitioner to the position of Planning Assistant, or if this is not possible, to another position of equivalent rank; and
3. Ordering the Secretary of Science and Technology to pay the backwages of petitioner for the period from

April 16, 1988, the date she was illegally dismissed, to June 14, 1989, the date she was reinstated.

[1] *Mendoza v. Quisumbing*, 186 SCRA 108 (1990). *Arizabal* was one of the companion cases decided in *Mendoza*.

[2] *Id.*, at 155.

[3] 78 SCRA 175 (1977).

[4] *Id.*, at 183.

[5] *Cruz v. Primicias*, 23 SCRA 998, 1003 (1968)

[6] *Id.*

[7] *Id.* (citations omitted).

[8] G.R. No. 10105, March 11, 1994.

[9] *Id.* (Emphasis supplied)

[10] Citing *Arizabal v. Leviste*, see *supra*, note 1.

[11] Cited in *Mendoza*, *supra* note 1 at 138-139.

[12] *Id.*

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