COMMISSIONER OF INTERNAL REVENUE, PETITIONER, VS. THE HONORABLE ROSE MARIE ALONZO- LEGASTO, PRESIDING JUDGE, REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 99, ROSITA G. AQUINO, HO...

G.R. NO. 148443. April 24, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

At bar is a Petition for Certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended, seeking to annul the Order dated June 25, 2001, in Civil Case No. Q-01-44222, issued by Judge Rose Marie Alonzo-Legasto of the Regional Trial Court, Branch 99, Quezon City, respondent.

Records show that the Commissioner of Internal Revenue (CIR), herein petitioner, thru the Secretary of Finance, filed with the Commission on Elections (COMELEC) a request for exemption from the ban on the transfer, promotion, reassignment, and recruitment of public sector employees during the election period[1] for the May 14, 2001 elections.

In response to petitioner's request, the COMELEC, on January 24, 2001, issued Resolution No. 3499, dated January 24, 2001 granting the request, thus:

> Considering the foregoing, the Commission RESOLVED, as it hereby RESOLVES, to grant the request of the Department of Finance subject to the submission of the following:
>
> (1) Supporting documents such copies of the Executive Orders;
> (2) Data and information anent the personnel actions or movements proposed, such as the following:
>
> a) nature of the request
> b) names and/or number of personnel
> c) number of positions; and
> d) the organization units affected.
>
> SO ORDERED.

On March 27, 2001, petitioner submitted to the COMELEC the required supporting documents and the Bureau of Internal Revenue (BIR) Organization Structure as of March 27, 2001.

The private respondents were Chief Revenue Officers IV of the BIR. Prior to the instant controversy, their respective posts were as follows:

Honorata Aguilar - San Juan, Metro Manila
Rosita G. Aquino - Malolos, Bulacan
Jose C. Baldonado, Jr. - Lucena City
Julita F. Batoon - Malabon-Navotas, Metro Manila

Gerardo R. Florendo - South Quezon City, Metro Manila
Myrna S. Leonida - Taguig, Metro Manila
Danilo C. Mendoza - Marikina City, Metro Manila
Arturo V. Parcero - Pasig City, Metro Manila

On May 24, 2001, or during the election period for the May 14, 2001 elections, petitioner issued Revenue Travel Assignment Order (RTAO) No. 4-2001 reassigning private respondents as Technical Assistants in the Taxpayer Assistance Service at its National Office in Quezon City, except Jose Baldonado who was assigned at San Pablo City. RTAO No. 4-2001 was issued pursuant to Section 17 of the Tax Reform Act of 1997 (Republic Act No. 8424) authorizing the BIR Commissioner to assign and reassign personnel in the exigencies of the service.

On May 25, 2001, petitioner submitted to the COMELEC the names and positions of the said personnel detailed to other posts who were exempted from the ban on transfer during the election period.

On June 1, 2001, private respondents filed with the Regional Trial Court (RTC), Branch 99, Quezon City, presided over by respondent judge, a Complaint for Injunction with Prayer for a Temporary Restraining Order (TRO) and/or Preliminary Injunction, docketed as Civil Case No. Q-01-44422. They sought to enjoin petitioner from implementing RTAO No. 4-2001, as well as his Memorandum dated May 30, 2001 ordering them to comply with RTAO No. 4-2001. The complaint alleged that their transfer/reassignment pursuant to RTAO No. 4-2001 was tantamount to a removal without cause, hence, illegal; that while there was no diminution in salaries, however, they suffered a demotion in terms of rank or status; and RTAO No. 4-2001 is void as it does not bear the imprimatur of the Secretary of Finance.

On June 5, 2001, respondent judge issued a TRO enjoining petitioner from implementing RTAO No. 4-2001. Thereafter, she conducted hearings on private respondents' application for the issuance of a writ of preliminary injunction.

On June 18, 2001, petitioner filed his Answer to the complaint.

On June 25, 2001, respondent judge issued an Order declaring that the reassignment of private respondents under RTAO No. 4-2001 is neither a demotion nor a removal without cause. Moreover, RTAO No. 4-2001 is in accordance with the law. Still, respondent judge issued a preliminary injunction on the ground that petitioner had not "obtained any exemption from the election ban."

The fundamental issue for our resolution is whether respondent judge, in issuing the said Order, committed grave abuse of discretion amounting to lack or excess of jurisdiction, specifically in holding that petitioner, in reassigning private respondents to other posts, violated the election ban on the transfer of the BIR personnel during election period.

As stated earlier, the election period for the May 2001 elections was from January 2, 2001 to June 13, 2001. We recall that petitioner herein issued RTAO No. 4-2001 on May 24, 2001, or during the 2001 election period. Section 261(h) of the Omnibus Election Code, quoted hereunder, prohibits the transfer or detail of any public officer or employee, such as private respondents herein, during an election period, except upon prior approval of the COMELEC.

> SEC. 261. Prohibited Acts. - The following shall be guilty of an election offense:
>
> x x x
>
> (h) Transfer of officers and employees in the civil service. - Any public official who makes or causes any transfer or detail whatever of any officer or employee in the civil service including public school teachers,

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within the election period except upon prior approval of the Commission.

It is on record that petitioner, thru the Secretary of Finance, filed a request with the COMELEC for exemption from the election ban on the transfer, assignment, promotion, and recruitment of its officers and employees. The COMELEC granted the request on January 24, 2001, subject to the submission by petitioner of certain supporting documents. On March 27, 2001, petitioner complied with the COMELEC's requirement by submitting copies of Executive Order No. 175[2] and the BIR Organizational Structure as of March 27, 2001. On May 25, 2001, petitioner furnished the COMELEC with the names and positions of the BIR officers and employees transferred or reassigned to other places of work pursuant to RTAO No. 4-2001.

But respondent judge ruled that a subsequent approval by the COMELEC of petitioner's compliance is still required. We cannot go along with such ruling. Resolution No. 3499 of the COMELEC is clear and categorical. It granted petitioner's request for exemption from the election ban on the transfer of personnel subject only to submission of certain documents. Clearly, the COMELEC's further approval of these requirements is no longer necessary. Otherwise, the COMELEC should have withdrawn its favorable action had it found that petitioner's compliance was not in order.

We thus hold that in issuing the assailed Order dated June 25, 2001 granting private respondents' application for preliminary injunction in Civil Case No. Q-01-44222, respondent judge gravely abused her discretion. Grave abuse of discretion exists where an act of a court or tribunal is performed with a capricious or whimsical exercise of judgment equivalent to lack of jurisdiction, as in this case.[3]

WHEREFORE, the petition is GRANTED. The Order dated June 25, 2001 issued by Judge Rose Marie Alonzo-Legasto of the Regional Trial Court, Branch 99, Quezon City in Civil Case No. Q-01-44422 is SET ASIDE.
SO ORDERED.

Corona, Azcuna, and Garcia, JJ., concur.
Puno, (Chairperson), J., on leave.

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[1] This election period is pursuant to Section 9, Article IX-C of the Constitution which provides that the election period shall commence 90 days before the day of the election and shall end 30 days thereafter, unless otherwise fixed by the COMELEC in special cases. In this case, the election period was from January 2 to June 13, 2001.

[2] Promulgated on November 3, 1999, the Executive Order is entitled "Organization Restructuring Of The Bureau of Internal Revenue To Improve Administrative Control Over Certain Categories of Taxpayers."

[3] China Banking Corporation v. Mondragon International Philippines, G.R. No. 164798, November 17, 2005, 475 SCRA 332.

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