MALARIA EMPLOYEES AND WORKERS ASSOCIATION OF THE PHILIPPINES, INC. (MEWAP), REPRESENTED BY ITS NATIONAL PRESIDENT, DR. RAMON A. SULLA, AND MEWAP DOH CENTRAL OFFICE CHAPTER PRESI...

G.R. NO. 160093. July 31, 2007

Ponente: PUNO, C.J.

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PUNO, C.J.:

At bar is a Petition for Review on Certiorari of the Decision of the Court of Appeals in CA-G.R. SP No. 65475 dated September 12, 2003 which upheld the validity of Executive Order (E.O.) No. 102,[1] the law Redirecting the Functions and Operations of the Department of Health. Then President Joseph E. Estrada issued E.O. No. 102 on May 24, 1999 pursuant to Section 20, Chapter 7, Title I, Book III of E.O. No. 292, otherwise known as the Administrative Code of 1987, and Sections 78 and 80 of Republic Act (R.A.) No. 8522, also known as the General Appropriations Act (GAA) of 1998. E.O. No. 102 provided for structural changes and redirected the functions and operations of the Department of Health.

On October 19, 1999, the President issued E.O. No. 165 "Directing the Formulation of an Institutional Strengthening and Streamlining Program for the Executive Branch" which created the Presidential Committee on Executive Governance (PCEG) composed of the Executive Secretary as chair and the Secretary of the Department of Budget and Management (DBM) as co-chair.

The DBM, on July 8, 2000, issued the Notice of Organization, Staffing and Compensation Action (NOSCA). On July 17, 2000, the PCEG likewise issued Memorandum Circular (M.C.) No. 62, entitled "Implementing Executive Order No. 102, Series of 1999 Redirecting the Functions and Operations of the Department of Health."[2] M.C. No. 62 directed the rationalization and streamlining of the said Department.

On July 24, 2000, the Secretary of Health issued Department Memorandum No. 136, Series of 2000, ordering the Undersecretary, Assistant Secretaries, Bureau or Service Directors and Program Managers of the Department of Health to direct all employees under their respective offices to accomplish and submit the Personal Information Sheet due to the approval of the Department of Health – Rationalization and Streamlining Plan.

On July 28, 2000, the Secretary of Health again issued Department Circular No. 221, Series of 2000, stating that the Department will start implementing the Rationalization and Streamlining Plan by a process of selection, placement or matching of personnel to the approved organizational chart and the list of the approved plantilla items.[3] The Secretary also issued Administrative Order (A.O.) No. 94, Series of 2000, which set the implementing guidelines for the restructuring process on personnel selection and placement, retirement and/or voluntary resignation. A.O. No. 94 outlined the general guidelines for the selection and placement of employees adopting the procedures and standards set forth in R.A. No. 6656[4] or the "Rules on Governmental Reorganization," Civil Service Rules and Regulations, Sections 76 to 78 of the GAA for the Year 2000, and Section 42 of E.O. No. 292.

On August 29, 2000, the Secretary of Health issued Department Memorandum No. 157, Series of 2000, viz.:

> Pursuant to the Notice of Organization, Staffing and Compensation Action (NOSCA) approved by the DBM on 8 July 2000 and Memorandum Circular No. 62 issued by the Presidential Committee on Effective Governance (PCEG) on 17 July 2000, Implementing E.O. 102 dated 24 May 1999, the following approved Placement List of DOH Personnel is hereby disseminated for your information and guidance.
>
> All personnel are hereby directed to report to their new assignments on or before 2 October 2000 pending processing of new appointments, required clearances and other pertinent documents.
>
> All Heads of Office/Unit in the Department of Health are hereby directed to facilitate the implementation of E.O. 102, to include[,] among others, the transfer or movement of personnel, properties, records and documents to appropriate office/unit and device other necessary means to minimize disruption of office functions and delivery of health services.
>
> Appeals, oversights, issues and concerns of personnel related to this Placement List shall be made in writing using the Appeals Form (available at the Administrative Service) addressed to the Appeals Committee chaired by Dr. Gerardo Bayugo. All Appeals Forms shall be submitted to the Re-Engineering Secretariat xxx not later than 18 September 2000. [5]

Petitioner Malaria Employees and Workers Association of the Philippines, Inc. (MEWAP) is a union of affected employees in the Malaria Control Service of the Department of Health. MEWAP filed a complaint, docketed as Civil Case No. 00-98793, with the Regional Trial Court of Manila seeking to nullify Department Memorandum No. 157, the NOSCA and the Placement List of Department of Health Personnel and other issuances implementing E.O. No. 102.

On May 2, 2001, while the civil case was pending at the Regional Trial Court of Manila, Branch 22, petitioners filed with this Court a petition for certiorari under Rule 65 of the Rules of Court. Petitioners sought to nullify E.O. No. 102 for being issued with grave abuse of discretion amounting to lack or excess of jurisdiction as it allegedly violates certain provisions of E.O. No. 292 and R.A. No. 8522. The petition was referred to the Court of Appeals which dismissed the same in its assailed Decision. Hence, this appeal where petitioners ask for a re-examination of the pertinent pronouncements of this Court that uphold the authority of the President to reorganize a department, bureau or office in the executive department. Petitioners raise the following issues, viz.:

> - Whether Sections 78 and 80 of the General Provision of Republic Act No. 8522, otherwise known as the General Appropriation[s] Act of 1998[,] empower former President Joseph E. Estrada to reorganize structurally and functionally the Department of Health.
>
> - Whether Section 20, Chapter I, title i, Book III of the Administrative Code of 1987 provides legal basis in reorganizing the Department of Health.
>
> (A) Whether Presidential Decree No. 1416, as amended by Presidential Decree No. 1772, has been repealed.
>
> - Whether the President has authority under Section 17, Article VIII of the Constitution to effect a reorganization of a department under the executive branch.
>
> - Whether there has been abuse of discretion amounting to lack or excess of jurisdiction on the part of former President Joseph E. Estrada in issuing Executive Order No. 102, Redirecting the functions and operations of the Department of Health.
>
> - Whether Executive Order No. 102 is null and void.[6]

We deny the petition.

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The President has the authority to carry out a reorganization of the Department of Health under the Constitution and statutory laws. This authority is an adjunct of his power of control under Article VII, Sections 1 and 17 of the 1987 Constitution, viz.:

> Section 1. The executive power shall be vested in the President of the Philippines.
>
> Section 17. The President shall have control of all the executive departments, bureaus and offices. He shall ensure that the laws be faithfully executed.

In Canonizado v. Aguirre,[7] we held that reorganization "involves the reduction of personnel, consolidation of offices, or abolition thereof by reason of economy or redundancy of functions." It alters the existing structure of government offices or units therein, including the lines of control, authority and responsibility between them.[8] While the power to abolish an office is generally lodged with the legislature, the authority of the President to reorganize the executive branch, which may include such abolition, is permissible under our present laws, viz.:

> The general rule has always been that the power to abolish a public office is lodged with the legislature. This proceeds from the legal precept that the power to create includes the power to destroy. A public office is either created by the Constitution, by statute, or by authority of law. Thus, except where the office was created by the Constitution itself, it may be abolished by the same legislature that brought it into existence.
>
> The exception, however, is that as far as bureaus, agencies or offices in the executive department are concerned, the President's power of control may justify him to inactivate the functions of a particular office, or certain laws may grant him the broad authority to carry out reorganization measures.[9]

The President's power to reorganize the executive branch is also an exercise of his residual powers under Section 20, Title I, Book III of E.O. No. 292 which grants the President broad organization powers to implement reorganization measures, viz.:

> SEC. 20. Residual Powers. – Unless Congress provides otherwise, the President shall exercise such other powers and functions vested in the President which are provided for under the laws and which are not specifically enumerated above, or which are not delegated by the President in accordance with law.[10]

We explained the nature of the President's residual powers under this section in the case of Larin v. Executive Secretary, [11] viz.:

> This provision speaks of such other powers vested in the President under the law. What law then gives him the power to reorganize? It is Presidential Decree No. 1772 which amended Presidential Decree No. 1416. These decrees expressly grant the President of the Philippines the continuing authority to reorganize the national government, which includes the power to group, consolidate bureaus and agencies, to abolish offices, to transfer functions, to create and classify functions, services and activities and to standardize salaries and materials. The validity of these two decrees [is] unquestionable. The 1987 Constitution clearly provides that "all laws, decrees, executive orders, proclamations, letters of instructions and other executive issuances not inconsistent with this Constitution shall remain operative until amended, repealed or revoked." So far, there is yet no law amending or repealing said decrees.[12]

The pertinent provisions of Presidential Decree No. 1416, as amended by Presidential Decree No. 1772, clearly support the President's continuing power to reorganize the executive branch, viz.:

> - The President of the Philippines shall have continuing authority to reorganize the National Government. In exercising this authority, the President shall be guided by generally acceptable principles of good government and responsive national development, including but not limited to the following guidelines for a more efficient, effective, economical and development-oriented governmental framework:

> x x x
>
> b) Abolish departments, offices, agencies or functions which may not be necessary, or create those which are necessary, for the efficient conduct of government functions, services and activities;
>
> c) Transfer functions, appropriations, equipment, properties, records and personnel from one department, bureau, office, agency or instrumentality to another;
>
> d) Create, classify, combine, split, and abolish positions;
>
> e) Standardize salaries, materials, and equipment;
>
> f) Create, abolish, group, consolidate, merge, or integrate entities, agencies, instrumentalities, and units of the National Government, as well as expand, amend, change, or otherwise modify their powers, functions, and authorities, including, with respect to government-owned or controlled corporations, their corporate life, capitalization, and other relevant aspects of their charters;
>
> g) Take such other related actions as may be necessary to carry out the purposes and objectives of this Decree.

Petitioners argue that the residual powers of the President under Section 20, Title I, Book III of E.O. No. 292 refer only to the Office of the President and not to the departments, bureaus or offices within the executive branch. They invoke Section 31, Chapter 10, Title III, Book III of the same law, viz.:

> Section 31. Continuing Authority of the President to Reorganize his Office. – The President, subject to the policy in the Executive Office and in order to achieve simplicity, economy and efficiency, shall have continuing authority to reorganize the administrative structure of the Office of the President. x x x

The interpretation of petitioners is illogically restrictive and lacks legal basis. The residual powers granted to the President under Section 20, Title I, Book III are too broad to be construed as having a sole application to the Office of the President. As correctly stated by respondents, there is nothing in E.O. No. 292 which provides that the continuing authority should apply only to the Office of the President.[13] If such was the intent of the law, the same should have been expressly stated. To adopt the argument of petitioners would result to two conflicting provisions in one statute. It is a basic canon of statutory construction that in interpreting a statute, care should be taken that every part thereof be given effect, on the theory that it was enacted as an integrated measure and not as a hodge-podge of conflicting provisions. The rule is that a construction that would render a provision inoperative should be avoided; instead, apparently inconsistent provisions should be reconciled whenever possible as parts of a coordinated and harmonious whole.[14]

In fact, as pointed out by respondents, the President's power to reorganize the executive department even finds further basis under Sections 78 and 80 of R.A. No. 8522, viz.:[15]

> Section 78. Organizational Changes ' Unless otherwise provided by law or directed by the President of the Philippines, no organizational unit or changes in key positions in any department or agency shall be authorized in their respective organizational structure and funded from appropriations provided by this Act.
>
> Section 80. Scaling Down and Phase-out of Activities of Agencies within the Executive Branch – The heads of departments, bureaus, offices and agencies are hereby directed to identify their respective activities which are no longer essential in the delivery of public services and which may be scaled down, phased-out or abolished subject to Civil Service rules and regulations. Said activities shall be reported to the Office of the President through the Department of Budget and Management and to the Chairman, Committee on Appropriations of the House of Representatives and the Chairman, Committee on Finance of the Senate. Actual scaling down, phase-out or abolition of the activities shall be effected pursuant to Circulars or Orders issued for the purpose by the Office of the President.

Petitioners contend that Section 78 refers only to changes in "organizational units" or "key positions" in any department or agency, while Section 80 refers merely to scaling down and phasing out of "activities" within the executive department. They argue that neither section authorizes reorganization. Thus, the realignment of the appropriations to implement the reorganization of the Department of Health under E.O. No. 102 is illegal.

Again, petitioners' construction of the law is unduly restrictive. This Court has consistently held in Larin[16] and Buklod ng Kawanihang EIIB v. Zamora[17] that the corresponding pertinent provisions in the GAA in these subject cases authorize the President to effect organizational changes in the department or agency concerned.

Be that as it may, the President must exercise good faith in carrying out the reorganization of any branch or agency of the executive department. Reorganization is effected in good faith if it is for the purpose of economy or to make bureaucracy more efficient.[18] R.A. No. 6656[19] provides for the circumstances which may be considered as evidence of bad faith in the removal of civil service employees made as a result of reorganization, to wit: (a) where there is a significant increase in the number of positions in the new staffing pattern of the department or agency concerned; (b) where an office is abolished and another performing substantially the same functions is created; (c) where incumbents are replaced by those less qualified in terms of status of appointment, performance and merit; (d) where there is a classification of offices in the department or agency concerned and the reclassified offices perform substantially the same functions as the original offices; and (e) where the removal violates the order of separation.

We agree with the ruling of the Court of Appeals that the President did not commit bad faith in the questioned reorganization, viz.:

> In this particular case, there is no showing that the reorganization undertaking in the [Department of Health] had violated this requirement, nor [are] there adequate allegations to that effect. It is only alleged that the petitioners were directly affected by the reorganization ordered under E.O. [No.] 102. Absent is any showing that bad faith attended the actual implementation of the said presidential issuance.

IN VIEW WHEREOF, the petition is DENIED. The assailed Decision of the Court of Appeals in CA-G.R. SP No. 65475 dated September 12, 2003 is AFFIRMED.

Costs against petitioners.
SO ORDERED.

Sandoval-Gutierrez, Corona, Azcuna, and Garcia, JJ., concur.

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[1] Annex B; Rollo, 68-72.

[2] Annex E, Petition; Id. at 145-146.

[3] Annex F, Petition; Id. at 147-189.

[4] An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization. Approved on June 10, 1988; 84 Official Gazette No. 24, p. S-1.

[5] Annex G, Petition; Rollo, 190-248.

[6] Petition, 8-9; id. at 16-17.

[7] G.R. No. 133132, January 25, 2000, 323 SCRA 312.

[8] See Buklod ng Kawanihang EIIB v. Zamora, G.R. Nos. 142801-802, July 10, 2001, 360 SCRA 718, citing

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Martin, Philippine Political Law, p. 276.

[9] Ibid. Citations omitted.

[10] Emphasis supplied.

[11] G.R. No. 112745, October 16, 1997, 280 SCRA 713.

[12] Ibid. Emphases supplied. Citations omitted.

[13] Comment, 31; Rollo, 365.

[14] Oil and Natural Gas Commission v. CA, G.R. No. 114323, July 23, 1998, 293 SCRA 26, citing JMM Promotions & Management, Inc. v. NLRC, 228 SCRA 129, 134 (1993).

[15] Sections 78 and 80 were reproduced in The General Appropriations Act of 1999 and 2000.

[16] Supra Note 11.

[17] Supra Note 8.

[18] Department of Trade and Industry v. The Chairman and Commissioners of the Civil Service Commission, G.R. No. 96739, October 13, 1993, 227 SCRA 198.

[19] Supra Note 4.

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