

GONZALO S. GO, JR., PETITIONER, VS. COURT OF APPEALS AND OFFICE OF THE PRESIDENT, RESPONDENTS.

G.R. No. 172027. July 29, 2010

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

Assailed in this Petition for Certiorari[1] under Rule 65 are the Resolutions dated August 17, 2005[2] and January 31, 2006[3] of the Court of Appeals (CA) in CA-G.R. SP No. 90665.

The facts are undisputed.

Petitioner Gonzalo S. Go, Jr. (Go) was appointed in 1980 as Hearing Officer III of the Board of Transportation (BOT), then the government's land transportation franchising and regulating agency, with a salary rate of PhP 16,860 per annum.[4] On June 19, 1987, Executive Order No. (EO) 202[5] was issued creating, within the Department of Transportation and Communications (DOTC), the Land Transportation Franchising and Regulatory Board (LTFRB) to replace the BOT. The issuance placed the LTFRB under the administrative control and supervision of the DOTC Secretary.[6]

On February 1, 1990, the DOTC Secretary extended Go a promotional appointment as Chief Hearing Officer (Chief, Legal Division), with a salary rate of PhP 151,800 per annum.[7] The Civil Service Commission (CSC) later approved this permanent appointment.[8] In her Certification[9] dated October 27, 2005, LTFRB Administrative Division Chief Cynthia G. Angulo stated that the promotion was to the position of Attorney VI, Salary Grade (SG)-26, obviously following budgetary circulars allocating SG-26 to division chief positions.

The instant controversy started when the Department of Budget and Management (DBM), by letter[10] of March 13, 1991, informed the then DOTC Secretary of the erroneous classification in the Position Allocation List (PAL) of the DBM of two positions in his department, one in the LTFRB and, the other, in the Civil Aeronautics Board (CAB). The error, according to the DBM, stemmed from the fact that division chief positions in quasi-judicial or regulatory agencies, whose decisions are immediately appealable to the department secretary instead of to the court, are entitled only to Attorney V, SG-25 allocation. Pertinently, the DBM letter reads:

Under existing allocation criteria division Chief positions in x x x department level agencies performing quasi-judicial/regulatory functions where decisions are appealable to higher courts shall be allocated to Attorney VI, SG-26. Division chief positions in quasi-judicial/regulatory agencies lower than departments such as the Civil Aeronautics Board (CAB) and the Land Transportation Franchising and Regulatory Board (LTFRB) where decisions are appealable to the Secretary of the DOTC and then the Office of the President shall, however be allocated to Attorney V, SG-25.[11] (Emphasis supplied.)

After an exchange of communications between the DBM and the DOTC, the corresponding changes in position classification with all its wage implications were implemented, effective as of April 8, 1991.[12]

Unable to accept this new development where his position was allocated the rank of Attorney V, SG-25, Go wrote

the DBM to question the "summary demotion or downgrading [of his salary grade]" from SG-26 to SG-25. In his protest-letter,[13] Go excepted from the main reason proffered by the DBM that the decisions or rulings of the LTFRB are only appealable to the DOTC Secretary under Sec. 6 of EO 202 and not to the CA. As Go argued, the aforecited proviso cannot prevail over Sec. 9 (3) of Batas Pambansa Blg. (BP) 129, or the Judiciary Reorganization Act of 1980, under which appeals from decisions of quasi-judicial bodies are to be made to the CA.

Ruling of the DBM Secretary & Office of the President

On September 14, 1998, the DBM Secretary denied Go's protest, holding that decisions, orders or resolutions of the LTFRB are appealable to the DOTC Secretary.[14] The DBM reminded Go that based on the department's standards and criteria formulated pursuant to Presidential Decree No. (PD) 985 and Republic Act No. (RA) 6758,[15] the division chief of bureau-level agencies, like the LTFRB, is allocable to Attorney V, SG-25.

In time, Go sought reconsideration, with the following additional argument: LTFRB is similarly situated as another bureau-level agency under DOTC, the CAB, which is listed under Rule 43 of the Rules of Court as among the quasi-judicial agencies whose decisions or resolutions are directly appealable to the CA.

Following the denial of his motion for reconsideration, Go appealed to the Office of the President (OP).

On January 7, 2005, in OP Case No. 99-8880, the OP, agreeing with the ruling of the DBM and the premises holding it together, rendered a Decision dismissing Go's appeal.

The OP would subsequently deny Gonzalo's motion for reconsideration.

Undaunted, Go interposed before the CA a petition for review under Rule 43, his recourse docketed as CA-G.R. SP No. 90665.

Ruling of the Court of Appeals

By Resolution dated August 17, 2005, the appellate court dismissed the petition on the following procedural grounds: (a) Go resorted to the wrong mode of appeal, Rule 43 being available only to assail the decision of a quasi-judicial agency issued in the exercise of its quasi-judicial functions, as DBM is not a quasi-judicial body; (b) his petition violated Sec. 6 (a) of Rule 43; and (c) his counsel violated Bar Matter Nos. 287 and 1132.

Through the equally assailed January 31, 2006 Resolution, the CA rejected Go's motion for reconsideration.

Hence, the instant petition for certiorari.

The Issues

I

DID RESPONDENT [CA] COMMIT GRAVE ABUSE OF DISCRETION x x x WHEN IT DISMISSED OUTRIGHT THE PETITION ON THE GROUND OF ALLEGED WRONG MODE OF APPEAL THROUGH RULE 43 OF THE RULES OF COURT -

- BY CLAIMING THAT WHEN RESPONDENT OP, WHOSE DECISION IN THE EXERCISE OF ITS QUASI-JUDICIAL POWERS IS APPEALABLE TO THE [CA] UNDER RULE 43, AFFIRMED THE DECISION OF THE DBM, IT WAS NOT IN THE EXERCISE OF ITS QUASI-JUDICIAL POWERS BUT IN THE EXERCISE OF ADMINISTRATIVE SUPERVISION AND CONTROL OVER THE DBM AND THEREFORE APPEAL UNDER RULE 43 CANNOT BE AVAILED OF, -- FOR UNWARRANTEDLY READING WHAT IS NOT IN THE LAW AND NOT BORNE OUT BY THE FACTS OF THE CASE?

II

DID RESPONDENT [CA] COMMIT GRAVE ABUSE OF DISCRETION x x x WHEN IT DISMISSED OUTRIGHT THE PETITION ON THE GROUND OF FAILURE TO IMPEAL A PRIVATE RESPONDENT -

- BY CLAIMING THAT "NO PRIVATE RESPONDENT IS IMPEADED IN THE PETITION WHILE IMPEADING THE [DBM] AND THE [OP], IN VIOLATION OF SECTION 6 (A) RULE 43 OF THE RULES OF COURT, -- WHEN SAID PROVISION COULD NOT BE CONSTRUED AS TO HAVE REQUIRED IMPEADING A PRIVATE RESPONDENT IN THE PETITION, IF THERE WAS NONE AT ALL?

III

DID THE [CA] COMMIT GRAVE ABUSE OF DISCRETION x x x WHEN IT DISMISSED OUTRIGHT THE PETITION ON THE GROUND OF FAILURE OF PETITIONER'S COUNSEL TO INDICATE CURRENT IBP AND PTR RECEIPT NOS. AND DATES OF ISSUE -

- BY CLAIMING THAT "PETITIONER'S COUNSEL HAS NOT INDICATED HIS CURRENT IBP AND PTR RECEIPT NUMBERS AND DATES OF ISSUE" -- EVEN AS IN THE MOTION FOR RECONSIDERATION, PETITIONER GO EXPLAINED THAT IT WAS AN HONEST INADVERTENCE AND HE EVEN ATTACHED THERETO COPIES OF COPIES THEMSELVES OF THE CURRENT IBP AND PTR RECEIPTS?

IV

DID RESPONDENT [CA] COMMIT GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DISMISSED OUTRIGHT THE PETITION ON TECHNICAL AND FLIMSY GROUNDS -

- THUS SHIRKING FROM ITS BOUNDEN TASK TO ADDRESS A VERY PRESSINIG LEGAL ISSUE OF WHETHER EO 202 SEC. 6, A MERE EXECUTIVE ORDER, DIRECTING APPEAL TO THE DOTC SECRETARY SHOULD PREVAIL OVER A LAW, BP BLG. 129, SEC, 9 (C) AND RULE 43, SEC. 1 DIRECTING APPEAL TO THE COURT OF APPEALS?[16]

The Court's Ruling

There is merit in the petition.

The core issues may be reduced into two, to wit: first, the propriety of the dismissal by the CA of Go's Rule 43 petition for review on the stated procedural grounds; and second, the validity of the reallocation of rank resulting in the downgrading of position and diminution of salary.

Procedural Issue: Proper Mode of Appeal

As the CA held, Rule 43 is unavailing to Go, the remedy therein being proper only to seek a review of decisions of quasi-judicial agencies in the exercise of their quasi-judicial powers. It added that the primarily assailed action is that of the DBM, which is not a quasi-judicial body. In turn, thus, the affirmatory OP decision was made in the exercise of its administrative supervision and control over the DBM, not in the exercise of its quasi-judicial powers.

The appellate court is correct in ruling that the remedy availed of by Go is improper but not for the reason it proffered. Both Go and the appellate court overlooked the fact that the instant case involves personnel action in the government, i.e., Go is questioning the reallocation and demotion directed by the DBM which resulted in the

diminution of his benefits. Thus, the proper remedy available to Go is to question the DBM denial of his protest before the Civil Service Commission (CSC) which has exclusive jurisdiction over cases involving personnel actions, and not before the OP. This was our ruling involving personnel actions in *Mantala v. Salvador*,^[17] cited in *Corsiga v. Defensor*^[18] and as reiterated in *Olanda v. Bugayong*.^[19] In turn, the resolution of the CSC may be elevated to the CA under Rule 43 and, finally, before this Court. Consequently, Go availed himself of the wrong remedy when he went directly to the CA under Rule 43 without repairing first to the CSC.

Ordinarily, a dismissal on the ground that the action taken or petition filed is not the proper remedy under the circumstances dispenses with the need to address the other issues raised in the case. But this is not a hard and fast rule, more so when the dismissal triggered by the pursuit of a wrong course of action does not go into the merits of the case. Where such technical dismissal otherwise leads to inequitable results, the appropriate recourse is to resolve the issue concerned on the merits or resort to the principles of equity. This is as it should be as rules of procedure ought not operate at all times in a strict, technical sense, adopted as they were to help secure, not override substantial justice.^[20] In clearly meritorious cases, the higher demands of substantial justice must transcend rigid observance of procedural rules.

Overlooking lapses on procedure on the part of litigants in the interest of strict justice or equity and the full adjudication of the merits of his cause or appeal are, in our jurisdiction, matters of judicial policy. And cases materially similar to the one at bench should invite the Court's attention to the merits if only to obviate the resulting inequity arising from the outright denial of the recourse. Here, the dismissal of the instant petition would be a virtual affirmance, on technicalities, of the DBM's assailed action, however iniquitous it may be.

Bearing these postulates in mind, the Court, in the greater interest of justice, hereby disregards the procedural lapses obtaining in this case and shall proceed to resolve Go's petition on its substantial merits without further delay. The fact that Go's protest was rejected more than a decade ago, and considering that only legal questions are presented in this petition, warrants the immediate exercise by the Court of its jurisdiction.

Core Issue: Summary Reallocation Improper

Contrary to the DBM's posture, Go maintains that the LTFRB decisions are appealable to the CA pursuant to Sec. 9 (3) of BP 129 and Rule 43 of the Rules of Court. He argues that the grievance mechanism set forth in Sec. 6 of EO 202 cannot prevail over the appeal provisos of a statute and remedial law. Go thus asserts that the summary reallocation of his position and the corresponding salary grade reassignment, i.e., from Attorney VI, SG-26 to Attorney V, SG-25, resulting in his demotion and the downgrading of the classification of his position, are without legal basis.

EO 202 governs appeals from LTFRB Rulings

We understand where Go was coming from since the DBM letter to the DOTC Secretary implementing the summary reallocation of the classification of the position of LTFRB Chief of the Legal Division gave the following to justify the reclassification: the forum, i.e, the department secretary or the CA, where the appeal of a decision of division chief or head of the quasi-judicial agency may be taken. The DBM, joined by the OP, held that LTFRB decisions are appealable to the DOTC Secretary pursuant to Sec. 6 of EO 202. Therefrom, one may go to the OP before appealing to the CA.

On this count, we agree with the DBM and the OP. Sec. 6 of EO 202 clearly provides:

Sec. 6. Decision of the Board [LTFRB]; Appeals therefrom and/or Review thereof. The Board, in the exercise of its powers and functions, shall sit and render its decisions en banc. x x x

The decision, order or resolution of the Board shall be appealable to the [DOTC] Secretary within thirty (30)

days from receipt of the decision: Provided, That the Secretary may motu proprio review any decision or action of the Board before the same becomes final. (Emphasis supplied.)

As may be deduced from the above provisos, the DOTC, within the period fixed therein, may, on appeal or motu proprio, review the LTFRB's rulings. While not expressly stated in Sec. 6 of EO 202, the DOTC Secretary's decision may, in turn, be further appealed to the OP. The "plain meaning" or verba legis rule dictates that if the statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without interpretation.[21] Thus, the LTFRB rulings are not directly appealable to the CA under Rule 43.

Go further contends that EO 202, a mere executive issuance, cannot be made to prevail over BP 129, Sec. 9 (3), which provides for the appeal of the decisions and rulings of quasi-judicial agencies to the CA. Moreover, he points to the 1997 revision of the Rules of Civil Procedure which now provides under Rule 43 the appeals before the CA of decisions and rulings of quasi-judicial agencies.

Go is mistaken for the ensuing reasons: First, EO 202 was issued on June 19, 1987 by then President Corazon C. Aquino pursuant to her legislative powers under the then revolutionary government. The legislative power of President Aquino ended on July 27, 1987 when the first Congress under the 1987 Constitution convened.[22] For all intents and purposes, therefore, EO 202 has the force and effect of any legislation passed by Congress.

Second, EO 202, creating the LTFRB, is a special law, thus enjoying primacy over a conflicting general, anterior law, such as BP 129. In *Vinzons-Chato v. Fortune Tobacco Corporation*,[23] the Court elucidated on this issue in this wise:

A general law and a special law on the same subject are statutes in *pari materia* and should, accordingly, be read together and harmonized, if possible, with a view to giving effect to both. The rule is that where there are two acts, one of which is special and particular and the other general which, if standing alone, would include the same matter and thus conflict with the special act, the special law must prevail since it evinces the legislative intent more clearly than that of a general statute and must not be taken as intended to affect the more particular and specific provisions of the earlier act, unless it is absolutely necessary so to construe it in order to give its words any meaning at all. (Emphasis supplied.)

Given the foregoing premises, BP 129 must, on matters of appeals from LTFRB rulings, yield to the provision of EO 202, the subsequent special law being regarded as an exception to, or a qualification of, the prior general act.[24]

DBM has authority to allocate classifications
of different positions in the Government service

There is no dispute that the DBM is vested the authority to enforce and implement PD 985, as amended, which mandates the establishment of a unified compensation and position classification system for the government. Sec. 17 (a) of PD 985, as amended by Sec. 14 (a) of RA 6758, and the original Sec. 17 (b) of PD 985 pertinently provide, thus:

Section 17. Powers and Functions. - The Budget Commission (now DBM), principally through the OCPC (now CPCB, Compensation and Position Classification Board) shall, in addition to those provided under other Sections of this Decree, have the following powers and functions:

- a. Administer the compensation and position classification system established herein and revise it as necessary;
- b. Define each grade in the salary or wage schedule which shall be used as a guide in placing positions to their appropriate classes and grades;

Moreover, Secs. 2, 7 and 9 of RA 6758 respectively provide:

Sec. 2. Statement of Policy. -- It is hereby declared the policy of the State to provide equal pay for substantially equal work and to base differences in pay upon substantive differences in duties and responsibilities, and qualification requirements of the positions. x x x For this purpose, the x x x (DBM) is hereby directed to establish and administer a unified Compensation and Position Classification System, hereinafter referred to as the System, as provided for in [PD] No. 985, as amended, that shall be applied for all government entities, as mandated by the Constitution.

x x x x

Sec.7. Salary Schedule. -- The [DBM] is hereby directed to implement the Salary Schedule prescribed below:

x x x x

The [DBM] is hereby authorized to determine the officials who are of equivalent rank to the foregoing Officials, where applicable, and may be assigned the same Salary Grades based on the following guidelines:

x x x x

Sec. 9. Salary Grade Assignments for Other Positions. -- For positions below the Officials mentioned under Section 8 hereof and their equivalent, whether in the National Government, local government units, government-owned or controlled corporations or financial institutions, the [DBM] is hereby directed to prepare the Index of Occupational Services to be guided by the Benchmark Position Schedule prescribed hereunder and the following factors: (1) the education and experience required x x x; (2) the nature and complexity of the work to be performed; (3) the kind of supervision received; (4) mental and/or physical strain required x x x; (5) nature and extent of internal and external relationships; (6) kind of supervision exercised; (7) decision-making responsibility x x x. (Emphasis supplied.)

And while the Office of Compensation and Position Classification, now Compensation and Position Classification Board (CPCB), is vested, under Sec. 8[25] of PD 985, the sole authority to allocate the classification of positions, its determinations relative to the allocations require the approval of the DBM Secretary to be binding.

This brings us to the validity of the reallocation.

Summary reallocation illegal

Go argues that the summary reallocation of the classification of his position as Chief, LTFRB Legal Division to a lower grade substantially reduced his salary and other benefits, veritably depriving him of property, hence, illegal.

We agree with Go on this count. The summary reallocation of his position to a lower degree resulting in the corresponding downgrading of his salary infringed the policy of non-diminution of pay which the Court recognized and applied in *Philippine Ports Authority v. Commission on Audit*, [26] as well as in the subsequent sister cases [27] involving benefits of government employees. Running through the gamut of these cases is the holding that the affected government employees shall continue to receive benefits they were enjoying as incumbents upon the effectivity of RA 6758.

Relevant to the critical issue at hand is Sec. 15 (b) of PD 985 which, as amended by Sec. 13 (a) of RA 6758, pertinently reads:

SEC. 13. Pay Adjustments.- x x x

(b) Pay Reduction -- If an employee is moved from a higher to a lower class, he shall not suffer a reduction in salary: Provided, That such movement is not the result of a disciplinary action or voluntary demotion. (Emphasis supplied.)

Prior to its amendment, Sec. 15 (b) of PD 985 reads:

(b) Pay Reduction -- If an employee is moved from a higher to a lower class, he shall not suffer a reduction in salary except where his current salary is higher than the maximum step of the new class in which case he shall be paid the maximum: Provided, That such movement is not the result of a disciplinary action. (Emphasis supplied.)

As may be noted, the legislature dropped from the original proviso on pay reduction the clause: "except where his current salary is higher than the maximum step of the new class in which case he shall be paid the maximum." The deletion doubtless indicates the legislative intent of maintaining, in line with the non-diminution principle, the level or grade of salary enjoyed by an incumbent before the reallocation to a lower grade or classification is effected. It must be made absolutely clear at this juncture that Go received his position classification of Attorney VI and assigned SG-26 upon his promotional appointment as Chief, LTFRB Legal Division on February 1, 1990, or after the effectivity of RA 6758. Following the clear mandate of the aforequoted Sec. 15(b) of PD 985, as amended, Go must not suffer a reduction in his salary even if there was a reallocation of his position to a lower grade.

Lest it be overlooked, the transition provisos of RA 6758 provide additional justification for Go's entitlement to continue receiving the compensation and emoluments previously granted him upon his promotion as Chief, LTFRB Legal Division. Go, as an incumbent of said position before the assailed reallocation was effected ostensibly through the implementation of RA 6758, the statute's transition provisions should apply *mutatis mutandis* to him. The pertinent provisions are Secs. 12 and 17 of RA 6758, to wit:

Section 12. Consolidation of Allowances and Compensation.--All allowances, except for representation and transportation allowances, clothing and laundry allowances; x x x and such other additional compensation not otherwise specified herein as may determined by the [DBM], shall be deemed included in the standardized salary rates herein prescribed. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized.

x x x x

Section 17. Salaries of Incumbents.--Incumbents of positions presently receiving salaries and additional compensation/fringe benefits including those absorbed from local government units and other emoluments, the aggregate of which exceeds the standardized salary rate as herein prescribed, shall continue to receive such excess compensation, which shall be referred to as transition allowance. The transition allowance shall be reduced by the amount of salary adjustment that the incumbent shall receive in the future.

Pursuant to the principle of non-diminution and consistent with the rule on the prospective application of laws in the spirit of justice and fair play,[28] the above provisions are, indeed, meant to protect incumbents who are receiving salaries and allowances beyond what may be allowable under RA 6758. It may be that Go was not the occupant of his present position as of July 1, 1989. Still the positions in the plantilla of the LTFRB were properly subjected to the standardization under RA 6758. In fact, the matter of excess of salary and benefits in the application of RA 6758 and PD 985 is a non-issue. What is at issue is the reallocation of the position from Attorney VI, SG-26 to Attorney V, SG-25. Obviously, the question of who was sitting as Chief of the Legal Division as of July 1, 1989 is of no moment. Of particular significance is the issue of whether the reallocation to a lower degree is proper given that Go was already enjoying the salary and emoluments as Attorney VI, SG-26 upon his appointment on February 1, 1990 as Chief, LTFRB Legal Division.

While the DBM is statutorily vested with the authority to reclassify or allocate positions to their appropriate classes, with the concomitant authority to formulate allocating policies and criteria for bureau-level agencies, like

the LTFRB, the investiture could not have plausibly included unchecked discretion to implement a reallocation system offensive to the due process guarantee.

It is recognized that one's employment is a property right within the purview of the due process clause. So it was that in *Crespo v. Provincial Board of Nueva Ecija*[29] the Court categorically held that "one's employment, profession, trade or calling is a 'property right,' and the wrongful interference therewith is an actionable wrong. The right is considered to be property within the protection of a constitutional guaranty of due process of law." [30]

Per our count, from his promotional appointment as Chief, LTFRB Legal Division to the time (April 8, 1991) the summary reallocation was implemented, Go had occupied the position and enjoyed the corresponding salary and emoluments therefor for one year, two months and eight days. In this length of time, Go's entitlement to the benefits appurtenant to the position has well nigh ripened into a vested right.

As the records show, Go, as Attorney VI, SG-26, was receiving an annual salary of PhP 151,800. Consequent to the enforcement of the summary reallocation of his position to Attorney V, SG-25, this was effectively reduced, reckoned from April 8, 1991, to PhP 136,620,[31] or a salary reduction of PhP 15,180 a year. These figures of course have yet to factor in supervening pay adjustments occurring through the years.

A vested right is one whose existence, effectivity and extent do not depend upon events foreign to the will of the holder, or to the exercise of which no obstacle exists, and which is immediate and perfect in itself and not dependent upon a contingency.[32] The term "vested right" expresses the concept of present fixed interest which, in right reason and natural justice, should be protected against arbitrary State action, or an innately just and imperative right which enlightened free society, sensitive to inherent and irrefragable individual rights, cannot deny.[33]

To be vested, a right must have become a title--legal or equitable--to the present or future enjoyment of property.[34]

To us, Go has established a clear, equitable vested right to the emoluments of his position as Attorney VI, SG-26. He continues to occupy--at least up to April 11, 2006 when he filed this petition--the position of Chief, LTFRB Legal Division. His title to Attorney VI, SG-26 is without question, having been legally appointed to the position on February 1, 1990. And being an incumbent to that position, he has, at the very least, an equitable right to receive the corresponding salary and emoluments attached thereto. The summary demotion to a lower salary grade, with the corresponding decrease in salary and emoluments after he has occupied his current rank and position, goes against his right to continue enjoying the benefits accorded the position and which his predecessors must have been receiving. His right thereto has ripened into a vested right, of which he could be deprived only by due process of law, but which we believe he was denied through the summary reallocation. With the view we take of this case, Go was neither apprised nor given the opportunity to contest the reallocation before its summary implementation.

Lest this Decision is taken out of context, the Court wishes to emphasize that it is not its intention to disturb the reallocation of the position Chief, LTFRB Legal Division to Attorney V, SG-25. Accordingly, it behooves the DBM and the LTFRB to enforce the classification of position of Attorney V, SG-25 to those who will succeed Go in the said position.

It bears to stress nonetheless that this pro hac vice case disposition is predicated on the following key considerations: (1) Go was duly appointed to an office previously classified as a division chief position with an Attorney VI, SG 26 assignment; (2) under DBM circulars then obtaining, it would appear that division chief

positions carried a SG-26 classification without the qualification set forth in the DBM's letter of March 31, 1991. In a real sense, therefore, the present controversy is attributable to the DBM's failure to incorporate, at the outset, the necessary clarificatory qualifications/ distinctions in its position and salary allocation rules/circulars; (3) Go's receipt for some time of the salary and other emoluments attached to the position was cut short by the reallocation of the position, resulting in his demotion and downgrading of salary; and (4) the reallocation was effected by the DBM in a summary manner.

WHEREFORE, the instant petition is GRANTED. The Resolutions dated August 17, 2005 and January 31, 2006 of the Court of Appeals in CA-G.R. SP No. 90665 are hereby REVERSED and SET ASIDE. The January 7, 2005 Decision and June 28, 2005 Order of the Office of the President in OP Case No. 99-8880 are likewise REVERSED and SET ASIDE. Accordingly, the summary reallocation enforced and implemented on April 8, 1991 is declared NULL and VOID. The Department of Transportation and Communications is hereby ORDERED to reinstate Gonzalo S. Go, Jr. to the position of Attorney VI, SG-26 as the Chief of the Legal Division of the Land Transportation Franchising and Regulatory Board, with the corresponding release to him of the differential of all emoluments reckoned from April 8, 1991.

No pronouncement as to costs.

SO ORDERED.

Corona, C.J., Carpio, Carpio Morales, Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, and Mendoza, JJ., concur.

[1] Rollo, pp. 3-38, dated March 29, 2006.

[2] Id. at 93-95. Penned by Associate Justice Rosalinda Asuncion-Vicente and concurred in by Associate Justices Godardo A. Jacinto (now retired) and Bienvenido L. Reyes.

[3] Id. at 114-116.

[4] Id. at 39.

[5] Id. at 44.

[6] EO 202, Sec. 4 provides:

Sec. 4. Supervision and Control Over the Board. The Secretary of Transportation and Communications, through his duly designated Undersecretary, shall exercise administrative supervision and control over the Land Transportation Franchising and Regulatory Board.

[7] Rollo, pp. 40-41, Certification dated July 27, 2005.

[8] Id.

[9] Id. at 41.

[10] Id. at 42-43.

[11] Id.

[12] Id. at 48.

[13] Id. at 49-50, Letter dated July 22, 1998.

[14] Id. at 59-60.

[15] The Compensation and Position Classification Act of 1989.

[16] Rollo, pp. 6-7.

[17] G.R. No. 101646, February 13, 1992, 206 SCRA 264, 271. The Court held:

Disciplinary cases, and cases involving "personnel actions" affecting employees in the civil service--including "appointment through certification, promotion, transfer, reinstatement, reemployment, detail, reassignment, demotion and separation," and, of course, employment status and qualification standards--are within the exclusive jurisdiction of the Civil Service Commission.

[18] G.R. No. 139302, October 28, 2002, 391 SCRA 267.

[19] G.R. No. 140917, October 10, 2003, 413 SCRA 255, 259.

[20] Cusi-Hernandez v. Diaz, G.R. No. 140436, July 18, 2000, 336 SCRA 113.

[21] Republic v. Lacap, G.R. No. 158253, March 2, 2007, 517 SCRA 255, 268; citing Commissioner of Internal Revenue v. Central Luzon Drug Corporation, G.R. No. 159647, April 15, 2005, 456 SCRA 414, 443; and National Federation of Labor v. National Labor Relations Commission, G.R. No. 127718, March 2, 2000, 327 SCRA 158, 165.

[22] Kapatiran ng mga Naglilingkod sa Pamahalaan ng Pilipinas, Inc. v. Tan, No. L-81311, June 30, 1988, 163 SCRA 371, 380.

[23] G.R. No. 141309, June 19, 2007, 525 SCRA 11, 20-21; citing Agpalo, Statutory Construction 197-198 (2nd ed., 1990).

[24] Id. at 21.

[25] Section 8. Allocation and Reallocation of Positions. Subject to approval by the Commissioner of the Budget, the OCPC shall have authority to (a) ascertain the facts as to the current duties, responsibilities, and qualification requirements of any position; (b) place in an appropriate class any position coming under this Decree; (c) change the allocation of a position from one class to another class whenever the facts warrant. The OCPC shall certify to the department or agency concerned action taken under (b) and (c) of this Section. Such certification shall be binding on administrative, certifying, payroll, disbursing, accounting and auditing officers of the national government, including government-owned or controlled corporations and financial institutions.

[26] G.R. No. 100773, October 16, 1992, 214 SCRA 653.

[27] Social Security System v. Commission on Audit, G.R. No. 149240, July 11, 2002, 384 SCRA 548; Government Service Insurance System v. Commission on Audit, G.R. No. 138381, April 16, 2002, 381 SCRA 101; Philippine International Trading Corporation v. Commission on Audit, G.R. No. 132593, June 25, 1999, 309 SCRA 177; Manila International Airport Authority v. Commission on Audit, G.R. No. 104217, December 5, 1994, 238 SCRA 714.

[28] Philippine International Trading Corporation v. Commission on Audit, *supra* note 27, at 185.

[29] No. L-33237, April 15, 1988, 160 SCRA 66.

[30] Id. at 68; citing Callanta v. Carnation Philippines, Inc., G.R. No. 70615, October 28, 1986---, 145 SCRA 268, 278-279.

[31] Rollo, p. 48.

[32] *Reyes v. Commission on Audit*, G.R. No. 125129, March 29, 1999, 305 SCRA 512; citing *Philippine Ports Authority v. Commission on Audit*, *supra* note 26, at 661.

[33] *Republic v. Miller*, G.R. No. 125932, April 21, 1999, 306 SCRA 183, 186; citing *Ayog v. Cusi*, No. L-46729, November 19, 1982, 118 SCRA 492, 499.

[34] *United Paracale Mining Company Inc. v. Dela Rosa*, G.R. No. 63786, April 7, 1993, 221 SCRA 108, 115; citing *National Carloading Corporation v. Phoenix Paso Express, Inc.*, cited in 16A Am. Jur. 2d, p. 651.

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