

**ALICIA D. TAGARO, PETITIONER, VS. ESTER A. GARCIA,
CHAIRPERSON OF THE COMMISSION ON HIGHER EDUCATION
(CHED), REPRESENTED BY THE PRESENT CHAIR CARLITO G. PUNO,
RESPONDENT.**

G.R. No. 173931. April 02, 2009

Ponente: TINGA, J.

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TINGA, J.:

This Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court seeks the reversal of the 30 May 2006 Decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 92487, as well as the 30 July 2006 Resolution[3] which denied reconsideration. The assailed decision reversed Civil Service Commission Resolution Nos. 050801 and 051641 which respectively declared illegal the removal of petitioner Alicia D. Tagaro from the office of Director III at the Higher Education Development Fund Staff, and denied reconsideration.

Undisputed are the following operative facts.

Petitioner Alicia D. Tagaro was appointed on 16 December 1996 as Director II of the Higher Education Development Fund (HEDF) at the Commission on Higher Education (CHED).[4] The appointment[5] was issued by then President Fidel V. Ramos supposedly under the authority of Section 11[6] of Republic Act (R.A.) No. 7722.[7] Later on, CHED Chairman Angel Alcala (Alcala) requested the Department of Budget and Management (DBM) to create a Director III position that would serve as the head of the HEDF so that the existing Director II would be the assistant head. The DBM opined that considering the financial accountability and responsibility attached to the position of HEDF head, the existing Director II position may be reclassified and upgraded to Director III.[8]

Thus, on 24 March 1999, Alcala formally requested the DBM for the reclassification of director positions in the CHED as well as the issuance of the corresponding special allotment release order and notice of cash allocation.[9] Acting favorably on the request, the DBM issued a Notice of Organization, Staffing and Compensation Action (NOSCA)[10] which provides that the position classifications and compensation modifications embodied therein "were approved effective not earlier than 1 May 1999."[11] The DBM Personal Services Itemization and Plantilla of Personnel[12] as of 1 May 1999 showed that petitioner's position had already been reclassified to Director III. CHED Executive Director Roger P. Perez (Perez), in a 14 December 1999 Memorandum,[13] then told all the directors concerned to submit the following papers as a condition for the issuance of a new presidential appointment: (a) clearances from the Ombudsman, the National Bureau of Investigation and the Civil Service Commission; (b) copies of the latest income tax returns and statements of assets and liabilities; (c) a certification of lack of any pending administrative case; and (d) an updated CSC Form 212.

Petitioner did not comply with the directive. Nevertheless Perez informed her, via a Notice of Salary Adjustment[14] (NOSA) dated 29 December 1999, that her salary effective 20 August 1999 had already been

adjusted to that corresponding to Director III with salary grade 27. On 27 January 2000, however, Perez issued another NOSA expressly superseding the previous one and showing that petitioner's salary adjustment would take effect on 1 May 1999.[15]

On 5 May 2000, respondent Ester A. Garcia (Garcia), who replaced Perez as CHED chairman, sought clarification from the Office of the President whether there was a need for new appointments in favor of the incumbents of the reclassified positions in the CHED.[16] The Office of the Executive Secretary responded in the affirmative.[17]

The controversy started when Garcia issued two separate Memoranda both dated 25 July 2000, one directed to petitioner[18] and the other to the chief of the CHED Human Resource Management Division (CHED-HRMD).[19] The memoranda stated that a new appointment to the reclassified position of Director III was indispensable and that since petitioner had not been issued one, she must then refund not only the salary differential she had already received as Director III between 1 May 1999 and 31 July 2000 but also the corresponding allowances, bonuses and cash gifts. Petitioner was also advised that beginning 1 August 2000, the CHED-HRMD as directed would roll back her salary to that corresponding to THAT OF Director II until her appointment to the reclassified position shall have been duly issued. In the same memorandum addressed to her, petitioner was once again required to submit the required documents and papers listed in the 14 December 1999 Memorandum;[20] yet again, she did not comply.

On 2 October 2000, petitioner, through her counsel, demanded that her salary be upgraded to that of a Director III effective 1 May 1999 without need of a new appointment; otherwise, she would be constrained to take appropriate legal measures on the matter.[21] On 10 October 2000, Garcia, in a letter informed petitioner that it could not be done simply because a new appointment to the reclassified position was needed as opined by both the Civil Service Commission (CSC) and the Office of the President. [22]

Petitioner was thus constrained to institute with the Regional Trial Court (RTC) of Quezon City a special civil action for certiorari, prohibition and mandamus with damages (the RTC Petition)[23] claiming that the issuance of a new appointment was no longer necessary; that the CHED had the ministerial duty to implement NOSCA No. 0001999-04-044; that the respondents therein committed grave abuse of discretion when they rolled back her salary to that corresponding to Director II; and that she was entitled to the salary, bonuses and allowances attached to the office of Director III.[24]

While the RTC petition was pending, however, the CHED passed Resolution No. 008-2001[25] dated 8 January 2001. This resolution considered the position of Director II in the HEDFS as already abolished and non-existing, and it designated Dr. Manuel D. Punzal (Punzal), then oversight commissioner, to serve as officer-in-charge of the HEDFS until a regular Director III shall have been appointed and qualified considering that by refusing to comply with the requirements for the issuance of an appointment petitioner could then be deemed as no longer interested in the office of Director III. On 29 January 2001, petitioner filed an appeal from the said resolution before the CSC (the first CSC Appeal).

On 12 February 2001, the respondents in the RTC Petition filed a motion to dismiss on the following grounds: that the trial court had no jurisdiction over the case; that petitioner failed to exhaust administrative remedies prior to the filing of the petition; that the petition was not the proper remedy under the circumstances; and that by law there was a need for the issuance of a new appointment to the office of Director III in favor of petitioner.[26]

Petitioner, it appears, had continued reporting for work at the HEDF. Her presence therein allegedly had caused serious difficulties and problems prejudicial to the delivery of public service as she was purportedly exhibiting acts disruptive of the operations of the office. Punzal brought such fact to the attention of Garcia who reacted by issuing a Memorandum Order[27] dated 7 June 2001 which contained a directive principally addressed to Punzal

to bar petitioner's entry into the CHED main office and premises.

This measure prompted petitioner to file an Urgent Motion for Preliminary Injunction with a Prayer for a Temporary Restraining Order[28] before the same trial court where the RTC petition was pending. The said motion essentially questioned the legality of the issuance of the CHED's 7 June 2001 Memorandum Order.

The trial court, however, dismissed the RTC petition in an Order[29] dated 17 July 2001 based on failure to exhaust administrative remedies. Petitioner then filed a petition for review of the trial court's order of dismissal with the Court of Appeals. The petition, docketed as CA-G.R. SP No. 66446,[30] pointed out that it was error for the trial court to dismiss the petition inasmuch as the issue involved was one purely of law and that the same concerned the patently unlawful acts of the respondents therein which thus removed the case from the rule of exhaustion. While this petition was pending before the Court of Appeals, however, petitioner on 22 August 2001, filed before the CSC a pleading she denominated as "Administrative Appeal" (the second CSC Appeal) assailing the same 7 June 2001 Memorandum Order and reiterating the same basic argument raised against the said memorandum order in her Urgent Motion for Preliminary Injunction previously filed with the trial court--i.e., that the same did not have any legal basis. In its 27 February 2003 Decision,[31] the Court of Appeals dismissed the appeal on the finding that petitioner had engaged in forum-shopping by principally questioning the validity of the memorandum order, first, before the trial court and then later, before the CSC. On appeal, this Court upheld the Court of Appeals in its 17 November 2004 Decision in G.R. No. 158568.[32]

On 15 June 2005, the CSC, in its Resolution No. 05081 ruled favorably on petitioner's second CSC Appeal. It declared the CHED's 7 June 2001 Memorandum Order to be not in order and directed that petitioner be reinstated to the upgraded position of Director III with backsalaries. Garcia's successor, Carlito S. Puno (Puno), moved for reconsideration but the same was denied in Resolution No. 051641 dated 8 November 2005.[33] In the latter resolution, the CSC went on to state that petitioner could no longer be reinstated to Director III in view of her compulsory retirement from office, but that she must nevertheless be awarded back salaries accruing from the time of her illegal termination until the date of her retirement on 27 June 2005.

An appeal[34] from these two resolutions, docketed as CA-G.R. SP No. 92487, was brought by the CHED to the Court of Appeals. Essentially it challenged the jurisdiction of the CSC over the second CSC Appeal, claiming that petitioner was a presidential appointee and that she was not removed from office, but rather, her previous position had been validly abolished by the CHED. It likewise pointed out that petitioner violated the rule against forum shopping.

Finding merit in the appeal, the Court of Appeals on 30 May 2006 rendered the assailed decision. Petitioner's motion for reconsideration was denied;[35] hence, the present recourse to the Court.

In this petition for review under Rule 45,[36] petitioner insists that the 7 June 2001 Memorandum Order was issued without legal basis, and that her summary removal from office undermined her right to due process as well as her right to security of tenure. She also contends that the Court of Appeals erred in ruling that she had engaged in forum shopping.[37]

Interestingly, the CHED, represented by the Office of the Solicitor General, has opted not to justify the issuance of the subject memorandum order. Instead, it argues in its Comment[38] that the question as to whether or not the 7 June 2001 Memorandum Order was issued without legal basis is already moot and academic in view of petitioner's compulsory retirement from government service on 27 June 2005. It also maintains that petitioner committed forum shopping not only during the pendency of the RTC petition, but also during the pendency before the Court of Appeals of the appeal from the order of dismissal issued against the same RTC petition.

The petition should be dismissed.

To begin with, in the earlier *Tagaro v. Garcia*,^[39] petitioner was declared guilty of committing forum shopping in seeking remedy, first, before the RTC of Quezon City via her petition principally questioning her non-appointment as Director III at the HEDF; and second, before the CSC through the "Administrative Appeal" she filed during and despite the pendency before the Court of Appeals of her appeal from the order dismissing the RTC petition. This Court held in *Tagaro* that because petitioner had presented related causes and issues before the two forums and had sought the same or substantially the same reliefs, the situation would invite the possibility of two forums issuing conflicting decisions upon the pivotal issue of whether petitioner did need the issuance of a new appointment.^[40]

Indeed, forum shopping exists when, as a result of an adverse opinion in one forum, a party seeks a favorable opinion (other than by appeal or certiorari) in another, or when he institutes two or more actions or proceedings grounded on the same cause, on the gamble that one or the other forum would make a favorable disposition.^[41] Not only is it contumacious, it is also an act of malpractice that is proscribed and condemned because it tends to trifle with the courts and abuse existing legal processes.^[42] Thus, as a measure of punishment, such act invariably merits the summary dismissal of both actions^[43] If for this basic and consequential consideration alone, the Court should dismiss the present petition as it did before in G.R. No. 158568.

Ordinarily, a dismissal on the ground of forum shopping dispenses with the need to address the other issues raised in the case. But this rule is not hard-and-fast, more so since the dismissal occasioned by breach of the anti-forum shopping rule does not permeate the merits of the case. Where such technical dismissal would otherwise lead to an inequitable result, the appropriate recourse is to resolve the issue concerned on its merit or resort to the principles of equity. After all, rules of procedure should not operate at all times in such a rigid way that would override the ends of substantial justice. Specifically, the rule on forum shopping was cobbled to foster and accelerate the orderly administration of justice and, therefore, should not be interpreted literally in every instance.^[44]

Here, the dismissal of the instant petition in tandem with the dismissal of the petition in G.R. No. 158568 may be interpreted as an implied affirmance, and may precipitate the execution, of the CHED's directive requiring petitioner to refund the entire compensation differential she had received during her tenure as HEDF head with the upgraded position of Director III. On the other hand, we cannot close our eyes to the fact that petitioner had served as such officer and had in fact discharged the duties of the office in good faith and in the honest belief that she needed no new appointment in order that she may discharge her duties as HEDF head. Indeed, the peculiar factual milieu and equities of this case do debar the implementation of the CHED's order against petitioner. It is not just and proper that petitioner be made to refund the compensation differential she had derived.

On the need to explore the merits despite the existence of forum shopping but without deciding the case on the merits, the ruling in *Prubankers Association v. Prudential Bank & Trust Co.*^[45] is in point. There, despite the denial of the petition on a finding of forum shopping, the Court nevertheless took great lengths to at least elaborate on the merits of the case in view of the importance and novelty of the issue submitted for resolution of whether wage distortion had resulted from the implementation of the assailed wage order.

Moreover, the full adjudication of the merits of an appeal is, in our jurisdiction, a matter of judicial policy,^[46] and cases materially or substantially similar to the one at bar should invite the Court's attention to the merits if only to preclude the inequity that would result from the outright denial of the appeal.

On this score, at least a structural disquisition on the merits of the petition is in order.^[47] That will be done in the course of addressing this basic question: Did the CHED have legitimate authority to order the rollback of

petitioner's salary to Director II and the refund of the compensation differential she had received as Director III? Let us look into the circumstances under which the office of Director II previously held by petitioner was reclassified and upgraded to Director III.

Addressing CHED Chairman Alcala's request for the creation of a Director III position at the HEDF, the DBM replied in the letters dated 6 June 1997 and 11 August 1997, respectively signed by Undersecretary Irene G. Daleja and Secretary Salvador M. Enriquez, Jr. The letters clearly evinced the DBM's intent was to merely reclassify--or more properly, to upgrade--the existing position of Director II to Director III in view of the financial responsibility and accountability attached to the office of HEDF head. Then CHED Chairman Alcala initially sought the creation of a Director III position and the retention at the same time of the Director II position that would concurrently serve as the positions of head and assistant head, respectively, of the HEDF. The DBM, however, expressly denied Alcala's request. Instead, it suggested that the office of HEDF bearing the rank of Director II be upgraded to the status of Director III if it could also serve the purpose of giving more significance to the position of HEDF head.[48]

DBM Undersecretary Daleja, underscoring the practical aspects and the possible effects of having two directors at the HEDF, had in fact stated in her letter that the creation of an additional director post would be inconsistent with the organizational framework of the commission and would make the HEDF as the only staff unit in the CHED that would be manned by two directors serving as head and assistant head. This, she went on, might also encourage the other staff

units within the commission to request the creation of an additional director position.[49] Reiterating the same view and considering the limited mandate of the HEDF, Secretary Enriquez, Jr. noted that the staff unit could no longer accommodate another director position, as it would mean the HEDF's elevation to the status of a bureau. Be that as it may, what appears, according to the DBM, to be a more solid justification for the denial of Alcala's request was that the creation of additional key positions in the CHED-HEDF was not only prohibited by the governing appropriation law in 1997, but it was not also authorized under existing laws or presidential directive.[50]

What becomes unmistakably clear is that the reclassification or upgrading of the position of HEDF head in this case in this case took into consideration, not the incumbent, but rather the position itself. This is all the more evident from the fact that when Alcala's request was finally acted upon, the DBM merely elevated the status of the office of HEDF head from Director II to Director III--with due regard to the significance of the said existing position. Necessarily, the favorable action carried with it the grant of the corresponding salary, benefits and allowances attached to the upgraded/reclassified position. In other words, when petitioner's position as head of the HEDF was upgraded by the DBM from Director II to Director III, no new office came into being, and no Director II office was retained, but instead the post to which petitioner was initially appointed had simply been upgraded by one salary grade through reclassification.

As the events developed, the issue that came to the fore was whether the issuance of a new appointment in favor of petitioner was necessary for her to serve as Director III. On this question, however, the parties come from different legal predicates. In arguing for the indispensability of a new appointment, the CHED, on the one hand, relies on the opinion rendered by the Office of the President,[51] which in turn hinged on Section 4(k), Rule III of CSC Memorandum Circular No. 40, series (s.) of 1998[52] (CSC MC No. 40, s.1998), which requires the issuance of new appointments in favor of the incumbents to the reclassified or upgraded positions in the civil service. The CHED thus believes that because petitioner had not been issued a new appointment to the reclassified/upgraded position on account of her deliberate failure to comply with certain preconditions, the upgraded position of Director III pertaining to the HEDF head was vacated and that, hence, CHED was within its

own power to roll back petitioner's status to Director II and to subsequently bar her entry into the office premises following the supposed abolition of the Director II position and the appointment of an officer-in-charge at the HEDF.

On the other hand, petitioner, who has been consistent in her stance that she needed no new appointment to the reclassified/upgraded position, advances that the controlling law is Section 28, Book V, Title I, Subtitle A, Chapter 5 of the Civil Service Law.[53] It materially states that adjustments in salaries which result from increase in pay levels or upgrading of positions not involving changes in qualification requirements shall not require new appointments. She believes that because this provision is the general law on the matter, it thus should prevail over the memorandum circular.

Section 4(k), Rule III, of CSC MC No. 40, s.1998 defines "upgrading and reclassification" as the change in position title with the corresponding increase in salary grade. It provides as follows:

Section 4. x x x (k) Upgrading/Reclassification--refers to the change in position title with the corresponding increase in salary grade. Positions are upgraded in order to attain effectively the functions and duties attached to the position and for the employee to perform an all-around adaptability in meeting diverse work assignments. This requires issuance of appointment.

Upgrading/reclassification usually involves abolition and collapsing of positions which the agency finds insignificant to augment the salaries assigned to the upgraded/reclassified position.

The incumbent of a position in a permanent capacity which has been upgraded/reclassified shall be appointed to the upgraded/reclassified position without change in employment status, irrespective of whether or not he meets the qualification requirements therefor. However, he shall no longer be promoted to the next higher position unless he meets the qualification requirements of the position involved.

Under the first and second paragraphs of the cited provision, positions are reclassified or upgraded by abolishing or collapsing certain existing positions in the agency. It serves a dual purpose, namely, to attain efficiency and to enable the employee to be adaptable in meeting diverse work assignments. Also, the positions affected are those which the agency itself finds and deems to be insignificant--which apparently contemplates the absorption of the functions of the insignificant positions by the reclassified or upgraded position. Indeed, concerning the agency's exercise of discretion and judgment as to which positions are insignificant and so must be abolished or collapsed, hardly any objection may be posed.

Petitioner believes that the CHED has taken the first and second paragraphs found in Section 4(k) of the memorandum circular (MC) out of context and, in the process, it seems to have overlooked the import of the last paragraph of the same provision, which essentially directs the automatic appointment of the incumbent of a position in a permanent capacity to the reclassified or upgraded position without any change in employment status, whether or not he or she meets the qualifications therefor.

Petitioner capitalizes on the fact that in 1996, she was appointed in a permanent capacity as head of the HEDF with the rank of Director II; and when the position was upgraded to Director III, she continued to hold the same office in the same permanent capacity. Both the DBM and the CSC[54] acknowledged this fact. The DBM Personal Services Itemization and Plantilla of Personnel for the period before and after the staffing modification shows that petitioner was extended a permanent appointment as head of the HEDF initially, with the position title of "Director II"[55] and, later on, "Director III"[56] following the reclassification. Hypothetically applying Section 4(k) of MC No. 40, s. 1998, petitioner then deserved to be automatically issued an appointment to the position of Director III at the HEDF.

Section 28 of the Civil Service Law, the provision relied on by petitioner, states:

Section 28. Salary Increase or Adjustment.--Adjustments in salaries as a result of increase in pay levels or upgrading of positions which do not involve a change in qualification requirements shall not require new appointments, except that copies of the salary adjustment notices shall be submitted to the Commission for records purposes [Emphasis has been supplied].

This provision suggests that the necessity for the issuance of new appointments to reclassified or upgraded civil service positions depends on whether or not the measure entails changes in qualification attributes of the incumbents. In other words, where the reclassification or upgrading of positions carries with it a change in qualification requirements, then a new appointment must be issued in favor of the incumbent; otherwise, no new appointment is required. Following this precept, the reclassification of director positions in the CHED--particularly the position corresponding to the HEDF head held by petitioner--did not entail, much less so require, any additional or better qualifications which petitioner as incumbent must possess; in fact, no suggestion to the contrary was ever intimated in the correspondence that transpired between then CHED Chairman Alcala and the DBM which culminated in the upgrading of the status of the HEDF head position. Neither is there anything in the records from which it can be inferred that the staffing modification approved by the DBM had increased the responsibilities attached to the affected office or required a different set of qualification standards for the appointee.

At this juncture it is not difficult to see that petitioner has impressive--albeit not necessarily valid--reasons to insist on her automatic appointment to the reclassified position: however, the CHED had reasonable cause to negate that claim as well as to subsequently roll petitioner's salary back to that corresponding to a Director II and bar her entry into premises of the CHED main office. Nevertheless, the Court will refrain from going into great lengths to determine which of the two sides must be sustained, inasmuch as the present petition is fatally flawed for being violative of the established rule against forum shopping.

This notwithstanding, as earlier stated, it is necessary to take a holistic view of the instant case in order to render an equitable judgment. If we must necessarily reiterate, petitioner's refusal to comply with the CHED's preconditions for the issuance of a new appointment is premised on her casual reliance on Section 28 of the Civil Service Law--which clearly negates any suggestion of bad faith on her part. Indeed, no hint to that effect can be detected under the attendant facts and circumstances of the case. She, in all good faith, discharged the duties attached to the office of HEDF head with the rank of Director III and, again in good faith, received compensation therefore, at least until the controversy arose with the CHED's issuance of the memorandums assailed in this petition and that in G.R. No. 158568.

In *De Jesus v. Commission on Audit*[57]--where the members of the board of directors of the Catbalogan Water District, petitioners therein, received additional allowances and bonuses, the payment of which turned out later on however to be without legal basis--the Court, principally relying on the fact that the said petitioners accepted the benefits in good faith and under the honest belief that the same was authorized, did not order the refund of the additional compensation they had already received. So, too, in *Civil Liberties Union v. Executive Secretary*[58] and *Blaquera v. Hon. Alcala*,[59] where the Court held that officers who in good faith have discharged the duties pertaining to their office are legally entitled to the compensation attached to the office for the services they actually rendered.

In fine, although the present petition must inevitably be dismissed on a technicality that serves as penalty for the pernicious practice of forum shopping, the Court nevertheless cannot countenance the refund of the compensation differential corresponding to petitioner's tenure as HEDF head with the upgraded rank of Director III, since she had actually rendered services in the office with the elevated grade for that period.[60]

WHEREFORE, the petition is DENIED subject only to the qualification that petitioner Alicia D. Tagaro is

entitled to keep the salary differential she had received during her tenure as Director III at the CHED-HEDF.

SO ORDERED.

Quisumbing, Ynares-Santiago, Carpio, Corona, Carpio Morales, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Brion and Peralta, JJ., concur.

Puno, C.J., no part due to relationship.

Austria-Martinez, J., on official leave.

[1] Rollo, pp. 3-43.

[2] Id. at 47-72. The assailed decision was penned by Associate Justice Martin S. Villarama, Jr. and concurred in by Associate Justices Edgardo F. Sundiam and Japar B. Dimaampao.

[3] Id. at 74.

[4] See Letter of Appointment and the Transmittal thereof respectively dated 16 December 1997 and 6 January 1997 and both signed by then Executive Secretary Ruben D. Torres, id. at 78 and 79.

[5] Id. at 78.

[7] Entitled, An Act Creating the Commission on Higher Education, Appropriating Funds Therefor and for Other Purposes.

[8] Records, pp. 15-16 and 17-18. The suggestion was given to Alcala by both DBM Undersecretary Irene Daleja, in a letter dated 6 June 1997, and by DBM Secretary Salvador Enriquez, Jr. in a letter dated 11 August 1997.

[9] Id. at 19.

[10] Id. at 21-28.

[11] Id. at 21.

[12] Id. at 31. The Personal Services Itemization and Plantilla of Personnel for the fiscal year 1999 shows petitioner's position as Director II - Salary Grade 26. See id. at 30.

[13] Id. at 32.

[14] Id. at 33. The NOSA provided, "The salary adjustment is subject to review and post-audit by the Department of Budget and Management, to readjustment and refund if found not in order and provided further that the incumbent shall qualify himself/herself to the upgraded position on or before 6 July 2000 by acquiring the appropriate CESO eligibility."

[15] Id. at 34.

[16] Id. at 35. See CHED Memorandum dated 5 May 2000.

[17] Id. at 36. The Letter dated 21 June 2000, signed by Atty. Rowena-Turingan Sanchez acting for the Executive Secretary states, "We wish to inform you that under existing Civil Service Rules and Regulations (MC #40, s. 1998), the issuance of a new appointment is necessary for incumbents of reclassified/upgraded positions."

[18] Rollo, pp. 103-104.

[19] Id. at 105.

[20] Id. at 103.

[21] Id. at 113.

[22] Records, pp. 13-14.

[23] Rollo, pp. 143-146. The case, docketed as Civil Case No. 00-42708, was entitled Alicia D. Tagaro, plaintiff v. Esther Albano Garcia, Chairperson, Commission on Higher Education; Roger Perez, Executive Director, Commission on Higher Education; and Teresita Baterina, AFS Director, Commission on Higher Education, all in their official and personal capacities, respondents. It was raffled to the Regional Trial Court of Quezon City, Branch 223, presided by Pairing Judge Emilio L. Leachon, Jr..

[24] Records, p. 7.

[25] Rollo, pp. 128-129.

[26] Records, pp. 60-70.69.

[27] Rollo, pp. 140-142. The Memorandum Order carried the subject, "Barring Mrs. Alicia D. Tagaro, from Performing Unofficial Functions within CHED Offices and Premises which Disrupt CHED's Delivery of Public Service."

[28] Records, pp. 97-100.

[29] Supra note 23.

[30] Under Rules of Court, Rule 43.

[31] CA rollo, pp. 126-135.

[32] Rollo, pp. 159-171; The case was entitled, Alicia D. Tagaro, petitioner v. Ester A. Garcia, Chairperson, Commission on Higher Education; Roger Perez, Executive Director, Teresita Baterina, AFS Director, Commission on Higher Education, all in their official capacities, respondent. See also G.R. No. 158568, 17 November 2004, 442 SCRA 562.

[33] CA rollo, pp. 61-67.

[34] Id. at 10-47.

[35] Supra note 3.

[36] Rollo, pp. 3-43.

[37] Id. at 23, 32.

[38] Id. at 22, 202-227

[39] Supra note 32.

[40] Tagaro v. Garcia, supra note 32 at 571-572.

[41] Municipality of Taguig v. Court of Appeals, G.R. No. 142619, 13 September 2005, 469 SCRA 588, 594-595; Rudecon Management Corporation v. Singson, G.R. No. 150798, 31 March 2005, 454 SCRA 612, 632; Chemphil Export and Import Corp. v. Court of Appeals, 321 Phil. 619, 655-656 (1995).

[42] Municipality of Taguig v. Court of Appeals, G.R. No. 142619, 13 September 2005, 469 SCRA 588, 600; Ortigas and Company Limited Partnership v. Velasco, G.R. No. 109645, 25 July 1994, 234 SCRA 455, 500.

[43] Biñan Steel Corporation v. Court of Appeals, 439 Phil. 689, 706 (2002).

[44] Young v. John Keng Seng, 446 Phil. 823, 836-837 (2003), citing Loyola v. Court of Appeals, 245 SCRA 477, June 29, 1995.

[45] 361 Phil. 744 (1999).

[46] Garcia v. Philippine Airlines, Inc., G.R. No. 160798, 8 June 2005, 459 SCRA 768, 782; Novelty Philippines, Inc. v. Court of Appeals, 458 Phil. 36, 44 (2003).

[47] See Young v. John Keng Seng, 446 Phil. 823 (2003); Garcia v. Philippine Airlines, Inc., G.R. No. 160798, 8 June 2005, 459 SCRA 768.

[48] CA rollo, pp. 69-72.

[49] Id. at 69.

[50] Id. at 71-72.

[51] See note 17.

[52] The Revised Omnibus Rules on Appointments and Personnel Actions.

[53] The Civil Service Law is found in Book V of the Revised Administrative Code of 1987.

[54] CA rollo, p. 56; See CSC Resolution No. 050801.

[55] Records, p. 29.

[56] Id. at 31.

[57] 451 Phil. 812 (2003).

[58] G.R. No. 83896, 22 February 1991, 194 SCRA 317.

[59] 356 Phil. 678 (1998).

[60] See Blaquera v. Hon. Alcala, 356 Phil. 678 (1998); Gaminde v. Commission on Audit, 401 Phil. 77 (2000).

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