

**RUSSEL ULYSSES I. NIEVES, PETITIONER, VS. JOCELYN LB. BLANCO,
IN HER CAPACITY AS THE REGIONAL DIRECTOR, REGIONAL OFFICE
NO. V, DEPARTMENT OF TRADE AND INDUSTRY, RESPONDENT.**

G.R. No. 190422. June 19, 2012

Ponente: REYES, J.

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REYES, J.:

Before this Court is a petition for review on certiorari under Rule 45 of the Rules of Court, seeking to annul and set aside the Decision[1] dated September 10, 2009 issued by the Court of Appeals (CA) and the Resolution[2] dated November 24, 2009 denying the Motion for Reconsideration thereof in CA-G.R. SP No. 102174 which reversed and set aside Resolution Nos. 071693 and 072374 dated August 24, 2007 and December 17, 2007, respectively, of the Civil Service Commission (CSC).

Petitioner Russel Ulysses I. Nieves (Nieves) is a regular employee of the Department of Trade and Industry (DTI) with the position of Trade and Industry Development Specialist. He was formerly assigned to the DTI's office in Sorsogon (DTI-Sorsogon). On the other hand, respondent Jocelyn LB. Blanco (Blanco) is the Regional Director of DTI Regional Office in Region V.

On February 10, 2005, Blanco issued Regional Office Order No. 09 which directed Nieves' reassignment from DTI-Sorsogon to DTI's provincial office in Albay (DTI-Albay). Nieves appealed his reassignment to the CSC's Regional Office in Legazpi City (CSC Regional Office No. V) which, however, dismissed his appeal on March 18, 2005 for his failure to comply with the requirements of an appeal. Nieves forthwith complied with the reassignment order and reported for work at DTI-Albay.

A year after his reassignment to DTI-Albay, Nieves requested Blanco for his reassignment back to DTI-Sorsogon. He asserted that, under Section 6(a) of the Omnibus Rules on Appointments and other Personnel Actions, as amended by CSC Memorandum Circular No. 02-05 (Revised Rules on Reassignment), reassignment of employees with station-specific place of work is allowed only for a maximum period of one year. Considering that more than a year had passed since he was reassigned to DTI-Albay, Nieves claimed that Blanco was duty-bound to reassign him back to DTI-Sorsogon.

In a letter dated May 12, 2006, Blanco denied Nieves' request, stating that the latter's appointment as Trade and Industry Development Specialist in the DTI is not station specific and, hence, the one-year period limitation with regard to reassignment of employees does not apply to his case.

On June 21, 2006, Nieves filed a complaint with the CSC Regional Office No. V against Blanco, alleging that the latter committed grave abuse of authority, grave misconduct and oppression when she denied his request for reassignment back to DTI-Sorsogon. Nieves claimed that Blanco's refusal to reassign him back to DTI-Sorsogon was but an offshoot of the antipathy between him and DTI-Sorsogon Provincial Director Leah Pagao (Pagao). Allegedly, Nieves had previously filed a complaint with the Presidential Anti-Graft Commission against Pagao and, in reprisal, Blanco reassigned him to DTI-Albay.

On July 12, 2006, Nieves' complaint against Blanco was referred to the Office of Legal Affairs of the CSC for appropriate action. On August 24, 2007, the CSC issued Resolution No. 071693,[3] the decretal portion of which reads:

WHEREFORE, the complaint against Jocelyn LB. Blanco, Regional Director, Department of Trade and Industry Regional Office (DTI-RO) No. V, Legazpi City is hereby DISMISSED for lack of jurisdiction. The letter dated May 12, 2006 of Regional Director Jocelyn LB. Blanco, DTI-RO No. V, is REVERSED AND SET ASIDE. Accordingly, Russel Ulysses I. Nieves, Trade and Industry Development Specialist, DTI-RO No. V, Legazpi City, shall be reinstated to his original station in DTI-Sorsogon.

The Civil Service Commission Regional Office No. V, Rawis, Legazpi City is directed to monitor the implementation of this Resolution and to submit a report to the Commission within fifteen (15) days from receipt of the Resolution.[4]

The CSC, invoking the provisions of Rule I, Section 5, A(4) of the Uniform Rules on Administrative Cases, held that it does not have jurisdiction to adjudicate the charge against Blanco for grave abuse of authority, grave misconduct and oppression, since the latter is a third level official who is a presidential appointee.

Nevertheless, the CSC proceeded to determine the propriety of the reassignment order issued by Blanco. The CSC pointed out that Nieves' appointment as Trade and Industry Development Specialist is not station-specific. Nevertheless, the CSC averred that this does not mean that Nieves could be reassigned to DTI-Albay indefinitely. It ruled that under the Revised Rules on Reassignment, a reassignment outside the geographical location, if without the consent of the employee concerned, should not exceed the maximum period of one year. The CSC explained that:

Rule III, Section 6(a) of the Omnibus Rules on Appointments and Other Personnel Actions (Amended by CSC Memorandum Circular No. 2, series of 2005), states as follows:

x x x x

"6. Reassignment outside geographical location if with consent shall have no limit. However, if it is without consent, reassignment shall be for one (1) year only. Reassignment outside geographical location may be from one regional office (RO) to another RO or from the RO to the Central Office (CO) and vice-versa.["]

x x x x

From the foregoing it is clear that after the lapse of one year from Nieves' reassignment, he must be reinstated to his original assignment in DTI-Sorsogon. A perusal of his submitted appointment would show that his appointment is not station-specific. However, this shall not prevent the reinstatement of Nieves to his original station in DTI-Sorsogon. Due to the fact that Nieves was reassigned to DTI-Albay which is outside the geographical location of DTI-Sorsogon, said reassignment may only be allowed for a period of one (1) year as it was made without the consent of Nieves. Verily, after the lapse of the period of one (1) year from his reassignment, Nieves must be reinstated to his original station.[5]

Blanco filed a Motion for Partial Reconsideration of the Resolution No. 071693 but the same was denied by the CSC in its Resolution No. 072374[6] dated December 17, 2007.

Blanco then filed a petition for review with the CA, asserting that the CSC acted without factual and legal basis in directing the reassignment of Nieves in DTI-Sorsogon. On September 10, 2009, the CA rendered the herein assailed Decision the dispositive portion of which reads:

WHEREFORE, the petition is GRANTED. The assailed Resolutions No. 071693 and 072374, dated August 24, 2007 and December 17, 2007, respectively, of the Civil Service Commission, with respect to the

reinstatement of private respondent Russel Ulysses I. Nieves, Trade and Industry Development Specialist, to his original station in DTI-Sorsogon, are hereby REVERSED and SET ASIDE.

Petitioner's Application for the Issuance of Temporary Restraining order and/or Writ of Preliminary Injunction is now MOOT and ACADEMIC.

SO ORDERED.[7]

In reversing the CSC's disposition with regard to the propriety of Nieves' reassignment back to his original station in DTI-Sorsogon, the CA asserted that the phrase "reassignment outside geographical location" should be confined to reassignments from one regional office to another or from the central office to a regional office and vice-versa. Accordingly, the CA held that Nieves' reassignment to DTI-Albay is not affected by the one-year limitation set forth under the Revised Rules on Reassignment since the same is within the same regional office, i.e. from DTI-Sorsogon to DTI-Albay. Thus:

From the foregoing, it is crystal clear that a reassignment outside geographical location is a reassignment from one regional office to another regional office or from regional office to the central office or vice versa. Since the reassignment of respondent from DTI-Sorsogon to DTI-Albay is within same regional office which is Region V, the same shall have no limit even if without his consent, as long as there is no reduction in rank status and salary.[8]

Nieves sought reconsideration[9] of the Decision dated September 10, 2009 but the same was denied by the CA in its Resolution[10] dated November 24, 2009.

Unperturbed, Nieves instituted the instant petition for review on certiorari asserting that a "reassignment outside geographical location" should not be restricted to a reassignment from one regional office to another or from the regional office to the central office and vice-versa. He insists that it should include movement from one provincial office to another because one such office is necessarily outside the geographical location of the other. Further, he avers that the CA should have accorded respect and finality to the CSC's interpretation of the provisions of the Revised Rules on Reassignment.

On the other hand, Blanco, in her Comment,[11] contends that the CA did not err when it delimited the phrase "reassignment outside geographical location" as referring only to reassignments from one regional office to another or from the regional office to the central office and vice-versa. Thus, she asserts that Nieves could be reassigned anywhere within the geographical location of Region V without his consent even for more than one year, provided that there is no diminution in his rank, salary or status.

The petition lacks merit.

The CSC, being the central agency mandated to "prescribe, amend, and enforce rules and regulations for carrying into effect the provisions of the Civil Service Law and other pertinent laws," has the power to interpret its own rules and any phrase contained in them, with its interpretation being accorded great weight and ordinarily controls the construction of the courts.[12]

However, courts will not hesitate to set aside such executive interpretation when it is clearly erroneous, or when there is no ambiguity in the rule, or when the language or words used are clear and plain or readily understandable to any ordinary reader.[13] This case falls within the exceptions.

At the crux of the instant controversy is the proper construction of the provisions of Section 6 of the Revised Rules on Reassignment which, in part, reads:

Sec. 6. x x x

x x x x

Reassignment shall be governed by the following rules:

- These rules shall apply only to employees appointed to first and second level positions in the career and non-career services. Reassignment of third level appointees is governed by the provisions of Presidential Decree No. 1.
- Personnel movements involving transfer or detail should not be confused with reassignment since they are governed by separate rules.
- Reassignment of employees with station-specific place of work indicated in their respective appointments shall be allowed only for a maximum period of one (1) year. An appointment is considered station-specific when the particular office or station where the position is located is specifically indicated on the face of the appointment paper. Station-specific appointment does not refer to a specified plantilla item number since it is used for purposes of identifying the particular position to be filled or occupied by the employee.
- If appointment is not station-specific, the one-year maximum period shall not apply. Thus, reassignment of employees whose appointments do not specifically indicate the particular office or place of work has no definite period unless otherwise revoked or recalled by the Head of Agency, the Civil Service Commission or a competent court.
- If an appointment is not station-specific, reassignment to an organizational unit within the same building or from one building to another or contiguous to each other in one work area or compound is allowed. Organizational unit refers to sections, divisions, and departments within an organization.
- Reassignment outside geographical location if with consent shall have no limit. However, if it is without consent, reassignment shall be for one (1) year only. Reassignment outside geographical location may be from one Regional Office (RO) to another RO or from the RO to the Central Office (CO) and vice-versa.
- Reassignment is presumed to be regular and made in the interest of public service unless proven otherwise or if it constitutes constructive dismissal. x x x (Emphasis supplied)

The language of the Revised Rules on Reassignment is plain and unambiguous. The reassignment of an employee with a station-specific place of work indicated in their respective appointments is allowed provided that it would not exceed a maximum period of one year. On the other hand, the reassignment of an employee whose appointment is not station-specific has no definite period unless otherwise revoked or recalled by the Head of the Agency, the CSC or a competent court.

Nevertheless, if the employee without a station-specific place of work is reassigned outside the geographical location of his/her present place of work, then the following rules apply: first, if the reassignment is with the consent of the employee concerned, then the period of the same shall have no limit; second, if the reassignment is without the consent of the employee concerned, then the same should not exceed the maximum period of one year.

Here, it is undisputed that Nieves' appointment as a Trade and Industry Development Specialist is not station-specific. Thus, the period of his reassignment to DTI-Albay is indefinite, unless otherwise revoked or recalled by the Head of the Agency, the CSC or a competent court. Further, since the reassignment of Nieves was within the same regional office, i.e. from DTI-Sorsogon to DTI-Albay, the one-year period limitation does not apply.

Nieves' insistence that a "reassignment outside geographical location" should likewise include a reassignment from one provincial office to another provincial office is untenable.

To stress, the Revised Rules on Reassignment has defined, albeit ostensibly, what constitutes a “reassignment outside geographical location”. It states that “[r]eassignment outside geographical location may be from one [r]egional [o]ffice x x x to another [regional office] or from the [regional office] to the [c]entral [o]ffice x x x and vice-versa.[14] A perusal of the foregoing would show that the Revised Rules on Reassignment has clearly confined the coverage of the phrase “reassignment outside geographical location” to the following: (1) reassignment from one provincial office to another; (2) reassignment from the regional office to the central office; and (3) reassignment from the central office to the regional office.

Nieves asserts that the use of the word “may” operates to confer discretion on the part of the CSC to consider any other reassignments as one which is outside the geographical location and that the circumstances cited in the said provision are mere examples of reassignments outside geographical location. We do not agree.

It is true that the use of the word “may” ordinarily operates to confer discretion. However, this term may be construed, as it is in this case clearly intended to be, in a mandatory and restrictive sense.[15] The said provision used the word “may” to emphasize that a “reassignment outside geographical location” is restricted only to either reassignment from one regional office to another regional office or a reassignment from the central office to a regional office and vice-versa.

Moreover, if we are to follow Nieves’ assertion that the instances stated in the said provision are merely examples, then every reassignment effected by the various offices could be considered as a “reassignment outside geographical location” depending on the discretion of the CSC. Surely, this is not what the Revised Rules on Reassignment intended.

Thus, Nieves’ insistence that a reassignment from one provincial office to another provincial office within the same region should likewise be considered as a “reassignment outside geographical location” is clearly but a foray in the dark.

Further, Nieves’ assertion that his reassignment to DTI-Albay constitutes constructive dismissal as it caused him significant financial dislocation is also devoid of merit. This is a mere allegation that Nieves utterly failed to substantiate. It bears stressing that a reassignment is presumed to be regular and made in the interest of public service.[16]

Anent Nieves’ prayer for an award of moral damages, we deny the same for lack of legal and factual bases.

All told, we find that the CA did not commit any error in ruling that the one-year period limitation set forth in the Revised Rules on Reassignment finds no application in the instant case.

WHEREFORE, in consideration of the foregoing disquisitions, the petition is DENIED. The assailed Decision dated September 10, 2009 and the Resolution dated November 24, 2009 issued by the Court of Appeals in CA-G.R. SP No. 102174 are AFFIRMED.

SO ORDERED.

Carpio, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, Mendoza,[*] Sereno, and Perlas-Bernabe, JJ., concur.
Velasco, Jr., J., on official leave.

[1] Penned by Associate Justice Sesinando E. Villon, with Associate Justices Hakim S. Abdulwahid and Sixto C. Marella, Jr., concurring; rollo, pp. 33-42.

[2] Id. at 44.

[3] Id. at 56-61.

[4] Id. at 61.

[5] Id. at 59-61.

[6] Id. at 63-67.

[7] Id. at 41.

[8] Id. at 40.

[9] Id. at 46-54.

[10] Id. at 44.

[11] Id. at 92-104.

[12] See *City Government of Makati v. Civil Service Commission*, 426 Phil. 631, 644 (2002); *Commission on Appointments v. Paler*, G.R. No. 172623, March 3, 2010, 614 SCRA 127.

[13] *Melendres, Jr. v. Commission on Elections*, 377 Phil. 275, 291 (1999).

[14] Section 6(a)(6), Omnibus Rules on Appointments and other Personnel Actions, as amended by CSC Memorandum Circular No. 02-05.

[15] See *Benito v. Public Service Commission*, 86 Phil. 624, 626 (1950).

[16] Section 6(a)(7), Omnibus Rules on Appointments and other Personnel Actions, as amended by CSC Memorandum Circular No. 02-05.

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