

NAPOLEON A. TADURAN, PETITIONER, VS. COMMISSIONER OF CIVIL SERVICE AND LIWANAG M. GODINEZ, RESPONDENTS.

G.R. No. 52051. July 31, 1984

Ponente: MELENCIO-HERRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-52051/>

MELENCIO-HERRERA, J.:

A Petition for Review on Certiorari of the decision of the Civil Service Commission upholding that of the Merit Systems Board in its MSB Case No. 50.

In the Regional Health Offices of the Ministry of Health, there are positions of Supervising Dentist and Senior Dentist, the former being of higher rank. Sometime in 1977, the position of Supervising Dentist in Regional Health Office No. 4, Manila, became vacant. At that time, petitioner TADURAN was the Supervising Dentist of Regional Health Office (RHO) No. 9, Zamboanga City, while private respondent GODINEZ was Senior Dentist of Regional Health Office (RHO) No. 4, Manila.

On February 23, 1977, the Secretary of Health (now Minister of Health) appointed TADURAN as Supervising Dentist of RHO No. 4. It was a "transfer from a similar position in Regional Health Office No. 9, without alteration in salary". On March 7, 1977, GODINEZ protested TADURAN's ap-ointment before the Civil Service Commission on the ground that as Senior Dentist in RHO No. 4, promotion was hers of right since she was the next-in-rank to Supervising Dentist.

It is admitted that GODINEZ has an edge over TADURAN in terms of educational attainment as she has a Certificate in Public Health, which TADURAN does not possess. However, the appointing authority considered the fact that TADURAN outranks GODINEZ in points of experience, rank and salary. TADURAN had been a World Health Organization Fellow; had conducted Dental Epidemiological Survey in Singapore for 3 months, and had an extensive supervisory field work experience compared to the experience of GODINEZ in field work supervision, which had started only on October 25, 1976.

The issue for resolution is whether, under the new Civil Service Decree (P.D. No. 807), the promotion of a Senior Dentist to a vacant position of Supervising Dentist in the same region has priority over the transfer to the vacant position of one who is already a Supervising Dentist in another region. Respondent Civil Service Commission upheld the Decision of its Merit Systems Board finding no justification for the appointment of TADURAN, a transferee, despite the availability of a next-in-rank employee in the same region in the person of GODINEZ. It declared the ap-ointment by the Secretary (now Minister) of Health null and void, directed TADURAN's return to his former station, and recommended the promotion of GODINEZ to the contested position.

We are constrained to reverse.

The pertinent provisions of P.D. No. 807 read:

"Sec. 19 - Recruitment and Selection of Employees.

xxx xxx xxx xxx

(3) When a vacancy occurs in a position in the second level of the Career Service as defined in Section 7, the employees in the government service who occupy the next lower positions in the occupational group under which the vacant position is classified and in other functionally related occupational groups and who are competent, quali-fied and with the appropriate civil service eligibility shall be considered for promotion.

xxx xxx xxx xxx

(5) If the vacancy is not filled by promotion as provided herein the same shall be filled by transfer of present employees in the government service, by reinstatement, by re-employment of persons separated through reduction in force, or by appointment of persons with the civil service eligibility appropriate to the positions.

xxx xxx xxx xxx

(6) A qualified next-in-rank employee shall have the right to appeal initially to the department head and finally to the Office of the President an appointment made (1) in favor of another next-in-rank employee who is not qualified, or (2) in favor of one who is not next-in-rank, or (3) in favor of one who is appointed by transfer and not next-in-rank, or by reinstatement, or by original appointment if the employee making the appeal is not satisfied with the written special reason or reasons given by the appointing authority for such appointment. x x x (Emphasis ours)

We find no mandatory nor peremptory requirement in the foregoing provision that persons next-in-rank are entitled to preference in appointment. What it does provide is that they would be among the first to be considered for the va-cancy if qualified, and if the vacancy is not filled by promotion, the same shall be filled by transfer or other modes of appointment. The latter provision is identical to that in Section 23 of Republic Act No. 2260.[1]

The noticeable change introduced by Section 19(6) of P.D. No. 807 lies in that a qualified next-in-rank employee shall have the right to appeal an appointment in favor of one who is appointed by transfer and not next-in-rank if the employee making the appeal is not satisfied with the written special reason or reasons given by the appointing authority for such appointment. In other words, "special reason or reasons" are now required to be given even in case of an appointment by transfer and not next-in-rank. However, the right of appeal wanted to the next-in-rank who has not been promoted, cannot be construed as indicative of a legislative intent to give priority to promotion over transfer as a means of filling vacant positions. Such restrictive interpretation would unjustifiably imply that next-in ranks are more fit and meritorious for appointment than these of higher rank moved by transfer. It would also impose a rigid formula on the appointing power contrary to the policy of the law that among those qualified and eligible, an appointing authority is granted discretion and prerogative of choice of the one he deems most fit for appointment.[2] The cardinal requirement is merit and fitness under Article XII, B, Section 2, of the 1973 Constitution, and the demands of public service.[3]

"It would seem fairly obvious then that the law does not impose a rigid or mechanistic formula on the ap-pointing power, compliance with which is inexorable and a deviation therefrom fatal. Far from it. If there be adhe-rence to the concept that public office is a public trust, as there ought to be, the criterion should be what public welfare demands, what satisfies public interest. For it is axiomatic that public needs could best be attended to by officials about whose competency and ability there is no question. To that overmastering requirement, personal ambition must of necessity yield. Discretion, if not ple-nary, at least sufficient, should thus be granted to those entrusted with the responsibility of administering the offices concerned, primarily the department heads. They are in the most favorable position to determine who can best fulfill the functions of the office thus vacated. Unless, therefore, the law speaks in the most mandatory and peremptory tone, considering all the circumstances, there should be, as there has been, full recognition of the wide scope of such discretionary authority. Happily, there is nothing in the Civil Service Act, which is fit-tingly concerned with protecting the rights of those in the career service that, rightly construed, calls for a different conclusion. It is

well worth repeating that the broad authority of a department head appears undisputable. Such is the policy of the law, a policy reflected with fidelity in the decisions of this Court. x x x "[4]

We thus see no reason for disturbing the Minister of Health's appointment of TADURAN in the exercise of his administrative or executive judgment.

WHEREFORE, we reverse and set aside the appealed Decision of the Merit Systems Board, which was sustained by respondent Civil Service Commission and, instead, uphold the appointment of petitioner Dr. Napoleon A. Taturan as Supervising Dentist of Regional Health Office No. 4-A, Manila. The Temporary Restraining Order heretofore issued is hereby made permanent. No costs.

SO ORDERED.

Teehankee, (Chairman), Plana, Relova, and De La Fuente, JJ., concur.

Gutierrez, Jr., J., concur. However reserves his views on the extent of the change introduced by Section 19, Subsections 2 to 6, P. D. 807 on the Pineda v. Claudio doctrine when transfers or other modes are used instead of next-in-rank promotion.

[1] "Sec. 23. Recruitment and Selection of Employees. -

x x x

Whenever a vacancy occurs in any position in the competitive service in the government x x x the officer or employee next in rank preferably in the same office, who is competent and qualified to hold the position and who possesses an appropriate civil service eligibility shall be appointed thereto: x x x That should there be any special reason or reasons why such officer or employee should not be appointed to such vacancy, such special reason or reasons shall be stated in writing by the appointing official and the officer or employee concerned shall be informed thereof and be given an opportunity to be heard by the Commissioner of Civil Service, whose decision shall be final, unless appealed from in the manner provided by law: x x x. If the vacancy is not filled by promotion as provided herein, then same shall be filled by transfer or present employees in the government service, by reinstatement, by re-employment of persons separated through reduction in force, or by appointment of persons with the Civil Service eligibility appropriate to the position." (Republic Act No. 2260).

[2] Pineda v. Claudio, 28 SCRA 34 (1969).

[3] Torre vs. Borja, 56 SCRA 47 (1974).

[4] Reyes vs. Abeleda, 22 SCRA 825 (1968).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.