

**DEPARTMENT OF EDUCATION, CULTURE AND SPORTS,
REPRESENTED BY EDNA V. AZURIN, ANASTACIO RAMENTO AND
HON. ONOFRE D. CORPUS, PETITIONERS, VS. THE HONORABLE
COURT OF APPEALS AND GLOR...**

G.R. NO. 81032. March 22, 1990

Ponente: PARAS, J.

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PARAS, J.:

The question presented in this petition is whether or not the reassignment of Gloria Navarro as principal from Carlos Albert High School to Manuel Roxas High School, both in Quezon City, is valid.

The pertinent facts are as follows:

On January 1, 1981, respondent Gloria V. Navarro was appointed Secondary School Principal II. Her appointment was without reference to any particular school, and merely states –

"You are hereby appointed Secondary School Principal II in the Division of City Schools, District II, Quezon City, Ministry of Education and Culture, National Capital Region, with compensation at the rate of Eighteen Thousand Six Hundred Thirty Six Pesos (P18,636.00) per annum, effective January 1, 1981 x x x.

For some years, however, her station as high school principal had been at Carlos Albert High School.

Sometime in 1982, petitioner Edna B. Azurin in her capacity as Schools Division Superintendent of Quezon City, effected a reshuffling of all high school principals in Quezon City in the exigencies of the service, as all of the principals had been overstaying in one station for more than five (5) years. As a result of said reshuffling, respondent Navarro was reassigned from Carlos Albert High School to the Manuel Roxas High School without demotion in rank nor diminution in salary.

On August 25, 1982, however, respondent Navarro wrote a letter to petitioner herein Edna B. Azurin, requesting for a reconsideration of her transfer or reassignment and citing her achievements as an administrator of Carlos Albert High School as her reason therefor.

Petitioner Azurin denied the said request explaining that respondent Navarro's new assignment was made in the exigencies of the service and precisely in recognition of her capabilities as school administrator, and that since respondent Navarro had already spent ten (10) years as principal in Carlos Albert High School, she was accordingly advised to consider her new assignment as a challenge to accomplish new and bigger projects for Manuel Roxas High School.

Despite the denial of her request for reconsideration, respondent Navarro gave notice to petitioner Azurin that she would not comply with her new assignment allegedly because the Magna Carta for Public School Teachers states that no principal/teacher could be transferred without her consent and that the reasons for her transfer are not plausible.

Thereupon, respondent Navarro appealed to Regional Director Anastacio C. Ramento who rendered a Decision on October 6, 1982, holding that aforesaid transfer is proper and in accord with law as it was done in the exigencies of the service.

Still dissatisfied with the said Decision, respondent Navarro appealed to Minister Onofre D. Corpuz, in a letter dated October 15, 1982.

In a Resolution dated November 11, 1982, Minister Corpuz denied the said appeal, holding that the transfer of respondent Navarro is proper and lawful since it is the prerogative of the superintendent to reassign personnel in his division in the exigencies of the service, and considering that the appointment of respondent Navarro does not state any specific school, her transfer could be effected without violating the law and rule on transfer.

In spite of said resolution, respondent Navarro refused to comply with the lawful directive of her superior. And, without elevating the matter to the Civil Service Commission for exhaustion of administrative remedies, said respondent immediately filed a petition for Certiorari and Prohibition with prayer for Preliminary Injunction against Edna Azurin, Anastacio Ramonte and Honorable Onofre D. Corpuz before the Regional Trial Court of Quezon City. The case was docketed as Special Civil Action No. Q-37025 and assigned to Judge Ricardo Tensuan.

On February 25, 1983, Judge Tensuan issued an Order granting the petition for the issuance of the writ of preliminary injunction.

On March 9, 1983, petitioner filed its Answer stating that Navarro is not entitled to a writ of preliminary injunction and her action deserved outright dismissal since she failed to exhaust administrative remedies; that her reassignment was being made in the exigencies of the service and does not constitute demotion in rank and salary, hence, not in violation of R.A. 4670, otherwise known as the Magna Carta for Public School Teachers; that her reassignment was in accordance with MEC Circular No. 28, series of 1962, directing transfer or reassignment after service of more than five (5) years in one station to avoid the teacher's becoming stale or unchallenged and to avoid over-fraternization with associates which could be detrimental to the service.

On March 17, 1983, petitioner filed a Motion for Reconsideration in respect of the Order dated February 25, 1983, which motion was denied in an Order dated May 3, 1983.

Accordingly, on July 25, 1983, petitioner filed with the then Intermediate Appellate Court a petition for certiorari. This case was docketed as AC-G.R. No. 01266.

After hearing and oral argument, the Intermediate Appellate Court rendered a Decision on November 25, 1983 setting aside the Orders dated February 25, 1983 and May 3, 1983.

After resumption of the hearing of Civil Case No. Q-37025 before the Regional Trial Court, petitioner thru counsel moved for the dismissal of the complaint therein on the ground that Navarro's petition before the Regional Trial Court had been rendered moot and academic by the Decision in AC-G.R. No. 01266, wherein it was stated that her reassignment is valid since she had not been appointed to a specific station and that Navarro's petition states no cause of action as she failed to appeal her reassignment to the Civil Service Commission.

After successive hearings and the filing by Navarro of an Opposition to Motion to Dismiss and a reply by petitioner, an Order dated August 27, 1986 was issued dismissing Civil Case No. Q-37025. A Motion for Reconsideration filed by Navarro was denied in an Order dated October 17, 1986.

On appeal by Navarro (CA-G.R. SP No. 11305) the Court of Appeals rendered a Decision (penned by Justice Venancio D. Aldecoa and concurred in by Justices Jorge Coquia and Josue Bellosillo) declaring null and void the

Orders dated August 27, 1986 which dismissed Civil Case No. Q-37025 and October 17, 1986 which had denied Navarro's Motion for Reconsideration.

Hence, the present recourse.

In deciding for Navarro, the Court of Appeals applied Republic Act No. 4670 known as the Magna Carta of Public School Teachers. The provisions of the law which are relevant to this case are the following:

"Section 1. Declaration of Policy. – It is hereby declared to be the policy of this Act to promote and improve the social and economic status of public school teachers, their living and working conditions, their terms of employment and career prospects in order that they may compare favorably with existing opportunities in other walks of life, attract and retain in the teaching profession more people with the proper qualification, it being recognized that advance in education depends on the qualifications and ability of the teaching staff and that education is an essential factor in the economic growth of the nation as a productive investment of vital importance.

"Sec. 2. Title-Definition. – This Act shall be known as the 'Magna Carta for Public School Teachers' and shall apply to all public school teachers except those in the professional staff of state colleges and universities.

As used in this Act, the term 'teacher' shall mean all persons engaged in classroom teaching, in any level of instruction, on full-time basis, including guidance counselors, school librarians, industrial arts or vocational instructors, and all other persons performing supervisory and/or administrative functions in all schools, colleges and universities operated by the Government or its political subdivision; but shall not include school nurses, school physicians, school dentists, and other school employees.

"Sec. 6. Consent for Transfer – Transportation Expenses. – Except for cause and as herein otherwise provided, no teacher shall be transferred without his consent from one station to another.

Where the exigencies of the service require the transfer of a teacher from one station to another, such transfer may be effected by the school superintendent who shall previously notify the teacher concerned of the transfer and the reason or reasons therefor. If the teacher believes there is no justification for the transfer, he may appeal his case to the Director of Public Schools, or the Director of Vocational Education, as the case may be. Pending his appeal and the decision thereon, his transfer shall be held in abeyance: Provided, however, That no transfers whatever shall be made three months before any local or national election.

Necessary transfer expenses of the teacher and his family shall be paid for by the Government if his transfer is finally approved."

(pp. 439-440, 128 SCRA)

Citing the case of Maderazo Jr. vs. Baylon, 128 SCRA 440, the Court of Appeals ruled that the reassignment of Navarro is contrary to law because it is without her consent and over her opposition and that the reason for the reassignment was not plausible.

The aforequoted provision of Republic Act 4670 particularly Section 6 thereof which provides that except for cause and in the exigencies of the service no teacher shall be transferred without his consent from one station to another, finds no application in the case at bar as this is predicated upon the theory that the teacher concerned is appointed – not merely assigned – to a particular station. Thus:

"The rule pursued by plaintiff only goes so far as the appointment indicates a specification. Otherwise, the constitutionally ordained security of tenure cannot shield her. In appointments of this nature, this Court has consistently rejected the officer's demand to remain – even as public service dictates that a transfer be made – in a particular station. Judicial attitude toward transfers of this nature is expressed in the following statement in Ibanez vs. Commission on Elections (1967 Phil. 257, 264, L26558, April 27, 1967):

"That security of tenure is an essential and constitutionally guaranteed feature of our Civil Service System, is not open to debate. The mantle of its protection extends not only against removals without cause but also against unconsented transfer which, as repeatedly enunciated, are tantamount to removals which are within the ambit of the fundamental guarantee. However, the availability of that security of tenure necessarily depends, in the first instance, upon the nature of the appointment (*Hojilla vs. Marino, et al.*, G.R. No. L-20574, February 26, 1965.) Such that the rule which proscribes transfers without consent as anathema to the security of tenure is predicated upon the theory that the officer involved is appointed – not merely assigned – to a particular station (*Miclat v. Ganaden, et al.* G.R. No. L-14459, May 30, 1960; *Jaro v. Valencia, et al.*, G.R. No. L-18352, August 30, 1963).' [*Brillantes v. Guevarra, supra*]"

(pp. 123-124, Rollo)

The appointment of Navarro as principal does not refer to any particular station or school. As such, she could be assigned to any station and she is not entitled to stay permanently at any specific school. (*Bongbong vs. Parado*, 57 SCRA 623) When she was assigned to the Carlos Albert High School, it could not have been with the intention to let her stay in said school permanently. Otherwise, her appointment would have so stated. Consequently, she may be assigned to any station or school in Quezon City as the exigencies of public service require even without her consent. As this Court ruled in *Brillantes v. Guevarra*, 27 SCRA 138,143 -

"Plaintiff's confident stride falters. She took too loose a view of the applicable jurisprudence. Her refuge behind the mantle of security of tenure guaranteed by the Constitution is not impenetrable. She proceeds upon the assumption that she occupies her station in Sinalang Elementary School by appointment. But her first appointment as Principal merely reads thus: "You are hereby appointed a Principal (Elementary School) in the Bureau of Public Schools, Department of Education", without mentioning her station. She cannot therefore claim security of tenure as Principal of Sinalang Elementary School or any particular station. She may be assigned to any station as exigencies of public service requires, has no right of choice."

(p. 123, Rollo)

It should be here emphasized that Azurin's letter of August 12, 1982, clearly stated that Navarro's reassignment is in the exigencies of the service. It was explicitly mentioned that her reassignment is a recognition of her capabilities as administrator in improving the Carlos Albert High School and that she should look at her new assignment as a challenge to accomplish new and bigger projects for Manuel Roxas High School. Moreover, her reassignment was the result of a recognition/reshuffling of all principals in the Quezon City public high schools in the exigencies of the service pursuant to MEC Circular No. 26, Series of 1972. This circular refers to the policy of the Ministry of Education that principals, district supervisors, academic supervisors, general education supervisors, school administrative officers and superintendents are to be transferred upon completion of five (5) years of service in one station. Such policy was based on the experience that when school officials have stayed long enough in one station, there is a tendency for them to become stale and unchallenged by new situations and conditions, and that some administrative problems accumulate for a good number of years.

In the case at bar, the reasons given by Azurin in recommending Navarro's reassignment were far from whimsical, capricious or arbitrary. Navarro had been assigned as principal of Carlos Albert High School for more than ten (10) years. She was ripe for reassignment. That she was a model principal was precisely one of the reasons for recommending her for reassignment so that her management and expertise could be availed of in her new assignment. Apart from the presumption of good faith that Azurin enjoys, We believe that her recommendation for Navarro's reassignment – for the latter to share the benefits of her expertise in her new assignment plus the recognizable fact that a relatively long stay in one's station tends towards over-fraternization with associates which could be injurious to the service – has a substantial factual basis that meets the requirements of the exigencies of the service.

The Maderazo ruling cited by the Court of Appeals in its Decision is not applicable in the instant case. That case involved a district supervisor who was being transferred without the reason for such transfer being stated. At the time of his transfer he was already 61 years old and due to retire. These circumstances are not present in the case at bar because the reason for Navarro's reassignment was stated and made known to her.

With the foregoing, the conclusion is thus inescapable that there can be no violation of the Magna Carta for Public School Teachers in this case.

Finally, respondent Navarro has not exhausted administrative remedies as she did not elevate the matter of her transfer to the Civil Service Commission in accordance with Section 24 (c) PD No. 807, otherwise known as the Civil Service Decree which provides:

"(C) Transfer. – A transfer is a movement from one position to another which is equivalent in rank, level, or salary without break in service involving the issuance of an appointment.

It shall not be considered disciplinary when made in the interest of public service, in which case, the employees concerned shall be informed of the reasons therefor. If the employee believes that there is no justification for the transfer he may appeal his case to the (Civil Service) Commission." (Underscoring supplied)

(pp. 125-126, Rollo)

By not appealing her case to the Civil Service Commission before filing Special Civil Action No. Q-37025, respondent Navarro is indubitably without cause of action.

WHEREFORE, the Decision of the Court of Appeals dated November 27, 1987 is hereby SET ASIDE and another one tendered DISMISSING Special Civil Action No. Q-37025 of the Regional Trial Court of Quezon City.

No pronouncement as to costs.

SO ORDERED.

Padilla, Sarmiento, and Regalado, JJ., concur.

Melencio-Herrera, (Chairman), J., did not take part due to close personal association with one of the petitioners.

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