

**ZENAIDA ORCINO, PETITIONER, VS. CIVIL SERVICE COMMISSION
AND RUFINA B. MOTI, RESPONDENTS.***G.R. No. 92869. October 18, 1990*

Ponente: GUTIERREZ, JR., J.

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The petitioner questions the resolutions of the Civil Service Commission (CSC) which reversed the findings of the CSC Merit Systems Board and the Department of Education, Culture, and Sports on the validity of the private respondent's reassignment. She contends that if the CSC resolutions are sustained, it would result in the "triumph of discourtesy and insubordination over that of order and efficiency in the performance of official duty." (Rollo, p. 2)

On the other hand, the private respondent contends that the declaration of excess teacher in the Malvar Elementary School, her transfer by the Division Superintendent of City Schools to another school, and other acts of harassment constitute removal not for cause but because of personal ill-motives of the petitioner.

The comments filed by the private respondent and the Civil Service Commission are treated as answers and the petition is decided accordingly. Significantly, the Solicitor General agrees with the petitioner and recommends that the CSC resolutions be set aside.

Rufina B. Moti was appointed "National (City) Elementary Grades Teacher" in the Division of City Schools, Manila on September 1, 1970. Her status was "Regular (Permanent) Reappointment." The position to be filled was "Item No. 15-702, RA 4092 (Intermediate)."

The controversy which led to this case arose at the beginning of school year 1984-1985 when the student population of Malvar Elementary School significantly decreased. Classes in the intermediate level were reduced from eleven to ten resulting in an overall excess of one teacher. There was, however, a vacancy in Grade IV in the primary level.

Following the "Guidelines Governing Excess Teachers", Circular No. 10, Series of 1982 of the Division of City Schools, the 58 teachers of Malvar Elementary School were evaluated. The performance rating showed that Rufina B. Moti ranked No. 55 with Rebecca Estrella, Elena Morelos, and Rosario Alarcon ranking Nos. 56, 57, and 58 respectively. When length of service and relative fitness were added to performance ratings, Rufina B. Moti ranked last. She was, therefore, declared as excess teacher. When efforts to find an acceptable position in the intermediate grades were unsuccessful, she was assigned to the Grade IV class.

Respondent Moti refused to accept the new assignment and insisted on any class provided it was in the intermediate grades. The refusal prompted petitioner Zenaida Orcino, principal of the school, to recommend that Ms. Moti be reassigned to another school. The then Superintendent Josefina Navarro assigned the respondent first to Lakandula Elementary School and later, to Moises Salvador Elementary School.

Instead of complying with the order of the Division Superintendent, respondent Moti filed a protest with the

Ministry of Education, Culture and Sports (MECS). The MECS sustained the Superintendent's order and ruled that Ms. Moti's transfer to Moises Salvador Elementary School was justified by the facts and the law. The respondent decided to go to the Civil Service Commission.

The CSC Merit Systems Board ruled that the reassignment of Ms. Moti to another school was in order and dismissed her complaint. On appeal to the Commission itself, the CSC set aside the orders of the Merit Systems Board and ordered Ms. Moti restored to her former position of Grade VI classroom teacher. Disciplinary action against petitioner Orcino was also ordered. Hence, this petition

The petitioner raises the following arguments in her petition:

I

THE HONORABLE CIVIL SERVICE COMMISSION GRAVELY ERRED IN INTRODUCING MATTERS BELIED BY THE EVIDENCE ON RECORD.

II

THE COMMISSION A QUO GRAVELY ERRED IN ORDERING THAT 'APPROPRIATE DISCIPLINARY ACTION' BE METED ON PETITIONER ZENAIDA ORCINO WHO ACTED WITHIN THE SCOPE OF HER AUTHORITY AND SUSTAINED BY HER SUPERIORS.

III

THE COMMISSION A QUO REVERSIBLY ERRED IN DEPRIVING PETITIONER ZENAIDA ORCINO THE OPPORTUNITY TO REBUT THE CHARGES OF PRIVATE RESPONDENT IN THE LATTER'S APPEAL WITH THE COMMISSION.

IV

THE COMMISSION A QUO ERRED IN REINSTATING RUFINA MOTI DESPITE HER PROVEN ACTS OF INSUBORDINATION AND ADAMANCE CLEARLY INIMICAL TO THE SERVICE. (Ppetition, pp. 5-6)

As a rule, the Court respects the factual findings of the Court of Appeals and quasi-judicial agencies like the CSC, giving them a certain measure of finality. However, the rule is not without clearly defined exceptions. Findings of facts of the Court of Appeals (in this case, the Civil Service Commission) are not conclusive and may be set aside when:

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x x x (1) the conclusion is a finding grounded entirely on speculation, surmise and conjectures; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the Court of Appeals went beyond the issues of the case and its findings are contrary to the admission of both appellant and appellees [Roque v. Buan, 21 SCRA 648 {1967}]; (6) the findings of facts of the Court of Appeals are contrary to those of the trial court; (7) said findings of facts are conclusions without citation of specific evidence on which they are based; (8) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents [Garcia v. CA, 33 SCRA 622 {1970}]; and (9) when the finding of fact of the Court of Appeals is premised on the absence of evidence and is contradicted by evidence on record [Salazar v. Gutierrez, 33 SCRA 243 {1970}]." (Tolentino v. De Jesus, 56 SCRA 167, 172 [1974])

In *Insular Life Assurance Co. Ltd. Employees Association-Natu v. Insular Life Assurance Co., Ltd.* (76 SCRA 50

[1977]), we ruled that factual findings of a quasi-judicial institution which are not supported by substantial and credible evidence do not bind this Court, e. g. the findings and conclusions have no basis in the records or are contrary to the evidence on record or the factual determinations of an appellate body are contrary to those of the initial fact-finding agency. (See also *San Miguel Corp. v. National Labor Relations Commission*, 128 SCRA 180 [1984]; *Cuales v. National Labor Relations Commission*, 121 SCRA 812 [1983]; *Chong Guan Trading v. National Labor Relations Commission*, 172 SCRA 831 [1989]; *Villamor v. Court of Appeals*, 162 SCRA 574 [1988]; *Ongsiako v. Intermediate Appellate Court*, 152 SCRA 627 [1987]; *Metro Port Service, Inc. v. Court of Appeals*, 131 SCRA 365 [1984]; and *Fireman's Fund Insurance Co. v. Metro Port Service, Inc.*, G.R. No. 83613, February 21, 1990)

In this particular case, both the Regional Director and the Minister of the MECS and CSC's own Merit System's Board sustained the recommendations made by the petitioner and upheld the actions of the Division Superintendent of City Schools. We have examined the records carefully and agree with the Solicitor General that the questioned CSC resolutions are not supported by the evidence on record.

There can be no question that the decreased enrollment in the Malvar Elementary School led to a reduction of classes. Faced with an excess of teachers, it was the duty of the petitioner as school principal to recommend a solution to the problem.

There is no factual basis for the CSC conclusion that the reassignment of respondent Moti to another class or another school violated her security of tenure and the statutory restriction that any reassignment should not involve a reduction in rank, status or salary.

A reassignment from Grade VI to Grade IV involves no reduction in rank, status, or salary. There is no showing in the records that there is less honor in teaching Grades I to IV than in teaching Grades V to VI. It is erroneous for the CSC to even intimate that an intermediate teacher is demoted when asked to teach a lower grade. The best teachers should welcome assignments to teach Grade One as this is where young minds need the best guidance and inspiration from talented and dedicated mentors. In this case, the reassignment was not only justified but also necessary.

As to whether the transfer from one school to another was disciplinary, the records show that respondent Moti was appointed "National (City) Elementary Grades Teacher" in the Division of City Schools, Manila. (Annex 1, Petition; Rollo, p. 88) The Solicitor General correctly observes that her appointment is without specific station and does not specify any assignment as Grade VI teacher. As Elementary Grades Teacher, she could be assigned to any public elementary school in Manila and ordered to teach any Grade or subject within her competence.

The entries in the lower half of her appointment paper, alongside and below the signature of the appointing authority are merely informative, specifying where she would be assigned and stating some personal data. The Solicitor General states that "these words do not constitute the appointment." (Manifestation in Lieu of Comment, p. 16) Among them are - Position to be filled: Item No. 15-702, Page No. 303, RA 4092 (Intermediate); Authorized Salary Range 35, Authorized Salary Rate 3264 and such entries as title, place, and date of teacher's examination, maiden name, performance rating, highest educational attainment, last station, who recommended her, etc. (Rollo, p. 88)

The respondent cannot rely on her initial assignment to fill a specific vacancy in the Intermediate Grades in a particular school as giving her a vested right to that item. She can be assigned to any grade anywhere in the City of Manila in the best interests of the service.

Neither can the alleged length of experience of the respondent strengthen her case. The CSC finding that Ms. Moti

taught Grade VI for 13 years is pointed out by the Solicitor General as contradicted by the evidence. It was only in 1983-1984 or the year before her questioned transfer that she was assigned to Grade VI-2. (Manifestation in Lieu of Comment, p. 14)

The CSC disregarded the record before it - the revised check list to determine the allotment of teachers based on number of classes, the maximum teaching loads in specific subject areas per teacher, the number of subject preparations, and the table on how the number of classroom and special teachers for a certain number of pupils and grades is determined. The records show that all relevant factors were considered when MECS and the Merit Systems Board reviewed the Superintendent's action and sustained it. (See Original Records, pp. 48-65)

There are other findings of the CSC which are contrary to the records.

The CSC stated that there could have been no reduction of intermediate classes from eleven (11) to ten (10) because in 1984-1985, there were still the same five sections in Grade VI. This is non-sequitur. "Intermediate" consists of Grades V and VI, not Grade VI alone. Moreover, teachers in those grades teach according to subject areas instead of teaching all subjects in one class of one grade. This matter was thoroughly studied by the Division Superintendent and she was not misled on the number of classes and teachers in the entire school before she issued the appointments and transfer orders. There is likewise nothing arbitrary in the selection of the respondent as "excess" teacher. She ranked 58th out of 58 teachers evaluated for performance, length of service, and relative fitness.

The CSC found something wrong in the transfer of Merly Evangelista to Malvar Elementary School and the reassignment of a provisional substitute teacher as elementary grade teacher. It also questioned why respondent Moti was reassigned to Grade IV and then transferred to two other schools in June and July, 1984.

The records show that when Ms. Moti became an excess teacher and pending her assignment to Grade IV, she was asked to do office work, library work, and other assignments. There is nothing wrong in this. She could not be twiddling her thumbs while being paid her usual salaries. She was given her choice of a morning Grade IV class, with three other teachers yielding to her. When she refused, another teacher was assigned to the morning class. When she also turned down the remaining afternoon class, another teacher was appointed. Precisely, the reassignments and the appointments subject of her complaints were prompted by the changes in school population and her stubborn refusal to obey lawful orders. A cooperative attitude and a certain degree of flexibility are required of all who profess to be educators.

The CSC found personal motives, bias, and injustice behind the petitioner's acts. That there is bad blood between the petitioner and the private respondent is apparent from the records. On June 27, 1984 or one day before the petitioner recommended to Superintendent Navarro that Ms. Moti be declared an "excess teacher", the latter filed a complaint with the Tanodbayan alleging among others that Ms. Orcino was collecting P1.00 each from teachers who failed to sign the city share payrolls and P10.00 each for the purchase of an image of the Sto Niño for the school premises. This was, however, immediately denied by some teachers who claimed that there were contributions for whoever was following up their payrolls at City Hall and for the Sto. Niño, but these were purely voluntary on the teachers' initiative and Ms. Orcino had nothing to do with them. The complaint was dismissed by the Tanodbayan on March 20, 1985 (Original Records, pp. 4-9; pp. 93-96)

On the other hand, Ms. Orcino filed also on June 28, 1984, a complaint with the Superintendent of City Schools against Ms. Moti charging her with non-cooperation in specified school activities, reading newspapers during rehearsals for graduation exercises even with the Principal and Assistant Principal around, talking and laughing during bacalaureate mass to the annoyance of the priest, refusal to submit lesson plan and record book and to sit with the evaluators of the performance ratings and other acts of defiance of specified school regulations. The

charges were found valid and Director Modesta G. Boquiren of the MECS National Capital Region fined Ms. Moti the equivalent of five (5) days salary. (Original Records, pp. 38-47)

The private respondent charged Ms. Orcino with coercing and embarrassing her and telling her to stop attending meetings of teacher associations, cease making representations for better professional and economic benefits of teachers, avoid joining delegations to Malacañang for the upgrading of teachers' benefits, etc.

Significantly, in all these charges and counter--charges, the petitioner was sustained by the Division Superintendent, Regional Director, Department Head, and CSC Merit Systems' Board. Only the CSC arrived at different findings without, as earlier stated, any factual basis on record for its conclusions.

At any rate, even assuming that the CSC is correct and that its findings are not based on surmises and presumptions, there is no explanation why the petitioner, a purely recommendatory authority should be the one penalized and disciplined while the Superintendent of City Schools who ordered the transfer and the higher MECS authorities who did not reverse it, remain free of blame. If there was any abuse of authority or arbitrariness, the Division Superintendent of City Schools who makes all the appointments, transfers, and other personnel action should have been charged and not the Principal. The Superintendent could have rejected the recommendation to transfer Ms. Moti and ordered her retention in Malvar Elementary School and the petitioner would have been bound to obey.

As earlier stated, an appointment as "Elementary Grades Teacher" in Manila means that the teacher can be assigned to any school in Manila. The choice of grade, subject area, primary or intermediate level, school, and district is pure policy and the determination as to the capabilities of the teacher and the assignment where she would be most useful are, in the absence of arbitrariness or whimsicality, best left to the administrators concerned. In *Brillantes v. Guevarra* (27 SCRA 138 [1969]) this Court held that an excellent principal in a model and centrally located school may be transferred to a struggling school in a less attractive community to improve standards and to "spur the improvement of small schools" (at p. 149). In other words, the interest of the service may dictate that the worst school should get the best principal. The same principle applies to classroom teachers. No one has the vested right to balk at difficult assignments ordered for the best interests of the service. There would be nothing disciplinary in this and other transfers.

Because of the bad blood existing between Ms. Moti and Ms. Orcino, the Division Superintendent of Schools had to choose between transferring one or the other. Since Ms. Moti was clearly at fault, Superintendent Navarro exercised her sound discretion in reassigning the private respondent to another school. We see no error, much less grave abuse of discretion in her choice.

Our ruling in *Sta. Maria v. Lopez* (31 SCRA 637, 652-654 [1970]) on transfers that are valid and which do not amount to removal squarely applies:

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"4. Concededly transfers there are which do not amount to removal. Some such transfers can be effected without the need for charges being preferred, without trial or hearing, and even without the consent of the employee.

"The clue to such transfers may be found in the 'nature of the appointment.' Where the appointment does not indicate a specific station, an employee may be transferred or reassigned provided the transfer affects no substantial change in title, rank and salary. Thus, one who is appointed 'principal in the Bureau of Public Schools' and is designated to head a pilot school may be transferred to the post of principal of another school.

"And the rule that outlaws unconsented transfers as anathema to security of tenure applies only to an officer

who is appointed -- not merely assigned -- to a particular station. Such a rule does not prescribe a transfer carried out under a specific statute that empowers the head of an agency to periodically reassign the employees and officers in order to improve the service of the agency. The use of approved techniques or methods in personnel management to harness the abilities of employees to promote optimum public service cannot be objected to. Neither does illegality attach to the transfer or reassignment of an officer pending the determination of an administrative charge against him, or to the transfer of an employee from his assigned station to the main office, effected in good faith and in the interest of the service pursuant to Section 32 of the Civil Service Act."

And even assuming that Ms. Moti was not at fault, it is not what pleases her but the best interests of the service which form the primary criterion. In labor cases where relations between an employee and his employer are so strained or where an employee would no longer be useful because his employer has lost trust and confidence in him, this Court has ordered full backwages plus separation pay in lieu of reinstatement even where the employee was eventually cleared of the charges. Paramount are the continued health and best interests of the company and all its other employees. (*Bautista v. Inciong*, 158 SCRA 665 [1988]; *Asiaworld Publishing House, Inc. v. Ople*, 152 SCRA 219 [1987]; *Quezon Electric Cooperative v. National Labor Relations Commission*, 172 SCRA 88 [1989]; *Philippine Associated Smelting and Refining Corp. v. National Labor Relations Commission*, 174 SCRA 550 [1989]; and *Citytrust Finance Corp. v. National Labor Relations Commission*, 157 SCRA 87 [1988]).

The CSC should adopt the reasons behind the above policy when considering the setting aside of reassignment or transfer orders. Where the discipline and morale of a teaching force, the peace and quiet essential to the learning process, the welfare of the student body, and the educational standards of a school require that unseemly wranglings and squabbles should be abated, remedial acts such as those questioned in this case should be sustained.

It is not the welfare of the parties alone which is considered when disciplinary action involving classroom teachers or school principals is taken. The school children, their parents, other teachers, the community and nation are all affected by what goes on in a school. Their interlocking interests dictate that prudence and caution should be exercised when nullifying remedial transfers and other corrective actions. Except when there is strong showing of willful and arbitrary conduct, the school administrators deserve all the assistance they can get in maintaining discipline in their schools and solving the problems of education. There is no showing of arbitrary or ill-motivated conduct in this case. The resolutions of the respondent CSC are, therefore, tainted by grave abuse of discretion.

WHEREFORE, the petition is hereby GRANTED. The questioned RESOLUTIONS of the Civil Service Commission are SET ASIDE. The private respondent's COMPLAINT is DISMISSED. The Temporary Restraining Order dated August 7, 1990 is made PERMANENT.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

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