

CORAZON L. CABAGNOT IN HER CAPACITY AS PROVINCIAL GOVERNOR OF AKLAN, PETITIONER, VS. CIVIL SERVICE COMMISSION AND RENATO R. BAUTISTA, PEDRO R. SAYON, EUFEMIA I. MAQUINICA, ARLYN...

G.R. No. 93511. June 03, 1993

Ponente: ROMERO, J.

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ROMERO, J.:

The present petition seeks the reversal of Civil Service Commission Resolutions dated August 23, 1989 and April 10, 1990 ordering the reinstatement of private respondents to their former positions or positions of comparable or equivalent rank.

On September 21, 1988, the new organizational structure and staffing pattern of the provincial government of Aklan was approved by the Joint Commission on Local Government Personnel Administration (JCLGPA) thru the Director of the Bureau of Local Government Supervision. The reorganization provided three hundred sixty four (364) regular plantilla positions from the previous three hundred thirty nine (339) with the Office of the Governor allocated one hundred forty four (144) from the previous sixty (60) positions. The implementation of the reorganization plan was subject to several conditions, relevant of which are the following:

“x x x x x x x x

2. that the qualification standards for each position shall be in accordance with the standards set therefor by the Civil Service Commission;

x x x x x x x x

5. that there shall be no reduction in actual salary of the employees except in instances where the salaries of such employees equal or exceed the salary of their immediate supervisor; in which case, the actual salary of the subordinate employees shall be reduced by at least one (1) step rate below that of the immediate supervisor;

6. that all retained personnel shall be issued new appointments except those who are occupying elective positions and those appointed by national officials;

x x x x x x x x

9. that the placement of personnel shall be in accordance with Republic Act No. 6656 dated June 10, 1988 and the implementing rules and regulations issued by the Civil Service Commission;

x x x x x x x x.”[1]

Governor Corazon L. Cabagnot, petitioner herein, issued a Memorandum dated November 2, 1988 inviting all provincial officials and employees to apply for any of the authorized positions in the new staffing pattern for the evaluation and assessment of the Provincial Placement Committee which petitioner subsequently created thru

Executive Order No. OII-88.

On January 5, 1989, the list of employees newly appointed and re-appointed was posted. Individual letters were sent to all employees in the list directing them to accomplish and submit the necessary documents to complete their appointment and to report to their assigned offices. On January 17, 1989, twenty-one (21) supposedly aggrieved employees jointly appealed to petitioner pursuant to Section 18 of the Rules on Government Reorganization issued by the Civil Service Commission and Sections 2, 3, 4, 5 and 12 of Republic Act 6656 (1988) entitled An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization. They prayed that they be appointed to the positions they applied for to which they are eligible, having the required educational background, training and experience. They likewise sent petitioner individual letters reiterating their qualifications and praying for reconsideration of their new appointments to positions lower in rank than their positions prior to the reorganization.

In denying their appeal, petitioner explained that since reorganization renders all positions vacant, the employees have no vested right to their original positions. Moreover, as the appointing authority, she enjoys the prerogative to transfer employees to offices other than those they previously occupied if such is necessary to make them function more effectively. Lastly, the appointments of private respondents did not violate the Civil Service Law on security of tenure as the items offered them carried the same rate and salary they were receiving prior to the reorganization, i.e., there was no diminution or reduction of their salary.

Out of the original twenty-one (21) protestants only seventeen (17), private respondents herein, instituted a collective appeal dated March 2 and 29, 1989 before the Civil Service Regional Office in Iloilo City praying that:

“WHEREFORE, it is most respectfully prayed of the Honorable Commission:

1. Declaring the reorganizational structure and new staffing pattern of the province of Aklan to be a failure it being not in accordance with the provisions of Republic Act No. 6656 specifically as it is violative of Sec. 2 (c), Sec. 2 (d), Sec. 2 (e) in relation to Sec. 3, Sec. 4 and Sec. 5 of the said law;
2. Ordering protestee-appellee to appoint the protestants-appellants rightful and qualified appointees to the positions they applied for and declaring protestee-appellee’s proposed appointees to the positions applied for by protestants-appellants as null and void;
3. Ordering protestee-appellee to reinstate terminated protestants-appellants and/or appoint them to positions where their qualification, experience, training and civil service eligibilities may fit them;
4. Ordering protestee-appellee to direct the fiscal authorities of the province of Aklan to pay the salaries due the protestants-appellants in the meantime that their appeals are being considered by the Honorable Commission and directing the fiscal authorities of the province of Aklan to desist from paying the salaries of protestee-appellee’s appointees as protestee-appellee’s appointees do not have duly attested or approved appointments from the Civil Service Commission.

Other reliefs deemed just and equitable are likewise prayed for.”[2]

In the Resolution dated August 23, 1989, respondent Civil Service Commission found that irregularities attended the election of the two members representing the first and second level personnel to the Placement Committee based on the affidavit executed by one Nida E. Melgarejo and the letter appeal of some thirty-seven (37) employees of the provincial government of Aklan. Furthermore, it found petitioner to have violated Sec. 7 of the Rules on Reorganization and Memorandum Circular No. 5, s. of 1988 providing preference for appointment of employees holding permanent positions considering that private respondents who were all holding permanent appointments to regular items prior to the reorganization were proposed to positions much lower than their former

items despite the fact that their old items were carried over in the new staffing pattern. The Commission found no reason for displacing the services of private respondents primarily because there are eighty-four (84) additional positions for the Office of the Governor alone. Hence, it directed that:

- “1. A new election be conducted within five (5) days from receipt of this decision to elect the representatives of the first and second level employees to the Placement Committee in an open election where members of the rank and file will have the opportunity to cast their vote. A Commission on Election should be constituted for this purpose to preside during the election. The Director of the Civil Service Regional Office IV should witness the election proceedings and report to the Chairman of this Commission on the results thereof. The newly elected representatives will then replace those allegedly elected in November 1988.
2. The Placement Committee shall immediately convene after the election to re-assess and re-evaluate the qualifications of all appointees including herein appellants for placement to positions comparable to their former positions which evaluation shall be completed within fifteen (15) days after the election.
3. Pending completion of the evaluation, the Assistant Provincial Treasurer or Officer-in-Charge is hereby directed to pay the salary of the appellants retroactive to the date payment thereof was stopped, effective immediately, based on the salary rate of their old items prior to the reorganization if they had reported for work as shown from their Daily Time Records;
4. That appellants submit all pertinent documents (like Personal Data Sheets, Performance Ratings for the last two years, etc.) required of them by the Governor, as bases for the latter to prepare the necessary placement documents; and
5. The Commission be informed of the action taken hereon within twenty (20) days from receipt of this decision.”[3]

In her Motion for Reconsideration dated September 15, 1989, petitioner questioned the Commission’s finding of irregularities in the election of the two members representing the first and second level personnel to the Placement Committee and its order that another election be held anew to elect said representatives. Petitioner pointed out that private respondents did not contest the conduct of the election of the two representatives; much less did they pray for the holding of a new election. In an effort to prove that the election was clean, honest and orderly, petitioner attached the minutes of the meeting where the two representatives were elected, the affidavit of all the employees who attended the said meeting and the letter of Nida E. Melgarejo and Evangelina M. Baladjay informing petitioner that they have received their salary and that any written complaint signed by any of them should be considered null and void.

Opposition to the Motion for Reconsideration was filed by private respondents who, noting that the same focussed only on the findings of irregularity in the election of the two representatives, petitioner was deemed to have accepted the findings of the Commission regarding the invalidity of the reorganization. As to the irregularities in the Placement Committee, they questioned the joint affidavit of the employees who supposedly participated therein, for among the affiants, only fourteen (14) were permanent employees, twelve (12) were temporary employees and thirty-two (32) were casuals who did not belong to the first and second level participants. They likewise questioned the import of Melgarejo’s and Baladjay’s letter which, for them, was not a retraction of the former’s affidavit but a mere clarification on matters relative to their appointments.

Petitioner filed a supplement to the Motion for Reconsideration which, not only reiterated the absence of factual and legal bases for the Commission to order a new election but also asserted her wide latitude of choice, as appointing power, in determining the best qualified for the position. She insisted that Section 7 of the Rules on Reorganization providing for preference of appointment is directory and not mandatory.

In their reply to the supplement to the Motion for Reconsideration, private respondents, while recognizing the appointing power's prerogative based on assessment and perception of the employees' qualifications, maintained that the same is subject to existing rules, namely, Rep. Act No. 6656 and the Rules on Reorganization of the Civil Service Commission.

On April 10, 1990, the Commission promulgated its second Resolution modifying the Resolution of August 23, 1989 to the extent that the earlier order calling for a new election and the reconvening of the Placement Committee was deemed unnecessary in light of the new evidence presented by petitioner and the length of time the controversy has been raging. However, after a thorough study, it found that a wide disparity existed between the former positions held by private respondents (except Oczon) and the positions proposed for them by petitioner even if equivalent positions were available. With the case of *Floreza v. Ongpin*[4] as authority, it declared private respondents to have been demoted. Private respondent Oczon was found to have been terminated/removed. Moreover, petitioner was found to have violated Section 4 of Rep. Act No. 6656 providing preference for appointment of permanent employees to the new positions or if there are not enough comparable ones, to positions next lower in rank. Thus, the Commission ordered that:

- “1. Appellants be immediately appointed and restored to their positions or positions of comparable or equivalent rank without loss of seniority rights with back salaries reckoned from the dates they should properly have been appointed thereto effective the date of the reorganization of said province.
2. Appellants who were demoted in position or proposed to much lower position be reverted to their position or positions of comparable or equivalent rank with payment of salary differentials, if any reckoned from the dates they were demoted.
3. Appellant Oczon who was terminated as Janitor be restored to his former position if still available, otherwise to the new position of Utility Worker with payment of back salaries retroactive to the effective date of reorganization.
4. It is further directed that the CSC Region VI Director in Iloilo City coordinate with the Provincial Governor's Office in the implementation of this Resolution specifically in the determination of proper comparable position of appellants suitable to their qualifications.”[5]

Petitioner, believing that the questioned resolutions were issued with grave abuse of discretion because they encroached on her power to appoint, filed the present petition.

On November 22, 1990, the Court resolved to issue a Temporary Restraining Order ordering respondent Civil Service Commission to cease and desist from implementing the questioned resolutions.

The principles defining the extent of the power of the appointing authority vis-a-vis that of the Civil Service Commission are well-settled.[6] The power to appoint is essentially discretionary. The only condition for its proper exercise by the appointing authority is that the appointee should possess the qualifications required by law. The determination of who among several candidates for a position possesses the best qualifications rests solely on the appointing authority who occupies the ideal vantage point from which to identify and designate the individual who can best fill the post and discharge its functions. Once the discretion has been exercised, the CSC cannot replace the appointee with an employee of its choice whom it believes to be better qualified because the power of the CSC is merely confined to approving or disapproving appointments. In other words, it is limited to the determination of whether the appointee possesses the required qualifications for the post. Thereafter, its participation in the appointment process ceases. Substituting its judgment for that of the appointing authority constitutes encroachment on the latter's discretion. Even this Court cannot control the appointing authority's discretion as long as it is exercised properly.

Petitioner anchors her case on these established principles which have been consistently applied in cases of contested appointments where the CSC revokes the appointment made by the appointing authority and directs the appointment of another person whom it believes to be better qualified. In these cases, we upheld the discretion of the appointing authority whenever it is exercised properly. The situation in the case at bar is different. Here, the CSC is not revoking any appointment made by petitioner. It is merely ordering the reinstatement of private respondents whom it found to have been demoted or terminated. Thus, the basic issue in this case is whether, as a result of the reorganization undertaken by the Provincial Government of Aklan, the security of tenure of private respondents is impaired.

The CSC found that sixteen (16) of the seventeen (17) private respondents were demoted because of the wide disparity between the former positions held by them and the positions to which they were proposed by petitioner. In the succeeding discussion, those who are similarly situated are grouped accordingly.

A. Renato Bautista, Ma. Mujane Begonia Miroy, Pedro Sayon, Eufemia Maquinica, Anita Meren, Vivian Ruiz, Arlyn Buensalido and Reba Concepcion.

Mr. Bautista, the Provincial Planning and Development Coordinator of the Provincial Development Staff (PDS), applied for the same position under the newly-named Provincial Planning and Development Office (PPDO), formerly PDS. Petitioner gave him the position of Tax Mapper I in the Provincial Assessor's Office (PASSO), a position lower by fourteen (14) grades. He claims he was, not only demoted, but his right of preference was also violated considering his fourteen (14) years of service with PDS where he has undergone all relevant training and seminars. He believes that he cannot perform the work of a Tax Mapper for lack of educational qualifications and experience.

Ms. Miroy, the Development Project Analyst at the PDS, applied for the positions of Planning Officer I and Project Development Officer I in the same office. She was given the position of Tax Mapping Aide at the PASSO, a position lower by six (6) grades.

Mr. Sayon used to be the Executive Assistant in the Office of the Provincial Governor (OPG). He applied for the positions of Administrative Officer II and Management and Audit Analyst but was offered the position of Construction and Maintenance Capataz at the Provincial Engineers Office (PEO) which is six (6) grades lower.

Ms. Maquinica, Personnel Officer I at the OPG applied for the positions of Management and Audit Analyst I and II, also at the OPG. The position proposed to her was that of Security Guard I. She believed she could not very well accept this position which is five (5) grades lower than the one she previously held and for which she is not qualified, considering her physical condition.

Ms. Meren, as the incumbent Development Project Assistant at PDS, applied for the same position though renamed Project Development Assistant in PPDO (formerly PDS). She was given the position of Community Affairs Worker at the Public Affairs Information and Assistance Office (PAIAD) of the OPG, a position lower by four (4) grades.

As Public Information Assistant of the OPG, Ms. Ruiz was the editor of the two previous provincial newsletters: Tambuli and Inforcen Balita. She applied for the positions of Information Assistant and Information Officer, both at the OPG. She was given the position of Security Guard I which is three (3) grades below her previous position.

As former Senior Personnel Aide, Ms. Buensalido applied for the positions of Clerk II and Communications Equipment Operator since she was also a holder of a radio operator eligibility. She was offered the position of Security Guard which is two (2) grades lower than her former position.

Ms. Concepcion, former Senior Clerk at the OPG, applied for the positions of Clerk III and Records Officer II of the OPG but was proposed for the position of Security Guard I, a position lower by two (2) grades.

These private respondents were given positions which were not only lower, by two (2) to as much as fourteen (14) grades, but which were different in nature from the ones they previously held.

B. Joyce Martirez, Annie Dala, Ellen Tolentino and Margareth Natal.

As a former Clerical Aide at the Personnel Division of the OPG, Ms. Martirez applied for the position of Clerk I at the Human Resources Development Office (HRDO), a new office which performs the functions of the abolished Personnel Division. She was instead given the position of Utility Worker at the General Services of the OPG which is not only a grade lower but also caused a change in the nature of her work – from clerk to janitor. She believes this offer did not take into account her educational qualification (BS Commerce Major in Business Administration), her more than five years of service as clerk and the fact that she was a former clerk in the same office.

Ms. Dala, the former Training Officer of the PDS, applied for the positions of Project Evaluation Officer and Planning Assistant at the PPDO (former PDS). Instead, she was offered the position of Information Writer in the PAIAD, a position lower by one grade. She claims she lacks the necessary experience to perform the new task.

As the former Personnel Officer III at the Personnel Division of the OPG, Ms. Tolentino applied for the positions of Human Resource Development Officer II and IV. She was offered instead the position of Statistician I at PASSO. She refused to accept the same, not only because it was a grade lower, but also because she does not possess the necessary educational qualification, experience, and training for it.

Ms. Natal was the Treasury Accounts Examiner of the Provincial Treasurer's Office (PTO) when she applied for the position of Local Treasury Operations Officer I. She was instead appointed as Revenue Collection Clerk which, she says, demoted her by one grade and changed her status from an examiner to a mere clerk in the same office.

These private respondents were offered positions lower by one grade although they applied for positions which they have shown to be comparable to the ones they previously held.

C. Estelito Silva, Eves Poblacion and Tita Lumio.

Mr. Silva, a clerk at PASSO, applied for the same position because it was not abolished. However, he was given the position of Utility Worker I in the General Services Division (GSD) at OPG. His new position, although belonging to the same salary grade (SG-3), is actually lower by two steps.

Ms. Poblacion, a clerk at the OPG applied for the same position, as well as the positions of HRD aide in the same office, and of statistician at PASSO. She was, however, given the position of security guard, a position of the same salary grade (SG-3) but a step lower.

Ms. Lumio, the Property Management Officer at the Provincial Treasury Office (PTO) applied for the position of Local Treasury Operation Officer IV in the same office, as well as for the position of Administrative Officer II at the GSD. Instead, she was given the position of Records Officer II at the latter's office, a position of the same salary grade (SG-10) but lower by one step.

It is to be observed that these private respondents were given positions of the same salary grade but lower by one or two steps. Moreover, there was a change in the nature of their work and their status. Mr. Silva was demoted from clerk to janitor; Ms. Poblacion, from clerk also to security guard and Ms. Lumio was reduced to a mere subordinate from being a former division chief.

D. Priscilla Briones

As former clerical aide at the Personnel Division of the OPG, Ms. Briones applied for the same position at the same office, now called, HRDO. However, she was given the position of bindery helper at the PASSO which is of the same grade and step as her former position.

While there was no actual decrease in the salary grade and step of Ms. Briones, there was a change in the nature of her work – from clerk to bindery helper.

We agree with the CSC when it found that a glaring disparity exists between the former positions held by private respondents and the positions proposed to them by petitioner. This is fairly obvious in the case of respondents Bautista, et al. who were given positions which were, not only lower by two grades to as much as fourteen, but which also changed the nature of their work. This is also true with respect to respondents Martinez, et al. who were given positions lower by one grade despite the showing that comparable positions exist. In the case of respondents Silva, et al. there were differences in their proposed positions, by one or two steps. Finally, in the case of Briones, the disparity consists, not so much in the salary grade and/or step, but in the nature of the work.

Section I of Rep. Act No. No. 6656 declares as the policy of the State, the protection of the security of tenure of civil service officers and employees in the reorganization of the various agencies of the government. Section 2 requires prior determination of a valid cause after due notice and hearing before any officer or employee in the career service can be removed, or demoted, which in effect is a removal.

In order to show that valid cause for demotion exists, petitioner submits an evaluation^[7] supposedly made by the Placement Committee showing that private respondents were recommended to positions to which they are best fitted and where they would be performing more effectively as demanded by the interest of public service. However, private respondents raise some serious objections regarding this evaluation. First, they observe that this supposed evaluation was not certified by any member of the Placement Committee. Second, the supposed evaluation is not complete, meaning, not all of private respondents have their respective evaluation.^[8] Third, its validity is dubious because different typewriters were used which could mean that other entries were belatedly entered. Fourth, this evaluation was not submitted before the CSC and offered only to this Court for the first time.

In view of the seriousness of the objections raised against the evaluation which was the only proof evidencing the existence of valid cause for demotion, it was expected that petitioner would meet squarely these objections. However, she chose to ignore the same. Her silence is at once obvious and ominous. The letters sent by petitioner to private respondents simply informed them of their new assignments and required them to submit the pertinent documents. These were not accompanied by a copy of the evaluation allegedly made by the Placement Committee or by any explanation for their demotion. It was only when private respondents protested their new assignments that petitioner, in her decisions dated February 7 and 18, 1989, explained that the new appointments and transfers to offices other than their original positions were done to enhance their efficiency and effectivity.^[9] We find that petitioner has failed to show satisfactorily that respondent CSC committed grave abuse of discretion.

We hold that, as a result of the reorganization of the provincial government of Aklan, these sixteen private respondents have been demoted by their assignment to positions which are lower than those they previously held, or which, though of equivalent salary grade and step, drastically changes the nature of their work without a showing by petitioner of the existence of a valid cause for such demotion, which in effect is a removal, determined after due notice and hearing. We reiterate the Court's reminder in *Mendoza v. Quisumbing*:

“x x x If a person is dismissed from his job, he should be informed of the reason. The reason should be in the Civil Service Law or, at least, in the law authorizing the removal. The reason must have a reasonable relationship to the employee's merit and fitness for the job. He must be given, before he is fired, an

opportunity to show that the cause for removal does not apply to him. Elementary principles of fairness and compassion are essential. Only then can the reconciliation and unity so earnestly sought today be achieved.”[10]

Assigning an employee to a lower position in the same service which has a lower rate of compensation is a clear case of demotion tantamount to removal when no cause is shown for it or when it is not a part of any disciplinary action.[11] Thus, petitioner stresses the fact that since private respondents would be receiving the same rate of salary they were receiving before the reorganization, therefore they are not demoted. In the case of Floreza, we ruled that there was demotion even if Floreza was allowed to receive the same salary as his previous higher position. Similarly, we find that private respondents, notwithstanding non-diminution of their salary, have been demoted. This arbitrariness has no place in a government that nurtures the constitutional mandates of security of tenure and due process.[12]

In addition to a finding of demotion, the CSC also found petitioner to have violated the rule on preference for appointment of permanent employees based on Sec. 4 of Rep. Act No. 6656,[13] Sec. 7 of Rules on Organization[14] and Memorandum Circular No. 5, s. 1988 of the CSC.[15] The rule means that “old employees should be considered first” on the assumption, though not absolutely true, that they have gained “not only superior skills but also greater dedication to the public service.” This is not to say, however, that they should be automatically appointed because “the law does not preclude the infusion of new blood, younger dynamism, or necessary talents into the government service” provided that the acts of the appointing power are “bonafide for the best interest of the public service and the person chosen has the needed qualifications.”[16] It is less than accurate, however, to conclude that petitioner violated the rule on preference for appointment of permanent employees because not all appointees to the positions formerly held by private respondents or to those comparable positions were new appointees.

In the case of Mr. Oczon who was the only one found by respondent Commission to have been terminated, he used to be a janitor at the Science Development High School of Aklan (SDHSA). His salary came from the contribution of the provincial government of Aklan. When the SDHSA was nationalized, the provincial government discontinued its contribution so that he now receives his salary from the national government. Notwithstanding this, Oczon still claims entitlement to “back salaries and salary differentials reckoned from the time he was terminated as janitor as a result of the reorganization to the time that he was integrated as a national employee of the Science Development High School of Aklan.”[17]

We do not share the opinion of Mr. Oczon that he was terminated as a result of the reorganization. His supposed “termination” was actually caused when SDHSA was nationalized. His “termination” merely coincided with the reorganization of Aklan’s provincial government which used to allocate a share or contribution to SDHSA. When SDHSA was nationalized, the contribution of Aklan’s provincial government consequently ceased. On this score, we rule for petitioner and find respondent Commission to have committed grave abuse of discretion in ordering that Oczon be “restored to his former position if still available, otherwise to the new position of Utility Worker with payment of back salaries retroactive to the effective date of reorganization.”[18]

To summarize: with respect to the sixteen private respondents, respondent Commission committed no grave abuse of discretion in ordering that they be “immediately appointed and restored to their positions or positions of comparable or equivalent rank without loss of seniority rights with back salaries reckoned from dates they should properly have been appointed thereto effective the date of the reorganization of said province.”[19] As explained in *Gayatao v. Civil Service Commission*:

“x x x The CSC, after finding that the demotion was patently illegal, is merely restoring private respondent to his former position, just as it must restore other employees similarly affected to their positions before the

reorganization.

It is within the power of public respondent to order the reinstatement of government employees who have been unlawfully dismissed. The CSC, as the central personnel agency, has the obligation to implement and safeguard the constitutional provisions on security of tenure and due process. In the present case, the issuance by the CSC of the questioned resolutions, for the reasons clearly explained therein, is indubitably in the performance of its constitutional task of protecting and strengthening the civil service.”[20]

However, with respect to private respondent Oczon, we hold that respondent Commission did commit grave abuse of discretion in ordering his reinstatement with back salary, considering that he was not terminated as a result of the reorganization.

WHEREFORE, with respect to the abovementioned sixteen (16) private respondents, the present petition is hereby DISMISSED; with respect to private respondent Expedito W. Oczon, the same is hereby GRANTED. The temporary restraining order issued on November 22, 1990 enjoining their reinstatement is accordingly LIFTED in the case of the sixteen private respondents but made PERMANENT with regard to private respondent Expedito W. Oczon.

SO ORDERED.

Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Nocon, Bellosillo, Melo, and Quiason, JJ., concur.

Narvasa, C.J., no part close association with one of parties.

[1] Annex “C” of Petition, Rollo, pp. 36-37.

[2] Annex “I” of Petition, Rollo, pp. 60-67, at p. 65.

[3] Annex “A” of Petition, Rollo, pp. 25-30, at pp. 29-30.

[4] G.R.Nos. 81356 and 86156, February 26, 1990, 182 SCRA 692.

[5] Annex “B” of Petition, Rollo, pp. 31-35, at pp. 34-35.

[6] Medalla, Jr. v. Sto Tomas, G.R. No. 94255, May 5, 1992, 208 SCRA 351; Alim v. Civil Service Commission (CSC), G.R. No. 99391, December 2, 1991, 204 SCRA 510; Abila v. CSC; G.R. Nos. 92573, 92867, June 3, 1991, 198 SCRA 102; Lustre v. CSC, G.R. No. 96578, May 20, 1991, 197 SCRA 288; Lapinid v. CSC, G.R. No. 96298, May 14, 1991, 197 SCRA 106; Lopez v. CSC, G.R. No. 92140, February 19, 1991, 194 SCRA 269; Simpao v. CSC, G.R. No. 85976, November 15, 1990, 191 SCRA 396; Gaspar v. Court of Appeals, G.R. No. 90799, October 18, 1990, 190 SCRA 774; Orbos v. CSC, G.R. No. 92561, September 12, 1990, 189 SCRA 459; Patagoc v. CSC, G.R. No. 90229, May 14, 1990, 185 SCRA 411; Central Bank v. CSC, G.R. Nos. 80455-56, April 10, 1989, 171 SCRA 744; Luego v. CSC, G.R. No. 69137, August 5, 1986, 143 SCRA 327; and Pamantasan ng Lungsod ng Maynila v. Intermediate Appellate Court, G.R. No. 65439, November 13, 1985, 140 SCRA 22.

[7] Annex “N”, Rollo, pp. 88-105.

[8] Private respondents Vivian Ruiz, Reba Concepcion, Margareth Natal do not have their respective evaluation by the Placement Committee.

[9] Rollo, p. 26.

[10] G.R. Nos. 78053, 78525, 81197, 81495, 81928, 81998, 86504, 86547, 88951, 89427, June 4, 1990, 186

SCRA 108.

[11] See: Department of Transportation and Communications v. Civil Service Commission, G.R. Nos. 89325-26, 90033, October 3, 1991, 202 SCRA 340; Floreza v. Ongpin, G.R. Nos. 81356-86156, February 26, 1990, 182 SCRA 692.

[12] Floreza v. Ongpin, *supra*, p. 708.

[13] SEC. 4. Officers and employees holding permanent appointments shall be given preference for appointment to the new positions in the approved staffing pattern comparable to their former positions or in case there are not enough comparable positions, to positions next lower in rank.

No new employees shall be taken in until all permanent officers and employees have been appointed, including temporary and casual employees who possess the necessary qualification requirements, among which is the appropriate civil service eligibility, for permanent appointment to positions in the approved staffing pattern, in case there are still positions to be filled, unless such positions are policy-determining, primarily confidential or highly technical in nature.

[14] Section 7. Preference for appointment - Subject to the preceeding Section, preference for appointment to the new positions in the approved staffing pattern shall be in the following order:

(1) Officers and employees holding permanent appointments to positions comparable to their former positions or in case there are not enough comparable positions next lower in rank; x x x.

[15] 7. No appointment of new personnel to career positions, whether by transfer, reinstatement or original, shall be made until incumbent personnel are placed in the

[16] Torio v. Civil Service Commission, G.R. Nos. 99336, 100178, June 9, 1992, 209 SCRA 677, 692 citing Medenilla v. CSC, G.R. No. 93868, February 19, 1991, 194 SCRA 278, 289.

[17] Rollo, p. 179.

[18] Rollo, p. 34.

[19] *Ibid*; See also, Section 9, Rep. Act No. 6656.

[20] G.R. No. 93064, June 22, 1962, 210 SCRA 183, 189.

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