

MITA PARDO DE TAVERA, AS CHAIRMAN, BOARD OF COMMISSIONERS, POPULATION COMMISSION, PETITIONER, VS. CIVIL SERVICE COMMISSION AND GUALBERTO AMABLE, JR., RESPONDENTS.

G.R. No. 95915. August 16, 1991

Ponente: NARVASA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-95915/>

NARVASA, J.:

The reorganization of the then Ministry of Social Welfare and Development (MSWD) was decreed by Executive Order No. 123 promulgated on January 30, 1987. Included in the reorganization thus directed was the Population Commission (POPCOM) which was attached to the MSWD.

Pursuant to that directive, a new plantilla and staffing pattern of the POPCOM was drawn up, known as the "Organization, Staffing and Classification Action Summary" (OSCAS). Among the changes effected by the reorganization was the reclassification of the position of Population Programs Coordinator to POPCOM Regional Director.

The Board of Commissioners of the POPCOM then reviewed the qualifications and performance records of the POPCOM officers and employees to determine their fitness for re-appointment under the new set-up. One of the employees so evaluated was Gualberto R. Amable, Jr., who was holding the position of Population Programs Coordinator of Region XI at the time.

Amable was apparently found wanting in the qualifications prescribed for the position of POPCOM Regional Director (which, as above stated, had replaced the former office of Population Programs Coordinator in the various regions).[1] Apparently taken into account, too, was the fact that in an administrative proceeding against Amable for dishonesty -- arising from his failure to "settle/liquidate" the amount of P40,950.00 in his possession for an unreasonable length of time -- he had been found guilty after due notice and hearing, of "keeping the money in his person and not in the office and utilizing it for the purpose not intended," with the mitigating circumstance of "lack of intention to defraud the government for having refunded the amount in full," and had accordingly been sentenced to "the penalty of suspension for a period of fifteen (15) days including the period of his preventive suspension." [2]

So, on December 23, 1987, the Chairman of the POPCOM Board of Commissioners advised him in writing that in connection with the reorganization under Executive Order No. 123, he was not "considered for reappointment under the approved Organization, Staffing and Classification Action Summary (OSCAS) by the Board of Commissioners." [3]

The Board instead appointed Ignacio Ll. Arat POPCOM Regional Director for Region XI. Although Arat was the employee "next-in-rank" to Amable, the Board was of the view that unlike the latter, he had all the qualifications prescribed for the position of Regional Director. [4]

Amable wrote to the Chairman on January 25, 1988, seeking reconsideration.[5] This was denied on February 10, 1988.[6] Amable perfected an appeal to the Civil Service Commission, which was docketed as CSC Case No. 159. Another employee, Felix Sevidal, joined him in the appeal.

Ruling that "no comparative assessment of candidates for ** (the positions in question) was done prior to appointment of employees who replaced Messrs. Amable and Sevidal," the Civil Service Commission (CSC) required "the POPCOM Placement Committee to evaluate the candidates ** on the basis of standards for retention/termination enumerated under MC # 10, s. 1986, within fifteen (15) days **." This, by Resolution dated February 24, 1989. Both Amable and Sevidal moved for reconsideration. In the meantime, the POPCOM complied with the resolution and submitted its report in due time.

On February 5, 1990, the CSC promulgated the first of two (2) resolutions now challenged in the appeal at bar.[7] I (a) declared that upon the evidence on record, the appointment of Ignacio Arat as Regional Director (in preference to Amable) was "in order," but (b) ordered Amable's reinstatement "to a position comparable or equivalent to his previous position where his qualifications are deemed fitted with right to back salaries and restoration of his privileges and benefits as employee," since he (Amable) had "disputed validly the charge of dishonesty to which he served the penalty of 15-day suspension" (sic) and it appears that another "charge against ** (him) for dishonesty, Falsification, and violation of anti-graft and corruption act was dismissed" (sic)[8] by Secretary Pardo de Tavera in a decision dated July 9, 1987.

Reconsideration of this Resolution of February 5, 1990 was sought by Amable, and by Carmen P. Garcia, Executive Director III of the POPCOM. Both motions were denied by Resolution dated October 4, 1990.[9] Amable's motion for reconsideration was denied because it was a second one, prohibited by Section 49 (2) Book V, Executive Order No. 292 governing appeals from the CSC. Garcia's motion -- which stressed that "the main reason for the non-reappointment of Amable is his being morally unfit to the sensitive Population Program" -- was denied because as earlier stated by the CSC, Amable had "disputed validly the charge of dishonesty for which he served the penalty of 15-days suspension" and the "graft charge against him ** (had been) dismissed."

These two (2) resolutions were appealed to this Court by the Chairman of the POPCOM Board of Commissioners who prays for the annulment thereof "insofar as they order the POPCOM to reinstate ** respondent Gualberto R. Amable, Jr. to a position equivalent or comparable to his former position."

The appeal has merit, and the relief prayed for will be granted.

As disclosed by the record, there were two reasons why Amable was not considered for re-appointment in the Commission on Population Control. The first was that he lacked the minimum qualifications even for the position he was then holding, of Programs Coordinator. The second, his honesty or moral integrity was so far suspect as to make him unfit for government service.

There is no question about the validity of the first reason. It is undeniable that he could not and did not meet the minimum standards for the position of Regional Director (to which that of Programs Coordinator had been reclassified). Indeed, even as regards the position of Population Programs Coordinator, it is equally undeniable that he lacked an important qualification for the office: a bachelor's degree in Health, Social or Behavioral Sciences or equivalent relevant courses; and if he remained undisturbed in his occupancy of that position for many years, this can only be ascribed to tolerance, or lack of awareness of his superiors of that lack. In any event, his deficiency in this respect having come to light, it is clear that his reinstatement to an equivalent position is now out of the question.

But more important than his lack of academic qualification is his lack of that degree of honesty or moral integrity

that is indispensable in public service.

The record reveals that:

- 1) on learning that his Disbursing Officer, Auxiliadora Juan, had received the amount of P40,950.00 as cash advance for the transportation allowance of clinic personnel in Region XI, Amable, who was then the Programs Coordinator of that region, required Juan to turn over the money to him; this she did on June 24, 1986;
- 2) on July 2, 1986, Amable was directed to immediately cause the liquidation in full of said amount, under sanction of suspension of his salary and other monetary benefits due him; he failed to do so;
- 3) the money being still in his personal possession more than six (6) months later, Amable was again required on January 7, 1987 to fully settle said account within five (5) days, under threat of administrative and/or criminal prosecution for malversation of public funds; Amable still failed to do so;
- 4) it was not until January 29, 1987, when Amable received a copy of the Memorandum dated January 26, 1987, setting forth formal charges of DISHONESTY against him and commanding his preventive suspension, that he finally gave back to his office the amount of P40,950.00;
- 5) in his answer, Amable claimed that part of the money, while in his personal possession, had been utilized for travel expenses of certain DMPA staff members; he could not however present evidence in substantiation of the claim; moreover, it does not appear that he ever presented any claim for refund of the sums allegedly so utilized;
- 6) in his answer, Amable also asserted that he had no intention to defraud the government, but gave no satisfactory explanation why he took personal custody of the money in the first place and did not keep it in his office, or why he failed to give it back immediately upon demand but retained it in his possession for more than six (6) months; and
- 7) apart from this, other charges of dishonesty, falsification, and graft were proffered against him although these were dismissed by the POPCOM Chairman.

These uncontroverted circumstances considered, it is difficult to understand and accept the respondent Commission's view that Amable had "disputed validly the charge of dishonesty to which he served the penalty of 15-day suspension." The penalty of fifteen days' suspension meted out to him obviously does not reflect the gravity of the acts and omissions proven against Amable, or obscure the revelation thereby made of the serious defect in his moral character; hence, it is no argument for his reinstatement to advert to the relative lightness or levity of the penalty imposed on him.

There was therefore ample justification for the decision not to consider Amable for reappointment to the Population Commission. His separation from the Government service is warranted by the provisions of Executive Order No. 17, effective May 28, 1986,[10] which (in its Section 3) prescribes, as ground therefor, the "existence of a probable cause for violation of the Anti-Graft and Corrupt Practices Act as determined by the Ministry Head concerned," or "any other analogous ground showing that the incumbent is unfit to remain in the service or his separation/replacement is in the interest of the service." Nor is there any indication whatever that bad faith attended the decision not to reappoint Amable so as to invalidate his separation from the service in consequence of the reorganization of the Population Commission.[11] It was grave abuse of discretion on the part of respondent Civil Service Commission to hold otherwise and direct reinstatement of private respondent Amable.

WHEREFORE, the petition is GRANTED, the Resolutions of the respondent Civil Service Commission dated February 5, 1990 and October 4, 1990 are ANNULLED AND SET ASIDE, and the petitioner's decision to consider private respondent Amable ineligible for reappointment to the Population Commission is SUSTAINED.

Costs against private respondent.

IT IS SO ORDERED.

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

[1] Rollo p. 44

[2] Id., pp. 63, 65-66

[3] Id., p. 50

[4] Id., p. 17, 20-21

[5] Id., pp. 51-52

[6] Id., pp. 53-54

[7] Id., pp. 43-45

[8] Id., pp. 46, 47-48

[9] Id., pp. 46-49

[10] In relation to Sec. 1 of the Freedom Constitution (Presidential Proclamation No. 3)

[11] SEE *Dario v. Mison*, G.R. No. 81954, Aug. 8, 1989, 176 SCRA 84, 127

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.