

DEPARTMENT OF TRADE AND INDUSTRY, PETITIONER, VS. THE CHAIRMAN AND COMMISSIONERS OF THE CIVIL SERVICE COMMISSION, ET AL., RESPONDENTS.

G.R. No. 96739, October 13, 1993

Ponente: VITUG, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-96739/>

VITUG, J.:

The Department of Trade and Industry ("DTI") would want us to set aside, in this petition for certiorari, the resolution[1], dated 10 April 1990, of the Civil Service Commission ("CSC") which reversed the decision[2] of 07 March 1989 of the DTI Reorganization Appeals Board ("DTI-RAB") that, in turn, affirmed the order of the DTI Reorganization Committee to do away with the services of herein private respondent Taciana B. Espejo ("Espejo").

Executive Order No. 133, entitled "Reorganizing the Department of Trade and Industry, Its Attached Agencies and for Other Purposes," was promulgated by the President of the Philippines on 27 February 1987, providing, among other things, that the National Cottage Industry Development Authority ("NACIDA") was to be "reorganized into the Cottage Industry Technology Center ("CITC") and attached to the DTI." Pursuant to the above directive, DTI Memorandum Circular No. 28, dated 24 April 1987, precleared with the CSC, was issued expressing the guidelines for the evaluation and the placement of DTI personnel.

At the time, Espejo was a Division Chief II, Public Relations and Management Staff Service, of NACIDA, and she was among those whose positions and qualifications were evaluated and assessed. The Reorganization Committee found Espejo not to be sufficiently qualified for retention. Consequently, she was given a letter of termination, dated 17 August 1988,[3] although her actual separation from the service was later extended to 16 September 1988. In the interim, or on 19 August 1988, she was offered the position of Industrial Development Specialist, Operations Department, CITC, which was four (4) ranges lower than her previous position.[4] She turned down the offer; instead, she appealed her case to the DTI-RAB. Unable to obtain a reversal from the DTI-RAB of the Reorganization Committee's findings, Espejo elevated the case to the CSC.

The CSC, acting on Espejo's appeal, promulgated on 10 April 1990, its assailed resolution, ordering the reinstatement of Espejo "to any position comparable to her former position of Division Chief II in the new positions in the Department of Trade and Industry approved staffing pattern or the other agencies attached to the Department of Trade and Industry." DTI's motion for reconsideration was denied by CSC on 17 July 1990.[5]

In its Manifestation, dated 9 August 1990, the DTI informed the CSC that the position of Division Chief I RR-22 CITC, with a monthly salary of P8,250.00, was offered to Espejo, but that the latter rejected it as not being comparable to her old position of Division Chief II, RR-24. In its Order[6], dated 28 September 1990, the CSC held:

"We clarify however that since the said position [Division Chief II] which was range 18 prior to the salary standardization law is now range 24. It follows that what is comparable to her former position is Division

Chief of range 24."

Finally, on 5 February 1991, after resolving another request for clarification and acting on Espejo's plea, the CSC issued an order[7], thus:

"WHEREFORE, foregoing premises considered, this Commission resolved to direct the reinstatement of Taciana Espejo to the position of either item No. 477 or 424 on the Bureau of Export Trade Promotion."

Hence, the present petition. Petitioner DTI contends that it cannot be compelled by respondent CSC to appoint respondent Taciana Espejo to any of the vacant positions of Division Chief with Range 24 in the bureaus and offices of the Department of Trade and Industry (including its attached agencies) since there are employees who are more senior and better qualified than she. DTI also points out that the functions to be discharged by the new appointees would be different from, and would require expertise foreign to, her old position.

The Solicitor General, in his Comment to the petition, prefatorily states:

"After a thorough study of the issues raised by the two contending government agencies, this office gives merit to the cause of the CSC and, in line with the Honorable Court's ruling in the case of Orbos etc., vs. CSC (G.R. No. 92561, September 12, 1990), the OSG is submitting this Comment for and in behalf of public respondent CSC."

The petitioner's case, ably discoursed by its own counsel Aurora Ma. F. Timbol, centers on the objectives of, and rationale behind, the executive reorganization program and how, in general, the DTI, on its part, has carefully devised procedures to put the plan into effect. To be sure, appropriate guidelines have indeed been set in place. Regrettably, however, even given all the sophisticated safeguards that can be provided therefor, human factor would still be inevitable in the actual process of implementation. The President herself (invested with authority to reorganize the Government under Sections 1 and 2, Article III, of the Freedom Constitution, see also Section 16, Article XVIII, of the 1987 Constitution), foreseeing, in her words, "(the) unnecessary anxiety and demoralization among deserving officials and employees, particularly in the career civil service," that the exercise of this power might cause, has rightfully cautioned against its abuse and specifically warned that "only those found corrupt, inefficient and undeserving (shall be) separated from the government service." [8] Whether the reorganization is to be adjudged valid, or invalid, inquiry must perforce be made on the manner in which it is implemented and the way the power is wielded by those to whom the authority is delegated. Heretofore, this Court has repeatedly expressed the need for extreme care and prudence in carrying out the reorganization process. Its implementation, in any event, must pass the test of good faith. In *Dario v. Mison* [9] we laid down the rule, thus:

"Reorganization in this jurisdiction have been regarded as valid provided they are pursued in good faith. As a general rule, a reorganization is carried out in 'good faith' if it is for the purpose of economy or to make bureaucracy more efficient. In that event, no dismissal (in case of dismissal) or separation actually occurs because the position itself ceases to exist. And in that case, security of tenure would not be a Chinese wall. Be that as it may, if the 'abolition,' which is nothing else but a separation or removal, is done for political reasons or purposely to defeat security of tenure, or otherwise not in good faith, no valid 'abolition' takes place and whatever 'abolition' is done, is void ab initio. There is an invalid 'abolition' as where there is merely a change of nomenclature of positions, or where claims of economy are belied by the existence of ample funds."

To this date, we have not deviated from the above pronouncement, and we have struck down as invalid any attempt to displace civil servants on a supposed call for efficiency or economy but which in the end only fails to properly reflect and evince that explicit objective. Republic Act No. 6656, "An Act to Protect the Security Tenure of Civil Service Officers and Employee in the Implementation of Government Reorganization," in part, provides:

"SEC. 2. No officer or employee in the career service shall be removed except for a valid cause and after due

notice and hearing. A valid cause for removal exists when pursuant to a bona fide reorganization, a position had been abolished or rendered redundant or there is a need to merge, divide, or consolidate positions in order to meet the exigencies of the service, or other lawful causes allowed by the Civil Service Law. The existence of any or some of the following circumstances may be considered as evidence of bad faith in the removals made as a result of reorganization, giving rise to a claim for reinstatement or reappointment by an aggrieved party:

- (a) Where there is a significant increase in the number of positions in the new staffing pattern of the department or agency concerned;
- (b) Where an office is abolished and another performing substantially the same functions is created;
- (c) Where incumbents are replaced by less qualified in terms of status of appointment, performance and merit;
- (d) Where there is a reclassification of officers in the department of agency concerned and the reclassified offices perform substantially the same functions as the original offices;
- (e) Where the removal violates the order of separation provided in Section 3 hereof."

In *Mendoza v. Quisumbing*,^[10] we stressed that "(i)t is a paramount principle in Public Officers' Law that the power to abolish public offices vested in the legislature is not absolute, (and that it) is subject to the limitations that it be exercised in good faith, should never be for personal or political reasons, and cannot be implemented in a manner contrary to law." It may be recalled that after 02 February 1987, any reorganization undertaken by government is also circumscribed by the provisions and safeguards of the new Constitution.^[11]

In the present controversy affecting the case of the private respondent herein, no less than the Civil Service Commission itself has found that the bona fide rule has been ignored, thus -

"Records show that under the DTI reorganization, there is a significant increase in the number of positions in the new staffing pattern. In fact, one of its bureaus, the Bureau of Foreign Trade increased its divisions from four to 15. The DTI Undersecretary even admitted in a public hearing in government reorganization that:

'Contrary to the general misconception of equating reorganization with lay-off, DTI is increasing jobs to the extent that even if they absorb all the NACIDA personnel, there would still be vacant positions.'

Likewise, Section 18 (e) of E.O. No. 133 provides that NACIDA is merely reorganized as CITC, and its functions other than technology development and training, were transferred to the Bureau of Small and Medium Scale Business Development (BSMBD) and relevant operating units of the Department (DTI). Thus, the function of NACIDA are merely transferred to other units of DTI, it follows that its personnel performing particular functions shall also be transferred to the corresponding units.

We find particular merit on the evidence submitted by Espejo that incumbents were replaced by those less qualified in terms of educational qualification, performance and merit. She submitted the cases of a personnel offices promoted to Division Chief, an Analyst to Assistant Division Chief and appointments returned by this Commission for lack of education/ experience/ training, while appellant, whose qualifications include her being a Division Chief for 11 years and a Masteral Degree, was offered a position four ranks lower. The assailed decision even mentioned that Espejo, 'undoubtedly possesses education and work experience to perhaps, merit retention in the service.'

There was even no showing that Espejo was compared and assessed along with others for purposes of her reappointment for a comparable position.

With the increase in the new staffing pattern of DTI, the alleged abolition of position of Espejo is not in good faith. Further, considering the circumstances earlier stated, her separation is found to be not in order."

Needless to state, our jurisdiction over cases emanating from the CSC is limited to complaints of lack or excess of jurisdiction or grave abuse of discretion tantamount to lack or excess of jurisdiction that can justify certiorari under Rule 65. Unless there is a grave abuse of that discretion or when the findings are arbitrary and devoid of evidentiary justification, we must accord due respect, if not finality, to those findings.[12]

WHEREFORE, the petition is DISMISSED, and the resolution, dated 10 April 1990, of the respondent Civil Service Commission is hereby AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Cruz, Padilla, Bidin, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quiason, and Puno, JJ., concur.
Narvasa, (Chairman), J., I dissent for the reasons set out in J. Herrera's opinion in *Dario v. Mison*. 176 SCRA 84, 133-155
Feliciano, J., I dissent on the grounds set out in Herrera J. dissent in *Dario v. Mison*.
Griño-Aquino, J., on leave.

[1] Annex "B", Petition, Rollo, 19-22.

[2] Annex "A", Ibid., 12-18.

[3] Annex 15, Comment, Rollo, 132.

[4] Annex 16, Comment, Rollo, 133.

[5] Annex "D", Petition, Rollo, 26-27.

[6] Annex "F", Ibid., 30-31.

[7] Rollo, 219.

[8] Executive Order No. 17, 28 May 1986, 82 Official Gazette 2423, June 2, 1986.

[9] G.R. No. 81954, 176 SCRA 92-93/1989/.

[10] 186 SCRA, 110, 137/1990/ citing *Cruz v. Primicias*, 23 SCRA 998/1968/; *Maza v. Ochave*, 20 SCRA 142/1967/; *Abanilla, et al. v. Ticao, et al.*, 17 SCRA 652/1966/; *Ocampo, et al. v. Duque, et al.*, 16 SCRA 962/1966/; *Llanto v. Ali Dimaporo, et al.*, 16 SCRA 599/1966/; *Arao v. Luspo*, 20 SCRA 722/1967/; *Guillergan, et al. v. Ganzon, et al.*, 17 SCRA 257/1966/; *Urgelio v. Osmeña, Jr.*, 9 SCRA 317/1963/; *Alipio v. Rodriguez*, 9 SCRA 752/1963/; *Briones, et al. v. Osmeña, Jr., et al.*, 104 Phil. 588/1958/; and *Gacho, et al. v. Osmeña, Jr., et al.*, 103 Phil. 837/1958/.

[11] *Floreza v. Ongpin*, 182 SCRA 692, 707/1990/.

[12] *Orcino v. CSC*, G.R. No. 98269, 190 SCRA 815/1990/.

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.