

MELANIO S. TORIO, PETITIONER, VS. CIVIL SERVICE COMMISSION, NATIONAL PRINTING OFFICE, OFFICE OF THE PRESS SECRETARY AND EFREN CAMACHO, RESPONDENTS.

G.R. No. 99336. June 09, 1992

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

These two consolidated petitions assail the resolutions of the Civil Service Commission (CSC) revoking the appointment of herein petitioners on the ground that they lacked the necessary civil service eligibility at the time of the issuance of their appointments.

The same series of events gave rise to the controversy in these two petitions.

Executive Order No. 285 issued on July 25, 1987 abolished the General Services Administration (GSA) including all offices and agencies under it. The General Printing Office (GPO) which was under the GSA was merged with the relevant printing units of the Philippine Information Agency (PIA) and out of the merger arose the National Printing Office (NPO) which was placed under the control and supervision of the Office of the Press Secretary (OPS). A new plantilla of personnel for the NPO was prepared and approved and the affected officers and employees continued to perform their respective duties and responsibilities in a hold-over capacity pending the implementation of the reorganization.

The petitioner in G.R. No. 99336, Melanio Torio, was the Chief of the Production Staff of the Printing Division, PIA, while the petitioner in G.R. No. 100178, Jaime Espanola, was a Bindery Foreman at the PIA. They continued discharging their functions in a hold-over capacity after the PIA was merged with the GSA. On March 1, 1988, in accordance with the new staffing pattern of the NPO, petitioner Torio was temporarily appointed as Assistant Operations Superintendent of Printing while petitioner Espanola was appointed as Temporary Supervising Bookbinder. Both appointments lapsed on February 28, 1989. So on March 1, 1989, petitioner Torio was extended a renewal appointment which was likewise in a temporary capacity while petitioner Espanola was issued another appointment as Supervising Bookbinder with a permanent status. On the same date, Espanola was granted a testimonial eligibility.

On July 1, 1989, the positions of both petitioners were upgraded - the Assistant Operations Superintendent of Printing was changed to Assistant Superintendent of Printing and the Supervising Bookbinder to Bookbinder IV. This time, another appointment was issued to Torio for the upgraded position together with his change of status from temporary to permanent. Espanola, on the other hand, was given only a notice of the upgrading of his position inasmuch as he was already holding it in a permanent capacity.

Prior to the appointments of the petitioners to the permanent items, protests were lodged with the CSC. The protestants were Efren Camacho and Letty Cangayda, the private respondents in G. R. No. 99336 and G.R. No. 100178, respectively. The CSC referred Camacho's protest to the NPO while Cangayda's protest was referred to the Reorganization Appeals Board of the OPS. The offices concerned did not take any action on the referrals by

the CSC so the latter was constrained to resolve the protests based on the available documents or papers before it.

On January 7, 1991, the CSC issued a resolution in CSC Case No. 796 revoking the appointment of Torio and ordering those qualified, including Camacho, to be evaluated for the position. Subsequently, on February 5, 1991, the CSC rendered another resolution in CSC Case No. 832 cancelling Espanola's appointment and ordering the reappointment of Cangayda to the position. The motions for reconsideration filed separately by the present petitioners were denied for lack of merit. Hence, the present recourse to this Court.

As was stated earlier, the two petitions herein were consolidated in a resolution of this Court on September 3, 1991. A temporary restraining order, as prayed for by the petitioners, was issued pursuant to the Court's resolution dated October 10, 1991.

On the basis of the pleadings before us, we give due course to the petitions and decide them on their respective merits.

The two petitions raise the following assignments of errors:

G.R. No. 99336

I

"THE RESPONDENT CIVIL SERVICE COMMISSION DID NOT CAREFULLY REVIEW THE RECORDS OF THE CASE IN RESOLVING THE PETITIONER'S MOTION FOR RECONSIDERATION.

II

"THE RESPONDENT CIVIL SERVICE COMMISSION WAS UTTERLY WRONG IN RULING THAT AT THE TIME OF THE ISSUANCE OF HIS APPOINTMENT IN QUESTION, PETITIONER TORIO WAS NOT QUALIFIED FOR ALLEGED LACK OF ELIGIBILITY AND THE REQUIRED EXPERIENCE THEREFOR.

III

"THE RESPONDENT CIVIL SERVICE COMMISSION WAS UTTERLY WRONG IN RULING THAT 'IN THE PRESENCE OF QUALIFIED EMPLOYEES IN THE AGENCY, THE PROPOSED PLACEMENT OR APPOINTMENT OF ONE WHO IS NOT QUALIFIED (NOT ELIGIBLE) IS NOT IN ORDER FOR THE REASON THAT AT THE TIME THE APPOINTMENT IN QUESTION WAS ISSUED, OTHER CONTENDERS WITH 'PERMANENT APPOINTMENTS LIKE PROTESTANT SANTIAGO WERE NEVER CONSIDERED.'" (Rollo, G.R. No. 99336, p. 93)

G. R. No. 100178

I

"THAT IF THE AFORECITED RESOLUTIONS OF THE RESPONDENT CIVIL SERVICE COMMISSION ARE ENFORCED, PETITIONER, A PERMANENT CAREER CIVIL SERVICE EMPLOYEE WILL BE DISMISSED OR REMOVED FROM THE SERVICE WITHOUT DUE PROCESS OF LAW AND WITHOUT JUST AND VALID CAUSE.

II

"THAT THE RESOLUTIONS ARE NOT SUPPORTED BY THE EVIDENCE ON RECORD.

III

"THAT ERRORS OF LAW OR IRREGULARITIES HAVE BEEN COMMITTED WHICH ARE PREJUDICIAL TO THE INTEREST OF THE PETITIONER." (Rollo, G.R. No. 99336, p. 93)

Petitioner Torio alleges that at the time of his appointment, he was already a civil service eligible having passed the career service professional examination held on July 26, 1987 and the results of which were released on January 13, 1988. He further contends that Camacho's protest has become moot and academic inasmuch as the temporary appointment against which the protest was directed has already expired. Consequently, the Commissioner has no authority to withdraw its previous approval which has lapsed. Torio likewise stresses the fact that he has security of tenure as provided under the Constitution such that his removal must only be for cause and after due process.

Private respondent Camacho, on the other hand, avers that the Commission has the power to review appointments for the correction of mistakes in the approval or disapproval thereof. Moreover, at the time of Torio's appointment, there were other qualified eligibles who were not given the chance to be considered for the contested position through no fault of their own. Thus, the Commission did not exceed its authority when in the exercise of its power of review, it revoked the appointment of petitioner.

The Solicitor General filed an adverse Comment stating that the CSC committed grave abuse of discretion in revoking the permanent appointment of petitioner Torio who was found to possess all the qualifications required of the position. It added that an appointment is essentially within the discretionary power of the appointing authority, subject to the only condition that the appointee should possess the qualifications required by law.

Petitioner Espanola, for his part, contends that he possesses the qualifications for the position of Supervising Bookbinder (now Bookbinder IV). He is a Supervising Bookbinder Eligible; he has more than ten years of service very relevant to the duties and functions of Supervising Bookbinder; he is not facing any administrative charge; and he possesses the minimum educational qualifications to the position for all of which his appointment has been approved by the CSC. He further contends that inasmuch as his appointment has already been approved by the CSC, it cannot be withdrawn, recalled or cancelled. He takes the same stand as petitioner Torio with respect to the protest being moot and academic as well as his security of tenure under the Constitution.

Private respondent Cangayda, on the other hand, claims that the appointment of petitioner Espanola is a flagrant violation of Republic Act 6656 entitled "An Act to Protect the Security of Tenure of Government Officers and Employees in the Implementation of Government Reorganization." She was a Supervising Bookbinder under a permanent status prior to the reorganization and she should, thus, thereafter, be appointed to the same item in the same capacity pursuant to the provisions of the aforementioned Act. She contends that her protest is primarily directed against her demotion and non-reappointment to the position of Supervising Bookbinder as well as the consequential appointment of petitioner in her stead and not petitioner's temporary appointment. Thus, petitioner Espanola's argument that his temporary appointment as Supervising Bookbinder cannot be the subject of an appeal since the same has already expired is off-tangent. More importantly, Espanola is not qualified for appointment to the contested position since at the time of his appointment, he was not a civil service eligible and there was a civil service eligible actually available and ready to accept the appointment in the person of private respondent Cangayda. And since the appointee is not qualified, the CSC, being the central personnel agency of the government, can look into the legality of an appointment and consequently order its revocation and cancellation.

The Solicitor General, in his comment for the public respondent, added that the subsequent acquisition of eligibility by the petitioner is of no moment inasmuch as the reckoning point should be the time of appointment and not any time before or after.

The CSC, in revoking the appointments of herein petitioners based its resolutions primarily on the fact that the petitioners did not possess the civil service eligibility called for by their respective positions. The CSC ruled further, that their subsequent acquisition of eligibility will not validate the otherwise invalid appointments inasmuch as the material date is the date of appointment.

We first rule on the nature of the petitioner's appointments.

The foregoing pronouncements of the CSC hold true only insofar as the temporary appointment of petitioner Espanola is concerned. However, it must be noted that under Section 25 Presidential Decree 807 otherwise known as the Civil Service Decree of the Philippines, an appointee with a temporary status need not possess the civil service eligibility required by the position provided he meets the following qualifications: (1) it is necessary in the public interest to fill a vacancy; (2) there are no appropriate eligibles; (3) the temporary appointment shall not exceed twelve months; and (4) he may be replaced sooner if a qualified civil service eligible becomes available.

Still, at the time of the temporary appointment of petitioner Espanola, a civil service eligible who was willing to accept the position was available in the person of private respondent Cangayda. Apparently, there was disregard of the mandate of the law when Espanola's temporary appointment was issued. Nevertheless, the petitioner has correctly pointed out that the protest lodged by private respondent Cangayda had become moot and academic inasmuch as petitioner Espanola's temporary appointment had already lapsed on February 28, 1989. It is erroneous for the CSC to treat Cangayda's protest as a continuing one. The same holds true for the protest lodged by Camacho.

A permanent appointment is not a continuation of the temporary appointment - these are two distinct acts of the appointing authority. The fact that the appointees in the two appointments are one and the same person is purely incidental. Any irregularities in the former appointment are not to be automatically carried over to the latter. If the protest is directed against the temporary appointment, it would be illogical to carry-over the merits of the protest to the subsequent permanent appointment.

The preceding ruling should not be construed to mean, however, that by the mere expedient of appointing the temporary appointee to a permanent status, the appointing authority can deprive the protestant of an opportunity to question the appointment. First, the protestant is not precluded from filing another protest directed against the permanent appointment. Second, if it can be shown that the appointment was purposely done to moot the protest or is characterized by malice, then corrective action can be taken and, moreover, the erring officials can be proceeded against administratively.

It must be emphasized that if a protest filed against a temporary appointment is carried over to the subsequent permanent appointment to the same position of the same person, an anomalous situation will arise wherein the permanent appointee's security to his position would be jeopardized by considerations outside of his permanent appointment.

The chances of the occurrence of the previously described situation would be minimized if the CSC promptly acts upon the protest. After giving the department or agency to which the protest is referred a reasonable deadline to act, its inaction may be a basis for the CSC to give positive relief. It is worthy of note that the CSC has recognized the importance of the speedy disposition of cases in its resolution No. 89--779, which provided for the Rules on Protest Cases requiring the disposition of cases within 60 days from filing thereof.

The situation in the present petitions could have been prevented if the CSC did not wait for two years before taking the appropriate action on the protests filed.

Prescinding from the foregoing discussions, it is established that the questioned resolutions of the CSC should be declared inapplicable to the petitioners because they refer to the temporary appointments which had already lapsed when they were issued.

At any rate, this Court deems it best to make a ruling on the validity of the permanent appointments inasmuch as the same has already been put in issue in the present petitions. Moreover, if the present petitions be granted without prejudice to the private respondents' right to file a protest against the permanent appointments of the petitioners, then that would unduly prolong the resolution of who should rightfully be appointed to the contested positions to the prejudice of the public service.

THE PERMANENT APPOINTMENTS OF PETITIONERS ESPANOLA AND TORIO

The Qualification Standard (QS) for the position of Bookbinder IV provides the following minimum requirements:

EDUCATION : Completion of Secondary School Course

EXPERIENCE : Two years of experience in bindery work

ELIGIBILITY : Bookbinder

Supervising Bookbinder

As to the QS for the position of Assistant Superintendent of Printing, the following minimum requirements are prescribed:

EDUCATION : Bachelor's degree preferably in Commerce or Business Administration

EXPERIENCE : 4 years of progressive responsible experience in the different technical activities of printing operations or other related work

ELIGIBILITY : Career service

Sub-professional

The appointing authority should, thus, appoint persons to the contested positions possessing the aforementioned minimum qualifications so as to be within the ambit of the law. For even if the appointing authority is given a wide latitude in the exercise of its discretion in personnel actions, the appointee must first possess the minimum qualifications prescribed by law (*Cortez v. The Civil Service Commission*, 195 SCRA 216 [1991]).

At the time petitioner Espanola was issued a permanent appointment, he was also granted testimonial eligibility such that he is to be considered as possessing the requisite civil service eligibility for his position. The same holds true with petitioner Torio. At the time of his permanent appointment, he was already a career service professional, having passed the civil service examination held on July 26, 1987 and the results of which were released on January 13, 1988. In fact, even at the time of Torio's temporary appointment on March 1, 1988, he already possessed the civil service eligibility called for by the position.

The QS established for the contested positions do not only prescribe the eligibility but also the minimum education and experience required of the position. Even if the petitioners possess the required civil service eligibility, there would still be abuse of discretion by the appointing authority if the other qualifications are not

satisfied.

Based on the QS listed above, the records show that both petitioners possess qualifications required of the contested positions.

Private respondent Cangayda, however, questions petitioner Espanola's non-completion of a secondary course as prescribed by the QS.

It would be appropriate to state at the outset that when necessary, education, experience or training may be used interchangeably to offset deficiencies (in fact, the CSC issued Memorandum Circular No. 23 series of 1991 expressly allowing the offsetting of deficiencies except the required elibility). The necessity exists if the appointee's training or experience is of such a level that the same would more than supplement the deficiency in education considering the demands of the position in question. The converse holds true if the appointee's deficiency is in the required training or experience. The decision as to when the conditions give rise to a necessity to interchange education with experience and vice-versa rests upon the sound discretion of the appointing authority. This is not to be viewed as an unbridled license given to the appointing authority to appoint whomsoever he desires. This is rather a recognition of the fact that the appointing authority is in the best position to determine the needs of his department or agency and how to satisfy those needs. Moreover, it is precisely the province of the QS to provide the gauge by which the appointing authority shall exercise his discretion. The QS has been defined in Section 20, PD 807 as expressing the minimum requirements for a class of position in terms of education, training and experience, civil service eligibility, physical fitness and other qualities required for successful performance. It is, thus, the QS which provides for the considerations upon which the appointing authority decides when the levels of education or experience may be sufficient to offset each other.

With respect to petitioner Espanola's case, the necessity to offset the deficiency in education with his training is very apparent from his work-experience. It must be stressed that the contested position belongs to the trades and crafts group wherein the emphasis is necessarily on the skill required by the work. There can be no doubt that fitness for the job is developed through years of actual work. Petitioner Espanola's service record (Annex "D") shows that from 1973 until his permanent appointment in 1989, he had continuously engaged in bindery work. It must likewise be pointed out that he was extended a testimonial eligibility which is a confirmation by the appointing authority of his capacity to perform the type of work which his position requires. Worthy of note is the fact that at the time of the grant of testimonial eligibility, the QS was already being enforced such that the appointing authority is presumed to have taken into consideration the standards prescribed by the QS. There is, thus, no escaping the conclusion that Jaime Espanola is qualified to handle the demands of the contested position.

However, this Court does not rule on the validity of the grant of testimonial eligibility. The issue is not before us. Private respondent Cangayda stated in her brief that an action to question the validity of such grant shall be filed in due time. The pronouncements of this Court, then, as to the validity of the appointment of petitioner Espanola are without prejudice to the said action.

With respect to petitioner Torio, on the other hand, the records show that he fully qualifies for the position to which he was appointed. The Solicitor General, in his adverse comment, aptly summarized the petitioner's qualifications in the following manner:

"EDUCATION -- 1981 to 1983 - "MBA" Candidate for Graduation, Ateneo de Manila;
1965 to 1969 - "A.B. Political Science", University of the Philippines;
1960 to 1965 - "Valedictorian, High School", Luna Colleges; and
1955 to 1960 - "1st Honorable Mention, Elementary" Grade Graduate.

ELIGIBILITY -- Career Service Professional (81.48%) July 26, 1987.

(B) With the Government

(B-1) Sept. 1986 to Dec. 1986 - Acting Chief, Printing Division & Ex. Asst. for Technical Services, PIA;

(B-2) Jan. 1987 to Feb. 1988 - Chief, Production Staff & Chief Printing Div., PIA;

(B-3) Mar. 1, 1988 to Present - Assistant Printing Operations Supt. (now Asst. Supt. of Printing, NPO).

"Petitioner likewise participated, upon recommendation of his department head as duly authorized by the Executive Secretary, in the UNIDO Training Programme in the Field of Printing Industry held in Karl Marx Stadt/Dresden/Leipzig, GDR from September 30 to October 13, 1990 (Annexes "E", "E-1" to "E--5").

"On November 24 to December 5, 1986 petitioner attended and actively participated in the Evaluation Workshop on Audiovisual Materials for the Book Publishing Course conducted by the UP Institute of Mass Communication in cooperation with UNESCO (Paris) (Annex "L-1"). Later, particularly on May 28 to June 6, 1987, petitioner completed a Seminar Workshop for Quality Printing through Better Supervision of Printing Shop, conducted by the Printing Industry Board Foundation (Annex "L-2"). Then again on November 12 to 14, 1987 petitioner participated in the Seminar on Promotion of PIA's Programs conducted by the Philippine Information Agency (Annex "L-3"). Still persistent with the quest for better knowledge, petitioner again attended the Seminar/Workshop on 'The Business of Book Publishing-Managing for Profit and Economic Choices' conducted by Peter H. Neumann on November 24 to 27, 1987 sponsored by the United States Information Service and the Book Development Association of the Philippines (Annex "L-4")" (Rollo, G.R. No. 99336, p. 93-95)

Although petitioner Torio majored in Political Science and not in Commerce or Business Administration, the QS provided that the latter two are mere preferences. As to private respondent's claim that Torio had only one year, six months and eight days of experience in printing operations at the time of his appointment (it must be noted, however, that the private respondent was referring to Torio's government service at the time of his temporary appointment since at the time of permanent appointment, Torio had over two years of government service), the QS provided that the experience may be on other related work. The appointing power may have found Torio's previous work experiences sufficient to tack to the number of years of experience in actual printing operations coupled with the numerous seminars and trainings he had attended. There is thus, no evident violation of the QS.

From the foregoing, it is established that petitioners Espanola and Torio are qualified for the positions to which they were appointed. The appointing authority's exercise of discretion in the choice of appointees must be respected even if there are other persons who are likewise qualified for the position such as private respondents Cangayda and Camacho. In fact, the CSC does not have the power to overrule such discretion even if it finds that there are other persons more qualified to the contested position (underscoring supplied) [*De la Cruz v. The Civil Service Commission*, G.R. No. 88333, December 2, 1991; *Cortez v. The Civil Service Commission*, *supra*; *Gaspar v. Court of Appeals*, 190 SCRA 774 [1990]].

As has been held in *Español v. The Civil Service Commission*, G.R. No. 85479, March 3, 1992, "every particular job in an office calls for both formal and informal qualifications. Formal qualifications such as age, number of academic units in a certain course, seminars attended and so forth, may be valuable but so are such intangibles as resourcefulness, team spirit, courtesy, initiative, loyalty, ambition, prospects for the future and best interest of the service. Given the demands of a certain job, who can do it best should be left to the head of the Office concerned provided the legal requirements for the office are satisfied."

This Court does not overlook the fact that prior to the reorganization of the GSA, the petitioners were holding contractual or casual employment. This circumstance is of utmost importance considering the provision of Section

4, Republic Act. 6656:

"SECTION 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. x x x"

In *Medenilla v. The Civil Service Commission*, 194 SCRA 278 [1991], this Court stated the rationale for the preference given to permanent employees in the following manner:

"x x x The preference given to permanent employees assumes that employees working in a Department for longer periods have gained not only superior skills but also greater dedication to the public service. x x x"

The Court, then, continued by making the following observations:

x x x that the presumption is not always true and the law does not preclude the infusion of new blood, younger dynamism or necessary talents into the government service. "If, after considering all the current employees, the Department Secretary cannot find among them the person he needs to revive a moribund office or to upgrade second rate performance, there is nothing in the Civil Service Law to prevent him from reaching out to other Departments or to the private sector provided all his acts are bona fide and for the best interest of the public service and the person chosen has the needed qualifications."

It is, thus, clear from the foregoing that employees or officers holding permanent appointments do not automatically get appointed to the new positions. The appointing authority is still given latitude in making his choice considering the duty resting on his discretion to see to it that the best interest of the public is served with each appointment he makes. More so in cases of reorganization of offices, where in making the new appointments, the appointing authority has also to take into consideration the purposes and objectives of the reorganization. In the present case, the reorganization was undertaken to promote economy, efficiency and effectiveness in the delivery of public services. The appointing authority should be given sufficient discretion to be able to ensure that the purposes and objectives are met. It is in this light that the appointments of petitioners *Espanola* and *Torio* should be viewed.

Petitioners *Espanola* and *Torio* were validly appointed to the questioned positions. Only the corollary issue of whether or not private respondent *Cangayda's* security of tenure was violated by the appointment of petitioner *Espanola* remains to be settled.

In *Mendoza v. Quisumbing*, 186 SCRA 108 [1990], the ruling in favor of the dismissed personnel was made in the light of the finding that the reorganization undertaken was not in good faith. The Court even reiterated the principles in *De La Llana v. Alba*, 112 SCRA 294 [1982] and *Cruz v. Primicias*, 23 SCRA 998 [1968] that the abolition of an office within the competence of a legitimate body if done in good faith suffers from no infirmity and a valid abolition of office is neither removal nor separation of the incumbents.

The same principles were enunciated earlier in *Dario v. Mison*, 176 SCRA 84 [1989] where the Court made the following declarations:

"x x x Reorganizations 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 a 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. x x x" (Underscoring supplied)

It is worthy to re-state that the present petitions arose due to the abolition of the GSA and its merger with the relevant printing units of the PIA giving rise to the NPO. There is no showing that the reorganization was

undertaken for any reason other than its purpose of promoting economy, efficiency and effectiveness in the delivery of public service. In fact, the private respondents did not put in issue the validity of the reorganization of the offices. They questioned only their non-appointment to the contested positions. We are constrained to assume that there was in the present case, a bona fide reorganization. Hence, private respondent Cangayda cannot successfully impugn her alleged removal as illegal for under the facts of the case, she was not dismissed; rather, her former position was abolished. More important, this Court has ruled in *Siete v. Santos*, 190 SCRA 50 [1990] that Section 16, Article VIII of the 1987 Constitution explicitly authorizes the dismissal of career civil service employees not for cause but as a result of the reorganization following the ratification of said Constitution.

As to the alleged violation of Republic Act 6656, it must be emphasized that the question has to be resolved in the light of the prevailing bona fide rule in reorganization of the public offices. The foregoing principle has been applied in *Floreza v. Ongpin*, 182 SCRA 692 [1990] where the Court ruled that:

"x x x Section 2 of Republic Act 6656 entitles a victim of a removal in violation of the bona fide rule to a reinstatement or reappointment to the position from which he was removed" (underscoring supplied).

There is nothing in this decision which precludes the more appropriate recourse of private respondent Cangayda to appeal to the better judgment of the Department Head to consider her for other vacant positions more commensurate to her qualifications.

WHEREFORE, premises considered, the Court hereby GRANTS the petitions in G.R. No. 99336 and G.R. No. 100178. The assailed resolutions of the Civil Service Commission in CSC Case No. 796 and CSC case No. 832 are set aside. The permanent appointments of petitioners Melanio S. Torio and Jaime Espanola are declared valid. The temporary restraining order issued pursuant to the Court's resolution dated October 10, 1991 is made permanent.

SO ORDERED.

Narvasa, C.J., Cruz, Paras, Feliciano, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., Romero, Nocon, and Bellosillo, JJ., concur.
Melencio-Herrera, J., retired.

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