

**DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS,
PETITIONER, VS. CIVIL SERVICE COMMISSION, RODNEY LIQUIGAN,
EMILIO PINEDA, JESUS CADIENTE AND TOFOCANIO FORTIN,
RESPONDENTS.**

G.R. Nos. 89325-26. October 03, 1991

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

The Department of Transportation and Communications is before the Court on two petitions assailing certain acts of the Civil Service Commission. The antecedents are as follows:

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The personalities involved here are Rodney Liquigan, Emilio Pineda, Jesus Cadiente, and Tofocanio Fortin. On January 30, 1987, the President issued Executive Order No. 125, as amended by Executive Order No. 125-A,[1] reorganizing the Department of Transportation and Communications, abolishing a number of offices, among them, the Land Transportation Commission, and creating in its place, the Land Transportation Office. Prior thereto, Liquigan, Pineda, Cadiente, and Fortin held the following positions:

Liquigan — Transportation District Supervisor III

Pineda — Transportation District Supervisor II

Cadiente — Transportation District Supervisor II

Fortin — Transportation District Supervisor II

in the defunct Commission.

Upon reorganization, the Assistant Secretary of the Land Transportation Office[2] extended appointments in favor of the following:

Romeo Aragon — Transportation District Officer II

Ernesto Mariñas — Transportation District Officer II

Godofredo Zara — Transportation District Officer II

Columbus Gerardo — Transportation District Officer II

Prior to their promotions, Aragon, Mariñas, Zara, and Gerardo held the following positions:

Aragon — Senior Land Transportation Regional Officer

Mariñas — Land Transportation Regulation Officer II

Zara — Traffic Inspector Field Supervisor

Gerardo — Transportation District Officer II

At or about the same time, the Assistant Secretary extended the following appointments to Liquigan, Pineda, Cadiente, and Fortin:

Liquigan — Senior Land Transportation Regional Officer

Pineda — Land Transportation Regulation Officer I

Cadiente — Land Transportation Regulation Officer I

Fortin — Land Transportation Regulation Officer I

Liquigan, Pineda, Cadiente, and Fortin shortly thereafter went to the Civil Service Commission on separate appeals. On March 10, 1989, the Civil Service Commission revoked the appointment of Zara and held that "the position of Transportation District Officer II should now be given to Jesus Cadiente."^[3] On the same date, the Commission revoked the appointment of Gerardo and held that "the position of Transportation District Officer II should be given to Tofocanio Fortin."^[4] On April 7, 1989, the Commission revoked the appointment of Aragon and held that "[h]is position should be given to Rodney Liquigan."^[5] On the same date, it revoked the appointment of Mariñas and held that "[his] position should be given to Emilio Pineda."^[6]

Reconsideration having been denied, the Department instituted this special civil action.

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Similarly, on October 1, 1987, the Assistant Secretary of the Land Transportation Office extended an appointment to Francisco Santos, then Transportation District Supervisor II of the former Land Transportation Commission, as Land Transportation Regulation Officer I of the Land Transportation Office. On the same date, the Assistant Secretary appointed Pablito Barroga as Transportation District Officer II. Barroga, prior to his appointment, was Transportation Inspection Field Supervisor.

Santos appealed to the Civil Service Commission, and in its Resolution, the Commission ordered the appointment of Barroga as Transportation Regulation Officer I.

Hence, this petition.

Issue. —

The issue, according to the Department, is whether or not the Civil Service Commission acted with a grave abuse of discretion in disapproving its appointments.

The Department's position is, in its barest essentials, that the Civil Service Commission, in revoking the appointments in question, had substituted its own judgment for that of the appointing authority, which this Court has consistently set aside.

The private respondents, Liquigan, Pineda, Cardiente, Fortin, and Santos insist, on the other hand, that the Department, in extending to them their various appointments, had in fact demoted them.

The Court's ruling. —

As we held in the case of *Dario v. Mison*,^[7] we are disregarding questions of procedure in favor of the merits of these cases, in view, as we held, of the serious implications thereof to civil service in general.^[8]

The Court does not believe that these cases involve, on closer reflection, a question of the Civil Service Commission substituting its judgment for that of the Department, which we have set aside in several cases,[9] and in which we warned the Civil Service Commission of contempt should it persist in ignoring the mandate of our decisions.[10] The private respondents, this Court notes, went to the Commission on a complaint not, unlike in the Lapinid and other cases, because they were better qualified than the Department's appointees, but because the Department, in extending the appointments, had demoted them, the private respondents.

There seems to be no question that these cases are in the nature of reorganization cases, and in *Dario v. Mison*,[11] we ordered the Bureau of Customs to appoint existing personnel to equivalent positions in the new staffing pattern of the Bureau. In *Floreza v. Ongpin*,[12] we explicitly stated that demotion "by assigning an employee to a lower position in the same service which has a lower rate of compensation is tantamount to removal, if no cause is shown for it." [13]

The question is whether or not the private respondents were demoted; if they were, they are entitled to reinstatement to equivalent positions.

The Court answers in the affirmative.

As found by the Civil Service Commission, the positions corresponding to the old positions held by the private respondents are as follows:

Old Position

New Position

Liquigan

TDS III

TDO II

Pineda

TDS II

TDO II

Cardiente

TDS II

TDO II

Fortin

TDS II

TDO II

Santos

TDS II

TDO II

in terms of range equivalence (both are range 68).

It is true that our disposition would place Rodney Liquigan at par with the rest of the private respondents although as former Senior Land Transportation Regional Officer, he was within range 69; the office of Senior Land Transportation Regional Officer has no apparent equivalent in the Land Transportation Office's new plantilla and TDO II is apparently, the closest position available. In *Floreza v. Ongpin*,^[14] we applied the next-in-rank rule provided by Republic Act No. 6656,^[15] and for Liquigan's purpose, TDO II is the position next lower in rank.

Romeo Aragon, Ernesto Mariñas, Godofredo Zara, Columbus Gerardo, and Pablito Barroza can have no valid cause for complaint, and they can not invoke the validity of their own appointments as an inhibition to the private respondents' reinstatement. As we held in the *Floreza*^[16] and *Mison* cases, the offices to which the private respondents seek reinstatement were never vacant and Aragon, et al. were never validly appointed thereto.

The Court is making it perfectly clear that the above-entitled cases are reorganization cases although apparently, they look like a case of the Civil Service Commission overruling the appointing power. As reorganization cases, the *Mison* doctrine is applicable, rather than the *Lapinid*^[17] and the several cases that preceded it. We repeat, we are not reexamining *Lapinid*; we are merely upholding *Mison*.

WHEREFORE, the petitions are DENIED. The Resolutions of the Civil Service Commission are AFFIRMED. No pronouncement as to costs.

IT IS SO ORDERED.

Gutierrez, Jr., Cruz, Paras, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

Fernan, C.J., I join Justice Herrera in her dissent.

Narvasa, J., I join Justice Herrera in her dissent.

Melencio-Herrera, J., dissenting on same grounds as re *Dario v. Mison*.

Feliciano, J., joins J. I dissent on the grounds set out in *Herrera, J.*'s dissent in *Dario v. Mison*.

[1] April 13, 1987.

[2] Presumably by the authority of the Secretary; see rollo, 13.

[3] *Id.*, 39.

[4] *Id.*, 42.

[5] *Id.*, 45.

[6] *Id.*, 48.

[7] G.R. Nos. 81954, 81967, 82023, 83737, 85310, 85335, & 86241, August 8, 1989, 176 SCRA 84; also *Mendoza v. Quisumbing*, G.R. Nos. 78053, 78525, 81197, 81495, 81928, 81998, 86504, 86547, 88951 & 89427, June 4, 1990, 186 SCRA 108.

[8] Dario v. Mison, *supra*.

[9] See e.g., Barrozo v. Civil Service Commission, G.R. No. 93479, June 25, 1991; Avila v. Civil Service Commission, G.R. Nos. 92573 & 92867, June 3, 1991; Lapinid v. Civil Service Commission, G.R. No. 96298, May 14, 1991.

[10] Lapinid v. Civil Service Commission, *supra*.

[11] G.R. Nos. 81954, 81967, 82023, 83737, 85310, 85335, 86241, August 8, 1989, 176 SCRA 84; also Floreza v. Ongpin, G.R. Nos. 81356, 86156, February 26, 1990, 182 SCRA 692; Mendoza v. Quisumbing, G.R. Nos. 78053, 78525, 81197, 81495, 81928, 81998, 86504, 86547, 88951, 89427, June 4, 1990, 186 SCRA 108.

[12] *Supra*.

[13] *Supra*, 708.

[14] *Supra*.

[15] Rep. Act No. 6566, sec. 4.

[16] Floreza v. Ongpin, *supra*.

[17] Lapinid v. Civil Service Commission, *supra*.

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