

[ADMINISTRATIVE ORDER NO. 96, November 28, 1993]

REPRIMANDING AND WARNING FARITA A. CABAZOR, FOREIGN SERVICE OFFICER II, DEPARTMENT OF FOREIGN AFFAIRS, AND SUSTAINING ASSIGNMENT ORDER NO. 34-88, DATED APRIL 8, 1988, REASSIGNING HER FROM THE PHILIPPINE EMBASSY, CANBERRA, AUSTRALIA, TO THE PHILIPPINE EMBASSY, VIENNA, AUSTRIA

This refers to the administrative case against Farita A. Cabazor, Foreign Service Officer II, Department of Foreign Affairs, Manila, for Gross Insubordination by consistently defying Assignment Order No. 34-88, dated April 8, 1988 and Orders dated June 3, 1988, September 13, 1988 and October 17, 1988, and Conduct Prejudicial to the Best Interest of the Service committed as follows:

“(a) Taking legal action against the Secretary of Foreign Affairs without first exhausting administrative remedies; and

“(b) Violation of reasonable office rules and regulations.”

On August 5, 1986, Farita A. Cabazor, Foreign Service Officer with the rank of Second Secretary and Consul, was assigned to the Philippine Embassy in Canberra, Australia, under Assignment Order No. 153-06.

On April 29, 1988, Ms. Cabazor received a letter, dated April 11, 1988, addressed to the Philippine Ambassador in Canberra, Australia, directing her transfer to Vienna, Austria, under Assignment Order No. 34-88. Instead of complying with the aforesaid reassignment order, Ms. Cabazor sought a reconsideration of her impending transfer.

On June 3, 1988, then Secretary of Foreign Affairs Raul S. Manglapus reiterated Assignment Order No. 34-88 and directing Ms. Cabazor to immediately comply therewith.

Ms. Cabazor, however, refused to comply with the aforesaid assignment order. Thus, on September 13, 1988, Secretary Manglapus, thru then acting Secretary of Foreign Affairs Jose Ingles, directed her recall to the home office. Accordingly, Assignment Order No. 161-88, dated October 17, 1988, recalling Ms. Cabazor to the home office, was issued. Upon her return, Ms. Cabazor sought reconsideration of her transfer with the Office of the Secretary and the Office of the President. Finding her requests to be unimpressed with merit, the same was denied.

Meanwhile, Ms. Cabazor, this time joined by her husband, filed a petition for mandamus and prohibition with prayer for preliminary mandatory injunction and damages with the Regional Trial Court of Manila on September 19, 1988. Essentially, the petition was anchored on the provisions of Section 6(b) of the Philippine Foreign Service Code of 1983, as follows:

“(i) The tour of duty of foreign service officer at any post shall be four (4) years commencing on the date of arrival at the post after which he shall be transferred to another foreign post x x x.”

Acting thereon, the Regional Trial Court, Branch 13, National Capital Region, issued a temporary restraining order, dated September 20, 1988, staying for a period of twenty (20) days assignment order No. 34-88. Subsequently, on October 11, 1988, a writ of preliminary injunction was issued restraining Secretary Manglapus and all persons acting for and his behalf from implementing Mrs. Cabazor’s order of reassignment.

During the pendency of the case with the RTC, the DFA initially constituted the “Basa Committee” to investigate the administrative charges against her. However, the hearings were provisionally set aside, in view of the restraining order issued by the aforesaid court.

On July 31, 1989, the said court rendered a decision declaring respondent therein (Secretary Manglapus) as bereft of authority to issue Assignment Order No. 34-88 transferring Ms. Cabazor from Canberra, Australia to Vienna, Austria, thereby, declaring the writ of preliminary injunction, dated October 11, 1988, permanent.

Dissatisfied, the DFA appealed the said decision to the Court of Appeals which, on May 28, 1991, dismissed the same on the ground that the issue raised therein had already become moot and academic on account of the expiration of the four-year tenure tour of duty of foreign officer relied upon by Ms. Cabazor. Subsequently, however, the Supreme Court, in G.R. No. 104884, found that Secretary Manglapus did not commit grave abuse of discretion in issuing the questioned reassignment order.

On October 12, 1992, the Basa Committee resumed the investigation of the administrative complaints against respondent Cabazor.

After due hearing, the Basa Committee submitted its Report, dated April 6, 1993, the pertinent portions of which are quoted hereunder as follows:

“1. On the Charge of Gross Insubordination

On 28 April 1988 respondent Cabazor had already served in Canberra for one year and eight months. The evidence disclosed that her transfer to Vienna was ordered by the Secretary guided by his perception of what was his lawful duty and on what was necessary for the good of the service.

The Committee is of the view that the law is found in Section 6, Part B, Title III of Republic Act No. 708, enacted on 5 June 1952, reading as follows:

‘Section 6. Assignments and Transfers. – A Foreign Service Officer may be assigned by the Secretary to serve in the Department or in a diplomatic or consular post abroad: Provided, however, that the minimum period during which he may serve in any foreign post shall be one year and the maximum period of four years, except in case of emergency or extraordinary circumstances, in which event he

may be transferred from one foreign post to another or to the Department by order of the Secretary without regard to his length of service in his former post.' (Underscoring supplied)

and since respondent had already served the minimum one-year period under the law her reassignment to Vienna was lawful and did not have to be explained or justified by the Secretary or the President. (Santos vs. Macaraig, 10 April 1992, 208 SCRA 74).

Her claim to the so-called 'mandatory' tenure of four years in Canberra is untenable and unmeritorious. Respondent has no vested right to the Canberra office since she merely exercises that office for the benefit of the public. There is no such thing as a vested interest to hold public office except perhaps judges and constitutional officers and she is not either. This is so because the exercise of the prerogatives of control, supervision and direction of our foreign service involved executive discretion.

The Committee must take judicial notice of the Supreme Court ruling that indeed Secretary Manglapus committed no grave abuse of discretion in issuing the Order that would have respondent transferred to Vienna (G.R. No. 104884 in Farita A. Cabazor vs. Hon. Raul S. Manglapus), promulgated with finality on 26 June 1992.

Foreign Service work by its very nature entails family and personal inconvenience as part of the career package. Officers and employees are bound by that degree of group discipline and control exercised by the Head of Department which perforce contributes to the efficacy of the service.

The Committee found that while respondent may have been inconvenienced by her transfer to Vienna, she must have known that this is a component of the public service she is in. Her transfer to Vienna did not have to be explained and justified to her by the Secretary or by the President of the Philippines.

The presidential prerogative to determine the assignments of the country's diplomatic personnel is basic and unquestionable. The conduct of Philippine foreign affairs is vested in the President through the Secretary of Foreign Affairs as alter ego of the President. As head of the premier department in our government, he is mandated by law to maintain and strengthen our representation with foreign governments including the Republic of Austria to which he chose respondent Cabazor as the would-be Second Secretary and Consul of the Embassy there in 1988. Foreign service officers and employees abroad represent the national interest and they are at all times under the control and supervision of