

THIRD DIVISION

[G.R. No. 119155, January 30, 1996]

VICTORINA A. CRUZ, PETITIONER, VS. COURT OF APPEALS; HON. SALVADOR M. ENRIQUEZ, JR., SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT; HON. ARMAND V. FABELLA, SECRETARY OF THE DEPARTMENT OF EDUCATION, CULTURE AND SPORTS; AND NORMA ABRACIA, SCHOOL DIVISION SUPERINTENDENT, DIVISION OF CITY SCHOOLS, 3RD DISTRICT, CALOOCAN CITY, RESPONDENTS.

D E C I S I O N

DAVIDE, JR., J.:

This is a petition under Rule 45 of the Rules of Court to review and set aside the decision of 18 October 1994^[1] and the resolution of 31 January 1995^[2] of the Court of Appeals in CA-G.R. SP No. 31614. The former denied due course to and dismissed the petitioner's action for mandamus to compel the Secretary of the Department of Budget and Management (DBM) to implement the 19 June 1990 decision of the Merit System Promotion Board (MSPB) of the Civil Service Commission (CSC), on the ground that the said MSPB decision was rendered beyond its jurisdiction. The latter denied the petitioner's motion for reconsideration.

The key issue raised in this petition is whether or not the Court of Appeals committed any reversible error in its challenged decision. Concretely, we are asked to resolve whether the MSPB has jurisdiction to reclassify the petitioner's position and order payment of the corresponding salary.

The antecedents are summarized by the Office of the Solicitor General in its Comment filed on 19 July 1995 for the public respondents, in compliance with our resolution of 27 March 1995, to wit:

Petitioner Victorina A. Cruz has been a Guidance and Counselling Coordinator III of Valenzuela Memorial High School (VMHS) since 1978. Such position had a rank of secondary head teacher with annual basic salary of P26,388.00 paid by the local government.

On July 1, 1987, Executive Order No. 189 took effect placing all secondary school teachers under the administrative supervision and control of the Department of Education, Culture and Sports (DECS) and making their salaries and cost of living allowance payable by the national government. Consequently, petitioner's position was classified as Guidance Counselor, R-56 in accordance with the criteria and standards under the National Compensation and Classification Plan (NCCP) and her salary was reduced from P26,388.00 to P19,244.80 per annum.

Aggrieved by her demotion, petitioner appealed [to] the Civil Service Commission Merit Systems Protection Board (CSC-MSPB) on November 11, 1987 praying for an upgrading of her position to R-63 with a monthly salary of P1,802.00.

The appeal was referred to the Department of Budget and Management (DBM) for comment on January 23, 1989.

In a letter dated June 5, 1989, DBM informed MSPB that pursuant to E.O. 189, petitioner's item was classified as Guidance Counsellor, R-59 effective July 1, 1987. The nationalized position reduced petitioner's salary from P26,388.00 per annum or P2,199.00 a month to P18,636.00 per annum or P1,553.00 a month. Since petitioner has an ERF approved as BSE+20 on June 7, 1978, she is entitled under the National Compensation and Position Classification Plan to an upgraded R-57 (BSE+ 20) with a corresponding salary of P20,232.00 per annum effective July 1, 1987. Because petitioner has an MA equivalent approved on November 6, 1987, she is again entitled to an upgraded R-58 at P21,264.00 per annum effective November 6, 1987, adjustable to P23,388.00 per annum effective January 1, 1988 pursuant to LOI No. 406, s. 1984 as implemented by Circular Letter No. 84-4 dated May 30, 1984. Considering that prior to the nationalization of the position, petitioner received P26,388.00 per annum, she shall be allowed to continue to receive said salary effective July 1, 1987 in her nationalized position of Guidance Counsellor, R-58 (MA-equivalent).

Exactly two years from the effectivity of the nationalization program or on July 1, 1989, Republic Act No. 6758 otherwise known as the Salary Standardization Law took effect.

On June 19, 1990, MSPB rendered a Decision the relevant portion of which reads:

"WHEREFORE, this Board renders judgment as follows:

1. The appeal of Ms. Victorina A. Cruz is granted. The reclassified position of appellant from Local to national in the VMHS, Metro Manila should be adjusted to a range with salary rate of P26,389 from October 1987 to December 31, 1987. The amount of P21,264 per annum shall be taken and paid from the national fund, and the balance of P5,125 shall be taken and paid from the Caloocan City local fund. From January 1, 1988 to October 15, 1989 the appellant shall be paid the sum of P29,029.20 per annum on an adjustment of her range under provisions of E.O. 189 and DECS-DBM Joint Circular No. 1, s. 1987. If the national fund to which shall be paid not be authorized, the position shall be paid by the Caloocan City Local fund in accordance with the letter of DBM to this Board dated June 5, 1989.

2. After October 15, 1989 Ms. Victorina A. Cruz shall be paid her salary under the recent enactment (R.A. 6758) which increased the salary per month of teacher as applied by the DECS to nationalized teachers.

3. Ms. Cruz is entitled to receive salary differential from October 1, 1987 to December 31, 1987; and from January 1, 1988 to October 15, 1989. Thereafter, she shall be entitled to the benefits of R.A. 6758 otherwise known as the Teachers Salary Standardization Law which include the teachers. The adjustment of her range to 63 is denied for being moot and academic." (Annex "C", Petition).

On July 26, 1990, the DECS sought clarification of paragraph 2 of the dispositive portion of the above Decision relative to the position and the equivalent salary grade of petitioner under R.A. 6758.

On August 31, 1990, MSPB issued an Order, the pertinent portions of which read as follows:

"Based on the adjusted range, under the provisions of EC 189 and DECS-DBM Joint Circular No. 1, s. 1987, the position of appellant Cruz has the equivalent rank of Head Teacher II at the time of the effectivity of R.A. 6758.

Pursuant to National Compensation Circular No. 57 dated September 30, 1989, the position of Guidance Services Specialist II and was assigned a salary grade 16. Such being the case, the salary of Ms. Cruz should be based on said grade.

WHEREFORE, the Board hereby directs that after October 15, 1989, Ms. Victorina A. Cruz shall be paid her salary corresponding to Grade 16, pursuant to R.A. 6758, otherwise known as the Salary Standardization Law."

SO ORDERED."

(Annex "E", Petition).

On July 10, 1991, the DECS-NCR requested from the DBM the issuance of a supplemental Position Allocation List (PAL) of VMHS to reflect the reclassified position of petitioner from Guidance Counsellor III, SG-12 to Guidance Specialist II, SG-16.

On May 10, 1991, the DBM, through Undersecretary Salvador M. Enriquez, Jr. denied the request on the ground that the MSPB has no jurisdiction to reclassify petitioner's position from Guidance Counselor III, SG-12 to Guidance Services Specialist II, SG-16, thus:

"Evidently, the MSPB has acted outside of its assigned powers conferred by Law. Accordingly, its decision as contained in the MSPB Order dated August 31, 1980 on the reclassification of the position of Mrs. Cruz from Guidance Coordinator to Guidance Service Specialist II, SG-16 and the payment of her salary corresponding to SG-16 is unenforceable.

In view of the foregoing, this Office reiterates its stand that the position of Mrs. Cruz is appropriately classified in the PAL issued to the DECS as

Guidance Counsellor SG-12 (MA) entitling her to receive only the salary of P42,480 [per] annum effective July 1, 1989. Hence, the request to issue a supplemental PAL to reflect the position of Mrs. Cruz as Guidance Services Specialist II, SG-16 cannot be given due course for lack of sufficient merit."

(Annex "E", Petition for Mandamus)

On July 3, 1991, petitioner filed a Motion for Execution of the MSPB Decision dated June 19, 1990 and Order dated August 31, 1990.

On March 18, 1992, MSPB issued an order of execution directing the DECS and the DBM to implement its Decision immediately upon notice (Annex "D", Petition for Mandamus).

In June 1992, petitioner went on sick leave for a multiple myomma operation and reported back to work in June 1993. Petitioner found that the VMHS payroll reflects her positon [sic] as Guidance Counselor III SG-12 in violation of the MSPB rulings.

On July 28, 1993, petitioner filed with the Court of Appeals a petition for mandamus praying that respondents be directed to enforce and comply with the Decision of the MSPB dated June 19, 1990 and Orders dated August 31, 1990 and March 18, 1992.

On October 18, 1994, the Court of Appeals denied the petition ruling that the "DBM has the sole power and discretion to administer the compensation and position classification system of the national government. The CSC-MSPB, in ultimately classifying the position and compensation of petitioner, encroached upon the authority of the DBM" (Annex "A").

A motion for reconsideration was filed but was denied on January 31, 1995 (Annex "B-1").^[3]

The petitioner forthwith filed this petition, submitting for resolution the following issues:

I.

WHETHER OR NOT THE RESPONDENT COURT COMMITTED SERIOUS ERROR IN REFUSING TO ISSUE A WRIT OF MANDAMUS ON THE GROUND THAT IT IS THE DEPARTMENT OF BUDGET AND MANAGEMENT WHICH HAS JURISDICTION OVER THE SUBJECT MATTER OF THE CASE.

II.

