

THIRD DIVISION

[G.R. No. 200170, June 03, 2019]

**MARILYN R. YANGSON, PETITIONER, VS. DEPARTMENT OF
EDUCATION REPRESENTED BY ITS SECRETARY BRO. ARMIN A.
LUISTRO, FSC, RESPONDENT.**

DECISION

LEONEN, J.:

Reassignments differ from transfers, and public employees with appointments that are not station-specific may be reassigned to another station in the exigency of public service.

This resolves a Petition for Review on Certiorari^[1] assailing the July 28, 2011 Decision^[2] and January 4, 2012 Resolution^[3] of the Court of Appeals in CA-G.R. SP No. 117679.

Marilyn R. Yangson (Yangson) was Principal III at the Surigao Norte National High School (Surigao National).^[4]

On April 30, 2008, Yangson was personally served a Memorandum dated April 14, 2008 issued by then Assistant Schools Division Superintendent Officer-in-Charge Fidela Rosas (Rosas).^[5] In the Memorandum, Yangson was reassigned from Surigao National to Toledo S. Pantilo Memorial National High School (Toledo Memorial):

In the exigency of the service, you are hereby advise[d] of your reassignment from Surigao Norte National High School to Toledo S. Pantilo Memorial National High School effective May 5, 2008.

Please submit your clearance as to money and property accountability before reporting to your new station. Your First Day of Service must also be submitted to this Office for our reference and file.

It is expected that you do your best in the interest of the service. Please be guided accordingly.^[6]

Yangson refused to accept the Memorandum without first consulting her counsel.^[7]

Two (2) days prior to the effectivity of her reassignment on May 5, 2008, Yangson filed before the Regional Trial Court a Petition for Injunction with Prayer for Temporary Restraining Order and Damages against Rosas and Dulcesima Corvera (Corvera), who was supposed to replace Yangson as the new principal of Surigao National.^[8]

Yangson alleged that the Memorandum violated Department of Education Circular No. 02, series of 2005, because it failed to specify the duration of her reassignment and because it was issued without her prior consultation. She also claimed that there was no vacancy in the position, and the reassignment would cause diminution in her rank.^[9]

On May 5, 2008, the Regional Trial Court issued a Temporary Restraining Order.^[10]

However, in its May 24, 2008 Order,^[11] the Regional Trial Court denied Yangson's prayer for preliminary injunction. It held that Yangson did not have a vested right over her position at Surigao National because her appointment as Principal III was not station-specific.^[12] It also found that the Temporary Restraining Order was sufficient to vindicate her rights even if the Memorandum was not served properly.

Furthermore, the trial court ruled that Yangson was not singled out as other principals were also reassigned. It held that the reassignments were in good faith and within Rosas' authority.^[13] It ruled that the issuance of an injunction was improper as Yangson could still appeal to the Director of Public Schools under Section 6 of Republic Act No. 4670, or the Magna Carta for Public School Teachers. While this was pending resolution, the trial court explained, her transfer could be held in abeyance.^[14]

Thus, Yangson appealed before the Department of Education CARAGA Regional Office.^[15]

In her June 11, 2008 Resolution,^[16] Regional Director Jesusita Arteche (Regional Director Arteche) denied Yangson's appeal. Citing Section 26 of the Administrative Code, which differentiated transfers from reassignments,^[17] she found that Yangson was reassigned, not transferred. Thus, Section 6 of the Magna Carta for Public School Teachers, which only provided for transfers, was inapplicable. Yangson's reassignment, then could not be held in abeyance while her appeal was pending resolution.^[18]

Regional Director Arteche also ruled that Yangson was not constructively dismissed because her reassignment was done in good faith. Further, it held that Rosas had the discretion to reassign principals and teachers under DECS Order No. 7, series of 1999, which directed the reassignment of teachers and principals every five (5) years.^[19]

Yangson elevated her case to the Department of Education Central Office, but her appeal was denied in the August 13, 2008 Resolution.^[20]

The Department of Education Central Office affirmed that Yangson was reassigned, not transferred, since her movement did not involve the issuance of an appointment.^[21] It held that since Yangson's appointment was not station-specific, her reassignment was within the prerogative of the head of office for the exigency of service. Hence, Yangson could be assigned to any school.

Moreover, the Department of Education Central Office found that since her

reassignment was done to promote efficiency in government service, her consent was not necessary. Thus, the Magna Carta for Public School Teachers was not violated.^[22]

Even if the movement was a transfer, the Department of Education Central Office found that Yangson's consent was not required since her appointment was not station-specific. It explained that when the appointment is not station-specific, one's consent is not required when he or she is merely assigned or temporarily appointed.^[23]

The Department of Education Central Office ruled that there was no malice in Yangson's reassignment just because she was unable to consult her lawyer to question it. It found that Rosas made several earnest efforts to serve Yangson the Memorandum on time, beginning April 22, 2008. In all those instances, Yangson refused to receive the Memorandum, and only accepted it on May 2, 2008. Thus, it ruled that Yangson could not feign ignorance of the action as it was she who employed delaying tactics.^[24]

Maintaining that Yangson was not singled out, the Department of Education Central Office explained that her reassignment was part of the reshuffling of all school heads and principals within the division under DECS Order No. 7.^[25]

The Department of Education Central Office, likewise, ruled that Yangson's reassignment to a smaller school was neither a demotion nor constructive dismissal. It held that government projects, programs, efforts, and resources could not be subordinated to individual preferences of Civil Service employees as it would defy the notion that "a public office is a public trust."^[26]

The Department of Education Central Office further found that Yangson's Appeal before the Regional Director was filed out of time.^[27] It found:

WHEREFORE, premises considered, the appeal of appellant Marilyn Yangson, is hereby dismissed for lack of merit. She is hereby directed to report immediately to Toledo S. Pantilo Memorial National High School, Sison, Surigao Del Norte.

SO RESOLVED.^[28]

Yangson filed a Motion for Reconsideration, but it was denied by the Department of Education Central Office in its October 13, 2008 Resolution. Thus, she elevated her claims to the Civil Service Commission.^[29]

In its June 15, 2010 Resolution,^[30] the Civil Service Commission reversed both Resolutions of the Department of Education Central Office and ruled in favor of Yangson. It found that her reassignment did not comply with the requirements of Section 6 of the Magna Carta for Public School Teachers.^[31]

The Civil Service Commission affirmed that Yangson could be assigned anywhere in the school division.^[32] However, It noted that while the movement would be in the same region, Yangson would be placed in a different division. It found that Surigao

National is under the Division of Surigao City, while Toledo Memorial is under the Division of Surigao del Norte.^[33] Thus, it ruled that Yangson's consent was necessary.^[34]

The Civil Service Commission also concluded that the Memorandum only stated the exigency of service, but "failed to show that [Yangson's] transfer was premised on the ground of completion of five (5) years . . . at [Surigao National]."^[35] The dispositive portion of the Resolution read:

WHEREFORE, the appeal filed by Marilyn R. Yangson is GRANTED. Accordingly, Resolution dated August 13, 2008 and Resolution dated October 13, 2008 issued by the Secretary, Department of Education, Pasig City, directing her to immediately report to Toledo S. Pantilo Sr. Memorial National High School, Sison, Surigao del Norte, are declared NULL AND VOID. The Schools Division Superintendent is directed to immediately reinstate Yangson in her original work station.^[36]

Thus, the Department of Education elevated the matter to the Court of Appeals.^[37]

In its July 28, 2011 Decision,^[38] the Court of Appeals set aside the rulings of the Civil Service Commission.^[39]

The Court of Appeals maintained that while reassignments are different from transfers, both are covered by Section 6 of the Magna Carta for Public School Teachers.^[40] However, though it was applicable, the Court of Appeals found that the provision was not violated.^[41] It explained that Yangson was being reassigned under the Division Office's plan to reshuffle school administrators in the exigency of service, as the last reshuffling had happened more than five (5) years earlier.^[42]

The Court of Appeals also ruled that the reassignment was valid without Yangson's consent, and the notice served to her sufficiently complied with the requirement under the Magna Carta for Public School Teachers.^[43] It agreed with the Civil Service Commission that Yangson had not been demoted as there was no reduction in Yangson's rank, status, or salary.^[44]

The Court of Appeals further found that Yangson was reassigned to a school in the same division as Surigao National. It noted that she was appointed at the Department of Education, Division of Surigao del Norte, and not any specific station or school.^[45] Citing *Fernandez v. Sto. Tomas*,^[46] it held that since her appointment was not station-specific, Yangson could be assigned to any school. Her security of tenure does not entitle her to permanently stay in only one (1) school.^[47]

The dispositive portion of the Court of Appeals Decision read:

WHEREFORE, the Petition is hereby GRANTED. Resolution Nos. 101241 and 1000476 of the Civil Service Commission dated 15 June 2010 and 13 December 2010, respectively, are SET ASIDE.

SO ORDERED.^[48]

Yangson filed a Motion for Reconsideration, which the Court of Appeals denied in its January 4, 2012 Resolution.^[49]

Thus, Yangson filed this Petition for Review on Certiorari.^[50]

Petitioner insists that the Court of Appeals did not address the issue of whether her movement was a reassignment or a transfer.^[51] She claims that her reassignment contravenes Section 6 of the Magna Carta for Public School Teachers, which provides that her consent must first be obtained before she is transferred.^[52] She asserts that she should have been given prior notice. She also posits that the reassignments should not have been implemented while the appeal was pending.^[53]

Petitioner further questions the reason and motivation for her transfer. She alleges that Rosas merely shuffled the assignments of three (3) principals after previous attempts to remove her from Surigao National had failed. Likewise, she assails the Division Office's reason that it was for the exigency of service, maintaining that there was no extraordinary occurrence in Toledo Memorial that will require her expertise and qualifications.^[54]

Moreover, petitioner claims that there is no reason to remove her from Surigao National as she had an exemplary record at the school. She notes, among others, that the school excelled during her administration and that she was recognized by the Department of Education as Most Outstanding Principal for school year 2005 to 2006.^[55]

Further claiming that the reassignment diminished her rank and status, petitioner points out that she will only have 31 personnel at Toledo Memorial against her 165 personnel at Surigao National. Since Toledo Memorial is smaller, her supervisory authority will be considerably diminished, as such size is for the position of Principal I, not Principal III.^[56]

Petitioner further argues that even if there was no new appointment, her movement was still a demotion. She claims that demotion does not have to be evidenced by a change of appointment, and it may be shown by the size of the school where she is being transferred.^[57]

Petitioner suggests that her appointment to Surigao National is station-specific, as her appointment papers indicate that she would replace Mamerto Racaza (Racaza), who had been assigned to Surigao National before he retired.^[58]

Petitioner explains that she does not claim any property right over her present position. She is simply refusing her transfer because her constitutional right to security of tenure was violated.^[59]

Finally, petitioner argues that even if the movement was a reassignment, not a transfer, it should not be for an indefinite period^[60] and should not last longer than one (1) year.^[61]

In its Comment,^[62] respondent Department of Education argues that the Court of