

EN BANC

[G.R. No. 185215, July 22, 2010]

**VIRGINIA D. BAUTISTA, PETITIONER, VS. CIVIL SERVICE
COMMISSION AND DEVELOPMENT BANK OF THE PHILIPPINES,
RESPONDENTS.**

DECISION

DEL CASTILLO, J.:

There is demotion when an employee is appointed to a position resulting to a diminution in duties, responsibilities, status or rank which may or may not involve a reduction in salary.^[1] Where an employee is appointed to a position with the same duties and responsibilities but a rank and salary higher than those enjoyed in his previous position, there is no demotion and the appointment is valid. While this principle and its corollary are plain, it is through the use of misleading premises that a semblance of demotion was attempted to be passed off in this case. Thus, we take this opportunity to again remind litigants to use only fair and honest means to plead their cause in order not to waste the precious time and resources of our courts.

This Petition for Review on *Certiorari* assails the October 31, 2008 Decision^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 98934 which affirmed the Resolution No. 070765^[3] dated April 16, 2007 of the Civil Service Commission (CSC). The CSC dismissed petitioner's complaint based on the finding that the latter was not demoted upon her appointment as Bank Executive Officer II (BEO II) in the Development Bank of the Philippines (DBP).

Factual Antecedents

Petitioner began her career in DBP on June 1, 1978 when she was appointed as Chief of Division. On December 1, 1982, she was promoted to the position of Technical Assistant. On December 3, 1986, then President Corazon C. Aquino issued Executive Order No. 81^[4] which authorized, among others, the reorganization of DBP pursuant to Sections 32^[5] and 33^[6] thereof. As part of DBP's reorganization, petitioner was temporarily appointed in January 1987 as Account Officer with an annual salary of P62,640.00 which is equivalent to the 14th step of Salary Grade (SG)-20. In November 1988, this appointment was made permanent subject to the result of the ongoing reorganization of DBP and the approval of the CSC.^[7]

Republic Act No. 6758 (RA 6758), or "The Compensation and Classification Act of 1989," took effect on July 1, 1989. To implement the aforesaid law, the Department of Budget and Management (DBM) promulgated the Government Financial Institutions' (GFIs) Index of Occupational Services which mandated GFIs, like the DBP, to adopt a uniform set of position titles in their plantilla. On October 2, 1989, the DBM issued Corporate Compensation Circular No. 10 (DBM-CCC No. 10) which

authorized the GFIs to match their current set of position titles to those prescribed by the GFIs Index of Occupational Services. As a consequence, on February 15, 1991, petitioner was appointed on a permanent status as BEO II with an annual salary of P131,250.00 or the 8th step of SG-24 which was made to retroact to July 1, 1989 (the date of effectivity of RA 6758). Prior to her appointment thereto, petitioner occupied the position of Account Officer with SG-20 (24th step) with an annual salary of P102,000.00.^[8]

Proceedings before the Development Bank of the Philippines

In a letter^[9] dated March 23, 1993, petitioner protested her appointment as BEO II before the Head of the Personnel Administration Department of the DBP because it allegedly amounted to a demotion. According to petitioner, prior to the reorganization of DBP, she occupied the position of Account Officer which, under the GFIs Index of Occupational Services, was assigned a salary grade of 25 while that of BEO II has a salary grade of 24. She thus opined that her appointment to the position of BEO II constituted a demotion due to the attendant diminution of benefits and emoluments arising from said appointment.

On February 8, 1994, petitioner reiterated her protest in a letter^[10] addressed to the Vice-Chairman of DBP.

Proceedings before the Department of Budget and Management

Petitioner's complaint was referred to the DBM, which found the same to be lacking in merit. It held that the position of Account Officer in DBP is "not in the rank of Assistant Department Manager II. Therefore, to allocate [the] subject positions to Account Officer, SG-25 [under the GFIs Index of Occupational Services] will be highly illogical and totally out of context of the accepted organizational set-up for GOCCs^[11]/GFIs."^[12]

Proceedings before the Civil Service Commission

Undaunted, petitioner appealed to the CSC through several letters dated September 26 1996,^[13] October 24, 1997,^[14] and February 23, 1998^[15] but the latter failed to act on the same. On October 8, 2001, while applying for early retirement, she again wrote a letter-complaint to the CSC. This time the CSC required DBP to comment.

In its comment,^[16] DBP asserted that when the bank started to reorganize in 1987, petitioner was appointed to the position of Account Officer with SG-20 on a temporary status. Pursuant to DBM-CCC No. 10 implementing RA 6758, the position of Account Officer with SG-20 was matched with BEO II with SG-24 (8th step). Contrary to petitioner's claim, there was, thus, no demotion because her salary grade was even increased from 20 to 24.

On April 16, 2007, the CSC rendered a decision dismissing petitioner's complaint for lack of merit. The CSC ruled that the appointment of petitioner to the position of BEO II was done pursuant to a valid reorganization. Moreover, petitioner only raised her claim to the contested position on September 26, 1996 or more than seven

years from the time of her appointment. She is, thus, deemed to have slept on her rights under the equitable doctrine of *laches*.

Proceedings before the Court of Appeals

Petitioner thereafter appealed to the CA. On the issue of *laches*, the CA disagreed with the CSC. It found that petitioner timely protested her alleged demotion through several letter-complaints and appeals; first with the DBP a month after her appointment as BEO II, and, later on, through several letter-appeals with the CSC. Thus, petitioner did not sleep on her rights. If at all, the delay was attributable to the CSC's inaction on her protests which spanned several years.

On the issue of demotion, the CA upheld the findings of the CSC that the appointment of petitioner to BEO II did not constitute a demotion because this was done in good faith and pursuant to a valid reorganization. It ruled that the DBP undertook the matching of positions in order to conform to the GFIs Index of Occupational Services based on the employee's nature of function, hierarchy of jobs, and existing salary range. Petitioner's duties and responsibilities as Account Officer with SG-20 and as BEO II with SG-24 are practically the same as shown by her BC-CSC Form 1 (Position Description Form). Rather than lowering her rank and salary, petitioner's appointment as BEO II had, in fact, resulted to an increase thereof from SG-20 to SG-24, thus, negating petitioner's claim of demotion.

Issues

Before this Court, petitioner attributes the following errors to the CA:

1. The CA erred in holding that petitioner's appointment from Account Officer to BEO II did not result in a demotion in rank and salary, and
2. The CA erred in holding that DBP's reorganization was valid and done in good faith.^[17]

Petitioner's Arguments

Petitioner argues that her appointment as BEO II with SG-24 constitutes a demotion because prior to the reorganization of DBP, she was an incumbent Account Officer with SG-25. The position of Account Officer with SG-25 was not abolished after the reorganization. Thus, there was a decrease in her rank and salary from SG-25 to SG-24. Citing *Department of Trade and Industry v. Chairman and Commissioners of Civil Service Commission*,^[18] petitioner claims that she should have been appointed to a position comparable to her former position. She decries that the assailed reorganization did not promote economy and efficiency but led to the demoralization of the employees who were not appointed to their old position.

Respondents' Arguments

DBP counters that the appointment of petitioner to BEO II was done in good faith and pursuant to a valid reorganization. It claims that petitioner failed to prove that she held the position of Account Officer with SG-25 under the GFIs Index of

Occupational Services prior to the reorganization of the bank. Rather, the evidence duly established that petitioner occupied the position of Account Officer with SG-20. The position of Account Officer with SG-20 is not the same as Account Officer with SG-25 under the GFIs Index of Occupational Services. When RA 6758 was passed by Congress, the DBM approved the GFIs Index of Occupational Services which mandated the GFIs, including DBP, to adopt the position titles therein. As a result, DBP fixed the positions of its employees to appropriate positions to conform to the GFIs Index of Occupational Services based on the nature of their functions, hierarchy of jobs, and existing salary range. Thus, the position of Account Officer with SG-20 was matched to the position of BEO II with SG-24. Petitioner's duties and responsibilities as Account Officer and as BEO II remained essentially the same. Taken together, there can be no demotion because petitioner's salary grade was even increased from 20 to 24.

The CSC, represented by the Solicitor General, is fully in accord with the afore-stated position of the DBP. It emphasizes that petitioner failed to prove that there was a reduction in her duties, responsibilities, status or rank as a result of her appointment to the position of BEO II.

Our Ruling

We affirm the findings of the CA and DENY the petition. There was no demotion when petitioner was appointed as BEO II.

In this jurisdiction, a reorganization is valid provided that it is done in good faith. As a general rule, the test of good faith lies in whether the purpose of the reorganization is for economy or to make the bureaucracy more efficient.^[19] Removal from office as a result of reorganization must, thus, pass the test of good faith.^[20] A demotion in office, *i.e.*, the movement from one position to another involving the issuance of an appointment with diminution in duties, responsibilities, status or rank which may or may not involve a reduction in salary,^[21] is tantamount to removal, if no cause is shown for it.^[22] Consequently, before a demotion may be effected pursuant to a reorganization, the observance of the rules on *bona fide* abolition of public office is essential.^[23]

There was no demotion because petitioner was appointed to a position comparable to the one she previously occupied. There was even an increase in her rank and salary.

Petitioner claims that she was illegally demoted when she was appointed from Account Officer with SG-25 to BEO II with SG-24 after the reorganization of DBP in 1989.

Petitioner's contention is untenable and misleading.

The records show that prior to her appointment as BEO II, petitioner occupied the position of Account Officer with SG-20 and not Account Officer with SG-25. This is stated in petitioner's own evidence consisting of her service record^[24] as well as the admissions in her letter-complaints before the DBP and CSC. Curiously, in her