

## SECOND DIVISION

[ G.R. No. 154242, October 10, 2007 ]

**VICTORINA A. CRUZ, PETITIONER, VS. HON. SALVADOR ENRIQUEZ, JR., IN HIS CAPACITY AS SECRETARY OF DEPARTMENT OF BUDGET AND MANAGEMENT, RESPONDENT.**

### DECISION

**CARPIO, J.:**

#### The Case

Before the Court is a petition for review<sup>[1]</sup> assailing the 5 April 2002 Decision<sup>[2]</sup> and the 9 July 2002 Resolution<sup>[3]</sup> of the Court of Appeals in CA-G.R. SP No. 45635.

#### The Antecedent Facts

Victorina A. Cruz (petitioner) held the position of Guidance and Counseling Coordinator III at the Valenzuela Municipal High School<sup>[4]</sup> (VMHS) in Marulas, Valenzuela, Metro Manila<sup>[5]</sup> since 1978. The position had the rank of secondary head teacher with an annual basic salary of P26,388. The local government paid petitioner's salary.

On 1 July 1987, Executive Order No. 189<sup>[6]</sup> (EO 189) took effect. EO 189 placed all public secondary school teachers under the administrative supervision and control of the then Department of Education, Culture and Sports (DECS). EO 189 transferred the payroll of public secondary school teachers from the local government to the national government through the National Compensation and Classification Plan (NCCP). Following the criteria and standards under the NCCP, petitioner's position was reclassified as Guidance Counselor, R-56 and her annual salary was reduced from P26,388 to P19,244.80.

Petitioner appealed her demotion to the Civil Service Commission Merit System Protection Board (CSC-MSPB). The CSC-MSPB referred the appeal to the Department of Budget and Management (DBM) for comment.

The DBM informed the CSC-MSPB that pursuant to EO 189, petitioner's item was classified as Guidance Counselor, R-59<sup>[7]</sup> effective 1 July 1987. Consequently, petitioner's annual salary was reduced from P26,388 to P18,636. However, since petitioner had an Equivalent Records Form (ERF) dated 7 June 1978 reflecting an accreditation of 20 masteral units in addition to her Bachelor of Science in Education (BSE) degree, petitioner was entitled under the NCCP to an upgraded R-57 item with corresponding annual salary of P20,232 effective 1 July 1987.

The DBM also informed the CSC-MSPB that since petitioner had a Master of Arts

(MA) equivalent approved on 6 November 1987, she was again entitled to an upgraded R-58 with an annual salary of P21,264 effective 6 November 1987, adjustable to an annual salary of P23,388 pursuant to Letter of Instruction No. 406, series of 1984, as implemented by Circular Letter No. 84-4 dated 30 May 1984. The DBM stated that since prior to the nationalization of the position, petitioner had an annual salary of P26,388, she should be allowed to continue receiving that amount effective 1 July 1987 in her nationalized position as Guidance Counselor, R-58 (MA-equivalent), with P20,232 from the national government and P6,156 from the Caloocan City treasury. From 6 November 1987 to 31 December 1987, P21,264 would come from the national treasury and P5,125 from the Caloocan City funds in accordance with Section 4.2 of DECS-DBM Joint Circular No. 1 dated 1 July 1987, implementing EO 189.

On 1 July 1989, Republic Act No. 6758<sup>[8]</sup> (RA 6758) took effect.

On 19 June 1990, the CSC-MSPB rendered its Decision, the dispositive 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 P21,264.00 per annum shall be taken and paid from the national fund, and the balance of P5,125 shall be taken 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 EO 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, 19<sup>[8]</sup>7 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.<sup>[9]</sup>

On 26 July 1990, the DECS sought clarification of the 19 June 1990 CSC-MSPB Decision as regards petitioner's position and equivalent salary grade under RA 6758.

On 31 August 1990, the CSC-MSPB issued an Order, as follows:

Based on the adjusted range, under the provisions of EO 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 Coordinator held by appellant was reclassified into Guidance Services Specialist II and was assigned a salary grade 16. Such being the case, the salary of Ms. Cruz should be based on such grade.

WHEREFORE, this 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.<sup>[10]</sup>

The Schools Division Superintendent of Caloocan City, DECS-National Capital Region, requested for the issuance of a supplemental Position Allocation List (PAL) of the VMHS to reflect petitioner's reclassified position from Guidance Counselor III, SG-11 to Guidance Specialist II, SG-16. On 10 May 1991, the DBM, through then Undersecretary Salvador M. Enriquez, Jr., denied the request on the ground that the CSC-MSPB had no jurisdiction to reclassify petitioner's position.

On 3 July 1991, petitioner filed a motion for execution of the CSC-MSPB's 19 June 1990 Decision and 31 August 1990 Order. In its Order dated 18 March 1992, the CSC-MSPB directed the DECS and the DBM to implement its Decision.

Petitioner was on sick leave from December 1992 to 4 March 1993 for multiple myoma operation. In June 1993, petitioner discovered that the VMHS payroll for school year 1993-1994 reflected her position as Guidance Counselor III, SG-12. Petitioner filed a petition for mandamus before the Court of Appeals, docketed as CA-G.R. SP No. 31614, to compel the DBM Secretary to implement the 19 June 1990 Decision of the CSC-MSPB. The Court of Appeals denied the petition, as well as petitioner's motion for reconsideration. Petitioner went to this Court for relief, via a petition for review docketed as G.R. No. 119155,<sup>[11]</sup> raising the issue of whether the CSC-MSPB had jurisdiction to reclassify petitioner's position and order the payment of the corresponding salary. In its Decision promulgated on 30 January 1996, the Court ruled that the CSC-MSPB acted without jurisdiction in reclassifying petitioner's position to Guidance Services Specialist II, SG-16. The Court ruled that the DBM has the sole power and discretion to administer the compensation and position classification system of the national government. Thus, the CSC-MSPB should have referred the issue to the DBM instead of merely asking for the DBM's comment. The Court dismissed the petition, "without prejudice on the part of the petitioner to pursue her grievance with the Department of Budget and Management through the Compensation and Position Classification Board [CPCB]."<sup>[12]</sup>

Petitioner filed before the CPCB a request for the reclassification of her position from Guidance Counselor III, SG-12 to Guidance Coordinator III, SG-15. The DBM, through the CPCB, denied her request on 24 September 1996. On 29 July 1997, the DBM denied petitioner's motion for reconsideration. Petitioner filed a petition for certiorari before the Court of Appeals. Petitioner alleged that in denying her request, the DBM failed to consider the standards prescribed by law. Petitioner further alleged that the DBM gave due emphasis to her position title and designation