

EN BANC

[G.R. NO. 157286, June 16, 2006]

THE PUBLIC SCHOOLS DISTRICT SUPERVISORS ASSOCIATION (PSDSA), ITS OFFICERS, TO WIT: DR. ANILLA A. CALAMBA, PRESIDENT; DR. CARMELITA L. PALABAY, GEN. VICE-PRESIDENT; MS. ESTELITA R. REYES, BOARD SECRETARY; DR. THELMA A. GALANG, ASST. BOARD SECRETARY; MR. FERNANDO LAVITA, TREASURER; MS. LITA DIONISIO, ASST. TREASURER; MS. ROSELILY PADRE, AUDITOR; MR. ROMAN CALICDAN, ASST. AUDITOR; MR. TOMO-AY, MR. OSCAR PEÑAFLORES, BUS MANAGERS; DR. ANTONETTE ANG, DR. MAGNITA LABRADOR, P.R.O.'S; MR. BONIFACIO MIGUEL (REGION I), MR. JOSE CALAGUI (REGION II), DR. REYNALDO SAGUM (REGION III), MR. RUBEN PANAHON (REGION IV), MR. OSCAR BARBA (REGION V), MS. IRMA GANELA (REGION VI), DR. ERLINDA NAPULI (REGION VII), DR. PONCIANO GABIETA (REGION VIII), MR. FEDERICO FIDEL (REGION IX), MR. EMILIANO V. RODRIGUEZ (REGION X), MS. EDWINA ALAG (REGION XI), MR. DOMINADOR ATAM (REGION XII), MS. CONSUELO VELASCO (NCR), MR. VICTORINO AGMATA (CAR), MS. NATIVIDAD SALASAB (ARMM-CARAGA), ALL PSDSA VICE-PRESIDENTS FOR THEIR RESPECTIVE REGIONS: DR. LOLITA CABANAYAN, MR. CICERO AKLANG, DR. RUSTICO OCAMPO, MR. ROMEO SANTOS, MR. EMMANUEL CAMA, MR. ROMEO TUMA OB, MR. JOVENCIO MENDOZA, MR. ALEJANDRO BARING, JR., MS. BERNARDITA APOSTOL, MS. LORETA MACALUDAS, DR. MYRNA LYN MARACON, MS. ELIZABETH SAN DIEGO, SITH HINDRON DAMMANG, MS. IMMACULADA BRINGAS, AND MS. GLORIA DERECHO, ALL MEMBERS OF THE PSDSA BOARD OF DIRECTORS, IN THEIR OWN BEHALF AS CURRENT DISTRICT SUPERVISORS AND IN REPRESENTATION OF ALL DISTRICT SUPERVISORS OF THE DEPARTMENT OF EDUCATION, PETITIONERS, VS. HON. EDILBERTO C. DE JESUS, DEPARTMENT SECRETARY, THE DEPARTMENT OF EDUCATION, AND THE DEPARTMENT OF BUDGET AND MANAGEMENT, RESPONDENTS.

DECISION

CALLEJO, SR., J.:

This is a Petition for Prohibition with prayer for temporary restraining order and/or preliminary injunction filed by the Public Schools District Supervisor Association (PSDSA) seeking to declare as unconstitutional Rule IV, Section 4.3; Rule V, Sections 5.1 and the second paragraph of Section 5.2; and Rule VI, Section 6.2, paragraph 11 of Department of Education Order No. 1, Series of 2003. The petition likewise seeks to compel, by way of a writ of mandamus, the Department of Education, Culture, and Sports (DECS) and the Department of Budget and Management (DBM)

to upgrade the salary grade level of the district supervisors from Salary Grade (SG) 19 to SG 24.

The Antecedents

Ever since the Department of Education (DepEd)^[1] was founded decades ago, its management had been so centralized in the Manila office. Schools in the national, regional, and division levels merely followed and implemented the orders and memoranda issued by the Education Secretary. Due to the evolution of the learning process and the onset of information technology, there was a need for a radical change in the governance of the DepEd. Thus, a study on how to improve the management of the Department was conducted, and one of the proposals was the abolition of the office of the district supervisor.

Then Senator Tessie Aquino-Oreta, the Chairman of the Committee on Education, authored Senate Bill No. 2191, the thrust of which was to change the existing management style and focus on the schools where the teaching-learning process occurs. The bill was intended to highlight shared governance in the different levels in the DECS hierarchy and establish authority, accountability, and responsibility for achieving higher learning outcomes. While the governance of basic education would begin at the national level, the field offices (regions, divisions, schools, and learning centers) would translate the policy into programs, projects, and services to fit local needs.^[2] The national level was likewise to be tasked to define the roles and responsibilities of, and provide resources to the field offices which would implement educational programs, projects, and services in communities they serve.^[3] At the forefront would be the DepEd Secretary, vested with the overall authority and supervision over the operations of the department on the national, regional, division, and schools district level.^[4]

Republic Act No. 9155, otherwise known as the "Governance of Basic Education Act 2001," became a law on August 11, 2001, in accordance with Section 27(1), Article VI of the Constitution. Under the law, each regional office shall have a director, an assistant director, and an office staff for program promotion and support, planning, administrative and fiscal services.^[5] The regional director was given the authority to hire, place and evaluate all employees in the regional office except for the position of assistant director,^[6] as well as the authority, accountability, and responsibility to determine the organization component of the divisions and districts, and approve the staffing pattern of all employees therein;^[7] evaluate all division superintendents and assistant division superintendents in the region;^[8] and other functions as may be assigned by the proper authorities.^[9]

A division, on the other hand, is headed by a schools division superintendent with the following responsibilities, among others: to supervise the operations of all public and private elementary, secondary, and integrated schools, and learning centers;^[10] to hire, place and evaluate all division supervisors and schools district supervisors as well as all employees in the divisions, both teaching and non-teaching personnel, including school heads, except for the assistant division superintendent;^[11] and perform other functions as may be assigned by proper authorities.^[12]

The office of the schools district supervisor has been retained under the law. Each district is headed by a school district supervisor and an office staff for program promotion. However, the responsibilities of the schools district supervisor are limited to the following: (1) providing professional and instructional advice and support to the school heads and teachers/facilitators of schools and learning centers in the district or cluster thereof; (2) curricula supervision; and (3) performing such other functions as may be assigned by proper authorities. The schools district supervisors have no administrative, management, control or supervisory functions over the schools and learning centers within their respective districts.^[13]

On the school level, an Elementary School Principal (ESP) was designated as school head for all public elementary schools; and a Secondary School Principal (SSP) for high schools or a cluster thereof.^[14] The ESP and the SSP serve as both instructional leaders and administrative managers with the following authority, accountability and responsibility:

(7) Administering and managing all personnel, physical, and fiscal resources of the school;

(8) Recommending the staffing complement of the school based on its needs;

(9) Encouraging staff development;

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(11) Accepting donations, gifts, bequests, and grants for the purpose of upgrading teachers'/learning facilitators' competencies, improving and expanding school facilities, and providing instructional materials and equipment. Such donations or grants must be reported to the appropriate district supervisors and division superintendents; and

(12) Performing such other functions as may be assigned by proper authorities.^[15]

Under Section 14 of the law, the DepEd Secretary is mandated to "promulgate the implementing rules and regulations within ninety (90) days after the approval of the Act, provided that the principle of shared governance shall be fully implemented within two (2) years" after such approval.

Before the DepEd could issue the appropriate implementing rules and regulations, petitioner sought the legal assistance of the Integrated Bar of the Philippines (IBP) National Committee on Legal Aid to make representations for the resolution of the following administrative issues:

1. Restoration of the functions, duties, responsibilities, benefits, prerogatives, and position level of Public Schools District Supervisors.

2. Upgrading of Salary Grade level of Public Schools District Supervisors from Salary Grade Level 19 to Salary Grade Level 24

under DBM Circular No. 36, otherwise known as the Compensation and Position Classification Rules and Regulation.

[16]

In a Letter dated March 1, 2002 addressed to then DepEd Secretary Raul Roco, the IBP stated that, per its review of the documents submitted by the PSDSA, it found the latter's position valid and legal, to wit:

First: The basis for the abolition of the position of District Supervisors under the Attrition Law and DECS Department Order No. 110, Series of 1991 is no longer valid and rendered moot and academic due to issuance of DECS Department Order No. 22, Series of 1996 and the passage by Congress of the Philippines of Republic Act No. 9155, otherwise known as the Basic Education Governance Act of 2000. Under R.A. 9155, school districts are mandated to be maintained and responsibilities of Public Schools District Supervisors have been clearly defined.

Second: There is a clear case of discrimination of grant of salaries and benefits to District Supervisors compared to salaries and benefits received by the School Principals - which position is lower in the hierarchy of positions as prepared by the Department of Education and the Department of Budget and Management. School Principals and District Supervisors enjoy the same level of Salary Grade even if the latter position is considered as a promotion and enjoys a higher level of position than that of the position of School Principals.[17]

The PSDSA thus requested the DepEd Secretary to call an immediate consultation with the district supervisors nationwide through a convention, and their valid inputs be considered in formulating the rules and regulations to be urged by the DepEd. However, the Secretary failed to reply. Thus, the IBP reiterated the concerns raised by the PSDSA in a Letter[18] to the DepEd dated April 15, 2002.

On January 6, 2003, DepEd Secretary Edilberto C. De Jesus issued DECS Office Order No. 1, which constitutes the Implementing Rules and Regulations (IRR) of R.A. No. 9155. Sections 4.1 to 4.3, Rule IV of the IRR provide:

SECTION 4.1. ***The Schools Division Superintendent.*** - A division shall consist of a province or city which shall have a schools division superintendent. There shall be at least one assistant schools division superintendent and office staff for programs promotion, planning, administrative, fiscal, legal, ancillary, and other support services.

SECTION 4.2. ***Authority, Accountability, and Responsibility of the Schools Division Superintendent.*** - Consistent with the national educational policies, plans, and standards, the schools division superintendents shall have authority, accountability, and responsibility for the following:

- 1) Developing and implementing division education development plans;
- 2) Planning and managing the effective and efficient performance of all personnel, physical, and fiscal

resources of the division, including professional staff development;

- 3) Hiring, placing, and evaluating all division supervisors and schools district supervisors as well as all employees in the division, both teaching and non-teaching personnel, including school heads, except for the assistant division superintendents;
- 4) Monitoring the utilization of funds provided by the national government and the local government units to the schools and learning centers;
- 5) Ensuring compliance of quality standards for basic education programs and for this purpose strengthening the role of division supervisors as subject area specialists;
- 6) Promoting awareness of, and adherence by, all schools and learning centers to accreditation standards prescribed by the Secretary of Education;
- 7) Supervising the operations of all public and private elementary, secondary, and integrated schools, and learning centers; and
- 8) Performing such other functions as may be assigned by the Secretary and/or Regional Director.

SECTION 4.3. *Appointing and Disciplinary Authority of the Schools Division Superintendent.* - The schools district superintendent shall appoint the division supervisors and school district supervisors as well as all employees in the division, both teaching and non-teaching personnel, including school heads, except for the assistant schools division superintendent, subject to the civil service laws, rules and regulations, and the policies and guidelines to be issued by the Secretary of Education for the purpose.

The schools division superintendent shall have disciplinary authority only over the non-teaching personnel under his jurisdiction.

Such exercise of disciplinary authority by the schools division superintendent over the non-teaching personnel shall be subject to the civil service laws, rules and regulations, and procedures and guidelines to be issued by the Secretary of Education relative to this matter.

The Regional Director shall continue exercising disciplinary authority over the teaching personnel insofar as the latter are covered by specific and exclusive disciplinary provisions under the Magna Carta for Public School Teachers (R.A. No. 4670).^[19]

Sections 5.1 and 5.2, Rule V of the IRR, in turn, provide:

SECTION 5.1. *The Schools District Supervisor.* - A school district shall have a school district supervisor and office staff for program promotion.

The schools district supervisor shall primarily perform staff functions and shall not exercise administrative supervision over school principals,