

THIRD DIVISION

[G.R. No. 126481, February 18, 2000]

**DR. EMILY M. MAROHOMBSAR, IN HER OFFICIAL CAPACITY AS
PRESIDENT OF THE MINDANAO STATE UNIVERSITY,
PETITIONER, VS. COURT OF APPEALS AND BILLANTE G.
MARUHOM, RESPONDENTS.**

D E C I S I O N

GONZAGA-REYES, J.:

The present petition for review on *certiorari* seeks to nullify the decision^[1] of the Court of Appeals dated June 11, 1996 in CA-G.R. SP No. 39506 and its subsequent resolution dated September 9, 1996 denying petitioner's motion for reconsideration.

The antecedent facts, as found by the appellate court, are as follows:

Private respondent Billante S. Guinar-Mahurom was appointed as Technical Assistant assigned to the Office of the Chancellor of the Mindanao State University sometime in 1988. That appointment was confirmed by the Board of Regents in its Resolution No. 279, series of 1988, promulgated on November 8, 1988. When the Salary Standardization Law (R.A. 6788) was enacted, private respondent's position was converted into Executive Assistant II. However, since private respondent at that time was not a Civil Service eligible, she was extended a temporary appointment duly noted by the Board of Regents (Resolution No. 1, series of 1991).

When private respondent passed the Civil Service career professional examinations, she was immediately extended a permanent appointment by then MSU President Ahmad Alonto, Jr. on May 3, 1991. Private respondent continued to hold the position until February 15, 1993 when she received the letter of termination from petitioner Marohombsar after the latter had assumed office as President of the University (January 5, 1993). The cause of termination, which was made effective on February 28, 1993, was "in view of the urgent need to establish a new order and maintain the trust and confidence reposed upon the Office of the President as demanded by the standards of Public Service."

Private respondent thereafter sought a reconsideration of her termination but her request was denied, hence, on April 30, 1993, she filed a complaint for illegal termination before the Regional Office No. 12 of the Civil Service Commission.

On May 10, 1993 the Regional Director found the complaint meritorious. It was noted that private respondent's position as Executive Assistant II is a permanent position and is "covered by the Constitutional guarantee of security of tenure." Thus, the Regional Director held:

"WHEREFORE, foregoing premises considered, the services of Mrs. Brillante G. Maruhom as Executive Assistant were illegally terminated. Accordingly, she should be immediately reverted to this position with payment of salaries and other benefits that would have accrued to her during the period she was out of the service."

Despite said ruling, however, private respondent was not reinstated by petitioner, thereby prompting the former to write to the Regional Director on July 2, 1993 for a "request for an alternative remedy for the immediate reversion of Ms. Maruhom to her former position and the payment of her salary as Executive Assistant II, Mindanao University, Marawi City." The Regional Director promptly responded by issuing a letter-directive on November 5, 1993 ordering herein petitioner to comply with the order of May 3, 1993 under pain of penal and administrative sanctions.

On December 6, 1993, petitioner wrote a letter-request for reconsideration of the May 3, 1993 order to the Regional Director contending that the appointment of private respondent was not valid for lack of confirmation by the Board of Regents before it was submitted to the Civil Service Commission for attestation.

On March 21, 1994, the Regional Director referred the case to respondent Commission and submitted his Report and Recommendation dated March 11, 1994, recommending a reiteration of the earlier directive with the imposition of a "stern warning xxx that the order of this Commission must be complied with even if that University may not agree with it" (Report of Investigation, Annex "B", p. 69, *Rollo*).

On June 22, 1994, petitioner was ordered by the CSC Legal Office to submit her comment to the Report and Recommendation submitted by the Regional Director. Petitioner complied on August 17, 1994.

Respondent Commission, on December 13, 1994, resolved the case in favor of private respondent. The dispositive portion of its decision reads:

"WHEREFORE, the Commission hereby directs the President of the Mindanao State University to explain within five (5) days from receipt of this Order why he should not be charged for not reinstating Billante S. Guinar-Maruhom as Executive Assistant II and for not paying her salaries and other benefits from the time of the termination of her services up to her reinstatement."

In compliance with said directive, petitioner submitted her comment contending that her letter-request for reconsideration of the Regional Director's order is still pending and, therefore, she has no obligation to comply with the order of reinstatement yet; that besides, private respondent's appointment is not valid for lack of confirmation by the Board of Regents and that even if valid, private respondent's appointment was confidential and, therefore, co-terminus with the term of office of then MSU President Alonto.

On October 17, 1995, respondent Commission issued Resolution No. 95-6446 and held:

'The contention that the tenure of Maruhom as Executive Assistant II is coterminous with the term of office of then MSU President Alonto, the one who appointed her, must be rejected. There is no showing that said

position has been declared as primarily confidential in nature by the Commission pursuant to its authority under the Administrative Code of 1987. In the absence of such declaration, the position is thus considered under the career service. Hence, an appointee who holds an appointment thereto under permanent status enjoys security of tenure as guaranteed by law. Thus, she could not be separated from the service except for cause and after due process.

WHEREFORE, MSU President Emily M. Marohombsar is hereby directed to immediately reinstate Billante G. Maruhom to her former position of Executive Assistant II and to pay all her back salaries and other benefits due her from the date of her separation up to the date of her reinstatement in the service. Further failure or defiance on the part of said official to do what is required, will be considered contempt of this Commission and grounds for administrative sanctions."^[2]

It is patent from the foregoing recital that private respondent was first appointed Technical Assistant in 1988 and the MSU Board of Regents (BOR) confirmed her appointment per its Resolution No. 279, s. 1988. The position title was subsequently reclassified and retitled to Executive Assistant II upon the effectivity of Republic Act 6758, otherwise known as the Salary Standardization Law. Since private respondent did not possess the appropriate civil service eligibility required of the position at that time, she was only extended a temporary appointment as Executive Assistant II which was noted by the MSU Board of Regents. Subsequently, upon acquiring Career Service Professional Eligibility, she was extended a permanent appointment to the position of Executive Assistant II by then MSU President Ahmad E. Alonto, Jr. on May 3, 1991. This appointment was approved as permanent by the Civil Service Commission Regional Office No. 12 on June 25, 1991. She assumed office and discharged the duties thereof, without any objection from the Board of Regents. When MSU President Alonto was replaced by herein petitioner Dr. Emily M. Marohombsar on January 5, 1993, private respondent continued her employment and received the corresponding salary and other benefits from the MSU until she was summarily terminated on February 28, 1993. The Civil Service Commission declared her termination as illegal and ordered the payment of all her back salaries and other benefits due her from the date of her separation up to the date of her reinstatement in the service.

On appeal, the Court of Appeals affirmed the Order^[3] dated December 13, 1994 of the Civil Service Commission (CSC) as well as the latter's Resolution No. 956446^[4] dated October 17, 1995. From the decision of the Court of Appeals and after its motion for reconsideration had been denied, petitioner Dr. Emily M. Marohombsar (in her official capacity as President of the Mindanao State University) filed the present petition on the ground that the Court of Appeals erred in declaring that private respondent's termination was illegal; and in ordering the payment of back salaries and other benefits from the date of private respondent's separation up to the date of her reinstatement in the service. The reasons advanced to support the instant petition are briefly stated as follows: 1) Private respondent's appointment as Executive Assistant II dated May 3, 1991 lacks the requisite confirmation by the Board of Regents pursuant to the Mindanao State University (MSU) charter and code, hence, ineffective; 2) Private respondent's position as Executive Assistant II is primarily confidential, hence, coterminous with the term of office of the appointing

authority.^[5]

We find no merit in the petition and hold that the same should be denied.

The power to appoint is vested in the Board of Regents upon the recommendation of the President as follows:

"SECTION 6. The Board of Regents shall have the following powers and duties, in addition to its general powers of administration and the exercise of the powers of the corporation: haideem

xxx xxx xxx

(e) To appoint on the recommendation of the President of the University, professors, lecturers and other employees of the University. x x x"^[6]

The MSU Code of Governance reiterates the power of the President to recommend qualified persons to the Board of Regents to fill vacancies and new positions as follows:

ART. 41. General Powers of the President:

xxx xxx xxx

(g) He shall recommend qualified persons to fill vacancies and new positions created and funded by the Board; provided, that such appointment shall be submitted in the next regular meeting of the Board; Provided Further, that no payment of salary shall be effected unless approved by the Board of Regents.^[7]

Based on the foregoing, petitioner correctly theorizes that private respondent's appointment was merely *ad interim* considering the appointment was issued by the University President rather than the MSU Board of Regents prior to submission to the Civil Service Commission for attestation. Petitioner, however, errs in concluding that an *ad interim* appointment is invalid and ineffective, therefore, terminable at any time and for any cause. kirsten

The essence of *ad interim* appointments has been sufficiently discussed in *Pamantasan ng Lungsod ng Maynila vs. Intermediate Appellate Court*^[8] where the university's charter similarly vests the power of appointment in the Board of Regents and the power to recommend in the President. It was therein held that under Philippine law and jurisprudence, an *ad interim* appointment is used to denote the manner in which the appointment is made; and it is not descriptive of the nature of the appointment given to the appointee.^[9] By way of illustration, the Court stated in said case that "it is an appointment done by the President of the Pamantasan in the meantime, while the Board of Regents, which is originally vested by the University charter with the power of appointment, is unable to act."^[10] As further explained by the Court in said case:

"In other words, if the Board of Regents is in session, the Pamantasan President merely nominates while the Board issues the appointment. But when the Board is not in session, the President is authorized to issue *ad*