

SECOND DIVISION

[G.R. No. 120539, October 20, 2000]

**HON. LIWAYWAY VINZONS-CHATO, IN HER CAPACITY AS
COMMISSIONER OF INTERNAL REVENUE, AND JACINTO T.
MARCELO, PETITIONERS, VS. HON. MONINA A. ZENOROSA,
PRESIDING JUDGE OF BRANCH 76, REGIONAL TRIAL COURT OF
QUEZON CITY AND ESTRELLA V. MARTINEZ, RESPONDENTS.**

D E C I S I O N

BUENA, J.:

On March 22, 1995, petitioner Liwayway Vinzons-Chato, then Commissioner of Internal Revenue, issued Revenue Travel Assignment Order (RTAO) No. 8-95.^[1] Pursuant thereto,

NAME	FROM	TO
ESTEBAN P. BATTUNG	Regional Director Revenue Region No. 14 Tacloban City	Regional Director Revenue Region No. 3 Tuguegarao
PERCIVAL T. SALAZAR	Asst. Regional Director Revenue Region No. 7 Quezon City	Regional Director Revenue Region No. 14 Tacloban City
RENATO L. MANALILI	Assistant Region Director Revenue Region No. 5 Valenzuela	Asst. Regional Director Revenue Region No. 7 Quezon City
TEOFISTA A. SAPITULA	Assistant Regional Director Revenue Regulation No. 9 San Pablo City	Assistant Regional Director Revenue Region No. 5 Valenzuela
LUCIANO S. MALAPITAN	Assistant Regional Director Revenue Region No. 2 Cordillera Administrative Region	Assistant Regional Director Revenue Region No. 9 San Pablo City
PRISCILA B. PAGARIGAN	Asst. Regional Director Revenue No. 16 Cagayan De Oro City	Asst. Regional Director Revenue Reg. No. 2 Cordillera Administrative Region
DANILO A. DUNCANO	Revenue District Officer Rev. Dist. Office No. 80 Mandaue City	OIC-Asst. Regional Director Revenue Region No. 16 Cagayan de Oro City
EDILBERTO I. CAUSON	Asst. Rev. Dist. Officer Rev. Dist. Office No. 47 East Makati	Revenue District Officer Rev. Dist. Office No. 80 Mandaue City
GERARDO R. FLORENDO	Asst. Rev. Dist. Officer Rev. Dist. Office No. 39 South Quezon City	Revenue District officer Rev. Dist. Office No. 98 Cagayan de Oro City

GRAVE EVELYN A. LACERNA	Executive Assistant Office of the Commissioner National Office	Asst. Revenue Dist. Officer Rev. Dist. Office No. 39 South Quezon City
ESTRELLA V. MARTINEZ	Asst. Revenue Dist. Officer Rev. Dist. Office No. 34 Paco - Pandacan	Asst. Division Chief Collection Programs Div. National Office
JUANITO T. MARCELO	Asst. Rev. Dist. Officer Rev. Dist. Office No. 21 San Fernando, Pampanga	Asst. Rev. District Officer Rev. Dist. Office No. 34 Paco-Pandacan
HORACIO D. ETORMA	Technical Assistant Office of DCIR Rualo	Asst. Rev. Dist. Officer Rev. Dist. Office No. 50 South Makati
EDILBERTO C. RADAZA	Asst. Revenue Dist. Officer Rev. Dist. Office No. 103 Butuan City	Revenue District Officer Rev. Dist. Office No. 106 Tandag, Surigao del Sur"

private respondent Estrella V. Martinez, along with others, was reassigned from Assistant Revenue District Officer of Revenue District Office (RDO) No. 34 - Paco - Pandacan - San Andres -Sta. Ana area - to Assistant Division Chief, Collection Programs Division, National Office in Quezon City, and assigned in her place, as Assistant Regional District Officer of RDO No. 34 was Jacinto T. Marcelo, erroneously referred to as Juanito T. Marcelo in RTAO 8-95.

On account of such reassignment, private respondent filed on April 4, 1995, with the Regional Trial Court of Quezon City, a petition for injunction docketed as Civil Case No. 95-23498 with prayer for issuance of a writ of preliminary injunction and temporary restraining order, to restrain petitioner Marcelo from assuming the post of Assistant Regional District Officer of RDO No. 34.

In that petition, private respondent alleged that prior to the questioned RTAO 8-95, the retiring Revenue Officer of RDO No. 34, Jose T. Jacalan, wrote the BIR Commissioner endorsing and strongly recommending private respondents' promotion as Revenue Officer of RDO 34.^[2] Notwithstanding such recommendation, another BIR employee Isidro Tecson Jr., was assigned by the Commissioner in place of Jose T. Jacalan. This prompted private respondent to file with the Grievance Committee of the Department of Finance a complaint for violation of Merit Promotion Plan under BIR Memorandum Order No. 39-93. On July 10, 1995 the Grievance Committee issued a resolution enjoining the BIR to strictly adhere to the established and CSC-approved merit promotion plan in making the appointment to create equal opportunities for advancement to all qualified and competent employees of the BIR. According to private respondent, instead of complying with the said resolution, petitioner Chato, in a clear act of spite, whim, and vindictiveness against a subordinate employee who dared to question petitioners' unlawful acts, issued the now questioned RTAO 8-95. Private respondent now claims that the questioned RTAO 8-95, is tantamount to a demotion since the position she was transferred to - Assistant Division Chief, Collections Program Division Chief, National Office - does not involve assessment and is totally alien to the past experience and skills of private respondent as an Assistant Revenue District Officer of RDO 34. Besides private respondent asserts that she will be dislocated since she has no experience in the collection service, in violation of Executive Order No. 132 dated October 26, 1993 which prohibits the transfer of personnel resulting in dislocation.

Acting on the petition, the trial court issued a temporary restraining order in an Order dated April 28, 1995. Thereafter, in an Order dated May 18, 1995, respondent Judge granted the writ of preliminary injunction enjoining the implementation of RTAO 8-95. The full text of the Order is quoted as follows:

"For resolution is the prayer for the issuance of a writ of preliminary injunction contained in the instant verified petition as well as the comment thereon filed by defendants [herein petitioners], through counsel, on May 5, 1995, and the reply with prayer to restore parties to the status quo filed by plaintiff [herein private respondent], through counsel, on May 17, 1995.

"Plaintiff alleges that a certain Isidro Tecson Jr. was designated as Revenue District Officer of RDO 34 by herein defendant [petitioner] Commissioner despite the recommendation of the retiring RDO of RDO 34, Jose T. Jacalan, for plaintiff [Martinez] to be assigned in his place; that on the belief that she had superior qualifications than Tecson and being the next-in-rank, she lodged a complaint with the Selection Board of the BIR; that considering the length of time during which defendant Commissioner failed to act on her complaint, she subsequently filed a protest with the Grievance Committee of the Department of Finance which resolved that herein defendant Commissioner appoint a permanent RDO for RDO 34 and adhere to the established and CSC approved merit promotion plan in making the appointment; that instead of complying with said resolution, herein defendant Commissioner issued Revenue Travel Assignment Order No. 8-95 wherein plaintiff [Martinez] was assigned from Assistant RDO of RDO 34 to Assistant Division Chief, Collection Programs Division, National Office and assigning in her place as Assistant RDO of RDO 34 (Paco - Pandacan - Sta. Ana - San Andres) defendant Jacinto Marcelo. She argues that her reassignment puts her in a freezer position tantamount to a demotion and dislocation; that defendant Commissioner's act of issuing the questioned Revenue Travel Assignment Order No. 8-95 was made in clear bad faith intended to harass her in violation of Revenue Memorandum Order No. 32-93; and that this court has jurisdiction to issue a preliminary injunction in this case.

"As prayed for, this Court in its Order dated April 28, 1995, issued a temporary restraining order enjoining defendant Commissioner or her subordinates from enforcing Revenue Travel Assignment Order No. 8-95 as it pertains to plaintiff [Martinez] and defendant Jacinto Marcelo.

"Defendants, in their comment, qualified the material allegations in the petition arguing among others that plaintiff brought her complaint to the Grievance Committee of the DOF without waiting for the BIR's final action on her complaint pending receipt of Tecson's scholastic records from the Far Eastern University; that the (sic) February 9, 1995, the Civil Service Commission (CSC) issued Resolution No. 95-0785 dismissing plaintiff's protest against Tecson's designation; that in view of the said CSC's ruling, defendant Commissioner found no basis for taking further action on the resolution of the Grievance Committee of the Department of Finance; that it was in pursuance of her authority to transfer and assign BIR personnel in the exigency of the service that defendant

Commissioner issued Revenue Travel Assignment Order No. 8-95; that Tecson's designation was not violative of the BIR's merit promotion plan as said Tecson was merely designated and not issued an appointment; that defendant Commissioner's exercise of her prerogative to assign/reassign personnel to meet exigencies of the service is beyond judicial interference.

"After weighing the arguments raised by the parties in support of their respective claims, this Court determines that the grounds set forth in Rule 58, Section 3 of the Revised Rules of Court are present, hence, the issuance of a writ of preliminary injunction is warranted under the premises.

"It appears that plaintiff [Martinez] was reassigned by defendant Commissioner by virtue of Revenue Travel Assignment Order No. 8-95 after she filed a complaint with the Selection Board of the BIR over the designation of one Isidro Tecson, Jr. as Revenue District Officer of Revenue District Office No. 34 (Paco - Pandacan - San Andres - Sta. Ana), a position which plaintiff [Martinez] sought to be appointed to. The issue of whether or not said Revenue Travel Assignment Order is valid and legal would still be threshed out during the trial on the merits. Thus, unless defendant Commissioner or her subordinates are enjoined from implementing Revenue Travel Assignment No. 8-95 as it pertains to plaintiff [Martinez] and defendant Marcelo, plaintiff [Martinez] would thereby suffer great and irreparable injury if it is determined that her assignment is irregular and illegal.

"This Court resolves to grant the issuance of a writ of preliminary injunction upon the posting of a bond in the amount of P50,000.00 which bond shall answer for damages which may be sustained by reason of the issuance of a writ of preliminary injunction, if it turns out that the plaintiff [Martinez] is not entitled thereto.

SO ORDERED."^[3]

Hence, on June 28, 1995, petitioners filed the present petition for certiorari under Rule 65 of the Rules of Court assailing the above Order.

Petitioners argue that the reassignment of revenue district officers was made pursuant to Executive Order No. 132 for the purpose of improving revenue collection. The writ hampers the serious efforts of the Government to re-organize the BIR to meet the urgent need for increased and efficient tax collection to support the economic development and growth of the Philippines, as embodied in Executive Order No. 132 (October 26, 1993). Besides, private respondent allegedly failed to show any legal or vested right to her position as Assistant Revenue District Officer of RDO No. 34 since she was merely assigned thereto and neither did private respondent show any right to be exempted from the reorganization. Private respondent holds the appointment of Chief Revenue Officer II and, whether she be assigned to another revenue district, revenue region or to the national office, she remains Chief Revenue Officer II, the position she was appointed to. Thus, there was no demotion in the reassignment since there was no reduction in duties, responsibilities, status, rank or salary.