

SOLIDOR, Leonila D.

Re: Demotion; Appeal

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RESOLUTION No. 01-0649

Leonila D. Solidor, employee of the Mines and Geosciences Bureau (MGB), Department of Environment and Natural Resources (DENR), Tacloban City, appeals her alleged demotion for having been deprived of the 10% across the board increase effective January 2000 by virtue of the reclassification of her position from Economist III to Economist II as a result of reorganization.

In her appeal, Solidor stated, as follows:

x x x

“Our office DENR Mines and Geosciences Bureau (MGB), Region 8 Tacloban undergone a nationwide Bureau Reorganization last January 1998 which my position Economist III was reclassified to Economist II, Salary Grade-15 but I still receive the same salary of P15,517.00 and deprived of the 10% across the board increase effective January 2000. Could it be possible under the CSC Law that I could be demoted without a cause? I know demotion requires a waiver and consent of the appointee. There was no proper dissemination/explanation/information of concerned person and that even the Management keep on hiding all the approved position and only to find out as announced that it was approved by Central Office MGB and DBM. I don't know why it was done without my knowledge. I am the only employee affected during the Reorganization MGB, Region 8. Verbally, our Regional Director was telling me that my salary will not be affected but only to find out last March 2000, our office, MGB Region 8 has given differential of the 10% increase but I was not included being demoted in rank without a cause at all. Under the National Budget Circular (NBC) dated March 21, 2000, provides that I am entitled to receive the 10% increase of my present

salary-SG-18 under the 6th step and whatever salary received as of December 1999 will be given 10% increase (attached xerox copy).”

x x x

When asked to comment, the Director of Mines and Geosciences Bureau, through Regional Director Eligio Z. Ariate of MGB Region 8, averred, as follows:

“1. On the demotion without a cause

“Please be informed that there was no deliberate intention in the demotion in rank as the personnel action of this office was based on the approved DBM – Notice of Organization, Staffing and Compensation Action (NOSCA) dated March 26, 1998 and the Memorandum of the MGB Director dated June 17, 1998.

“The NOSCA was issued due to the reorganization of the Mines and Geosciences Sector (MGB) of the Department of Natural Resources (DENR) to a line bureau, the Mines and Geosciences Bureau under DENR Administrative Order No. 97-11 dated April 11, 1997 and pursuant to RA No. 7942, the Philippine Mining Act.

“It could be gleaned from the NOSCA, that there is an Economist II position created under the Office of the Regional Director with Salary Grade 15 while the Economist III (the position held by Ms. Solidor) was among the positions abolished under the Mining Services and Mineral Land Management and Control Division (please refer to page 38 of 53 of NOSCA dated March 26, 1998).

“In the implementation of the NOSCA, the guidelines and mechanics of MGB Memo dated June 17, 1998 were followed. Notice of Change in Item No. was issued to Ms. Solidor, and furnished the Civil Service

Commission (CSC), Regional Office 8, Candahug, Palo, Leyte. To date, this Office did not received (sic) any notice of discrepancy from said Office, hence it was presumed that the Notice of Change of item of Ms. Solidor was in order.

“2. On the allegation that she has no knowledge on the DBM approved positions.

“Please be informed that the Office published the approved positions, which were considered vacant then, in the Tacloban Star which appeared June 15-21, 1998 issue (please refer to the attached copy of the publication) in compliance with the provisions of RA 7041 and its implementing guidelines.

“It could also be mention that there was an informal general briefing of said approved positions called by then Regional Director Pedro L. de Leon prior to preparation of the notices/appointments. Incidentally, there was no recorded minutes of the meeting but this could be confirmed by the personnel of this Office who were present during the briefing.

“Furthermore, her 7th sentence in the 2nd paragraph of the letter dated July 20, 2000 to the CSC, Quezon City which states that ‘Verbally, our Regional Director was telling me that my salary will not be affected ...’ confirms that she was previously informed of the status of her position. It cannot be denied that she was informed of the abolition of the Economist III position and the creation of a new position which is the Economist II with salary grade 15.

“In addition, she was not offered a vacant position higher or same level than her previous position because of the nature of the work which requires highly technical skills and should have passed a licensure examination as technical reports require the signature of personnel conducting investigation/studies as mandated in the performance of Office function such as chemist, forester, mining engineers and geologist. Sad to say, after the official evaluation, Ms. Solidor does not possess these qualifications.

“3. On the allegation that she was deprived of the 10% across the board increase

“Please be informed that we have sought clarification from DBM Regional Office 8, Tacloban City regarding this matter. Attached are the documents submitted to our local DBM with their reply together with a copy of their reply to the query made by Ms. Solidor for your ready reference.”

x x x

Records show that Solidor formerly held the Economist III position Salary Grade 18 step 6 at the Mining Services and Mineral Lands Management and Control Division, Department of Environment and Natural Resources (DENR), Tacloban City. This position was among the positions abolished due to the reorganization of the Mines and Geosciences Bureau (MGB) under DENR Administrative Order No. 97-11 dated April 11, 1997 and pursuant to RA No. 7942, the Philippine Mining Act. Solidor’s Economist III position was reclassified as Economist II with Salary Grade 15. Solidor was duly notified and she continued to receive her salary of Grade 18 step 6 in the amount of P15,517.00 per month.

Subsequently, the Mines and Geosciences Bureau received advice pursuant to a National Budget Circular dated March 21, 2000 which set the guidelines for the grant of the ten percent (10%) salary adjustment to all government personnel effective January 1, 2000. Paragraph 5.1.3 of the said guidelines provides, as follows:

“5.1.3 The transition allowance shall be considered as advance entitlement of the salary increase herein authorized. Any excess thereafter shall be deducted from whatever salary adjustments that such employee may be authorized in the future.”

In a Memorandum dated June 17, 1998 of Director Horacio C. Ramos, Mines and Geosciences Bureau which provides for the “Guidelines and Mechanics on Placement of Personnel to Implement DBM-NOSCA”, relevant portions of paragraph III provide, as follows: *“In cases where the incumbents are demoted in terms of salary grade or rank, they shall continue to receive their present salary rates including all applicable salary adjustments that they are entitled to receive in the future.”*

Director Ariate then sought the opinion of the DBM, Regional Office No. 8, Tacloban City, on the entitlement of Solidor to

the ten percent (10%) across the board increase or to the difference in her actual salary and her authorized salary per salary schedule for Civilian Personnel effective January 1, 2000 and whether the same may be treated as transition allowance.

In answer thereto, DBM, through Director Manuel Bernal, stated, as follows:

“Our initial evaluation of documents presented, as well as additional data requested and submitted immediately, established the following:

“Based on NOSCA No. 00098-03-068, Mrs. Solidor’s position, that of Economist III SG 18, step 5, was reclassified to Economist II, SG 15, step 1, effective March 26, 1998;

“However, according to the prepared NOSA (deferred) for the 10% salary increase in CY 2000, Mrs. Solidor’s salary as of December 31, 1999 was at the 8th step of SG 15 which was P15,517.00;

“Mrs. Solidor also received a Transition Allowance of P1,829.00 which was the difference between the NBC 458 Annex B table salary (for SG15, 8th step) at P13,688 and P15,517 (for SG 18, 6th step).

x x x

“Be that as it may, pursuant to Section 3 of Executive Order No. 219, ‘the salary rates contained in the Salary Schedule marked as Annex A shall include transition allowance presently authorized to be received by incumbents.’ According to Item 5.1.3 of the implementing guidelines under National Budget Circular No. 468 dated March 21, 2000, ‘the transition allowance shall be considered as advance entitlement of the salary increase herein authorized. x x x’ The foregoing issuances clearly support your computation as contained in the attached copy of the NOSA for Ms. Solidor (albeit per salary schedule, the correct amount for SG 15, 8th step is P15, 057, not P15,067). The transition allowance is basically the difference between what Ms. Solidor is currently receiving and what is entitled to her per new salary schedule, and this includes the 10% across the board salary adjustment, which is due to all government employees.

“Clearly, there is no conflict between the legal issuances i.e. EO 219 and NBC 468, and Mr. Ramos’s memorandum because Ms. Solidor is still entitled to the salary increase. However, since Ms. Solidor’s salary since her reclassification (from SG 18 to SG 15) is still substantially bigger than what she is entitled to in the current salary schedule, the transition allowance subsequently reflects the substantial difference. Another way of looking at it is that it would appear that she was already paid in advance her salary increase, which was absorbed by her hefty transition allowance.”

On a query made by Solidor on the same issue, DBM, through Director Bernal, replied, as follows:

x x x

“What is the basis for the computation of the 10% salary increase – SG 15 or SG 18?”

“According to the NOSCA or Notice of Organization, Staffing and Compensation Action, the Economist III (SG 18, Step 5) item which you were previously holding, was reclassified on March 26, 1998 to Economist II (SG 15, Step 1). Since NBC 468 takes effect January 1, 2000, the 10% across the board increase will be computed on your salary grade 15, as indicated on the NOSCA and NOSA for the salary increase, if any;

“Is the salary difference of Economist III and Economist II considered transition allowance?”

“Republic Act 6758 or An Act Prescribing a Revised Compensation and Position Classification System in the Government, otherwise known as the Salary Standardization Act, prescribes under Sec. 17, ‘Incumbents of positions presently receiving salaries and additional compensation/fringe benefits x x x, the aggregate of which exceeds the standardized salary rate as herein prescribed, shall continue to receive such excess compensation, which shall be referred to as transition allowance (emphasis ours). The transition allowance shall be reduced by the amount of salary adjustment that the incumbent shall receive in the future.’

“Apparently the intent of the issuance is to rationalize the salary rates, including those excess compensation

as a result of downgrading with no corresponding salary diminution as guaranteed by Section 13 (a) therein. Furthermore, Section 3 of Executive Order No. 219 or the Grant of Salary Adjustment to All Government Personnel, which took effect last January 1, 2000, likewise provides for the integration of the Transition Allowance, 'the salary rates contained in the Salary Schedule marked as Annex A

shall include transition allowance presently authorized to be received by incumbents.' Similarly, NBC 468, dated March 21, 2000, implementing EO 219, also provides under Item 5.1.3, 'the transition allowance shall be considered as advance entitlement of the salary increase herein authorized. Any excess thereafter shall be deducted from whatever salary adjustments that such employee may be authorized in the future.'

"How will the implementing guidelines of DBM-NOSCA allowing the payment of all salary adjustment in the future be reconciled with the interpretation as per position of Administrative & Finance Officer disallowing payment of the 10% increase?"

"A perusal of the available documents indicate that while you are currently receiving a salary equivalent to that being received by a SG 15 8th step position, a NOSA implementing EO 219/NBC 468 was withheld pending resolution of this complaint.

"As indicated in our letter to the MGB Regional Director, we find nothing irregular in the MGB action except perhaps where some discrepancies have cropped up regarding the implementation of the step increments in your behalf as indicated in available documents. We reiterate our position that the substantial transition allowance which you are currently receiving has already absorbed the 10% across the board salary increase under EO 219."

We find the appeal devoid of merit.

Demotion has been defined as the movement of an employee from one position to another with reduction in duties, responsibilities, status or rank which may or may not involve reduction in salary.

Solidor was not demoted since her former position, Economist III, was among the positions abolished in the reorganization of the MGB. Records show that she was previously informed of the abolition of the Economist III position and the creation of a new position which is Economist II with Salary Grade 15. It may be said that Solidor was reappointed to the Economist II position and she continued to receive her salary of Grade 18 step 6 in the amount of P15,517.00. Thus, it may not be said that she was demoted.

On the matter of the 10% salary increase in CY 2000, records show that the same was already absorbed in the transition allowance of Solidor, as succinctly pointed out by the DBM. Hence, Solidor was not demoted by virtue of the reclassification of her position from Economist III to Economist II pursuant to the Reorganization.

WHEREFORE, the appeal of Leonila D. Solidor is hereby dismissed for lack of merit.

Quezon City, **March 22, 2001**

(SIGNED)

JOSE F. ERESTAIN, JR.

Commissioner

(SIGNED)

KARINA CONSTANTINO-DAVID

Chairman

(SIGNED)

J. WALDEMAR V. VALMORES

Commissioner

Attested by:

(SIGNED)

ARIEL G. RONQUILLO

Director III

JJC/KPZ/Y9/Y4/vog/volt27

Solidor

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