

ANORE, Ma. Theresa F.

Re: Termination of Services;
Reassignment

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RESOLUTION NO. 01-1410

The Municipal Government of Binangonan, Rizal, appeals the Order of the Civil Service Commission Regional Office (CSCRO) No. IV, Quezon City, which declared as tantamount to constructive dismissal the reassignment of Ma. Theresa F. Anore, Assessment Clerk II, Office of the Municipal Assessor, same municipality, and the subsequent deletion of her name from the municipality's payroll.

Pertinent portions of the assailed decision read, as follows:

“x x x records show that Ma. Theresa Anore is actually a permanent Assessment Clerk II employee assigned at the Municipal Assessor's Office of Binangonan, Rizal. She was reassigned at the Binangonan Municipal Hall Annex at Barangay Gulod, Talim Island, Binangonan, Rizal, by virtue of a Special Assignment issued by Mr. Eusebio T. Valletero, Human Resource Management Officer III attested by Ms. Remedios Paralejas, Municipal Administrator. Ms. Anore submitted a photocopy of her Daily Attendance per logbook entry beginning July 2, 1998 to August 25, 1998. She also submitted Daily Time Record (Civil Service Form 48) for the period August 1 to 31, 1998 and September 1 to 15, 1998, respectively. She likewise submitted a Weekly Attendance Report corresponding for the period August 26, 1998 to September 2, 1998. It was also intimated by complainant that the Municipal Hall Annex at Talim Island could hardly pass the qualities of a government office because there are no adequate facilities to work on. She was also obliged to look for a boarding house and spend for her provisions away from her family because it is impossible to commute to and from the island as there is only one trip daily.

“Complainant submitted, among others, a document showing that as early as May 20, 1998, Binangonan, Rizal Mayor – Elect Cesar Ynares created a turn over committee chaired by Atty. Mendoza and Ms. Remy Paralejas. Under item C, paragraph 1 (a) of the Turn Over Committee, there was really an unequivocal mandate issued by Mayor Ynares, that is, ‘All employees to submit courtesy resignation’. x x x.

“Another observation noted by this Office is the ‘Special Assignment’ or reassignment order given to complainant Anore. It was the HRMO III who issued the same; attested to by the Municipal Administrator and a copy was merely furnished the Office of the Mayor. However, no evidence was adduced by respondents’ counsel to show that indeed the Municipal Mayor as the local chief executive has given full authority to the HRMO III to make personnel movement such as the reassignment of Mrs. Anore. x x x.

x x x

“The Special Assignment issued to Anore became effective on August 26, 1998. There was no piece of evidence adduced by respondents’ counsel the affected employee was given the opportunity to be heard. Considering that the Binangonan Municipal Hall Annex is located in an island, it is understood that the reassignment order will cause an economic dislocation on the employee concerned. Towards this end, there was no evidence to show that Anore, prior to her reassignment, was given the benefits due her as a reassigned employee pursuant to Section 341 and 342, Volume I of the Government Accounting and Auditing Manual x x x.

“Not even respondents allegations that complainant did not give the administration the chance to prove her worth and value as an employee even for once at Gulod (meaning the Municipal Hall Annex) can be a valid defense. In the first place, the HRMO III ought to understand that it is indeed impossible for Anore to comply because she has not yet received her two months salary. We are presently experiencing economic difficulties, an almost hand to mouth existence, the absence of even a months salary would spell out a great economic dislocation. The HRMO, therefore, has no right to demand nor expect that his Order be followed without first causing the

release of complainant's two months salary.

“Lastly, if indeed it were true that Anore has not been reporting for work for quite sometime, respondents nor counsel failed to adduce any piece of evidence to show that Anore was notified of her absence and that her failure to report back to work could mean her dropping from the rolls. Such would have been the proper procedure undertaken by the HRMO which was not present in the case at bar. All these, taken together could only mean that complainant was indeed constructively terminated from the service without just cause.

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*“**WHEREFORE**, from the foregoing, this Office finds merit on the complaint of Maria Theresa Anore for illegal termination and hereby resolves to Order her immediately reinstatement including payment of back salaries and all benefits due her from July 1998 up to her actual reinstatement. The Municipal Mayor is likewise directed to provide better working conditions and afford adequate economic assistance and benefits to all displaced municipal employees of Binangonan, Rizal Municipal Hall Annex, Barangay Gulod, Talim Islands. The Head, Civil Service Field Office – Rizal is likewise directed to look in the implementation of this Order and inform this Office of the extent of its compliance fifteen (15) days from receipt hereof.”*

The records show that many employees of the Municipality of Binangonan tendered their courtesy resignations immediately after Cesar Ynares assumed office as elected Mayor of Binangonan. Anore did not tender her courtesy resignation. Pursuant to a Special Assignment Order dated August 25, 1998 and signed by Eusebio T. Vallesteros, Human Resource Management Officer III, same municipality, Anore was reassigned from the Municipal Hall of Binangonan to the Municipal Hall Annex at Barangay Gulod, Talim Islands, Rizal. Although Talim Islands is more than 15 kilometers away from Anore's former station, she was not provided with transportation fare, neither was she given any allowance. On account of the alleged failure of Anore to report to her new assignment, she was dropped from the payroll of the municipality. Anore appealed her dropping from the rolls with CSCRO No. IV, which

declared that the Special Assignment Order issued by Vallesterro is tantamount to dismissal.

Hence, the instant appeal, the pertinent portions of which read, as follows:

“It is very clear that nothing in the same complaint which says that complainant was illegally dismissed but the complaint-affidavit only says that she was reassigned to another work place which she perceived as a measure to oust her from the service. The complaint is only concentrated on her protest from being assigned to the Municipal Hall Annex and not her dismissal from the service. This is so because her complaint-affidavit was filed even before she was terminated from the service. Besides, a detail, reassignment, promotion, demotion, etc., is a management prerogative specially given by law to employers as an absolute right with regard to the management and operation of the office.

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“It is premature for the Civil Service Commission Regional Office No. IV to deal with the dismissal of the complaint by advancing a theory that she was constructively dismissed because complainant-appellee did not even present a document or evidence in this matter. Even in her Formal Offer of Evidence, she failed to present an evidence that she was dismissed from the service. It cannot be concluded that complainant-appellee was constructively dismissed because instead of resigning, she failed or refuse to report for work which constrained respondents to drop her from the roll.

“In constructive dismissal, an employee must first quit his post before he can sue for illegal dismissal as stated in the case of Del Rio vs. Bonilla, Oct. 27, 1975 and Phil. Japan Active Corp., et. al. vs. NLRC, March 8, 1989:

‘An employee who quits his work because of the employer’s unreasonable, humiliating or demeaning actuations which render continued work impossible is deemed to have been illegally dismissed.

‘Constructive discharge is a quitting because continued employment is rendered impossible, unreasonable or unlikely.’”

The issues to be resolved in this appeal are, as follows:

1. Whether the Special Assignment Order issued by Valletero reassigning Anore from the Municipal Hall of Binangonan to the Municipal Hall Annex at Barangay Gulod, Talim Island, is legal;
2. Whether Anore was constructively removed from the service.

Rule III, Section 6 of CSC Memorandum Circular No. 40, series of 1998, dated December 14, 1998, provides:

“Section 6. Other Personnel Movements. The following personnel movements which will not require issuance of an appointment shall nevertheless require an office order by duly authorized official:

‘a. Reassignment – Movement of an employee from one organizational unit to another in the same department or agency which does not involve reduction in rank, status or salary. If reassignment is without the consent of the employee being reassigned it shall be allowed only for a maximum period of one year. Reassignment is presumed to be regular and made in the interest of public service unless proven otherwise or it constitute constructive dismissal.’

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“No reassignment shall be undertaken if done indiscriminately or whimsically because the

law is not intended as a convenient shield for the appointing/disciplining authority to harass or oppress a subordinate on the pretext of advancing and promoting public interest.

“Reassignment of small salaried employees is not permissible if it causes significant financial dislocation.” (Emphasis supplied)

It is explicit from the aforementioned rule that reassignment, to be valid, requires an office order issued by a duly authorized official, i. e., the appointing authority. It must be underscored that the authority to reassign personnel is inherent in the exercise of the appointing authority’s power to appoint. Hence, unless the appointing authority delegates to other officials the power to transfer or reassign personnel, a transfer or reassignment order issued without his authority is unauthorized, hence, illegal.

In the instant case, it appears that Vallesterro’s Special Assignment Order was issued without the approval of Mayor Ynares. Apparently, Vallesterro took it upon himself to issue an order reassigning Anore, thereby usurping the powers of the Municipal Mayor. Vallesterro's action is contemptible and should be dealt with accordingly.

It must also be underscored that reassignment of lowly salaried employees is abhorred especially if it causes significant financial dislocation. In other words, *“the protection against invalid transfer is especially needed by lower ranking employees. The Court emphasized this need when it ruled that if officials in the unclassified service, presidential appointees, men who in the government set-up occupy positions in the higher echelon should be entitled to security of tenure, unquestionable a lesser solicitude cannot be meant for the little men, that great mass of Common underprivileged employees - thousand there are of them in the lower bracket, who generally are without connections and who pin their hopes of advancement on the merit system instituted by our civil service law”* (Transfers and Assignments in the Civil Service : SCRA Annotations 31 SCRA 701 ; citing **Alzate vs. Mabutas, 51 O.G. 2452**).

Anore, a lowly salaried employee, was reassigned to an isolated island 15 kilometers away from her original place of assignment. She has to travel by boat with only one trip a day to report to her new place of assignment in an office without any facilities, except its bare structure. Worse, the municipality did not provide her with transportation

allowance. She was forced to be separated from her family, look for a boarding house where she can stay while in the island, and spend for her board and lodging. The circumstances surrounding Anore's reassignment is exactly the kind of reassignment that is being frowned upon by law.

On the second issue, the Commission finds no merit in appellant's contention that an employee must first quit his work before he can be considered constructively removed from office. To reiterate, *"there is constructive removal from office when the facts disclosed that the transfer or reassignment is resorted to as a scheme to lure the employee away from his permanent position, such attitude is improper, as it would in effect result in the circumvention of the prohibition which safeguards the tenure of office of those who are in the civil service"* (**Cruz vs. Navarro, 66 SCRA 79**).

In sum, the Commission finds that Anore's reassignment was part of the scheme to systematically lure her away from her permanent position, a constructive dismissal from the service.

WHEREFORE, the instant appeal of the Municipality of Binangonan, Rizal, is hereby **DISMISSED**. Accordingly, the appealed Order of the Civil Service Commission Regional Office No. IV is affirmed.

CSCRO No. IV and the Head, Civil Service Commission Field Office – Rizal, are hereby directed to monitor the implementation of this Resolution and institute appropriate administrative action against Eusebio Valletero, Human Resource Management Officer III, Municipality of Binangonan, Rizal, if necessary.

Quezon City, **August 20, 2001**

(Signed)
JOSE F. ERESTAIN, JR.
Commissioner

(Signed)
KARINA CONSTANTINO-DAVID
Chairperson

(Signed)
J. WALDEMAR V. VALMORES
Commissioner

Attested by:

(Signed)
ARIEL G. RONQUILLO
Director III

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