

GAMPONG, Tagoranao
And MACABADA, Yusoph
Re: Designation; Non-Career;
Co-Terminous; Contractual

X-----X

RESOLUTION No. 990499

The Concerned Employees of the Lanao del Sur Second Engineering District, Department of Public Works and Highways - Autonomous Region in Muslim Mindanao (DPWH-ARMM) filed a complaint relative to the alleged non-compliance by Kagim H. Jajurie, Regional Secretary, DPWH-ARMM with the CSC Resolution No. 98-1436 dated June 11, 1998. In said resolution, the Commission directed Jajurie to restore Yusoph Macabada to his coterminous position of Engineer V under the IMPACT project of said engineering district.

The pertinent portions of the said CSC Resolution read as follows:

"It is clearly shown that Gampong and Macabada were holding co-terminous appointments to the position of Engineer V under the 'IMPACT' project of DPWH-Lanao del Sur. In other words, their term of office as Engineer V is co-existent with the project, hence, they are not categorized as career personnel. Thus, they are barred from being designated to career supervisory positions."

"However, Regional Secretary Jajurie stated that he has directly assumed the functions of District Engineer, hence, the first issue on the designation of contractual or co-terminous employees has been rendered moot and academic. Hence, said coterminous employees should be restored to their former positions in the project. Jajurie is, however, cautioned to observe Civil Service Law and Rules on personnel actions." (Emphasis supplied)

In their complaint, the complainants aver as follows:

"7. Secretary Kagim Jajurie, despite the two resolutions/orders mentioned in the foregoing by CSRO No, XII dated August 18, 1997 and the CSC-Central Office, Quezon City, No. 981436 dated June 11, 1998, deliberately continue to fail the enforcement of the two orders to restore Yusoph Macabada

Gampong, T, et al../p2

X-----X

to his former position and function in the IMPACT project whereupon his appointment is co-terminous and co-existent;

"8. Secretary Jajurie did not and has never actually and directly assumed the Office and Functions of the District Engineer in the Lanao del Sur Second Engineering District since the designation of Engineer Macabada;

"9. Secretary Jajurie assumed the Office of District Engineer in the Lanao del Sur Second Engineering District only by name in a paper memorandum indirectly circumventing the law and the resolutions/orders by the Civil Service Commission;

"10. Engineer Yusoph Macabada had never ceased or desisted or had been interrupted to act as Acting District Engineer in the Lanao del Sur Second Engineering District;

"11. Secretary Jajurie unceasingly and continuously continue to circumvent and defy the two orders of the CSC to restore Engineer Macabada to his position/function in the IMPACT projects. On the other hand, he deliberately and continuously allowed Engineer Macabada to function his unlawful and nullified designation as Acting District Engineer;

(Underscoring ours)

"12. In effect, upon the nullification of the designation Order of Engineer Macabada as acting District Engineer since August 18, 1997 to date, all the Office transactions in the Lanao del Sur Second Engineering District being made and signed by him were highly irregular²¹⁾ thus, illegal."

In his comment, Jajurie stated as follows:

"In compliance with your request, the undersigned hereunto states his comments on the instant complaint. In so far as the allegations contained therein, there is no mention of any prejudicial effect or injustices to the complainants which proceed from the increased functions of Engineer Macabada, like for instance when he performed as Officer-in-charge to effectuate a particular function of the office promptly, they are not deprived of their rights, benefits and privileges recognized by law and in fact the said complaint never brought out such deprivation on their persons. In other

Gampong, T, et al../p3

X-----X

words, the non-observance of the resolutions/orders of the Civil Service Commission by Engineer Macabada did not in any way lessen or deprive them of the rights in which they are entitled to. Nonetheless, the gist of the complaint concerns particularly on the enforcement of the resolutions/orders of the Civil Service Commission. In consonance with this, it is well to point out that the undersigned had already issued an order revoking some specific functions of Engineer Macabada prior to this complaint because of sufficient belief that Engineer Macabada's status become complicated and could not be anymore dispensed with."

Records show that on June 11, 1998, the Commission issued the CSC Resolution No. 98-1436, whereby it held, among other things, that Macabada and Gampong are not categorized as career personnel, they being incumbents of co-terminous positions of Engineer V under the IMPACT project of DPWH-Lanao del Sur. Thus the Commission in the same resolution ruled that they are barred from being designated to career supervisory positions and that they should be restored to their former positions in the project.

On September 11, 1998, the Concerned Employees of the Lanao del Sur Second Engineering District filed the instant complaint, alleging that Jajurie has continuously failed to comply with the directive contained in the aforesaid resolution.

After a revaluation of the records and the representations of the parties, the Commission finds merit in the complaint.

In his comment, Jajurie stated that he already issued a Memorandum revoking the designation of Macabada as Acting District Engineer. However, a perusal of said Memorandum reveals patent contradictions to said statement. Pertinent portions of Jajurie's Memorandum read as follows:

"In view hereof and effective immediately please be informed that your designation issued on November 4, 1996 as Acting District Engineer and Memorandum Order dated May 29, 1998 as OIC - Area Equipment Engineer is hereby revoked. However, you shall be acting as OFFICE CARETAKER OF LANAO DEL SUR II ENGINEERING DISTRICT AND LANAO DEL SUR AREA II EQUIPMENT SERVICES."

Gampong, T, et al../p4

X-----X

"As caretaker, you shall over see and be responsible in the pre-engineering and actual implementation of the infrastructure projects. Furthermore, you shall see to it that

programs and projects of that Office are being implemented in accordance with its specifications. You shall also submit corresponding periodic reports to the undersigned on the extent of the implementation."

It is clear from the aforequoted memorandum that Macabada would still discharge the functions of an Acting District Engineer since he has been designated as Office Caretaker of the Lanao del Sur Second Engineering District. As Caretaker, he exercises supervision over the projects as well as the career personnel involved therein, which is the situation being sought to be stopped in said resolution. Hence, this is obviously violative and a circumvention of the CSC Resolution No. 98-1436, directing Macabada's restoration to his position of Engineer V (coterminous) under the IMPACT project. The rule barring non-career employees, such as Macabada, from being designated to supervisory positions in the career service is clear. Changing the nomenclature of the position to which Macabada is being designated to Office Caretaker is not in accordance with said CSC resolution. In fact, it is defiance thereof.

Presiding from the foregoing facts, it is incumbent upon Jajurie to immediately implement said resolution.

WHEREFORE, Regional Secretary Kagim H. Jajurie of DPWH-ARMM is hereby directed to immediately restore Yusoph Macabada to his co-terminous position of Engineer V under the IMPACT project of DPWH-Lanao del Sur. The Regional Director of Civil Service Regional Office (CSRO) No. XII is directed to monitor the implementation of this CSC resolution.

Let a copy of this Resolution be furnished the DPWH-Lanao del Sur COA Auditor.

Quezon City, F E B 22 1999

THELMA P. GAMINDE
Commissioner

Gampong, T, et al../p5

X-----X

CORAZON ALMA G. DE LEON
Chairman

JOSE F. ERESTAIN, JR.
Commissioner

Attested by:

ARIEL G. RONQUILLO
Director III