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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. ZENAROSA, Presiding Judge of Branch 76, Regional Trial Court of Quezon City and ESTRELLA V. MARTINEZ,** *respondents.*

SYNOPSIS

Pursuant to Revenue Travel Assignment Order (RTAO) No. 8-95 issued by Commissioner Chato, private respondent, 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, was one Jacinto T. Marcelo. Private respondent filed a petition for injunction, claiming that the questioned RTAO 8-95 is tantamount to a demotion since she was transferred to a position which does not involve assessment and is totally alien to her past experience. The RTC granted the writ of preliminary injunction enjoining petitioner Marcelo from assuming the post of Regional District Officer RDO No. 34. Hence, petitioner filed the instant petition for *certiorari.*

In granting the petition, the Supreme Court held that the BIR Commissioner is authorized to assign or reassign revenue officials and employees as the exigencies of the service may require, without demotion in rank and salary in accordance with the Civil Service Rules and Regulations. The Court also held that the trial court gravely erred in enjoining private respondent's reassignment because the latter failed to establish a vested right to the post of Assistant Revenue District Officer of RDO No. 34.

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SYLLABUS

1. **TAXATION; NATIONAL INTERNAL REVENUE CODE; COMMISSIONER OF INTERNAL REVENUE; HAS POWER TO ASSIGN OR REASSIGN REVENUE OFFICIALS WITHOUT DEMOTION; CASE AT BAR.** — The Commissioner of Internal Revenue is authorized to assign or reassign internal revenue officers and employees of the BIR as the exigencies of service may require, without demotion in rank and salary in accordance with Civil Service Rules and Regulation. . . . Private respondent holds the appointment of Chief Revenue Officer II and such appointment will not be altered by her subsequent reassignment as Assistant Division Chief of the Collection Programs Division, National Office. Such reassignment is not a demotion for there is no diminution of rank, salary, status and responsibilities.

2. **REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI*; GRAVE ABUSE OF DISCRETION; ENJOINING REASSIGNMENT OF A REVENUE OFFICER WITHOUT ANY VESTED RIGHT TO HER PRESENT POSITION, A CASE OF** — Private respondent was merely assigned as Assistant Revenue District Officer of BIR Revenue District Office No. 34 and the Commissioner may assign or reassign revenue officers, as the exigencies of the service may require. Such reassignment of revenue officers entails the prevention of familiarity and patronage between BIR officers and taxpayers of a particular area.

APPEARANCES OF COUNSEL

The Solicitor General for petitioners.
Gutierrez Sundiam Villanueva for private respondent.

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

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Assignment Order (RTAO) No. 8-95.[1] Pursuant thereto, private respondent Estrella V. Martinez, along with others, was reassigned

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[1] "Revenue Travel Assignment Order No. 8-95 (March 22, 1995) The exigencies of the revenue service so requiring, the following personnel are hereby relieved of their present duties directed to report to their new assignments as indicated hereunder:

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	Asst. Regional Director Revenue Region No. 5 Valenzuela
LUCIANO S. MALAPITAN	Asst. Regional Director Revenue Region No. 2 Cordillera Administrative	Asst. 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. DUNCANI	Rev. Dist. Office Rev. Dist. Office No. 80 Mandaue City	OIC-Asst. Regional Director Rev. Region No.16 Cagayan de Oro City
EDILBERTO I. CAUSON	Asst. Rev. Dist. Officer Rev. Dist. Office No. 47 East Makati	Rev. District Officer Rev. Dist. Office No. 80 Mandaue City
GERARDO R. FLORENDO	Asst. Rev. Dist. Officer Rev. Dist. Officer No. 39 South Quezon City	Revenue District Officer Rev. Dist. Office No. 98 Cagayan de Oro City

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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

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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	Rev. 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"

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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

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[2] *Rollo*, p. 56. The letter reads:

The Commissioner

Bureau of Internal Revenue

Diliman, Quezon City

Madam:

Pursuant to Revenue Memorandum Order No. 39-93 dated May 14, 1993, I have the honor to recommend Atty. ESTRELLA V. MARTINEZ, Assistant Revenue District Officer of RDO No. 34 (Paco - Pandacan - Sta. Ana - San Andres), presently with an item of Chief Revenue Officer II to full-pledged REVENUE DISTRICT OFFICER of RDO No. 34. This recommendation is in line with the mandate of the above-mentioned RMO invoking the next-in-rank policy of said order which will officially take effect upon the official retirement of the incumbent RDO, ATTY. JOSE T. JACALAN, on June 19, 1994.

ATTY. ESTRELLA V. MARTINEZ is a Certified Accountant and a Lawyer and she has finished her Master of Laws, major in Taxation from the University of the Philippines, Diliman, Quezon City. When she was the Assistant Revenue District Officer in Marikina (RDO No. 35-A), her District was adjudged the most outstanding Revenue District Office in the whole Philippines, per decision of the *Handang Maglingkod* Committee.

I hereby strongly recommend her for promotion as Revenue District Officer of RDO No. 34 (Paco - Pandacan - Sta. Ana - San Andres).

Very truly yours.

(Sgd.) JOSE T. JACALAN

RECOMMENDING APPROVAL:

(Sgd). ROMEO S. PANGANIBAN

Regional Director

APPROVED:

(Sgd). BEETHOVEN L. RUALO

Deputy Commissioner for Operations."

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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

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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,

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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 ₱50,000.00 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

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[3] Annex "A" of Petition. *Rollo*, pp. 45-46.

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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.

On July 31, 1995, this Court issued a temporary restraining order (TRO) enjoining the respondents from implementing the questioned Order of May 18, 1995 issued by the respondent court in Civil Case No. Q-95-23498.

Meanwhile, on August 11, 1995, private respondent Martinez wrote a letter to the Regional Director of Revenue Region No. 6, Manila as follows:

"Please be informed that the undersigned through her counsel received a copy of the Supreme Court Resolution dated July 31, 1995 on August 1, 1995. Court Orders takes effect fifteen (15) days after issuance should there be no motion for reconsideration filed of such order.

"Since the fifteen (15) day period has not yet elapsed, the said Supreme Court Resolution is not yet final and executory. Please be informed likewise that within the said fifteen day period, I will be taking the appropriate legal remedies available to me by law."[4]

Thereupon, private respondent Martinez went on leave of absence on August 21, 1995.

By reason of petitioner's failure to comply with RTAO 8-95, the Bureau of Internal Revenue (BIR) rendered a Decision dated May 9, 1996 suspending private respondent Martinez for one (1) month on the ground of gross insubordination in accordance with Section 23, Rule XIV of the Omnibus Civil Service Rules and Regulations. It was likewise ruled that private respondent need not go on leave of absence because she is *ipso facto* considered on leave of absence upon her failure to

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[4] *Rollo*. p.350.

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comply within ten (10) days from the receipt of RTAO 8-95, citing BIR Field Circular No. V-75 dated October 21, 1953.

Because of the suspension, on July 9, 1996, private respondent filed a motion to cite Chato in contempt of Court alleging therein that the suspension order issued by petitioner Chato pre-empts any decision of this Court on the validity and legality of RTAO 8-95. On October 16, 1996, this motion of private respondent to cite petitioner Chato in contempt of court was denied for lack of merit,[5] which denial became final after the motion for reconsideration filed by respondent Martinez was denied by this Court on January 13, 1997.[6]

In the third urgent motion for early resolution filed by private respondent on November 10, 1998, she claims that she was compelled to use her accumulated leave credits amounting to over 350 working days in order to resist the order of petitioner Chato. Thus, she prays for the nullification of the unlawful orders of Petitioner Chato so that private respondent's accumulated leave credits will be restored.

The petition is meritorious.

The Commissioner of Internal Revenue is authorized to assign or reassign internal revenue officers and employees of the BIR as the exigencies of service may require, without demotion in rank and salary in accordance with Civil Service Rules and Regulation. The primary reason why private respondent refuses to comply with RTAO 8-95 was because she took it as an act of vindictiveness and reprisal on the part of the Commissioner, consequent to her filing a complaint against the assigned RDO of RDO No. 34 Isidoro Tecson, Jr. (now deceased), on the basis of a prior assignment order issued by the Commissioner. Nowhere in the assignment order, RTAO 8-95, can it be gleaned that the reassignment was for the purpose of harassing private respondent. In fact, private respondent was not the only one reassigned to a new post.

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[5] *Ibid.*, p. 378-A.

[6] *Ibid.*, p. 403.

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Private respondent holds the appointment of Chief Revenue Officer II and such appointment will not be altered by her subsequent reassignment as Assistant Division Chief of the Collection Programs Division, National Office. Such reassignment is not a demotion for there is no diminution of rank, salary, status and responsibilities. Private respondent was merely assigned as Assistant Revenue District Officer of BIR Revenue District Office No. 34 and the Commissioner may assign or reassign revenue officers, as the exigencies of the service may require. Such reassignment of revenue officers entails the prevention of familiarity and patronage between BIR officers and taxpayers of a particular area. Accordingly, the injunction issued against the implementation of RTAO 8-95 was unwarranted because private respondent failed to establish a valid claim or a vested right to the post of Assistant Revenue District Officer of RDO No. 34. Therefore, the respondent judge committed grave abuse of discretion in granting the writ of preliminary injunction because private respondent has no actual existing right which is infringed upon by RTAO No. 8-95.

There is no merit in the argument of private respondent that she will be demoted by her transfer to the National Office, Collection Programs Division because she was reassigned to a position totally alien to her proven area of expertise in assessment. The authority of the BIR Commissioner to issue reassignment order has been upheld by this Court in an *En Banc* Decision dated June 2, 1995, in the case of *Hon. Liwayway Vinzons-Chato vs. Hon. Eli G. C. Natividad,*[7] where we held that:

"Private respondent failed to show patent illegality in the action of the Commissioner constituting violation of his right to security of tenure. *To sustain his contention that his transfer constitutes a demotion simply because the new assignment is not to his liking would be to subordinate government projects, along with the great resources and efforts they entail, to the individual preferences and opinions of civil service employees. Such contention would negate the principle that a public office is a public trust and that it is not the private preserve of any person."* (Italics Supplied)

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[7] 244 SCRA 787 [1995].

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In line with the said Decision, this Court cannot sustain the contention of private respondent that she was forced to use more than three hundred fifty (350) days of her accumulated leave credits in order to resist the assailed RTAO 8-95, and prays that her leave credits be restored. The writ of preliminary injunction issued by the trial court, which enjoined the transfer of private respondent, was countermanded by the temporary restraining order subsequently issued by this Court, with the result that petitioner's transfer became effective again. We therefore find that the trial court committed a grave abuse of discretion in issuing the assailed writ of preliminary injunction.

ACCORDINGLY, the petition is hereby *GRANTED* and the order dated May 18, 1995 of respondent judge is *ANNULLED* and *SET ASIDE*.

SO ORDERED.

Bellosillo (Chairman), Mendoza, Quisumbing, and *De Leon, Jr., JJ.*, concur.