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[G.R. No. 113843. June 2, 1995]

HON. LIWAYWAY VINZONS-CHATO, in her capacity as Commissioner of Internal Revenue, and SOLON B. ALCANTARA, *petitioners, vs.* HON. ELI G.C. NATIVIDAD, Presiding Judge of Branch 48, Regional Trial Court of San Fernando, Pampanga, and SALVADOR NORI B. BLAS, *respondents.*

SYLLABUS

1. **REMEDIAL LAW; PROVISIONAL REMEDIES; PRELIMINARY INJUNCTION; PRESERVATION OF *STATUS QUO*, NOT A SUFFICIENT GROUND TO JUSTIFY THE ISSUANCE THEREOF.** — The trial court's order granting the writ of preliminary injunction cites no right of private respondent which might have been violated as a result of his unconsented transfer to Tuguegarao. The only reason given for the writ of preliminary injunction is that it is needed to preserve the *status quo* until the issues can be "threshed out in full blown trial." But the preservation of the *status quo* is not alone sufficient to justify the issuance of an injunction. The plaintiff must show that he has a clear legal right; that such right has been violated; and that he is entitled to the relief he demands, consisting in restraining the commission of the acts complained of.

2. **ADMINISTRATIVE LAW; CIVIL SERVICE; REASSIGNMENT; NOT A VIOLATION OF THE RIGHT TO SECURITY OF TENURE IF DONE IN THE EXIGENCIES OF THE SERVICE.** — Private respondent's transfer is part of a nationwide reshuffle or reassignment of revenue district

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officers designed to improve revenue collection. More specifically the objective of the reassignment, as stated in Revenue Administrative Order No. 5-93, is "to strengthen the decentralization of the Bureau's set-up for the purpose of maximizing tax assessments and revenue collections, intensifying enforcement of revenue laws and regulations and bringing the revenue service closer to the taxpaying public." It could be that private respondent is being transferred to a revenue district which he claims has less revenue capacity than San Fernando, Pampanga, precisely to improve the capacity of the new assignment. His new assignment should therefore be considered by him a challenge to his leadership as revenue district officer rather than a demotion or a penalty. 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. In granting an injunction despite the absence of any legal right to be protected, respondent committed a grave abuse of discretion.

3. ID.; ID.; ID.; **EMPLOYER WHO QUESTIONS THE VALIDITY THEREOF SHOULD APPEAL TO THE CIVIL SERVICE COMMISSION.** — Under the law, any employee who questions the validity of his transfer should appeal to the Civil Service Commission. Respondent judge should have dismissed the action below for failure of private respondent to exhaust administrative remedies.

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APPEARANCES OF COUNSEL

The Solicitor General for petitioners.
J. Antonio M. Carpio for private respondent.

D E C I S I O N

MENDOZA, *J.*:

This is a petition for certiorari to annul the order dated February 7, 1994 of respondent judge of the Regional Trial Court of San Fernando, Pampanga in Civil Case No. 10066, enjoining petitioner Commissioner of Internal Revenue from transferring respondent Nori B. Blas, as revenue district officer, from San Fernando, Pampanga to Tuguegarao, Cagayan.

The facts of the case are as follows:

On October 26, 1993, President Fidel V. Ramos issued E.O. No. 132, entitled "Approving the Streamlining of the Bureau of Internal Revenue."

Pursuant to this Order, Commissioner Liwayway Vinzons R. Chato issued on December 1, 1993 Revenue Administrative Order No. 5-93, "Redefining the areas of jurisdiction and renumbering of regional district offices." The order subdivided the nineteen revenue regions provided for under the National Internal Revenue Code into 115 revenue districts and renumbered the resulting revenue district office (RDOs). In addition, it abolished the previous classification of RDOs into Class A-1, A, B, C, and D and provided that henceforth all RDOs shall be treated as the same class.[1]

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[1] Revenue Administrative Order No. 5-93, Part III.

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On December 10, 1993, petitioner Commissioner of Internal Revenue, citing the "exigencies of the revenue service," issued Revenue Travel Assignment Order No. 80-93 (RTAO 80-93), directing ninety revenue district officers to report to new assignments in the redesignated and renumbered revenue district offices nationwide.

Among those affected by the reassignment was private respondent Salvador Nori Blas, who was ordered to report to Revenue District No. 14 in Tuguegarao, Cagayan. In turn, petitioner Solon B. Alcantara was ordered to report to Blas' former post in San Fernando, Pampanga, now known as Revenue District No. 21.

On December 15, 1993, private respondent wrote petitioner Commissioner requesting a reconsideration of his transfer. He felt that his accomplishments and performance had not been taken into consideration in the reshuffle and that his transfer from what he thought is the larger revenue district of San Fernando, Pampanga to the smaller district in Tuguegarao, Cagayan was a demotion. He claimed that he was among the top ten examiners of Revenue Region No. 5 for six consecutive years and that he was a model employee in 1981. In addition, he mentioned that he was a diabetic and that he needed to be near his doctor, and could not endure long travels.

On January 19, 1994, with his letter unacted upon, private respondent filed with the Regional Trial Court a verified complaint for "Injunction with Preliminary Injunction and Temporary Restraining Order" against the Commissioner and petitioner Alcantara. He alleged that the transfer without his consent from the revenue district in San Fernando,

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which was formerly designated as a Class "A", to the revenue district in Tuguegarao, which was classified as a Class "C", with a smaller pool of personnel and only one-fourth of the revenue capacity of Pampanga, would cause his "dislocation" and demotion or "a diminution in rank, status, and span of duties and responsibilities." He invoked E.O. No. 132, that

> §2. *Redeployment of Personnel.* The redeployment of officials and other personnel on the basis of the streamlining embodied in this Executive Order shall not result in the dislocation of existing personnel nor in the diminution of rank and compensation and shall take into account pertinent Civil Service Law and rules.

On January 20, 1994, the respondent judge issued a temporary restraining order and set the hearing on the application for a writ of preliminary injunction on January 28, 1994.

On February 7, 1994, he granted the writ of preliminary injunction, stating:

> After the hearing, it is clear from [sic] the Court that what is to be resolved in determining whether or not an injunction lies are the following issues: whether or not there is a reduction in duties and responsibilities; whether or not, there was a demotion and dislocation on the part of the plaintiff when the public defendant Chato issued Revenue Travel Assignment Order (RTAO) No. 80-93.
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> Considering that in order for the Court to squarely resolve and properly ventilate the issues above-stated, the Court deemed it wise and proper that the same be threshed out in a full blown trial and to maintain *status quo*, this Court hereby grants the application for the issuance of a writ of preliminary injunction and fixes

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the bond to be posted by the plaintiff in the amount of P5,000.00, to answer for the damages which the defendants may sustain by reason of the injunction if the Court should finally decide that the plaintiff was not entitled thereto.

WHEREFORE, defendant Liwayway Vinzons-Chato, the Commissioner of Internal Revenue, is hereby ordered and directed to cease and desist in enforcing Revenue Travel Assignment Order (RTAO) No. 80-93 dated December 10, 1993 as far as the plaintiff herein is concerned; and defendant Solon B. Alcantara to cease and desist from assuming office as Revenue District Officer of District 18 (now 21), San Fernando, Pampanga, pending the hearing on the merits of the injunction case, unless a contrary order is issued.

SO ORDERED.

On February 24, 1994, the Commissioner filed the present petition assailing this Order.

Petitioner alleges that respondent judge acted with grave abuse of discretion in issuing the preliminary injunction because nowhere in the order was it stated that private respondent had a right which was violated as a result of the issuance the reassignment of regional revenue officers under of RTAO 80-93.

Petitioner argues, firstly, that private respondent did not have any vested right to his station in San Fernando, Pampanga since he was only designated to the post and not appointed thereto. Neither did private respondent show any right to be exempted from the reorganization.

Secondly, petitioner argues that the transfer was made pursuant to E.O. No. 132, and this being so,

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it should not be considered disciplinary in nature. On the contrary, it was made in the interest of the public service, as an exception to the rule requiring the employee's consent in non-disciplinary transfers.

Thirdly, neither was the transfer a demotion, since there was no reduction in duties, responsibilities, status, rank, or salary. Petitioner cited the fact that RTAO 80-93 had abolished all classes of RDOs and considered them to be of the same class. Private respondent's reliance on the classifications previously followed was, therefore, without basis.

Fourthly, petitioner contends that the failure of private respondent to exhaust all administrative remedies prior to filing the case was a jurisdictional defect and a valid ground for dismissal of the case in the RTC. Petitioner cites P.D. No. 807, §24(c) which provides that if an employee believes his transfer to be unjustified, he may appeal his case to the Civil Service Commission. Resort to the court was premature and respondent judge should have dismissed the case.

Petitioner further argues that the issue is moot and academic since petitioner Alcantara took his post as revenue district officer of Pampanga on January 3, 1994, before the action below was filed on January 19, 1994. Consequently there was no *status quo* to be preserved by the issuance of a preliminary injunction.

On the other hand, private respondent contends:

1. Private respondent never claimed, and does not claim, that he has any vested right at all to his present assignment/designation as the Revenue District Officer

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of Revenue District 18 (Re-numbered 21) at San Fernando, Pampanga. All that he asserts is his constitutional right to protection from a *demotion* not for cause, and without his consent under the guise of a "transfer in the exigencies of the service"; (Annex "A", copy of complaint in Civil Case No. 10066, RTC Br. 48, 3rd Judicial Region, San Fernando, Pampanga)

2. Private respondent never did, and does not question the power of, nor the need for, the Commissioner of Internal Revenue to "reshuffle" personnel in the interest of ensuring better — more honest — public service from the BIR;

3. The basic petition never questioned the validity of the entire "Revenue Travel Assignment Order No. 80-93" dated 10 December 1993 which sought to "reshuffle" ninety (90) revenue district officers in fourteen (14) BIR regions in Luzon and the Visayas. Hence the claim that the government efforts at reorganizing the revenue district service would be "derailed" by a dispute on the unconstitutionality of the demotion of one such revenue district officer is sheer speculation, not grounded on reality. On the other hand, it is the injustice, oppression and the manifest disregard of the constitutional standards of merit and fitness, committed under the guise of such reorganization that will definitely erode the morale and hamper the consequent performance of BIR personnel.

He contends that his transfer constitutes a demotion because, in effect, his span of control in terms of jurisdiction and personnel has been considerably diminished. He claims that he has earned, through hard work, as evidenced by his service record, the position at San Fernando, Pampanga which has a larger staff and revenue capacity and is much closer to Manila.

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Private respondent likewise denies that petitioner Alcantara assumed office as revenue district officer of Pampanga because, according to private respondent, he never relinquished his position. Hence, there was a *status quo* that could be served by the injunction.

We issued a temporary restraining order on March 1, 1994 enjoining respondent judge to cease and desist from implementing his order of February 7, 1994 and ordered the respondents to comment on the petition.

We find the petition to be meritorious.

Private respondent has shown no clear legal right to the issuance of a writ of preliminary injunction but despite this fact the trial court issued his questioned order enjoining petitioner from transferring private respondent.

In his complaint below, private respondent claimed that he was demoted because,

> the revenue district that is the northernmost mainland province of Cagayan has only one-fourth (1/4) the revenue capacity of Pampanga, plaintiff's present station (Cagayan P45.5 million; Pampanga P194.1 million; - 87 BIR Annual Report); *a diminution* in rank, status and span of duties and responsibilities; and *a dislocation* from Pampanga, a province 100 kilometers north of Manila, to Cagayan; over 500 kilometers northeast of Manila;[2]

But his transfer to the Tuguegarao revenue district, as petitioner Commissioner explained in her

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[2] *Rollo*, p. 66.

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opposition to the application for a writ of preliminary injunction, did not really entail any diminution in rank, salary, status and responsibilities. Private respondent's claim that the Tuguegarao revenue district is smaller than that in San Fernando, Pampanga has no basis because, as already noted, the classification of RDOs into Class A-1, A, B, C and D has been abolished and all RDO's are now considered to be of the same class.

Nor did petitioner allege in his complaint below that he had a vested right to his post as revenue district officer of Revenue District No. 21 (formerly No. 18) in San Fernando, Pampanga. The trial court's order granting the writ of preliminary injunction cites no right of private respondent which might have been violated as a result of his unconsented transfer to Tuguegarao. The only reason given for the writ of preliminary injunction is that it is needed to preserve the *status quo* until the issues can be "threshed out in full blown trial."

But the preservation of the *status quo* is not alone sufficient to justify the issuance of an injunction. The plaintiff must show that he has a clear legal right; that such right has been violated; and that he is entitled to the relief he demands, consisting in restraining the commission of the acts complained of.[3]

Indeed, private respondent's transfer is part of a nationwide reshuffle or reassignment of revenue district officers designed to improve revenue collection. More specifically the objective of the reassignment, as stated in Revenue Administrative

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[3] Rule 58, §3(a).

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Order No. 5-93, is "to strengthen the decentralization of the Bureau's set-up for the purpose of maximizing tax assessments and revenue collections, intensifying enforcement of revenue laws and regulations and bringing the revenue service closer to the taxpaying public."

It could be that private respondent is being transferred to a revenue district which he claims has less revenue capacity than San Fernando, Pampanga, precisely to improve the capacity of the new assignment. His new assignment should therefore be considered by him a challenge to his leadership as revenue district officer rather than a demotion or a penalty. In *Department of Education, Culture and Sports vs. Court of Appeals,*[4] the respondent, who was principal of the Carlos Albert High School, was transferred to the Manuel Roxas High School because of the exigencies of the service. She questioned the order on the same ground advanced by private respondent in this case that it was in violation of her right to security of tenure. In rejecting her contention this Court ruled:

> It should be here emphasized that Azurin's letter of August 12, 1982, clearly stated that Navarro's reassignment *is in the exigencies of the service*. It was explicitly mentioned that her reassignment is a recognition of her capabilities as administrator in improving the Carlos Albert High School and that she should look at her new assignment as a challenge to accomplish new and bigger projects for Manuel Roxas High School. *Moreover, her reassignment was the result of a recognition/reshuffling of all principals in the Quezon City public schools in the exigencies of the service pursuant to MEC Circular No. 26, Series*

[4] 183 SCRA 555 (1990).

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of 1972. This circular refers to the policy of the Ministry of Education that principals, district supervisors, academic supervisors, general education supervisors, school administrative officers and superintendent are to be transferred upon completion of five (5) years of service in one station. Such policy was based on the experience that when school officials have stayed long enough in one station, there is a tendency for them to become stale and unchallenged by new situations and conditions, and that some administrative problems accumulate for a good number of years. (Italics added)

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[5] that a public office is a public trust and that it is not the private preserve of any person. In granting an injunction despite the absence of any legal right to be protected, respondent committed a grave abuse of its discretion.

Moreover, under the law, any employee who questions the validity of his transfer should appeal to the Civil Service Commission. Respondent judge should have dismissed the action below for failure of private respondent to exhaust administrative remedies.[6]

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[5] CONST., Art. XI, §1.

[6] ADMINISTRATIVE CODE OF 1987, Bk V, Tit. I, Sub. Tit. A, Ch. 5, §26(3); DECS *v.* Court of Appeals, *supra*, note 4.

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While this case was pending in this Court, private respondent filed three separate motions to cite petitioner for contempt. The first, filed on May 16, 1994, alleged that petitioner had filed an administrative complaint for gross insubordination against private respondent for refusing to take his new assignment and that this was an act of harassment on the part of petitioner.

On July 8, 1994, private respondent filed another motion in which he claimed that petitioner had ordered him preventively suspended in connection with another case filed against him for grave misconduct, for having allegedly caused the investigation of the 1991 Income Tax and Value Added Tax cases of the Central Fermentation Industrial Corporation.

On February 20, 1995, private respondent filed a third motion, alleging that petitioner rendered a decision in the case for gross insubordination and imposed on private respondent the penalty of suspension for 6 months and 1 day.

The first and second motions are based on private respondent's allegation that pending the determination of the validity of his transfer by the trial court and this Court, he could not be compelled to assume the new post. But 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 his transfer became again effective. There was nothing to stop the petitioner from enforcing her Revenue Travel Assignment Order No. 80-93.[7]

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[7] *Cf.* Brillantes *v.* Guevarra, 27 SCRA 138 (1969).

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On the other hand, the filing of another administrative case against private respondent for grave misconduct appears to have no relation at all to his transfer to a new post or to the fact that he could no longer act as Revenue District Officer on any case in Pampanga. The administrative case is based on the fact that he allegedly violated a Revenue Memorandum Order No. 31-93, prohibiting the investigation of tax cases. The charge is that private respondent caused the investigation of the 1991 Income Tax and Value Added Tax cases of the Central Fermentation Industrial Corp. There is, therefore, no basis for private respondent's complaint that in instituting the administrative case, petitioner committed contempt of this Court.

WHEREFORE, the petition is GRANTED and the order dated February 7, 1994 of respondent judge is ANNULLED AND SET ASIDE, and private respondent's complaint in the trial court is DISMISSED.

Private respondent's motions for contempt are DENIED.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, and *Francisco, JJ.,* concur.
Quiason, J., is on leave.