



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

GIRLY G. ICO,
Petitioner,

G.R. No. 185100

Present:

- versus -

BRION, *Acting Chairperson,*
DEL CASTILLO,
PEREZ,
MENDOZA,* *and*
PERLAS-BERNABE, *JJ.*

**SYSTEMS TECHNOLOGY
INSTITUTE, INC.,
MONICO V. JACOB and
PETER K. FERNANDEZ,**
Respondents.

Promulgated:

JUL 09 2014 *MANCABALOG*

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DECISION

DEL CASTILLO, J.:

When another employee is soon after appointed to a position which the employer claims has been abolished, while the employee who had to vacate the same is transferred against her will to a position which does not exist in the corporate structure, there is evidently a case of illegal constructive dismissal.

Before us is a Petition for Review on *Certiorari*¹ questioning the October 27, 2008 Decision² of the Court of Appeals (CA) which dismissed the petition in CA-G.R. SP No. 104437, entitled "*Girly G. Ico, Petitioner, versus National Labor Relations Commission (First Division), Systems Technology Institute, Inc., Monico V. Jacob and Peter K. Fernandez, Respondents.*" *Mane*

* Per Raffle dated July 7, 2014.

¹ *Rollo*, pp. 10-34.

² Id. at 36-62; penned by Associate Justice Celia C. Librea-Leagogo and concurred in by Associate Justices Mario L. Guariña III and Arturo G. Tayag.

Factual Antecedents

Respondent Systems Technology Institute, Inc. (STI) is an educational institution duly incorporated, organized, and existing under Philippine laws. Respondents Monico V. Jacob (Jacob) and Peter K. Fernandez (Fernandez) are STI officers, the former being the President and Chief Executive Officer (CEO) and the latter Senior Vice-President.

STI offers pre-school, elementary, secondary and tertiary education, as well as post-graduate courses either through franchisees or STI wholly-owned schools.³

Petitioner Girly G. Ico, a masteral degree holder with doctorate units earned,⁴ was hired as Faculty Member by STI College Makati (Inc.), which operates STI College-Makati (STI-Makati). STI College Makati (Inc.) is a wholly-owned subsidiary of STI.⁵

At STI, petitioner served under contract from June 1997 to March 1998. In April 1998, she was recalled to STI's Makati Central Office or Headquarters (STI-HQ) and promoted to the position of Dean of STI College-Parañaque (STI-Parañaque). In November 1999, she was again recalled to STI-HQ and STI appointed her as Full-Time Assistant Professor I reporting directly to STI's Academic Services Division (ASD).

In June 2000, petitioner was promoted to the position of Dean under ASD, and assigned to STI College-Guadalupe (STI-Guadalupe), where she served as Dean from June 5, 2000 up to October 28, 2002.⁶

Meanwhile, petitioner's position as Dean was reclassified from "Job Grade 4" to "Job Grade Manager B" with a monthly salary of ₱37,483.58 effective April 1, 2002,⁷ up from the ₱27,000.00 salary petitioner was then receiving.

After petitioner's stint as Dean of STI-Guadalupe, she was promoted to the position of Chief Operating Officer (COO) of STI-Makati, under the same position classification and salary level of "Job Grade Manager B". She concurrently served as STI-Makati School Administrator.⁸

³ Id. at 103.

⁴ NLRC records, Vol. I, p. 101.

⁵ *Rollo*, pp. 79, 305.

⁶ Id. at 80, 103, 235.

⁷ Id.

⁸ Id. at 81, 104.

Sometime in July 2003, or during petitioner's stint as COO and School Administrator of STI-Makati, a Plan of Merger⁹ was executed between STI and STI College Makati (Inc.), whereby the latter would be absorbed by STI. The merger was approved by the Securities and Exchange Commission on November 12, 2003. STI College Makati (Inc.) thus ceased to exist, and STI-Makati was placed under STI's Education Management Division (EMD).¹⁰

In a March 12, 2004 Memorandum,¹¹ STI – “[i]n line with the recently approved organizational structure effective August 1, 2003”¹² – updated petitioner's appointment as COO, “Job Grade Manager B” with a gross monthly salary of ₱37,483.58. She was re-appointed as COO of STI-Makati, under the supervision of the Academic Services Group of the EMD and reporting directly to the Head thereof, herein respondent Fernandez. However, petitioner was not given the salary commensurate to her position as COO, which by this time appeared to be pegged at ₱120,000.00.¹³ It likewise appears that she was not given benefits and privileges which holders of equivalent positions were entitled to, such as a car plan.¹⁴

Two months after confirming petitioner's appointment as STI-Makati COO, another Memorandum¹⁵ dated May 18, 2004 was issued by STI Human Resources Division Head, Yolanda Briones (Briones), signed and approved by STI Senior Vice-President for Corporate Services Division Jeanette B. Fabul (Fabul), and noted by respondent Jacob –

a) Cancelling, effective May 20, 2004, petitioner's COO assignment at STI-Makati, citing management's decision to undertake an “organizational restructuring” in line with the merger of STI and STI-Makati;

b) Ordering petitioner to report to STI-HQ on May 20, 2004 and to turn over her work to one Victoria Luz (Luz), who shall function as STI-Makati's School Administrator; and

c) Appointing petitioner, effective May 20, 2004, as STI's Compliance Manager with the same “Job Grade Manager B” rank and salary level, reporting directly to School Compliance Group Head Armand Paraiso (Paraiso).

⁹ NLRC records, Vol. I, pp. 46-52.

¹⁰ *Rollo*, pp. 81-83, 104, 306.

¹¹ NLRC records, Vol. I, p. 104.

¹² *Id.*

¹³ *Rollo*, p. 218.

¹⁴ *Id.*

¹⁵ *Id.* at 35.

According to STI, the “organizational re-structuring” was undertaken “in order to streamline operations. In the process, the positions of Chief Executive Officer and Chief Operating Officer of STI Makati were abolished.”¹⁶

On May 18, 2004, Fernandez summoned petitioner to his office, where the following conversation – which appears to have been recorded by petitioner with the knowledge and consent of Fernandez – took place:

- F: (Fernandez) I’m sure you know already why you are here.
- P: (Petitioner) No, sir. *Nanalo ba tayo sa Winners’ Circle...*
- F: Girly, let’s stop this. You will be pulled out [from] STI College-Makati[.] x x x [T]urn over to Vicky Luz everything tomorrow.
- P: Sir? What have I done? May I know what is the reason of (sic) an immediate transfer and a short period of turn-over?
- F: I don’t trust you anymore. I’ve been hearing too many things from [sic] you and as your CEO, you don’t submit to me FSP monthly. *Me high school student ka na inenroll para lang makasali sa basketball.*
- P: Sir, that’s not true.
- F: Would you like me to call Liezel? ([H]e stood up and called Ms. Liezel Diego)
- P: Yes, sir.
- F: Liezel, how many times did STI College-Makati submitted [sic] to you the FSP?
- L: (Liezel Diego) *Sir, sa akin po 2 beses pero meron pa po ke Ervie. Tanong ko lang po ke Ervie kung ilan sa kanya.*
- P: Sir, can I have one minute to call STI College-Makati to fax the data of the receiving copies of the FSP?
- F: Irrelevant! I don’t have time.
- P: Sir, you will please put that in writing[. It] is a very strong accusation you are making and I think I should defend myself.
- F: No way! You cannot get anything from me. Why? So that when I will provide such then you will go to Labor? (in a shouting manner)
- P: Sir, what is this all about? Please tell me the real score. I am honest to you and I believe I am performing well. Is this what I deserve?
- F: Don’t talk to me about honesty (again said in a shouting manner and

¹⁶ Id. at 104, 127-128.

fuming mad). Girly, don't push me to the limit! Don't let me do things that you will regret later. Don't be like Chito (Salazar, the former STI President) who have [sic] left STI without proving to everybody whether [sic] he have [sic] done wrong or not. I don't want that to happen to you!

P: Sir, can I have one minute to go outside. I can no longer bear this? (begging with both hands [together] as a sign of surrender)

F: No! (still shouting) I don't have time. Here's the letter from HR[,] I want you to sign this.

P: Sir, I'm sorry but I will not sign. I think it should be HR who will give this to me.

F: You want me to call HR? You want me to call Atty. Pascua? You want me to call people outside [to] witness that you refused to sign? (still shouting) I don't care if you have a tape recorder there with you. After all, that will not be a [sic] valid evidence in court.

x x x x

F: Ok. Don't make me loose [sic] my temper again (with a soft voice already). You just sign this (giving to me the [May 18, 2004 Memorandum]). Don't go to Bohol anymore. If ever you will win in the Winners' Circle, you can get the trip just like what happened to Redger (Agudo, the former COO of STI College-Makati).

P: Sir, what will be the consequence if I will not sign this?

F: I will file a case against you. What do you call this? (pausing for a little while then uttered the word) Disobedience!

P: Ok, sir, but please I want to know what exactly my violation is (while signing the paper). Now that we will be parting ways, I am still hoping that you can tell [sic] the violations that I made, if there is any.

F: You can have it after 2-3 weeks time. Besides, we are not parting ways (with a sarcastic smile). I am still your boss in Audit. Audit and Compliance is still under my supervision.

P: Thank you, sir. (I went out in [sic] his room still trembling)¹⁷

Incidentally, by this time, petitioner had garnered the following awards and distinctions:

1) Silver Awardee, 2004 STI Winners' Circle Awards, 17th STI Leaders' Convention;

2) STI Academic Winners' Circle Award as Dean of STI-Guadalupe given

¹⁷ Id. at 219-221.

at the 2002 STI Leaders' Convention;

3) Academic Head of the Year for 2002, as Dean of STI-Guadalupe; and

4) 2001 STI Winners' Circle, as Academic Head, STI-Guadalupe.¹⁸

On May 20, 2004, petitioner reported to her new office at STI's School Compliance Group, only to find out that all members of the department had gone to Baguio City for a planning session. Petitioner, who was not apprised of the official trip, was thus left behind. That same day, an official communication¹⁹ was disseminated throughout STI, announcing Jacob's appointment as the new STI President and CEO, Fernandez as the new COO of STI-Makati, and Luz as the new STI-Makati School Administrator; however, petitioner's appointment as Compliance Manager was left out.

In a May 24, 2004 letter²⁰ to Jacob, petitioner took exception to the incidents of May 18 and 20, 2004, claiming that she became the victim of a series of discriminatory acts and objecting to the manner by which she was transferred, asserting that she was illegally demoted and that her name was tarnished as a result of the demotion and transfer. Jacob replied through a June 7, 2004 letter²¹ advising petitioner that her letter was forwarded to Fernandez for comment.

Prior to that, on May 25, 2004, during the 17th STI Leaders Convention held in Panglao, Bohol, petitioner's achievement as a Silver Awardee for the 2004 STI Winners' Circle Awards was announced, but she did not attend, claiming that she was too embarrassed to attend owing to the events leading to her transfer, which to her was a demotion.²² STI withheld petitioner's prize – a South Korea trip termed "Travel Incentive Award" for the Winners' Circle for STI fiscal year 2003-2004 – "pending the final result of the investigations being conducted" by STI relative to irregularities and violations of company policies allegedly committed by petitioner.²³

It appears that from May 28, 2004 up to June 10, 2004, STI's Corporate Auditor/Audit Advisory Group conducted an audit of STI-Makati covering the whole period of petitioner's stint as COO/School Administrator therein. In a report (Audit Report) later submitted to Fernandez, the auditors claim to have discovered irregularities, specifically –

1. Appointment papers of STI-Makati employees did not have the written

¹⁸ Id. at 250.

¹⁹ NLRC records, Vol. I, p. 111.

²⁰ Id. at 106-109.

²¹ *Rollo*, pp. 84, 86.

²² Id. at 86, 223.

²³ NLRC records, Vol. I, p. 141.

approval of Fernandez in his capacity as CEO;

2. There were instances where employees became regular after only an abbreviated probationary period, and in some cases, the employees did not undergo probation;

3. Petitioner failed to fully liquidate cash advances amounting to ₱60,000.00, relative to the purchase of books;

4. There was a lack of internal controls in regard to cost of planning sessions, liquidation reports, journal entries, use of petty cash fund, and inventory; and

5. Petitioner and other employees falsified school records in order to enable high school players to play for STI-Makati's volleyball team.²⁴

In a June 17, 2004 Memorandum²⁵ to Jacob, Fernandez cited the above Audit Report and recommended that an investigation committee be formed to investigate petitioner for grave abuse of authority, falsification, gross dishonesty, maligning and causing intrigues, commission of acts tending to cast negativity upon his person (Fernandez), and other charges. Fernandez recommended that petitioner be placed under preventive suspension pending investigation.

Meanwhile, with respect to petitioner's May 24, 2004 letter, it appears that Fernandez did not submit a comment or answer thereto.

Jacob approved Fernandez's recommendations, and on June 21, 2004, a Memorandum²⁶ was issued placing petitioner under preventive suspension and banning her entry to any of STI's premises effective June 22, 2004 up to July 16, 2004, citing "(an) Audit investigation being conducted relative to the offenses" for which petitioner was charged, namely:

I. FACULTY MANUAL

- a) Making malicious, obscene or libelous statements about the person of any member of the academic community.
- b) Threatening, intimidating, coercing or harassing another person within the school premises.
- c) Commission of acts inimical to student's [sic] interest.

²⁴ *Rollo*, pp. 87, 307-308.

²⁵ NLRC records, Vol. I, pp. 63-64.

²⁶ *Id.* at 128.

II. STI-HO POLICY MANUAL

A. Class 3 –

1. Making false or malicious statements against another employee.
2. Causing intrigues tending to cast insult, dishonor and discredit to another employee.
3. Reading or gaining access to files, records, memos, correspondence and other classified documents of the company.

[B] Class 4 –

1. Concealing errors of omission or commission, thus negatively prejudice [sic] the interest of the company.

[C] Class 5 –

1. Falsifying timekeeping reports and records, drawing salary/ allowance, in any form, or money by virtue of falsified timekeeping report of records, vouchers, receipts and the like.
2. Giving false and untruthful statements of [sic] concealing material facts in an investigation conducted by an authorized representative of the company.
3. Misappropriating or withholding company funds.
4. All acts of dishonesty, which cause [sic] tend to cause prejudice to the company.²⁷

On June 24, 2004, petitioner received another Memorandum²⁸ from Briones dated June 23, 2004, this time stating that charges have already been filed against her allegedly “based on the Audit Findings”, yet making reference to the June 21, 2004 Memorandum and without informing petitioner of the particulars of the charges or the results of the audit. Nor was a copy of the said audit findings attached to the memorandum.

In a June 28, 2004 demand letter²⁹ addressed to Jacob, petitioner protested anew her alleged maltreatment, claiming illegal constructive dismissal and demanding immediate reinstatement to her COO position and the payment of actual and other damages, under pain of suit.

In a June 30, 2004 letter, petitioner was notified of a hearing scheduled for July 2, 2004 and required to submit her written explanation to the charges. It

²⁷ Id.

²⁸ Id. at 130.

²⁹ Id. at 131-134.

appears, however, that petitioner did not receive the said letter.³⁰ On even date, petitioner filed with the National Labor Relations Commission (NLRC) a labor case against herein respondents, Fabul and Briones. Docketed as NLRC NCR Case No. 00-06-07767-04, the Complaint³¹ alleged illegal constructive dismissal and illegal suspension, with claims for regularization as well as for underpayment of salaries, holiday pay, service incentive leave, 13th-month pay, moral and exemplary damages, and attorney's fees.

In a July 12, 2004 Memorandum³² to petitioner, STI lifted petitioner's suspension and ordered her to return to work on July 13, 2004, with full salary from the time of her suspension.

In a July 13, 2004 electronic mail message³³ sent by STI's Reuel Virtucio (Virtucio) to petitioner, the latter was invited to a July 19, 2004 "meeting with the committee formed to act on the complaint filed against (petitioner) by (Fernandez)." ³⁴ The committee was composed of STI's officers, namely Amiel Sangalang (Sangalang); Flerdeliza Catalina Domingo (Domingo); and Virtucio.

On July 19, 2004, during the supposed scheduled meeting with the committee, petitioner was furnished with several documents; however, no copy of the formal complaint or written charge was given to her. The meeting was adjourned without the committee setting another meeting for the submission of petitioner's answer; nor was a hearing set for the presentation of the parties' evidence.³⁵

Thereafter, petitioner went on sanctioned leave of absence. After the lapse of her approved leave, she reported for work several times. After August 9, 2004, however, she no longer reported for work.

On August 17, 2004, STI issued another Memorandum³⁶ to petitioner, informing her that her South Korea travel incentive award was being withheld, as the investigation covering her alleged involvement in irregularities and violations of company policies was still pending.

In a January 13, 2005 letter *cum* notice of termination signed by Jacob, petitioner was dismissed from STI effective January 11, 2005.³⁷

³⁰ *Rollo*, pp. 90, 224.

³¹ NLRC records, Vol. I, pp. 8-10.

³² *Id.* at 135.

³³ *Id.* at 136.

³⁴ *Id.*

³⁵ *Rollo*, pp. 99, 224-225.

³⁶ NLRC records, Vol. I, p. 141.

³⁷ *Id.*, Vol. II, pp. 101-105.

The Labor Arbiter Decision

In her Position Paper,³⁸ petitioner claimed that during her stint as COO of STI-Makati and up to her transfer and appointment as Compliance Manager, she was discriminated against and unfairly treated by respondents; that she was denied a) the salary corresponding to the COO position in the amount of ₱100,000.00 – ₱120,000.00, b) her prizes as Winners' Circle awardee, as well as c) her benefits such as a car plan and honorarium of ₱8,500.00 monthly. She likewise contended that her removal as STI-Makati COO and transfer to the School Compliance Group as Compliance Manager was illegal and constituted a demotion amounting to constructive dismissal, as she was not given prior notice of the transfer; forced to give her written conformity thereto; placed in an embarrassing situation thereafter; and never given any task or work while she held such position. She added that the alleged reorganization which caused her removal as STI-Makati COO was a sham, calculated to ease her out in the guise of a restructuring; that she was illegally placed under suspension for alleged offenses which respondents could not substantiate and which she was not informed about; that she was not accorded due process during the conduct of the purported investigation; and that as a consequence of the discrimination and unfair treatment she received from respondents, she suffered untold injury. Petitioner thus pleaded:

WHEREFORE, complainant respectfully prays that, after due proceedings, judgment be rendered ordering respondents, jointly and severally, as follows:

1. To reinstate complainant to her former position as COO without loss to [sic] her seniority rights with backwages and other benefits, such the [sic] monthly ₱8,500.00 honorarium, among others, to be paid until fully reinstated with the necessary adjustments to equal the salary and benefits now being received by her replacement, respondent Peter K. Fernandez.

2. To pay complainant the unpaid salary and benefits differential due her as COO computed from November 5, 2002 to equal the salary and benefits of respondent Peter K. Fernandez, plus the legal rate of interest thereon from the same date until fully paid.

3. To pay the money equivalent, plus the legal rate [sic] interest thereon until fully paid, of complainant's awards as a Silver Awardee in its STI 17th Winners' Circle, consisting of the trip to Panglao, Bohol from May 25 to 27, 2004 and Korea from September 21 to 24, 2004.

4. To pay complainant the unpaid Holiday Pay duly adjusted as above [sic] and with legal interest thereon until fully paid.

5. To pay complainant the proportionate 13th[-]month pay for the current year with legal interest thereon until fully paid.

³⁸ Rollo, pp. 215-234.

6. To pay complainant moral damages in [sic] sum of ₱3 Million and exemplary damages in the amount of ₱2 Million, including attorney's fees, and expenses of litigation.

Complainant prays for such other reliefs just and equitable in the premises.³⁹

In their Position Paper,⁴⁰ the respondents in NLRC NCR Case No. 00-06-07767-04 claimed that petitioner was removed as STI-Makati COO pursuant to a reorganization aimed at streamlining STI's operations after the merger; as a result, the positions of STI-Makati CEO and COO were abolished. They argued that petitioner was merely "laterally transferred" to the School Compliance Group as Compliance Manager, and was not demoted in rank; nor did she suffer a diminution in her salary and benefits, as the positions of STI-Makati COO and Compliance Manager are equivalent in rank under the STI structure, that is, they both fall under "Job Grade Manager B". They added that petitioner committed anomalies and irregularities, as stated above, which became the subject of an Audit Report.⁴¹ They asserted that the abolition of a position in STI is a recognized prerogative of management which may not be interfered with absent malice or bad faith, and more so when done pursuant to a valid corporate restructuring; the abolition of the CEO, COO, Treasurer, Corporate Secretary, and Director positions in STI-Makati was pursued as a matter of course because with the merger, STI-Makati ceased to exist as it was absorbed by STI, and consequently these positions became unnecessary. Petitioner's transfer was justified as an exercise of STI's prerogative and right to transfer its employees when called for, and was done reasonably, without malice or bad faith, and without unnecessarily inconveniencing petitioner.

Respondents added that petitioner's suspension was vital for the protection of sensitive data and to ensure the smooth conduct of the investigation, and in order that she may not gain access to sensitive information which, if divulged to government agencies such as the Commission on Higher Education (CHED), would result in the denial/withholding of permits to STI.⁴² On petitioner's claim for regularization, respondents claimed that this was unnecessary since petitioner was already a regular employee of STI. Regarding petitioner's money claims, respondents argued that petitioner could not be entitled to them, as she received all her salaries, benefits and entitlements during her stint with STI. Finally, respondents contended that petitioner was not entitled to damages and attorney's fees, since she was not illegally dismissed and, in carrying out her transfer, they did not act with malice, bad faith, or in a wanton and oppressive manner.

³⁹ Id. at 232-233.

⁴⁰ Id. at 102-121.

⁴¹ NLRC records, Vol. I, pp. 58-62.

⁴² *Rollo*, p. 117.

In her Reply⁴³ to respondents' Position Paper, petitioner noted that while STI and STI College Makati (Inc.) merged, there was in fact no restructuring that took place which required her transfer and demotion; on the contrary, the merger created 29 additional vacant positions in STI. Petitioner added that no prior announcement of the restructuring of STI-Makati was made, which thus renders such reorganization of questionable integrity; instead, the merger was utilized as a tool to ease her out, through the bogus reorganization. She contended that Fernandez had prejudged her case even before an investigation into the alleged anomalies could be conducted. Petitioner likewise noted that even her appointment as Compliance Manager was a sham, because no such vacant position existed within the School Compliance Group, as the only two Compliance Manager positions were then occupied by Eddie Musico (Musico) and Reynaldo Gozum (Gozum);⁴⁴ the only other vacant positions in that department were those for lower level Compliance Officers. In effect, petitioner was in fact made a mere Compliance Officer, which meant that she was effectively demoted. Petitioner claimed as well that her demotion was highlighted by the fact that while she had a masteral degree and doctorate units, all the others within the School Compliance Group – including her superior, Paraiso – were mere bachelor's degree holders.

Finally, petitioner maintained that the multiple charges lodged against her were without basis, and respondents failed to prove them by adequate evidence.

On the other hand, respondents maintained in their Reply (to Complainant's Position Paper)⁴⁵ that as to salary and benefits, petitioner was not discriminated against, and was merely given a compensation package commensurate to her rank as "Job Grade Manager B", taking into consideration her length of service at STI. Her salary was thus at par with those of other STI employees of equivalent rank and similar durations of employment. They added that honoraria are not given to its employees, as well as to those who are deployed to company-owned schools such as STI-Makati. Respondents asserted further that the reorganization was not a ruse to ease petitioner out; it was necessary as a means toward streamlining STI's operations. Fernandez characterized petitioner's account of their conversation as inaccurate.⁴⁶ Respondents likewise debunked petitioner's claims that she was discriminated against while she held the position of Compliance Manager, saying that this claim was specious and exaggerated. They added that even though Fernandez was later appointed COO of STI-Makati after petitioner was appointed Compliance Manager, his work as such STI-Makati COO was limited to performance of oversight functions, which functions he already performs as Senior Vice-President of the Education Management Division of STI. With regard to the July 19, 2004 meeting, respondents argued that nothing

⁴³ Id. at 235-247.

⁴⁴ NLRC records, Vol. I, p. 257.

⁴⁵ Id. at 259-282.

⁴⁶ Id. at 289-290.

was achieved during said meeting owing to petitioner's and her counsel's "quarrelsome attitude" and insistence that she be furnished the written charges against her as well as the supporting evidence or documents, which would have been unnecessary if she only cooperated during said meeting and answered the charges against her. They underscored the fact that during said meeting, petitioner was furnished with a copy of the charges against her, including all other documents, particularly the Audit Findings.

On March 31, 2006, Labor Arbiter Renaldo O. Hernandez issued a Decision⁴⁷ in NLRC Case No. 00-06-07767-04, decreeing as follows:

WHEREFORE, premises considered, judgment is hereby finding [sic] complainant to have been illegally constructively and in bad faith dismissed by respondents in her legally acquired status as regular employee thus, ORDERING respondents SYSTEMS TECHNOLOGY INSTITUTE, INC. and/or MONICO V. JACOB, PETER K. FERNANDEZ *in solido*:

1) To reinstate her to her former position, without loss of seniority rights and benefits, allowances, which reinstatement aspect, actual or in the payroll, is immediately executory, even pending appeal.

2) To pay complainant's full back wages, which should legally start from date of her illegal constructive dismissal/illegal demotion on 05/18/2004, but reckoned from date of the illegal suspension when she was physically prevented/ barred from working on 06/22/2004, based on her gross monthly salary ₱37,483.58, 15 days Vacation Leave/year and 15 days Sick Leave/year, 13th[-] month pay, and other benefits accruing to her in her regular position as COO until actually reinstated, which as of date amounts to:

Basic ₱37,483.58 x 21 months	=	₱787,155.18
13 th [-]month pay 1/12 thereof	=	65,596.26
VL 15 days/yr ₱1,249.45 x 15 x 1.75 years	=	32,798.13
SL 15 days/yr ₱1,249.45 x 15 x 1.75 years	=	<u>32,798.13</u>
Total F/B as of date	=	₱918,347.70

3) To pay her moral and exemplary damages in the combined amount of ₱1,000,000.00.

4) To pay her the monetary equivalent of the awards due her as her being proclaimed as a Silver Awardee of US\$630.00 for the Korean travel from 09/21-24/2004, and the round trip ticket US\$350.00, hotel accommodation and expenses to be paid, viz. 1. Philippine Travel Tax ₱1,620.00, NAIA Terminal Fee ₱550.00, Visa Processing Fee ₱500.00, War Risk Tax US\$12.00, Seoul Tax US\$15.00, Ticket Insurance US\$3.00, Travel Insurance ₱420.00, Tour Guide and Driver's Tip US\$4.00/day.

5) To pay her 10% of the entire computable award herein as attorney's fees.

⁴⁷ Rollo, pp. 79-101.

SO ORDERED.⁴⁸

The Labor Arbiter found that petitioner was illegally dismissed, and respondents were guilty of malice and bad faith in the handling of her case. He held that petitioner's transfer – which STI claimed was the result of STI's restructuring – was irregular, because at the time of such transfer, the reorganization and restructuring of STI-Makati had already been effected; STI's March 12, 2004 Memorandum to petitioner – which confirmed and renewed her appointment as STI-Makati COO – was precisely issued as a consequence of the merger and reorganization, which took place as early as November 2003. STI's claim that petitioner's lateral transfer was necessary is thus contrived.

In addition, the Labor Arbiter declared that even as petitioner was appointed to the position of Compliance Manager, such position did not actually exist in STI's new corporate structure; under the Compliance Group, which was headed by Paraiso, there were only two Compliance Manager positions which were at the time occupied by Musico and Gozum, and the only other vacant positions in the Compliance Group were for Compliance Officers. In effect, petitioner was appointed to the position of a mere Compliance Officer, which was lower in rank.

The Labor Arbiter held further that during the process of her illegal transfer, petitioner was harassed, humiliated, and oppressed, thus:

1. On May 18, 2004, she was subjected to threats and intimidation by Fernandez, the latter bullying and forcing her to receive the May 18, 2004 Memorandum while petitioner was inside his office;

2. On the day she reported to her new position as Compliance Manager, the whole Compliance Group team left for a three-day out-of-town planning session, without respondents informing her or including her in the official event as she should be;

3. On May 20, 2004, an official written announcement was made regarding Jacob's appointment as new STI President and CEO, Fernandez as new STI-Makati COO, and Luz as new STI-Makati School Administrator. Adding insult to injury, petitioner's appointment as Compliance Manager was intentionally left out;

4. Petitioner, given her illustrious career in STI – having risen from the ranks as a faculty member, to full-time professor, to Dean, and finally to the

⁴⁸ Id. at 100-101.

position of STI-Makati COO, and having achieved multiple awards and distinctions – was thereafter treated “as a non-entity” by respondents.

The Labor Arbiter added that the purported audit and investigation of petitioner’s alleged irregularities was a sham, as the same was conducted without official sanction from STI and without petitioner’s knowledge; it was founded on hearsay evidence and based on charges known only to Fernandez; it was conducted merely to conceal respondents’ shabby treatment of petitioner, and without apprising petitioner of the written formal charges against her.

Finally, respondents were adjudged guilty of malice, bad faith, acts oppressive to labor and contrary to morals, good customs and public policy, which caused upon petitioner suffering and humiliation which entitles her to an award of moral and exemplary damages, as well as attorney’s fees.

Ruling of the National Labor Relations Commission

Respondents interposed an appeal with the NLRC, docketed as NLRC NCR Case No. 050756-06. In an October 31, 2007 Decision,⁴⁹ the NLRC decreed, thus:

WHEREFORE, the [D]ecision appealed from is VACATED and SET ASIDE and a new one entered dismissing the complaint for lack of merit.

SO ORDERED.⁵⁰

In reversing the Labor Arbiter’s Decision and finding that there was no illegal constructive dismissal, the NLRC held that any action taken by STI after the merger can be reasonably concluded as one of the valid consequences thereof; the regulation of manpower is a management prerogative enjoyed by STI, and it was free to regulate according to its own discretion and judgment all aspects of petitioner’s employment. In this light, and since no concrete evidence was presented by petitioner to show that respondents acted with malice or bad faith, the NLRC held that it may not be said that the abolition of the position of STI-Makati COO was done to unduly ease her out of STI.

The NLRC added that while it may be conceded that a heated argument between petitioner and Fernandez took place during their May 18, 2004 meeting, the charged emotional outbreaks were nonetheless occasioned by extraneous matters injected during such meeting, and consequently, Fernandez may not be

⁴⁹ Id. at 63-76; penned by Commissioner Romeo L. Go and concurred in by Commissioners Gerardo C. Nograles and Perlita B. Velasco.

⁵⁰ Id. at 75.

faulted for insisting that petitioner receive the May 18, 2004 Memorandum ordering petitioner's transfer.

Moreover, the NLRC declared that petitioner's preventive suspension was not done irregularly, as it was based on charges leveled against her and made pursuant to an administrative investigation then being conducted; likewise, it held that the pending investigation justified the withholding of petitioner's Korea travel incentive award.

Finally, the NLRC noted that petitioner's failure to report for work after August 9, 2004 should be taken against her, and on this note it would be unfair to hold respondents liable for illegal constructive dismissal.

Petitioner moved for reconsideration, but in a March 28, 2008 Resolution,⁵¹ the NLRC denied the same.

Ruling of the Court of Appeals

Petitioner went up to the CA via *certiorari*. On October 27, 2008, the CA issued the assailed Decision, decreeing as follows:

WHEREFORE, premises considered, the Petition is DENIED for lack of merit. Costs against petitioner.

SO ORDERED.⁵²

According to the CA, the NLRC was correct in finding that as a result of the November 2003 merger of STI and STI-Makati, petitioner's transfer to her new position as Compliance Manager became necessary, as the position of STI-Makati COO – which petitioner then held – was abolished as a result of a reorganization that was implemented pursuant to the merger. It noted further that the March 12, 2004 confirmation⁵³ of petitioner's appointment as STI-Makati COO was done pursuant to an August 2003 reorganization – or one that was implemented *prior* to the November 2003 merger; thus, petitioner's transfer and appointment as Compliance Manager days later, per the May 18, 2004 Memorandum, may not be said to be irregular, as it was made in accordance with a *new* reorganization or restructuring program implemented in accordance with the November 2003 merger.

⁵¹ Id. at 77-78.

⁵² Id. at 59.

⁵³ Through the March 12, 2004 Memorandum, *supra* note 11.

The CA held further that petitioner's transfer was made pursuant to the valid exercise of STI's prerogative to abolish certain positions and transfer/reassign its employees, for valid reasons and in accordance with the requirements of its business. Since petitioner's transfer was not attended by malice or bad faith, as it was shown to be necessary following the merger and abolition of the position that she held, and was done without diminution in rank, salary and benefits, there could be no cause of action against respondents for illegal dismissal.

The appellate court did not give credence to petitioner's allegations of discrimination and harassment either, as it found them to be self-serving and unsubstantiated. Regarding her suspension, the CA affirmed the NLRC's view that the same was not irregularly imposed; the withholding of her travel award was justified as well.

Issues

Petitioner now submits the following issues for the Court's resolution:

I

THE COURT OF APPEALS ERRED IN DEVIATING FROM THE 18 MAY 2004 EMPLOYMENT UPDATE CLEARLY ADMITTING AN INVALID ABOLITION OF PETITIONER'S POSITION WITH STI'S APPOINTMENT OF HER REPLACEMENT AND RENAMING HER OFFICE AS "SCHOOL ADMINISTRATOR".

II

AS THERE WAS NO VALID ABOLITION OF PETITIONER'S POSITION AS COO, THE COURT OF APPEALS ERRED IN FRAMING A CASE OF VALID LATERAL TRANSFER INSTEAD OF CONSTRUCTIVE DISMISSAL DONE IN BAD FAITH.⁵⁴

Petitioner's Arguments

In a nutshell, petitioner argues in her Petition and Reply⁵⁵ that her appointment as Compliance Manager is illegal, because the abolition of the STI-Makati COO position and the creation of the position of Compliance Manager were contrived and fabricated. She adds that her appointment to the position of Compliance Manager was in fact a demotion: she was relegated to a position where she did not have any staff to supervise; her work became merely mechanical in nature; she became a mere Compliance Officer reporting to the Compliance Group Head; and her work was severely limited.

⁵⁴ *Rollo*, pp. 16-17.

⁵⁵ *Id.* at 354-364.

Petitioner adds that contrary to the CA's pronouncement, she was subjected to harassment and discrimination, humiliated and became the victim of STI's fraudulent scheme to illegally oust her from her position as STI-Makati COO. She cites: 1) the May 18, 2004 incident, noting the treatment accorded her by Fernandez and the manner by which she was allegedly forced to receive the Memorandum of even date; 2) the investigation into alleged irregularities, which she characterized as sham; 3) her preventive suspension, which she claims was illegal for being based on non-existent charges; and 4) the withholding of her travel award.

Petitioner insists that her suspension was illegal, as her new employment as Compliance Manager did not put her in a position where she would have access to sensitive STI records; thus, she was never a serious threat to such extent that respondents believed she was. Besides, the investigation into allegations of irregularities committed by her, which was the cause for her suspension as well, was a sham for violating her rights to a hearing and due process.

Respondents' Arguments

In their Comment,⁵⁶ respondents maintain that the merger of STI and STI-Makati required the abolition of the Chairman, President/CEO, COO, Treasurer and Corporate Secretary positions in STI-Makati; likewise, it became necessary to effect a reorganization of STI's corporate structure in order to streamline its operations. Petitioner's transfer was in line with such merger and reorganization; no bad faith may thus be inferred from their actions, which were carried out legally and pursuant to STI's rights, prerogatives, and needs at the time.

Respondents argue further that petitioner's transfer did not amount to a demotion in rank, as the positions of COO and Compliance Manager are of equal importance; in fact, the functions of Compliance Manager are much broader in scope as they involve the conduct of operations and academic audits of *all* of STI's schools, and not just STI-Makati. As to salary and benefits, petitioner as Compliance Manager is given the same salary and benefits which she received at the time she was STI-Makati COO.

Respondents add that, as correctly held by the NLRC and CA, petitioner was never subjected to harassment and humiliation, thus:

1. Petitioner was not excluded from the Compliance Group's planning session held in Baguio City. At the time of petitioner's transfer, Briones was not aware of the scheduled Baguio trip, and thus petitioner was not duly informed thereof. Thus, her inability to attend the official event may not be blamed on

⁵⁶ Id. at 302-352.

respondents;

2. Petitioner was assigned ample work at the Compliance Group, contrary to her claims that she virtually did nothing in her new position;

3. It is not true that petitioner was not given her own room as Compliance Manager in order to humiliate her. She could not be given a room simply on account of office space constraints.

On petitioner's suspension, respondents reiterate that petitioner's threats to divulge sensitive information and jeopardize STI's then pending permit applications justified the taking of drastic measures to insure that company records are kept intact and free from access; the preventive suspension of petitioner thus became necessary. Moreover, an audit investigation was then being conducted on alleged irregularities committed by petitioner; preventive suspension as a preliminary step in the investigation is thus authorized.

Our Ruling

The Petition is granted.

As a rule, this Court is not a trier of facts, and thus the findings of fact of the NLRC and CA are final and conclusive and will not be reviewed on appeal. However, there are well-recognized exceptions to the rule, such as when its judgment is based on a misapprehension of facts or relevant facts not disputed by the parties were overlooked which, if properly considered, would justify a different conclusion. Petitioner's case falls under these exceptions.

Both the NLRC and CA found that petitioner was not constructively dismissed, for the following reasons:

1. Petitioner's position as STI-Makati COO was abolished as a necessary result of the merger of STI and STI-Makati, and the restructuring of STI aimed at streamlining its operations;

2. Petitioner was merely "laterally transferred" to the Compliance Group as Compliance Manager, with no diminution in rank, salary and benefits; and

3. The reorganization of STI was done in good faith and in the exercise of the management prerogative. In the same manner, petitioner's transfer was a) made in the exercise of the management prerogative to transfer employees when

necessary; b) done in good faith; and c) not unreasonable, inconvenient or prejudicial to her interests.

It appears, however, that the position of STI-Makati COO was actually never abolished. As a matter of fact, soon after petitioner was removed from the position, Fernandez was appointed to take her place as STI-Makati COO; his appointment was even publicly announced via an official communication disseminated company-wide. This thus belies respondents' claim that the position of STI-Makati COO became unnecessary and was thus abolished. Respondents may argue, as they did in their Reply⁵⁷ to petitioner's Position Paper, that Fernandez's appointment as STI-Makati COO replacing petitioner was merely for oversight purposes. Whatever the reason could be for Fernandez's appointment as STI-Makati COO, the fact still remains that such position continued to exist.

Next, petitioner's appointment as Compliance Manager appears to be contrived as well. At the time of petitioner's appointment, the only two Compliance Manager positions within STI's compliance department – the School Compliance Group – were already filled up as they were then occupied by Musico and Gozum.⁵⁸ None of them has been dismissed or resigned. Nor could petitioner have been appointed head of the department, as Paraiso was very much in charge thereof, as its Compliance Group Head. The only positions within the department that were at the time vacant were those of Compliance Officers, which are of lower rank. In other words, petitioner could not have been validly appointed as Compliance Manager, a position within STI that was then very much occupied; if ever, petitioner took the position of a mere Compliance Officer, the only vacant position within the department.

Thirdly, even though it is claimed that from May 28, 2004 up to June 10, 2004, STI's Corporate Auditor/Audit Advisory Group conducted an audit of STI-Makati covering the whole period of petitioner's stint as COO/School Administrator, it appears that even prior to such audit, petitioner's superior – Fernandez – had already prejudged her case. The May 18, 2004 conversation between petitioner and Fernandez inside the latter's office is quite revealing.

The May 18 conversation between petitioner and Fernandez, taken in conjunction with the Court's findings that the position of STI-Makati COO was never abolished and that petitioner's appointment as Compliance Manager was contrived, confirms the view that petitioner was not transferred to the School Compliance Group as a matter of necessity, but as punishment for her perceived irregularities. In effect, petitioner was demoted and relegated to a position of insignificance within STI, there to suffer for what her employer alleged were transgressions committed by her. To all intents and purposes, petitioner was

⁵⁷ NLRC records, Vol. I, pp. 269-270.

⁵⁸ Id. at 257.

punished even before she could be tried.

Fernandez's declarations during the May 18 conversation undoubtedly provide the true motive behind petitioner's removal as STI-Makati COO:

a. After "hearing too many things" about petitioner, Fernandez simply lost confidence in her – meaning that Fernandez had made up his mind about petitioner after hearing rumors about her;

b. Fernandez accused petitioner of specific violations, without the benefit of accurate information and without giving her the opportunity to refute the accusations;

c. Fernandez has no time to listen to petitioner's explanations, despite her pleas to be heard;

d. Fernandez refused to provide petitioner with the evidence or other basis for his accusations, in spite of petitioner's request for him to put the same in writing;

e. Fernandez has prejudged petitioner, and intimated to her that she was dishonest, even before she could be heard; and

f. Fernandez threatened petitioner, that if she pushed him further, she would suffer the fate of a former employee who was separated from STI without the benefit of clearing his name. In other words, she could find herself without a job at STI even before her innocence or guilt could be established.

From the May 18 conversation alone, it can be seen that petitioner's fate in STI was a foregone conclusion. She was threatened to accept her fate or else she would find herself without work, either through dismissal or forced resignation. Evidently, she became the subject of an illegal constructive dismissal in the guise of a transfer.

The supposed audit conducted from May 28, 2004 up to June 10, 2004 by STI's Corporate Auditor/Audit Advisory Group was a mere afterthought, as it was apparent that as early as May 18, 2004, petitioner has been found guilty of whatever transgressions she was being charged with, founded or unfounded. The same is true with respect to her preventive suspension; it was imposed with malice and bad faith, and calculated to harass her further, if not trick her into believing that respondents were properly addressing her case. Needless to say, all proceedings and actions taken in regard to petitioner's employment and case,

beginning on May 18, 2004, were all but a farce, done or carried out in bad faith, with the objective of harassing and humiliating her, all in the fervent hope that she would fold up and quit.

Constructive dismissal exists where there is cessation of work because ‘continued employment is rendered impossible, unreasonable or unlikely, as an offer involving a demotion in rank or a diminution in pay’ and other benefits. Aptly called a dismissal in disguise or an act amounting to dismissal but made to appear as if it were not, constructive dismissal may, likewise, exist if an act of clear discrimination, insensibility, or disdain by an employer becomes so unbearable on the part of the employee that it could foreclose any choice by him except to forego his continued employment. In cases of a transfer of an employee, the rule is settled that the employer is charged with the burden of proving that its conduct and action are for valid and legitimate grounds such as genuine business necessity and that the transfer is not unreasonable, inconvenient or prejudicial to the employee. If the employer cannot overcome this burden of proof, the employee’s transfer shall be tantamount to unlawful constructive dismissal.⁵⁹

There is no doubt that petitioner was subjected to indignities and humiliated by the respondents. As correctly observed by the Labor Arbiter, she was bullied, threatened, shouted at, and treated insolently by Fernandez on May 18, 2004 inside the latter’s own office. She was shamed when, on her very first day at the School Compliance Group, all of the employees of the department have gone on an official out-of-town event without her and, as a result, she was left alone at the office for several days. Respondents did not even have the courtesy to offer her the opportunity to catch up with the group so that she could make it to the event, even if belatedly. Then again, on May 20, 2004, STI made an official company-wide announcement of Jacob’s appointment as new STI President and CEO, Fernandez as new STI-Makati COO, and Luz as new STI-Makati School Administrator, but petitioner’s appointment as new Compliance Manager was inconsiderately excluded. Respondents made her go through the rigors of a contrived investigation, causing her to incur unnecessary legal expenses as a result of her hiring the services of counsel. Her well-deserved awards and distinctions were unduly withheld in the guise of continuing investigation – which obviously was taking too long to conclude; investigation began formally on May 28, 2004 (start of audit), yet by August 17 (date of memorandum informing petitioner of the withholding of Korea travel award), the investigation was still allegedly ongoing. She was deprived of the privilege to attend company events where she would have received her well-deserved awards with pride and honor, and her colleagues would have been inspired by her in return. Certainly, respondents made sure that petitioner suffered a humiliating fate and consigned to oblivion.

⁵⁹ *Morales v. Harbour Centre Port Terminal, Inc.*, G.R. No. 174208, January 25, 2012, 664 SCRA 110, 117-118.

Indeed, petitioner could not be faulted for taking an indefinite leave of absence, and for altogether failing to report for work after August 9, 2004. Human nature dictates that petitioner should refuse to subject herself to further embarrassment and indignities from the respondents and her colleagues. All told, petitioner was deemed constructively dismissed as of May 18, 2004.

Finally, since the position of STI-Makati COO was never abolished, it follows that petitioner should be reinstated to the very same position, and there to receive exactly what Fernandez gets by way of salaries, benefits, privileges and emoluments, without diminution in amount and extent. Petitioner, multi-awarded, deserving and loyal, is entitled to what Fernandez receives, and is deemed merely to take over the office from him; moreover, the position of Chief Operations Officer is not merely an ordinary managerial position, as it is a senior managerial office. In turn, Fernandez – or anyone who currently occupies the position of STI-Makati COO – must vacate the office and hand over the same to petitioner.

It is correct for petitioner to have included among the reliefs prayed for in her Complaint that she be paid the salary, benefits and privileges being enjoyed by Fernandez currently. The Court, in granting said relief, deems it only fair that she should be entitled to what Fernandez is receiving. Not only that the position requires greater expertise in many areas, or that it involves great responsibility, or that petitioner deserves it from the point of view of her qualifications and experience; but it would be to prevent another form of oppressive practice, where an employee is appointed to a senior management position, there to enjoy only the prestige or title, but not the benefits commensurate with the work and responsibility assumed. It would likewise prevent a situation where, as in this case, an employer – obliged by law or the courts to reinstate an “unwanted” employee holding a senior management position – is given an opportunity to retaliate by limiting the employee’s salary, privileges and benefits to a certain level – low or high, so long as it is within the managerial range – that is however 1) not commensurate with the work and responsibility assumed by the employee, or 2) discriminatory, or 3) indicative of a tendency to favor only one or some employees.

Nonetheless, the Court fails to discern any bad faith or negligence on the part of respondent Jacob. The principal character that figures prominently in this case is Fernandez; he alone relentlessly caused petitioner’s hardships and suffering. He alone is guilty of persecuting petitioner. Indeed, some of his actions were without sanction of STI itself, and were committed outside of the authority given to him by the school; they bordered on the personal, rather than official. His superior, Jacob, may have been, for the most part, clueless of what Fernandez was doing to petitioner. After all, Fernandez was the Head of the Academic Services Group of the EMD, and petitioner directly reported to him at the time; his position enabled him to pursue a course of action with petitioner that Jacob was largely unaware of.

A corporation, as a juridical entity, may act only through its directors, officers and employees. Obligations incurred as a result of the directors' and officers' acts as corporate agents, are not their personal liability but the direct responsibility of the corporation they represent. As a rule, they are only solidarily liable with the corporation for the illegal termination of services of employees if they acted with malice or bad faith.

To hold a director or officer personally liable for corporate obligations, two requisites must concur: (1) it must be alleged in the complaint that the director or officer assented to patently unlawful acts of the corporation or that the officer was guilty of gross negligence or bad faith; and (2) there must be proof that the officer acted in bad faith.⁶⁰

WHEREFORE, the Petition is **GRANTED**. The October 27, 2008 Decision of the Court of Appeals in CA-G.R. SP No. 104437 is **ANNULLED** and **SET ASIDE**. The March 31, 2006 Decision of Labor Arbiter Renaldo O. Hernandez in NLRC Case No. 00-06-07767-04 is hereby **REINSTATED, WITH MODIFICATIONS**, in that:

1. Respondent Systems Technology Institute, Inc., is ordered to **REINSTATE** petitioner Girly G. Ico to the position of STI-Makati College Chief Operating Officer and pay her the exact salary, benefits, privileges, and emoluments which respondent Peter K. Fernandez is receiving, but not less than what petitioner was receiving at the time of her illegal constructive dismissal on May 18, 2004;

2. Respondent Monico V. Jacob is **ABSOLVED** of any liability;

3. Respondent Peter K. Fernandez is ordered to **VACATE** the said office of STI-Makati Chief Operating Officer and turn over the same to petitioner;

4. The award of back wages shall earn **LEGAL INTEREST** at the rate of six *per cent* (6%) *per annum* from the date of the petitioner's illegal dismissal until fully paid;⁶¹

5. Finally, the appropriate Computation Division of the NLRC is hereby ordered to **COMPUTE AND UPDATE** the award as herein established **WITH DISPATCH**.

⁶⁰ *Polymer Rubber Corporation v. Salamuding*, G.R. No. 185160, July 24, 2013, 702 SCRA 153, 160-161.

⁶¹ *See Bangko Sentral ng Pilipinas Circular No. 799*, Series of 2013; *Nacar v. Gallery Frames*, G.R. No. 189871, August 13, 2013.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


ARTURO D. BRION
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ARTURO D. BRION

Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice

