



**BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS**



IN THE MATTER OF:

**3 GUAM FIRE DEPARTMENT
EMPLOYEES: (Roy Candaso,
Jason Cruz and James Pangelinan),**

Employees,

vs.

GUAM FIRE DEPARTMENT,

Management.

**GRIEVANCE APPEAL
CASE NO.: 19-GRE01**

ORDER AFTER HEARING

This matter came before the Civil Service Commission (“Commission”) on Management’s Motion to Dismiss (January 7, 2020) and Motion to Strike (March 9, 2020). Present for the hearing were Employees, Roy Candaso, Jason Cruz, and James Pangelinan with their attorney, Jacqueline Taitano Terlaje. Also, present for Management, Guam Fire Department, were Assistant Attorney General Matthew E. Wolff, and Guam Fire Department’s Michael Uncangco. Commissioners present were Chairman Juan K. Calvo, Vice Chair John Smith, Commissioners Priscilla Tuncap, Emilia Rice, and Anthony P. Benavente.

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JURISDICTION

The Commission has jurisdiction over personnel matters in the Government of Guam, as defined by Chapter 4 of Title 4, Guam Code Annotated. *See* 4 G.C.A. § 4403 et. seq. Additionally, where personnel statutes, rules or regulations have been misinterpreted, misapplied or violated, a classified employee is granted the right to seek grievance with the Government of Guam; Guam Personnel Rules and Regulations Rule 12.100.

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DISCUSSION

1. **Management’s Motion to Dismiss is denied.**

Employees have alleged a violation of personnel re-employment laws as a basis for their grievance. *See* Notice Amended Appeal and Complaint (August 13, 2020). Specifically, Employees allege that Management misinterpreted, misapplied and/or violated § 2108 of Guam Code Annotated (GCA) and § 4.502 of the Guam Personnel Rules and Regulations. Management moves to dismiss the Complaint asserting that the Commission lacks jurisdiction because the Employees’ complaint is a classification issue.

The Commission finds that the Employees’ complaint, based upon a violation of their re-employment rights, is not a classification issue. The Complaint of Employees relate directly to their re-employment rights, as addressed in Chapter 4 of Title 4 Guam Code Annotated. Classification, on the other hand, is defined by Chapter 6 of Title 4 Guam Code Annotated. Employees are not grieving any issues involving

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1 classification; nor have they sought relief under any classification laws. Therefore, the
2 Commission upon a vote of 5 to 0, vote in favor of Employees, and denies
3 Management's motion to dismiss finding the issues raised by Employees are within the
4 jurisdiction of the Commission.

5 2. **Management's Motion to Strike is Denied.**

6 Management moved to strike Employees' Witness List and Exhibits List
7 (January 7, 2020) asserting that Employees violated the Notice of Pre-Hearing
8 Conference and Notice of Hearing on the Merits (October 2, 2019), and that there exists
9 no good cause for the one-day delay in filing exhibits. Employees, however, assert that
10 technical difficulties caused the one-day delay, and that there was no intention to
11 disregard the Order of the Commission. The Commission upon a vote of 5 to 0, voted
12 in favor of Employees, and denies Management's motion to strike.

13 **Commission Jurisdiction to Initiate Investigation**

14 The Commission has jurisdiction to investigate and set aside and declare null
15 and void any personnel action of an employee in the classified service if the
16 Commission finds after conducting the necessary investigation that the personnel
17 action was taken in violation of personnel laws or rules. 4 G.C.A. § 4403(d). The
18 Commission is also granted jurisdiction to investigate and set aside and declare null
19 and void any personnel action of an employee in the classified service, who grieves a
20 violation of personnel statutes, rules or regulations or where there a statute, rule or
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1 regulation has been misinterpreted, misapplied or violated, under Guam Personnel
2 Rules and Regulations Rule 12.100. Employees have alleged a violation of their rights
3 in the recruitment and/or re-employment process. Pursuant to its authority to
4 investigate, the Commission upon a vote of 5 to 0 approved and authorized an
5 investigation into the recruitment and/or re-employment of Employees. Management
6 and Employees are ordered to cooperate with the Commission investigator.

7 **IT IS SO ORDERED AND ADJUDGED** on this 16th day of March, 2021.

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9 **JUAN K. CALVO**
Chairman


10 **JOHN SMITH**
Vice Chairman

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12 **PRISCILLA T. TUNCAP**
Commissioner


13 **EMILIA F. RICE**
Commissioner

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15 **ANTHONY P. BENAVENTE**
Commissioner


16 **ROBERT C. TAITANO**
Commissioner