



BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS



IN THE MATTER OF:

**44 Signatories, Simon Sanchez
High School,**

And

**38 Signatories, Agana Heights
Elementary School,**

Employee,

vs.

DEPARTMENT OF EDUCATION,

Management.

**GRIEVANCE APPEAL
CASE NOS.
14-GRE-04 and 14-GRE-05**

JUDGMENT OF DISMISSAL

This matter came before the Commission on Wednesday, November 5, 2014, for a Grievance Hearing. Present were Employee representative Carol Somerfleck with counsel Daniel Somerfleck. Management representative Taling Taitano was present with counsel Rebecca Perez. At the start of the hearing, Commissioner Luis Baza raised a question regarding the Commission's jurisdiction over this subject matter because it involves issues of classification or compensation. After hearing from counsel, the Commission deliberated the question and determined by six affirmative votes that the Commission does not have jurisdiction to hear this matter and will accordingly dismiss.

CLASSIFICATION AND COMPENSATION

Prior to fiscal year 2006, the Civil Service Commission was empowered with both adjudicatory and non-adjudicatory functions. Under this statutory regime, the Commission did more than protecting the due process rights of government employees through adjudicatory

1 hearings on the merits. During that period, the Commission also oversaw the overall
2 classification and compensation scheme of government employees in a more plenary fashion
3 through non-adjudicatory functions.

4 Yet, on September 30, 2005, Public Law 28-68 was signed by the Governor. Although
5 P.L. 28-68 was a budget bill, it also established "Miscellaneous Administrative Provisions," that
6 included a sweeping overhaul of the functions of the Commission. In brief, the non-adjudicatory
7 functions of the Commission were transferred overwhelmingly to the Department of
8 Administration. The results were that the oversight powers of the Commission were at the
9 lowest ebb since its inception. In particular, the jurisdiction over classification and
compensation matters was no longer with the Commission.

10 On March 12, 2010, Public Law 30-112 was signed by the Governor. As a result of
11 popular discontent with the limitations on the Commission's jurisdiction, P.L. 30-112 repealed
12 and reenacted key statutes central to the Commission's operations, "Relative to Restoring
13 Certain Jurisdictions, and to Clarify Certain Functions of the Civil Service Commission." While
14 P.L. 30-112 restored "certain jurisdictions," it did not restore all jurisdictions transferred away by
15 P.L. 28-68. Jurisdiction over classification and compensation matters was not restored, but rest
16 with the Department of Administration. Thus, the present-day jurisdictional authority of the
17 Commission to act on government employment matters is greater than it was between 2005-
2010, but still lesser than it was prior to P.L. 28-68.

18 As the above relates to the present case, it appears that prior to P.L. 28-68, the grievances
19 brought here would be appropriately heard by the Commission. Yet, since the passage of P.L.
20 28-68, such jurisdiction does not lie with this body. Even though P.L. 30-112 restored certain
21 jurisdictions to the Commission, we do not read it to have restored the ability to hear
22 classification and compensation matters of this kind. In other words, the employees in this
23 matter seek upward modification of their classification and compensation as part of a grievance
24 complaint, outside of, for example, adverse actions appeal of a demotion. Even if the
25 Commission could hear such a case, it does not appear there is any enforceable remedy that we
can fashion for this grievance.

1 **IT IS SO ADJUDGED** this 24th day of February, 2015.

2 *Not Present*

3 **LUIS R. BAZA**
Chairman

4 *Manuel R. Pinauin*
MANUEL R. PINAUIN
Vice-Chairman

5 *Priscilla T. Tuncap*
PRISCILLA T. TUNCAP
Commissioner

6 *John Smith*
JOHN SMITH
Commissioner

7 *Lou Hongyee*
LOU HONGYEE
Commissioner

8 *Daniel D. Leon Guerrero*
DANIEL D. LEON GUERRERO
Commissioner

9 *Edith C. Pangelinan*
EDITH C. PANGELINAN
Commissioner