



BEFORE THE
GUAM CIVIL SERVICE COMMISSION



BOARD OF COMMISSIONERS



IN THE MATTER OF:

CIVIL SERVICE COMMISSION,
[Daniel T.C. Santos]

Employee,

vs.

GUAM INTERNATIONAL
AIRPORT AUTHORITY,

Management.

POST AUDIT ACTION
APPEAL

CASE NO.: 20-PA02

DECISION AND ORDER
DECLARING PERSONNEL
ACTION PROVISIONALLY
NULL AND VOID

INTRODUCTION

This matter came before the Commission (CSC) for an Investigation Hearing on July 30, 2020. Present were the Employee represented by Attorney Curtis Van De Veld and Management, Guam International Airport

**DECISION AND ORDER
[DECLARING PERSONNEL ACTION NULL AND VOID]**

*Civil Service Commission [Daniel T.C. Santos] vs. Guam International Airport Authority
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1 Authority (GIAA) represented by Deputy Executive Manager Artemio
2 Hernandez, and Attorney Jay Arriola.

3 JURISDICTION

4 The jurisdiction of the Commission is based upon the Organic Act of
5 Guam, 4 GCA, §4401 et al., and relevant portions of the Government of
6 Guam Personnel Rules and Regulations.

7 FINDINGS OF FACT

8 On October 4, 2015, Mr. Santos was reassigned from Airport Police
9 Officer I to a Clerk III position pursuant to medical disability. The GIAA has
10 two policies regarding placement that apply to Mr. Santos.

11 GIAA Personnel Rules and Regulations 4.204, A. Compensation
12 Adjustment Following an Involuntary Demotion states:

13 “A pay adjustment resulting from an involuntary demotion is
14 effectuated by identifying from the amended pay grade the salary (sub-steps)
15 closest to, but not more than the salary (sub-step) currently being received
16 prior to demotion less an additional six (6) sub-steps. This identifies the new
17 base salary.”

18 //

19 **DECISION AND ORDER**

20 **[DECLARING PERSONNEL ACTION NULL AND VOID]**

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1 GIAA Personnel Rules and Regulations, 6.01, A.2 Placement of
2 Employees with Disabilities provides:

3 “If the disability is not work-related, the employee shall be
4 compensated at the lowest sub-step of the new implementation range of the
5 lower graded position. This identifies the employee’s new base salary.”
6 Santos is both “involuntarily demoted,” and, “an employee with a disability”.
7 These two policies are in the same set of Personnel Rules and cannot be
8 reconciled with each other. Section 6.101 singles out disabled employees
9 and places them in a lower slot than non-disabled employees who are
10 demoted and slotted by Section 4.204. This clearly discriminates against
11 disabled employees based on their disability. Discrimination on the basis of
12 disability is strictly prohibited by the Americans with Disabilities Act. 42,
13 USC 12112 which provides:

14 **“No covered entity shall discriminate against a qualified individual**
15 **on the basis of disability in regard to ... employee compensation.”**

16 CSC staff concluded that Section 4.204 must be followed because
17 Section 6.101 would be illegal as applied to Mr. Santos. Staff recommended
18 that the personnel action herein based on Section 6.101 should be
19 provisionally null and void.

20 **DECISION AND ORDER**

[DECLARING PERSONNEL ACTION NULL AND VOID]

Civil Service Commission [Daniel T.C. Santos] vs. Guam International Airport Authority

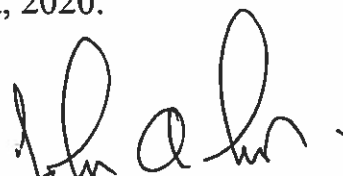
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1 By a vote of 4 to 0 the Commission adopted the recommendations of
2 the staff and provisionally null and voided the personnel action and provided
3 Management ten (ten) days to respond. Chairman Calvo abstained having
4 recused himself because he previously represented Mr. Santos.

5 SO ORDERED this 6th day of August, 2020.

6
7 Abstain

8 **JUAN K. CALVO**
Chairman

9 

10 **JOHN SMITH**
Vice Chairman

11 

12 **PRISCILLA T. TUNCAP**
Commissioner

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14 **EMILA F. RICE**
Commissioner

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16 **ANTHONY P. BENAVENTE**
Commissioner

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19
20 **DECISION AND ORDER**

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