



BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS



IN THE MATTER OF:

ELEUTERIO J. MESA,

Employee,

vs.

DEPARTMENT OF EDUCATION,

Management.

GRIEVANCE APPEAL
CASE NO. 17-GRE02

DECISION AND JUDGMENT

I.

INTRODUCTION

The above-captioned matter came before the Civil Service Commission (the "Commission" or "CSC") during the October 5, 2017 Hearing on the Merits regarding Employee Eleuterio Mesa's Grievance Appeal. Employee was present *pro se*. Guam Department of Education ("GDOE") Lay Representative Phyllis Blas was present for Management. The Commission heard Oral Arguments from both parties, and by a vote of 5-0, finds in favor of Management.

//

//

//

//

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

II.

JURISDICTION

The jurisdiction of the Guam Civil Service Commission is based upon the Organic Act of Guam, 4 GCA §§ 4401, *et seq.*, and relevant Personnel Rules and Regulations.

III.

FINDING OF FACTS

1) Employee is a Principal for the Guam Department of Education.

2) On August 22, 2016, Acting Superintendent Joseph L.M. Sanchez appointed Employee to the position of Assistant Superintendent of Vocational Technical Education.

3) On November 3, 2016, reports of sexual harassment and harassment with a student allegedly involving Employee were received at the office of Acting Superintendent Sanchez.

4) On the same date, November 3, 2016, Acting Superintendent Sanchez rescinded the appointment of Employee to the position of Assistant Superintendent of Vocational Technical Education.

5) Also on the same date, November 3, 2016, Employee was placed on administrative leave because of the harassment reports that had been received.

6) On December 1, 2016, Employee was transferred to the GDOE Division of Assessment and Accountability under the supervision of Acting Deputy Superintendent of Assessment and Accountability Christopher Anderson.

7) On December 23, 2016, Employee initiated a Step 1 Grievance in this matter.

8) Employee's Step 1 Grievance included the following:

a. Employee claimed a hostile working environment, retaliation, intimidation, and harassment supposedly involving Acting Deputy Anderson;

b. Employee sought an apology from Acting Deputy Anderson;

c. Employee sought immediate removal from an alleged hostile working environment;

d. Employee sought reinstatement to the position of Assistant Superintendent of Vocational Technical Education with back pay.

1
2 9) On January 3, 2017, Acting Deputy Anderson responded to Employee's Step I
Grievance as follows:

3 a. Acting Deputy Anderson provided an apology to Employee;

4 b. Acting Deputy Anderson provided a response to Employee's claims
5 including the claim of an alleged hostile working environment.

6 10) On January 9, 2017, Employee submitted his Step II Grievance to Acting
7 Superintendent Sanchez.

8 11) On January 17, 2017, Acting Superintendent Sanchez transferred Employee from
9 the GDOE Division of Assessment and Accountability under the supervision of Acting Deputy
Anderson and appointed Employee as Principal of Astumbo Middle School.

10 12) On February 15, 2017, the Grievance Committee in this matter found that the
11 position of Assistant Superintendent of Vocational Technical Education was a temporary
position, among other Grievance Committee findings.

12 13) On February 27, 2017, Employee submitted his Step IV Grievance to the Guam
13 Civil Service Commission.

14 14) At the time that Employee submitted his Step IV Grievance to the Commission,
15 the relief requested by Employee involving an apology from Acting Deputy Anderson and
removal from an alleged hostile environment had already been addressed and resolved.

16 15) The only relief requested by Employee that was outstanding at the time that
17 Employee submitted his Step IV Grievance was Employee's request regarding the position of
Assistant Superintendent of Vocational Technical Education with back pay.

18 **IV.**

19 **DISCUSSION**

20 Prior to the October 5, 2017 Hearing on the Merits, Management had provided Employee
21 with two of the remedies requested in his Step I Grievance: (1) an apology from Acting Deputy
22 Anderson as Employee's immediate supervisor; and (2) transfer from the GDOE Division of
23 Assessment and Accountability, which Employee claimed to be an alleged hostile working
24 environment.
25

1 The only relief requested by Employee that remained outstanding involved the position of
2 Assistant Superintendent of Vocational Technical Education with back pay.

3 As discussed above, the Commission finds that, on February 15, 2017, the Grievance
4 Committee in this matter found that the position of Assistant Superintendent of Vocational
5 Technical Education was a temporary position.

6 The Commission agrees with this finding made by the Grievance Committee; that this
7 was a temporary position.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

23 //

24 //

25 ///

1 During the October 5 Hearing on the Merits, Management asserted that GDOE Acting
2 Superintendent Sanchez had the authority to appoint and transfer Employee as Management had
3 done in this matter, consistent with Title 17 Guam Code Annotated § 3103(e) and Guam
4 Education Board Policy 210.3.

5 The Commission also agrees that Management had this authority.

6
7 V.

8 **CONCLUSION**

9 Accordingly, the Commission after due deliberation determined by a majority vote of 5-0
10 that GDOE had the authority to appoint and transfer Employee as GDOE had done in this matter,
11 and therefore, Employee should not be returned to the position of Assistant Superintendent of
12 Vocational Technical Education with back pay. The Commission therefore finds for
13 Management.

14 SO ADJUDGED this 7TH day of ^{November}~~October~~, 2017.

15
16 

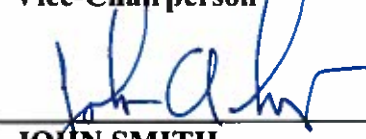
EDITH PANGELINAN
Chairperson



LOURDES HONGYEE
Vice-Chairperson



PRISCILLA T. TUNCAP
Commissioner



JOHN SMITH
Commissioner

CATHERINE GAYLE
Commissioner



MICHAEL G. TOPASNA
Commissioner