



BEFORE THE  
GUAM CIVIL SERVICE COMMISSION  
BOARD OF COMMISSIONERS



IN THE MATTER OF:

EILEEN H. SABLAN,

Employee,

vs.

DEPARTMENT OF EDUCATION,

Management.

POST AUDIT  
CASE NO. 14-PA-01

JUDGMENT OF DISMISSAL

I.  
INTRODUCTION

This matter originally came before the Civil Service Commission (CSC) for a Hearing on August 21, 2014. The Hearing was a result of the July 2, 2014, filing by Employee in which she chose to "submit a Post-Audit Complaint as a result of my dissatisfaction with services I received" from the Department of Education ("DOE"). Employee asserted that she should have been entitled to Above-Step Recruitment ("ASR") when she was hired by DOE in August.2012, but was not adequately informed about ASR. As relief, Employee requests that her step and classification be adjusted commensurate with her experience, she receive retro pay as if she had received ASR, and that the availability of ASR be included in Personnel Rules and mentioned in hiring announcements. The CSC voted 5-0 to dismiss this action for reasons stated below.

//

**ORIGINAL**

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 Civil Service Commission is based upon the Organic Act of Guam, §4 G.C.A., §§ 4401, et seq., particularly § 4403(d).

**III.**  
**ANALYSIS**

4 G.C.A. §4403(d) states in relevant part:

*(d) The Commission may investigate and set aside and declare null and void any personnel action of an employee in the classified service...*

Title 4, Section 4403(d), provides that in a post-audit case, the CSC has the option of declaring a personnel action null and void. As we stated in *7 Port Employees v. PAG*, 14-PA-02 (Sept. 10, 2015):

The Commission has a binary choice to completely null and void or do nothing with no apparent authority to do anything in between. While case after case in post-audit presents us with circumstances where it seems an alternate remedy would be more just and equitable, the Legislature has limited us to an “all or nothing” decision. (Page 3)

Thus, the only action § 4403(d) permits us to take is to nullify Employee’s personnel action. Employee is obviously not requesting us to nullify her personnel action; that is not part of the requested relief.

Employee is asking the CSC to adjust matters of classification and compensation through the post-audit function. In *44 Signatories, et al., v. DOE*, 14-GRE-04 & 14-GRE-05 (Feb. 24, 2015), we set forth the history of the classification and compensation functions and their removal from the CSC by Public Law No. 28-68. As we said in *44 Signatories* in relation to classification and compensation:

1 [S]ince the passage of P.L. 28-68, such jurisdiction does not lie with this  
2 body. Even though P.L. 30-112 restored certain jurisdictions to the  
3 Commission, we do not read it to have restored the ability to hear  
4 classification and compensation matters of this kind. In other words, the  
5 employees in this matter seek upward modification of their classification  
6 and compensation as part of a grievance complaint, outside of, for  
7 example, adverse actions appeal of a demotion. Even if the Commission  
8 could hear such a case, it does not appear there is any enforceable remedy  
9 that we can fashion for this grievance. (Page 2).

6 Therefore, we follow the recommendation of the Staff Assessment Report to not proceed forward  
7 with further investigation into this matter.

8  
9 **IV.**  
**CONCLUSION**

10 Since there is no personnel action for the Commission to review, the Commission voted 5-  
11 0 to dismiss this case.

12  
13 SO ADJUDGED THIS 12<sup>th</sup> DAY OF July 2016.

14   
15 \_\_\_\_\_  
16 **EDITH PANGELINAN**  
17 **Chairperson**

14   
15 \_\_\_\_\_  
16 **DANIEL D. LEON GUERRERO**  
17 **Vice-Chairperson**

16   
17 \_\_\_\_\_  
18 **PRISCILLA T. TUNCAP**  
19 **Commissioner**

16   
17 \_\_\_\_\_  
18 **JOHN SMITH**  
19 **Commissioner**

18   
19 \_\_\_\_\_  
20 **LOURDES HONGYEE**  
21 **Commissioner**

18   
19 \_\_\_\_\_  
20 **CATHERINE GAYLE**  
21 **Commissioner**