



BEFORE THE
GUAM CIVIL SERVICE COMMISSION



IN THE MATTER OF:

WILLIAM KANDO,

Employee,

vs.

GUAM MEMORIAL HOSPITAL
AUTHORITY,

Management.

GRIEVANCE APPEAL
CASE NO. 13-GRE-14

DECISION AND JUDGMENT

This matter came for grievance appeal hearing before the Civil Service Commission Board of Commissioners (the "Commission") on January 7, 2014. Employee William Kando ("Employee") was present and represented himself. The Guam Memorial Hospital Authority ("GMHA") was represented by the law firm of Fisher & Associates through Minakshi V. Hemlani, Esq. Present on behalf of GMHA management was Joseph P. Verga, Hospital Administrator and Chief Executive Officer.

FACTUAL & PROCEDURAL HISTORY

On August 5, 2013, Employee filed a grievance with the Hospital Administrator expressing his disagreement with certain strategic initiatives that were presented by GMHA administration to the Guam Legislature. In particular, Employee, as Hospital Chief Planner, objected to the proposed reduction of Planning Department by 50%. On August 12, 2013, the Hospital Administrator responded that the strategic initiatives presented to the Guam Legislature were ideas under consideration and because of GMHA's financial situation it was necessary for management to consider all possibilities for improvement.

On August 14, 2013, Employee proceeded to Step II of GMHA's grievance procedure. GMHA's Board of Trustee's Human Resources Subcommittee held hearings before its

1 Grievance Review Board on September 26, and October 3, 2013. The HR Subcommittee issued
2 resolutions on October 10, 2013, including instruction to the GMHA administration to re-title
3 and resubmit its strategic initiatives to the Guam Legislature. However, with regards to
4 Employee's other proposed resolutions (i.e., approval of additional positions to the Planning
5 Department, approval of departmental reclassifications, and direction that the Chief Financial
6 Officer should not oversee the Planning Department's grant management), the HR Subcommittee
7 resolved that the GMHA's 2014 budget had been approved and would be upheld, and that
8 GMHA's Chief Financial Officer had the full fiduciary responsibility to oversee all hospital
9 finances.

10 On October 15, 2013, Employee proceeded to Step III and appealed to the GMHA Board
11 of Trustees. The Board affirmed the resolutions of the HR Subcommittee. On November 12,
12 2013, Employee filed his Grievance Appeal before the Commission.

13 DISCUSSION

14 The Department of Administration Personnel Rules and Regulations defines a grievance
15 as "any question or complaint filed by a permanent employee alleging that there has been a
16 misinterpretation, misapplication or violation of a personnel statute, rule, regulation or written
17 policy which directly affects the employee in the performance of his official duties; or that he has
18 received prejudicial, unfair, arbitrary, capricious treatment in his work conditions, or work
19 relationships." *DOA Rules & Regs Section 12.100*

20 Employee did not allege or provided any evidence that there was a misinterpretation,
21 misapplication or violation of a personnel statute, rule, regulation, or written policy by the
22 GMHA. Instead, Employee's grievance is based on his disagreement with strategic initiatives
23 presented by the GMHA administration to the Guam Legislature.

24 Employee also did not allege or provide any evidence that he was directly affected in the
25 performance of his official duties. Employee stated at hearing that he brought his grievance
appeal on behalf of his staff and was fighting for their rights. Employee himself did not suffer a
demotion, change in work hours, or any adverse action consequences. Further, Employee did not
allege or provide any evidence to suggest he had received prejudicial, unfair, arbitrary, or
capricious treatment in his work conditions, or work relationships.

Based on the foregoing, the Commission, by unanimous vote, determined that the GMHA
had the right to direct policy and the Employee's grievance had no merit.

1 SO ORDERED AND ADJUDGED THIS 4th DAY OF FEBRUARY 2014 as
2 determined by a vote of 7-0 on January 7, 2014.

3 Not Present

4 **LUIS R. BAZA**
Chairman

5 
MANUEL R. PINAUIN
Vice-Chairman

6 
PRISCILLA T. TUNCAP
Commissioner

7 
JOHN SMITH
Commissioner

8 
LOURDES HONGYEE
Commissioner

9 
DANIEL D. LEON GUERRERO
Commissioner

10 
EDITH C. PANGELINAN
Commissioner