



**BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS**



IN THE MATTER OF:

**SHANNON TAITANO, LAURA
MOONEY, MONTY R MAY, R
HAPPY RONS, KATHY A. FOKAS,
KENNETH ORCUTT, DEBORAH
RIVERA, ROBERT WEINBERG, and
DONNA LAWRENCE,**

Employees,

vs.

ATTORNEY GENERAL'S OFFICE,

Management.

**GRIEVANCE APPEAL
CASE NOS.: 14-GRE-44, 14-GRE-45,
14-GRE-46, 14-GRE-48, 14-GRE-49,
14-GRE-50, 14-GRE-52, 14-GRE-53,
14-GRE-54**

DECISION AND JUDGMENT

This matter came before the Civil Service Commission (Commission) at its regularly scheduled meeting on February 9, 2017. Employees Happy Rons, Shannon Taitano, Kathy Fokas, and Robert Weinberg were present. Deputy Attorney General Karl Espaldon was present for Management. Employees and Management waived oral argument. The Commission proceeded directly to deliberation and decision making.

Relying on our February 24, 2015 Judgment of Dismissal in *44 Signatories, Simon Sanchez High School and 38 Signatories, Agana Heights Elementary v. Department of Education* (Grievance

DECISION AND JUDGMENT

Shannon Taitano, Laura Mooney, Monty R. May, R Happy Rons, Kathy Fokas, Kenneth Orcutt, Deborah Rivera, Robert Wienberg, Donna Lawrence v AGO

Grievance Appeal Case Nos : 14-GRE-44, 14-GRE-45, 14-GRE-46, 14-GRE-48, 14-GRE-49, 14-GRE-50, 14-GRE-52, 14-GRE-53, 14-GRE-54

1 Appeal Case Nos. 14-GRE-04 and 14-GRE-05), the Commission reiterates its determination that,
2 pursuant to Public Law 28-68, it does not have jurisdiction to hear employee grievances regarding
3 classification and compensation. Furthermore, even if the Commission could hear these cases, it does
4 not appear there is any enforceable remedy that we can fashion for these grievances.

5 Employees presented a novel argument in this case. Department of Administration Personnel
6 Rules and Regulations (“DOAPRR”) Rule No. 12.100 states:

7 A grievance is any question or complaint filed by a permanent
8 employee alleging that there has been a misinterpretation,
9 misapplication or violation of a personnel statute, rule, regulation, or
10 written policy which directly affects the employee in the performance
of his official duties; or that he has received prejudicial, unfair,
arbitrary, capricious treatment in his working conditions, or work
relationships.

11 Employees contend that, although this grievance involves a matter of classification, it is included in
12 the definition of “grievance” under Rule No. 12.100 due to the fact that involves a misapplication of
13 the CWA. We disagree.

14 There is no evidence that the Attorney General’s Office did anything other than follow the
15 directives of the Department of Administration in reclassification. Also, being reclassified does not
16 affect the employee’s performance of official duties, it affects how much one is compensated for
17 performing those duties. Thus, the first part of the 12.100 definition does not apply. Furthermore,
18 since the reclassifications were part of a systematized scheme that was uniformly applied, it does not
19 appear to be arbitrary or capricious. Thus, the second part of the 12.100 definition does not apply.

20 Even if it was assumed *arguendo* that the 12.100 definition does apply, “[a]ppeals from
21 classification determinations,” are specifically excluded from grievance procedures by DOAPRR
22 Rule 12.301(E). Applying the maxim of *Generalia Specialibus Non Derogant*, “[p]articlar

1 expressions qualify those that are general,” then the specific exclusion of classification definitions in
2 12.301(E) would outweigh the general reading of 12.100. 20 GCA § 15126. The broad umbrella
3 definition provided in 12.100 is explicitly limited by the exclusions in Rule 12.301.

4 Accordingly, as the instant grievance pertains to classification and compensation related to
5 the implementation of the Competitive Wage Act of 2014, the Commission is without jurisdiction to
6 hear this case.

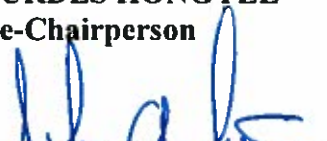
7 THEREFORE, by a vote of 5-0, the Civil Service Commission dismisses this grievance for
8 lack of jurisdiction.

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10 SO ADJUDGED THIS 25th day of MAY 2017.

11 
12 EDITH PANGELINAN
13 Chairperson

14 Not Present
15 LOURDES HONGYEE
16 Vice-Chairperson

17 
18 PRISCILLA T. TUNCAP
19 Commissioner

20 
21 JOHN SMITH
22 Commissioner

23 Not Present
24 CATHERINE GAYLE
25 Commissioner

26 
27 MICHAEL G. TOPASNA
28 Commissioner

29 ORIGINAL

31 **DECISION AND JUDGMENT**

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