SUPREME COURT
EN BANC

JOVENCIO L. MAYOR,
***Petitioner*,**

-versus-

G.R. No. 87211
March 5, 1991

HON. CATALINO MACARAIG, HON. GUILLERMO CARAGUE, HON. RIZALINA CAJUCOM, HON. FRANKLIN DRILON,
***Respondents*.**

LOURDES A. SALES and RICARDO OLAIREZ,
***Petitioners-Intervenors*.**
x----------x

PASCUAL V. REYES,
***Petitioner*,**

-versus-

G.R. No. 90044
March 5, 1991

HON. FRANKLIN DRILON,
***Respondents*.**
x----------x

CEFERINO E. DULAY, ROSARIO G. ENCARNACION and DANIEL LUCAS, JR.,

Petitioner,

-versus-

G.R. No. 91547
March 5, 1991

HON. CATALINO MACARAIG, JR., as Executive Secretary, HON. GUILLERMO N. CARAGUE, as Secretary of Budget and Management, HON. DIONISIO DE LA SERNA, as Acting Secretary of Labor & Employment, BARTOLOME CARALE, VICENTE S.E. VELOSO III, ROMEO B. TUOMO, EDNA BONTO PEREZ, DOMINGO H. ZAPANTA, RUSTICO L. DIOKNO, LOURDES C. JAVIER, IRINEO B. BARNALDO, ROGELIO I. RAYALA, ERNESTO G. LADRINO III, IRENEA E. CENIZA, BERNABE S. BATUHAN, MUSIB M. BUAT, L.B. GONZAGA, JR. and OSCAR ABELLA,

Respondents.

x----------x

JOVENCIO L. MAYOR,

***Petitioner*,**

-versus-

G.R. No. 91730
March 5, 1991

HON. CATALINO MACARAEG, HON. GUILLERMO CARAGUE, HON.

RIZALINA CAJOCUM, and the HONORABLE SECRETARY OF LABOR,
Respondents.
x----------x

ROLANDO D. GAMBITO,
***Petitioner*,**

-versus-

G.R. No. 94518
March 5, 1991

THE SECRETARY OF LABOR AND EMPLOYMENT and THE EXECUTIVE SECRETARY,
Respondents.
x----------x

D E C I S I O N

NARVASA, *J.*:

Five (5) Special Civil Actions are hereby jointly decided because they involve one common, fundamental issue, the constitutionality of Republic Act No. 6715, effective March 21, 1989, in so far as it declares vacant "all positions of the Commissioners, Executive Labor Arbiters and Labor Arbiters of the National Labor Relations Commission," and operates to remove the incumbents upon the appointment and qualification of their successors. The law is entitled, "AN ACT TO EXTEND PROTECTION TO LABOR, STRENGTHEN THE CONSTITUTIONAL RIGHTS OF WORKERS TO SELF-ORGANIZATION, COLLECTIVE BARGAINING AND PEACEFUL CONCERTED ACTIVITIES, FOSTER INDUSTRIAL PEACE AND HARMONY, PROMOTE THE PREFERENTIAL USE OF VOLUNTARY MODES OF SETTLING LABOR DISPUTES AND REORGANIZE THE NATIONAL LABOR RELATIONS

COMMISSION, AMENDING PRESIDENTIAL DECREE NO. 441, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES."[1] The provision directly dealing with the reorganization of the National Labor Relations Commission is Section 35. It reads as follows:[2]

> "SEC. 35. Equity of the Incumbent. — Incumbent career officials and rank-and-file employees of the National Labor Relations Commission not otherwise affected by the Act shall continue to hold office without need of reappointment. However, consistent with the need to professionalize the higher levels of officialdom invested with adjudicatory powers and functions, and to upgrade their qualifications, ranks, and salaries or emoluments, all positions of the Commissioners, Executive Labor Arbiters and Labor Arbiters of the present National Labor Relations Commission are hereby declared vacant. However, subject officials shall continue to temporarily discharge their duties and functions until their successors shall have been duly appointed and qualified."

The first of these five consolidated cases was filed by Labor Arbiter Jovencio Ll. Mayor on March 8, 1989. In the year that followed, eight other officers of the Commission, as initiators of their own separate actions or as intervenors, joined Mayor in the attempt to invalidate the reorganization and to be reinstated to their positions in the Government service.

G.R. No. 87211: Jovencio Mayor; and Intervenors Lourdes A. Sales and Ricardo Olairez

Jovencio Ll. Mayor, a member of the Philippine Bar for fifteen (15) years, was appointed Labor Arbiter in 1986 after he had, according to him, met the prescribed qualifications and passed "a rigid screening process." Fearing that he would be removed from office on account of the expected reorganization, he filed in this Court the action now docketed as G.R. No. 87211. His fears proved groundless, however. He was in fact reappointed a Labor Arbiter on March 8, 1990. Hence, as he himself says, the case became moot as to him.

Like Mayor, both intervenors Lourdes A. Sales and Ricardo N. Olairez were appointed Labor Arbiters in 1986, but unlike Mayor, were not among the one hundred fifty-one (151) Labor Arbiters reappointed by the President on March 8, 1990.

G.R. No. 90044; Pascual Y . Reyes; and Intervenor Eugenio I. Sagmit, Jr.

At the time of the effectivity of R.A. No. 6715, Pascual Y. Reyes was holding the office of Executive Director of the National Labor Relations Commission in virtue of an appointment extended to him on May 30, 1975. As specified by Administrative Order No. 10 of the Secretary of Labor, dated July 14, 1975, the functions of his office were "to take charge of all administrative matters of the Commission and to have direct supervision over all units and personnel assigned to perform administrative tasks;" and Article 213 of the Labor Code, as amended, declared that the "Executive Director, assisted by a Deputy Executive Director, shall exercise the administrative functions of the Commission." Reyes states that he has been "a public servant for 42 years," and "is about to retire at sixty-five (65)," in 1991.

The petitioner-in-intervention, Eugenio I. Sagmit, Jr., was Reyes' Deputy Executive Director, appointed as such on October 27, 1987 after twenty-five (25) years of government service.

Both Reyes and Sagmit were informed that they had been separated from employment upon the effectivity of R.A. No. 6715, pursuant to a Memorandum-Order issued by then Secretary of Labor Franklin Drilon on August 17, 1989 to the effect that the offices of Executive Director and Deputy Executive Director had been abolished by Section 35, in relation to Section 5 of said Act, and "their functions transferred to the Chairman, aided by the Executive Clerk."

Reyes moved for reconsideration on August 29, 1989, but when no action was allegedly taken thereon, he instituted the action at bar, G.R. No. 90044. Sagmit was afterwards granted leave to intervene in the action.

G.R. No. 91547: Ceferino Dulay, Rosario G. Encarnacion, and Daniel M. Lucas

Petitioners Rosario G. Encarnacion and Daniel M. Lucas, Jr. were appointed National Labor Relations Commissioners on October 20, 1986, after the Commission was reorganized pursuant to Executive Order No. 47 of President Aquino. Later, or more precisely on November 19, 1986, Lucas was designated Presiding Commissioner of the Commission's Second Division; and Commissioner Ceferino E. Dulay was appointed Presiding Commissioner of the Third Division.

Executive Order No. 252, issued by the President on July 25, 1987, amended Article 215 of the Labor Code by providing that "the Commissioners appointed under Executive Order No. 47 dated September 10, 1986 shall hold office for a term of six (6) years (but of those thus appointed) three shall hold office for four (4) years, and three for two (2) years without prejudice to reappointment." Under Executive Order No. 252, the terms of Encarnacion and Lucas would expire on October 23, 1992, and that of Dulay, on December 18, 1992.

On November 18,1989, R.A. No. 6715 being then already in effect, the President extended to Encarnacion, Lucas and Dulay new appointments as Commissioners of the NLRC despite the fact that, according to them, they had not been served with notice of the termination of their services as incumbent commissioners, and no vacancy existed in their positions. Their new appointments were submitted to Congress, but since Congress adjourned on December 22, 1989 without approving their appointments, said appointments became functus officio.

No other appointments were thereafter extended to Encarnacion and Dulay. Lucas was however offered the position of Assistant Regional Director by Secretary Drilon and then by Acting Secretary Dionisio de la Serna (by letter dated January 9, 1990 which referred to his appointment as such Assistant Regional Director supposedly "issued by the President on November 8, 1989"). Lucas declined the offer, believing it imported a demotion.

They all pray that their removal be pronounced unconstitutional and void and they be declared Commissioners lawfully in office, or,

alternatively, that they be paid all salaries, benefits and emoluments accruing to them for the unexpired portions of their six-year terms and allowed to enjoy retirement benefits under applicable laws (pursuant to R.A. 910 and the Resolution re Judge Mario Ortiz, G.R. No. 78951, June 28, 1988).

Of the incumbent Commissioners as of the effectivity of R.A. 6715, six (6) were reappointed, namely: (1) Hon. Edna Bonto Perez (as Presiding Commissioner, Second Division [NCB]), (2) Domingo H. Zapanta (Associate Commissioner, Second Division), (3) Lourdes C. Javier (Presiding Commissioner, Third Division [Luzon except NCR]), (4) Ernesto G. Ladrido III (Presiding Commissioner, Fourth Division [Visayas]), (5) Musib M. Buat (Presiding Commissioner, Fifth Division [Mindanao]), and (6) Oscar N. Abella (Associate Commissioner, Fifth Division). Other members appointed to the reorganized Commission were Vicente S.E. Veloso III, Romeo B. Putong, Rustico L. Diokno, Ireneo B. Bernardo, Rogelio I. Rayala, Irenea E. Ceniza, Bernabe S. Batuhan, and Leon G. Gonzaga, Jr. Appointed Chairman was Hon. Bartolome Carale, quondam Dean of the College of Law of the University of the Philippines.

G.R. No. 91730: Conrado Maglaya

Petitioner Conrado Maglaya alleges that he has been "a member of the Philippine Bar for thirty-six (36) years of which 31 years . . (had been) devoted to public service, the last 24 years in the field of labor relations law;" that he was appointed Labor Arbiter on May 30, 1975 and "was retained in such position despite the reorganization under the Freedom Constitution of 1986 (and) later promoted to and appointed by the President as Commissioner of the (NLRC) First Division on October 23, 1986." He complains that he was effectively removed from his position as a result of the designation of the full complement of Commissioners in and to all Five Divisions of the NLRC by Administrative Order No. 161 dated November 18, 1989, issued by Labor Secretary Drilon.

G.R. No. 94518: Rolando D. Gambito

Rolando Gambito passed the bar examinations in 1971, joined the Government service in 1974, serving for sixteen years in the

Department of Health, and as Labor Arbiter in the Department of Labor and Employment from October, 1986. He was not included in the list of newly appointed Labor Arbiters released on March 8, 1990; and his attempt to obtain are consideration of his exclusion therefrom and bring about his reinstatement as Labor Arbiter was unavailing.

The Basic Issue

A number of issues have been raised and ventilated by the petitioners in their separate pleadings. They may all be reduced to one basic question, relating to the constitutionality of the provisions of Republic Act No. 6715 DECLARING VACANT "all positions of the Commissioners, Executive Labor Arbiters and Labor Arbiters of the present National Labor Relations Commission,"[3] according to which the public respondents —

1) considered as effectively separated from the service inter alia, all holders of said positions at the time of the effectivity of said Republic Act No. 6715, including the positions of Executive Director and Deputy Executive Director of the Commission; and

2) consequently, thereafter caused the appointment of other persons to the new positions specified in said statute: of Chairman, Commissioners, Executive Clerk, Deputy Executive Clerk, and Labor Arbiters of the reorganized National Labor Relations Commission. The old positions were declared vacant because, as the statute states, of "the need to professionalize the higher levels of officialdom invested with adjudicatory powers and functions, and to upgrade their qualifications, ranks, and salaries or emoluments."

As everyone knows, security of tenure is a protected right under the Constitution. The right is secured to all employees in private as well as in public employment. "No officer or employee in the civil service," the Constitution declares, "shall be removed or suspended except for cause provided by law."[4] There can scarcely be any doubt that each of the petitioners — commissioner, administrative officer, or labor arbiter — falls within the concept of an "officer or employee in the

civil service" since the civil service "embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters."[5] The Commissioners thus had the right to remain in office until the expiration of the terms for which they had been appointed, unless sooner removed "for cause provided by law." So, too, the Executive Director and Deputy Executive Director, and the Labor Arbiters had the right to retain their positions until the age of compulsory retirement, unless sooner removed "for cause provided by law." None of them could be deemed to be serving at the pleasure of the President.

Now, a recognized cause for removal or termination of employment of a Government officer or employee is the abolition by law of his office as a result of reorganization carried out by reason of economy or to remove redundancy of functions, or clear and explicit constitutional mandate for such termination of employment.[6] Abolition of an office is obviously not the same as the declaration that office is vacant. While it is undoubtedly a prerogative of the legislature to abolish certain offices, it can not be conceded the power to simply pronounce those offices vacant and thereby effectively remove the occupants or holders thereof from the civil service. Such an act would constitute, on its face, an infringement of the constitutional guarantee of security of tenure, and will have to be struck down on that account. It can not be justified by the professed "need to professionalize the higher levels of officialdom invested with adjudicatory powers and functions, and to upgrade their qualifications, ranks, and salaries or emoluments."

The Constitution does not, of course, ordain the abolition of the petitioners' positions or their removal from their offices; and there is no claim that the petitioners' separation from the service is due to a cause other than RA 6715. The inquiry therefore should be whether or not RA 6715 has worked such an abolition of the petitioners' offices, expressly or impliedly. This is the only mode by which, under the circumstances, the petitioners' removal from their positions may be defended and sustained.

It is immediately apparent that there is no express abolition in RA 6715 of the petitioners' positions. So, justification must be sought, if at all, in an implied abolition thereof; i.e., that resulting from an

irreconcilable inconsistency between the nature, duties and functions of the petitioners' offices under the old rules and those corresponding thereto under the new law. An examination of the relevant provisions of RA 6715, with a view to discovering the changes thereby effected on the nature, composition, powers, duties and functions of the Commission and the Commissioners, the Executive Director, the Deputy Executive Director, and the Labor Arbiters under the prior legislation, fails to disclose such essential inconsistencies.

1. Amendments as Regards the NLRC and the Commissioners

First, as regards the National Labor Relations Commissioners.

A. Nature and Composition of the Commission, Generally

1. Prior to its amendment by RA 6715, Article 213 of the Labor Code envisaged the NLRC as being an integral part of the Department of Labor and Employment. "There shall," it said, "be a National Labor Relations Commission in the Department of Labor and Employment.' RA 6715 would appear to have made the Commission somewhat more autonomous. Article 213 now declares that, "There shall be a National Labor Relations Commission which shall be attached to the Department of Labor and Employment for program coordination only."

2. Tripartite representation was to a certain extent restored in the Commission. The same Section 213, as amended, now provides that the Chairman and fourteen (14) members composing the NLRC shall be chosen from the workers', employers' and the public sectors, as follows:

> "Five (5) members each shall be chosen from among the nominees of the workers and employers organizations, respectively. The Chairman and the four (4) remaining members shall come from the public sector, with the latter to be chosen from among the recommendees of the Secretary of Labor and Employment."

However, once they assume office, "the members nominated by the workers and employers organizations shall divest themselves of any affiliation with or interest in the federation or association to which they belong."

B. Allocation of Powers Between NLRC En Banc and its Divisions

Another amendment was made in respect of the allocation of powers and functions between the Commission en banc, on the one hand, and its divisions, on the other. Both under the old and the amended law, the Commission was vested with rule-making and administrative authority, as well as adjudicatory and other powers, functions and duties, and could sit en banc or in divisions of three (3) members each. But whereas under the old law, the cases to be decided en banc and those by a division were determined by rules laid down by the Commission with the approval of the ex officio Chairman (the Secretary of Labor) — said Commission, in other words, then exercised both administrative and adjudicatory powers — the law now, as amended by RA 6715, provides that —

1) the Commission "shall sit en banc only for purposes of promulgating rules and regulations governing the hearing and disposition of cases before any of its divisions and regional branches and formulating policies affecting its administration and operations;" but

2) it "shall exercise its adjudicatory and all other powers, functions and duties through its divisions."

C. Official Stations, and Appellate Jurisdiction over Fixed Territory

Other changes related to the official station of the Commission and its divisions, and the territory over which the divisions could exercise exclusive appellate jurisdiction.

1. Under the old law, the Commission en banc and its divisions had their main office in Metropolitan Manila; and appeals

could be taken to them from decisions of Labor Arbiters regardless of the regional office whence the case originated.

2. Under the law now, the First and Second Divisions have their official station in Metropolitan Manila and "handle cases coming from the National Capital Region;" the Third Division has its main office also in Metropolitan Manila but would have appellate jurisdiction over "cases from other parts of Luzon;" and the Fourth and Fifth Divisions have their main offices in Cebu and Cagayan de Oro City, and exercise jurisdiction over cases "from the Visayas and Mindanao," respectively; and the appellate authority of the divisions is exclusive "within their respective territorial jurisdiction."

D. Qualifications and Tenure of Commissioners

Revisions were also made by RA 6715 with respect to the qualifications and tenure of the National Labor Relations Commissioners.

Prescribed by the old law as qualifications for commissioners — appointed for a term of six (6) years — were that they (a) be members of the Philippine bar, and (b) have at least five years' experience in handling labor-management relations.[7]

RA 6715, on the other hand, requires (a) membership in the bar, (b) engagement in the practice of law for at least 15 years, (c) at least five years' experience or exposure in the field of labor-management relations, and (d) preferably, residence in the region where the commissioner is to hold office. The commissioners appointed shall hold office during good behavior until they reach the age of sixty-five (65) years, unless they are sooner removed for cause as provided by law or become incapacitated to discharge the duties of their office.

2. Amendments Regarding Executive Labor Arbiters and Labor Arbiters

A. Qualifications

The old law provided for one hundred fifty (150) labor arbiters assigned to the different regional offices or branches of the Department of Labor and Employment (including sub-regional branches or provincial extension units), each regional branch being headed by an Executive Labor Arbiter. RA 6715 does not specify any fixed number of labor arbiters, but simply provides that there shall be as many labor arbiters as may be necessary for the effective and efficient operation of the Commission.

The old law declared that Executive Labor Arbiters and Labor Arbiters should be members of the Bar, with at least two (2) years experience in the field of labor management relations. They were appointed by the President upon recommendation of the Chairman, and were "subject to the Civil Service Law, rules and regulations."

On the other hand, RA 6715 requires that the "Executive Labor Arbiters and Labor Arbiters shall likewise be members of the Philippine Bar," but in addition "must have been in the practice of law in the Philippines for at least seven (7) years, with at least three (3) years experience or exposure in the field of labor-management relations." For "purposes of reappointment," however, "incumbent Executive Labor Arbiters and Labor Arbiters who have been engaged in the practice of law for at least five (5) years may be considered as already qualified." They are appointed by the President, on recommendation of the Secretary of Labor and Employment, and are subject to the Civil Service Law, rules and regulations.

B. Exclusive Original Jurisdiction

Before the effectivity of RA 6715, the exclusive original jurisdiction of labor arbiters comprehended the following cases involving all workers, whether agricultural or non-agricultural:

(1) Unfair labor practice cases;

(2) Those that workers may file involving wages, hours of work and other terms and conditions of employment;

(3) All money claims of workers, including those based on non-payment or underpayment of wages, overtime

compensation, separation pay and other benefits provided by law or appropriate agreement, except claims for employees' compensation, social security, medicare and maternity benefits;

(4) Cases involving household services; and

(5) Cases arising from any violation of Article 265 of this Code, including questions involving the legality of strikes and lockouts.

Some changes were introduced by RA 6715, indicated by italics in the enumeration which shortly follows. The exclusive, original jurisdiction of Labor Arbiters now embraces the following cases involving all workers, whether agricultural or non-agricultural:

(1) Unfair labor practice cases;

(2) Termination disputes;

(3) If accompanied with a claim for reinstatement, those cases that workers may file involving wages, rates of pay, hours of work and other terms and conditions of employment;

(4) Claims for actual, moral, exemplary and other forms of damages arising from the employer-employee relations;[8]

(5) Cases arising from any violation of Article 264 of this Code, including questions involving the legality of strikes and lockouts;

(6) Except claims for employees compensation, social security, medicare and maternity benefits, all other claims arising from employer-employee relations, including those of persons in domestic or household service, involving an amount exceeding five thousand pesos (P5,000.00), whether or not accompanied with a claim for reinstatement.

Now, as before, the Labor Arbiters are given thirty (30) calendar days after the submission of the case by the parties to decide the case, without extension, except that the present statute stresses that "even in the absence of stenographic notes," the period to decide is still thirty days, without extension.

Furthermore, RA 6715 provides that "Cases arising from the interpretation or implementation of collective bargaining agreements and those arising from the interpretation or enforcement of company personnel policies shall be disposed of by the Labor Arbiter by referring the same to the grievance machinery and voluntary arbitration as may be provided in said agreements."

3. Amendments as Regards the Executive Director and Deputy Executive Director

Prior to RA 6715, there was, as earlier stated, an Executive Director, assisted by a Deputy Executive Director, who was charged with the "exercise (of) the administrative functions of the Commission."[9] More particularly, his chief functions were "to take charge of all administrative matters of the Commission and to have direct supervision over all units and personnel assigned to perform administrative tasks."[10] Although not so stated in the law, in the performance of their functions, the Executive Director and the Deputy Executive Director were obviously themselves subject to the supervision and control of the head of office, the ex officio Chairman of the National Labor Relations Commission (the Secretary of Labor), or the Commission itself.

Under RA 6715, the Secretary of Labor is no longer ex officio Chairman of the Commission. There has been created the office of Chairman, who "shall have the administrative supervision over the Commission and its regional branches and all its personnel, including the Executive Labor Arbiters and Labor Arbiters." In this function, the law says, he shall be "aided by the Executive Clerk of the Commission."

The Executive Clerk appears to be the officer who used to be known under the old law as the Executive Director. The office of Executive Director is nowhere mentioned in RA 6715. Said Executive Clerk is

given the additional responsibility of assisting the Commission en banc and the First Division, in performing "such similar or equivalent functions and duties as are discharged by the Clerk of Court . . of the Court of Appeals." The positions of Deputy Executive Clerks have also been created whose main role is to assist the other divisions of the Commission (the second, third, fourth and fifth) "in the performance of such similar or equivalent functions and duties as are discharged by the Deputy Clerk(s) of the Court of Appeals."

Summing up —

1. Republic Act No. 6715 did not abolish the NLRC, or change its essential character as a supervisory and adjudicatory body. Under said Act, as under the former law, the NLRC continues to act collegially, whether it performs administrative or rule-making functions or exercises appellate jurisdiction to review decisions and final orders of the Labor Arbiters. The provisions conferring a somewhat greater measure of autonomy; requiring that its membership be drawn from tripartite sectors (workers, employees and the public sector); changing the official stations of the Commission's divisions; and even those prescribing higher or other qualifications for the positions of Commissioner which, if at all, should operate only prospectively, not to mention the fact that the petitioners (in G.R. No. 91547) have asserted without dispute that they possess the new qualifications — none of these can be said to work so essential or radical a revision of the nature, powers and duties of the NLRC as to justify a conclusion that the Act in truth did not merely declare vacant but actually abolished the offices of commissioners and created others in their place.

2. Similar considerations yield the same conclusion as far as the positions of Labor Arbiters are concerned, there being no essential inconsistency on that score between Republic Act No. 6715 and the old law. The Labor Arbiters continue to exercise the same basic power and function: the adjudication, in the first instance, of certain classes of labor disputes. Their original and exclusive jurisdiction remains

substantially the same under both the old law and the new. Again, their incumbents' constitutionally guaranteed security of tenure cannot be defeated by the provision for higher or other qualifications than were prescribed under the old law; said provision can only operate prospectively and as to new appointees to positions regularly vacated; and there is, besides, also no showing that the petitioning Arbiters do not qualify under the new law.

3. The position titles of "Executive Clerk" and "Deputy Executive Clerk(s)" provided for in RA 6715 are obviously not those of newly-created offices, but new appellations or designations given to the existing positions of Executive Director and Deputy Executive Director. There is no essential change from the prescribed and basically administrative duties of these positions and, at the same time, no mention in the Act of the former titles, from which the logical conclusion is that what was intended was merely a change in nomenclature, not an express or implied abolition. Neither does the Act specify the qualifications for Executive Clerk and Deputy Executive Clerks. There is no reason to suppose that these could be higher than those for Executive Director and Deputy Executive Director, or that anything inheres in these positions that would preclude their incumbents from being named Executive Clerk and Deputy Executive Clerks.

WHEREFORE, the petitions are, as they must be, **GRANTED**, and the following specific dispositions are hereby **RENDERED**:

1. In G.R. No. 91547, and G.R. No. 91730, the removal of petitioners Rosario G. Encarnacion, Daniel M. Lucas, Jr., Ceferino E. Dulay, and Conrado Maglaya as Commissioners of the NLRC is ruled unconstitutional and void; however, to avoid displacement of any of the incumbent Commissioners now serving, it not appearing that any of them is unfit or has given cause for removal, and conformably to the alternative prayer of the petitioners themselves, it is ORDERED that said petitioners be paid all salaries, benefits and emoluments accruing to them for the unexpired portions of their six-year

terms and allowed to enjoy retirement benefits under applicable laws, pursuant to RA No. 910 and this Court's Resolution in Ortiz vs. Commission on Elections, G.R. No. 79857, 161 SCRA 812;

This disposition does not involve or apply to respondent Hon. Bartolome Carale, who replaced the Secretary of Labor as ex officio Chairman of the NLRC pursuant to RA 6715, none of the petitioners having been affected or in any manner prejudiced by his appointment and incumbency as such;

2. In G.R. No. 90044, the removal of petitioner Pascual Y. Reyes and petitioner-in-intervention Eugenio L. Sagmit, Jr. as NLRC Executive Director and Deputy Executive Director, respectively, is likewise declared unconstitutional and void, and they are ordered reinstated as Executive Clerk and Deputy Executive Clerk, respectively, unless they opt for retirement, in either case with full back salaries, emoluments and benefits from the date of their removal to that of their reinstatement; and

3. In G.R. Nos. 87211, and 94518, petitioners-intervenors Lourdes A. Sales and Ricardo Olairez and petitioner Rolando D. Gambito, having also been illegally removed as Labor Arbiters, are ordered reinstated to said positions with full back salaries, emoluments and benefits from the dates of their removal up to the time they are reinstated.

No pronouncement as to costs.

SO ORDERED.

Fernan, *C.J.*, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea and Regalado, *JJ.*, concur.
Davide, Jr., *J.*, took no part.

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[1] Emphasis supplied.

[2] Emphasis supplied.
[3] Sec. 35: SEE footnote 1 and related text.
[4] ART. IX, B, Sec. 2(3); and as regards private employment, ART. XII, Sec. 3 inter alia provides that all workers "shall be entitled to security of tenure, humane conditions or work, and a living wage."
[5] ART. IX, B, Sec. 2(1), 1987 Constitution.
[6] Dario vs. Mison, G.R. No. 81954 (and G.R. Nos. 81967, 82023, 83737, 85310, 85335 and 86241), Aug. 8, 1989, citing Ginson vs. Municipality of Murcia, 157 SCRA 1; de la Llana vs. Alba, 112 SCRA 294; Cruz vs. Primicias, 23 SCRA 998; see also Manalang vs. Quitoriano, 96 Phil. 903, 907 holding inter alia that RA 761 had expressly abolished the Placement Bureau and, by necessary implication, the office of Director thereof.
[7] But of those first appointed, three were to hold office for four (4) years and another three, for two (2) years, without prejudice to re-appointment.
[8] Even prior to RA 6715, the grant of jurisdiction to labor arbiters by Article 217 of the Labor Code, as amended, has been held to be sufficiently comprehensive to include claims for moral and exemplary damages resulting from illegal dismissal. Primero vs. IAC, 156 SCRA 435; Sagmit vs. Subido, 133 SCRA 359; Getz vs. CA, 116 SCRA 86; Cardinal Industries vs. Vallejos, 114 SCRA 47; Aguda vs. Vallejos, 113 SCRA 69; Pepsi-Cola Bottling Co. vs. Martinez, 112 SCRA 578.
[9] ART. 213, Labor Code, as amended.
[10] Administrative Order No. 10 of the Secretary of Labor, dated July 14, 1975.