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IN THE SUPERIOR COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

PRUDENCIO MANGLONA, in his)	CIVIL ACTION NO. 91-322
capacity as the Mayor of the)	
Municipality of Rota, and)	
JAMES MENDIOLA, in his)	
capacity as the Mayor of the)	
Municipality of Tinian and)	
Aguigan,)	
)	
Petitioners,)	
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
CNMI CIVIL SERVICE COMMISSION)	
and DEPARTMENT OF FINANCE,)	
CNMI GOVERNMENT,)	
)	
Respondents.)	
)	

The issue presented to the court is a narrow one. All parties agree a dispute and controversy has arisen and it is necessary for the court to interpret the law and declare the rights and responsibilities of the parties. (See Complaint, ¶ 16 and answer thereto) The matter is ripe for Rule 57, Com.R.Civ.Proc. declaratory relief.

THE LAW

Article XX of the Constitution (as amended) and in pertinent part reads:

"The Legislature shall provide for a non-partisan and independent civil service

with the duty to establish and administer personnel policies for the Commonwealth government . . . The commission's authority shall extend to positions other than those filled by election or by appointment of the governor in the departments and agencies of the executive branch and in the administrative staff of the legislative and judicial branches. Exemption from the civil service shall be as provided by law, and the commission shall be the sole authority authorized by law to exempt positions from civil service classifications...."

On January 12, 1991, Public Law 7-17 became law. This amended 1 CMC § 8131(a) by adding a subsection 13 which, for the purposes of resolving this dispute, reads:

"(a) Except as provided in this section, the Civil Service System shall apply to all employees of and positions in the Commonwealth Government now existing or hereafter established. Unless this Act is otherwise specifically made applicable to them, the following persons or positions are exempt from the Civil Service System:

. . .

13. Personnel and staff of the Mayor's Offices of Rota, Tinian, Saipan and the Northern Islands as defined by the FTE ceilings and established by annual appropriation for those offices."

THE DISPUTE

Various employees of the Mayors of Tinian and Rota have not been paid because the Mayors, relying upon Article XX and 1 CMC § 8131(a)13, refuse to submit any personnel papers to the Civil Service Commission. The Civil Service Commission has claimed that it has the ultimate authority to determine which positions on the Mayors' staff are to be exempt. However, at

argument, the Government conceded that Public Law 7-17 is constitutional and the positions within the Mayors¹ offices are indeed exempt. The Civil Service Commission does maintain, however, that for administrative purposes, the contracts of the Mayors¹ employees must be submitted to the Personnel Officer for review.^{1/}

THE RESOLUTION

Article XX, as amended, clearly allows the legislature to provide exemptions from the civil service.^{2/} Article XX also provides that the legislature cannot create any other entity than the Civil Service Commission to exempt employees in government service. Public Law 7-17 is permitted by Article XX and the Civil Service Commission cannot second guess the legislature's mandate. Thus, there is nothing requiring the Mayors' employees to be screened or approved as exempt employees by the Civil Service Commission.^{3/}

^{1/}
As examples of the administrative review, the respondents point to the need for assuring a correct salary level commensurate with the duties assigned to the position, clearance for health insurance, uniform leave policies, etc.

^{2/}
"Exemption from the civil service shall be as provided by law...."

^{3/}
The petitioners advanced a second ground to sustain its position. It is argued the Mayor's office is not within the executive branch (and certainly not in the legislative or judicial branches) and therefore not within the authority and scope of the Civil Service Commission as specified in Article XX. Since the court has resolved the matter in plaintiffs' favor on the first ground, a resolution of this second issue need not be addressed.

This resolves the matter presented to the court within the confines of the pleadings. At argument, other matters were alluded to as potential problems. The court declines to rule on those potential problems because they are not properly before the court and, at this point in time, it is only speculation that the contracts of the employees of the Mayors will not be honored and the employees paid.

Declaratory judgment will issue accordingly.

Dated at Saipan, MP, this 2nd of May, 1991.



Robert A. Hefner, Presiding Judge