

ELEANOR G. GADON, PETITIONER, VS. MUNICIPAL MAYOR OF SAN ANDRES, ROMBLON AND THE CIVIL SERVICE COMMISSION, QUEZON CITY, RESPONDENTS.

Ponente: GONZALES-SISON, M., J.

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GONZALES-SISON, M., J.:

This is a Petition for Review filed by petitioner Eleanor G. Gadon which seeks to reverse and set aside the Civil Service Commission (CSC) Decision No. 12-0717[1] promulgated on 16 October 2012, dismissing her petition for review of the CSC Decision No. 110030[2] dated January 5, 2011, and CSC Resolution No. 1301970 dated 27 August 2013[3], denying her motion for reconsideration and, consequently, affirming the said CSCRO-IV Decision No. 110030.

This petition stemmed from an “Urgent Petition To Nullify the Appointments of Eleanor G. Gadon (Adm. Assistant II, SG-8 [Bookkeeper]); Lynn G. Falible (Adm. Aide VI [Accounting Clerk II] SG-6); John Mark G. Fernandez (Adm. Aide I, SG-1); and Annielyn M. Carandang (Midwife, SG-6)” dated July 12, 2010[4] filed with the Civil Service Commission, Manila, thru the Civil Service Field Office in San Agustin, Romblon by Atty. Geminiano G. Galicia, Jr. (Mayor Galicia), Municipal Mayor of San Andres, Romblon.

Mayor Galicia alleged in the said urgent petition that upon his assumption of office as the local chief executive of San Andres, Romblon, he discovered, verified and confirmed that the appointments of the above-named personnel to their respective positions were illegal, in violation of Sections 325[5] and 327[6] of R.A. 7160, the Local Government Code, and DBM Local Budget Circular No. 75.[7] On January 5, 2011, the Civil Service Commission (Regional Office No. 4) promulgated its Decision, the dispositive portion of which reads as follows:

“WHEREFORE, premises considered, the request for the recall of the appointment of Eleanor G. Gadon as Administrative Assistant II (Bookkeeper) by Mayor Geminiano G. Galicia, Jr., is hereby GRANTED. Accordingly, the appointment of Eleanor G. Gadon as Administrative Assistant II (Bookkeeper) of the Municipal Government of San Andres, Romblon, is hereby RECALLED/INVALIDATED on the ground that the creation of said position is not allowed under Local Government Code and Local Budget Circular No. 75.

However, until the revocation/invalidation of the appointment of Eleanor G. Gadon becomes final and executory, she should be allowed to assume the duties and responsibilities of her position as Administrative Assistant II (Bookkeeper) and receive all the salaries and benefits appurtenant thereto.

Let copies of this Decision be furnished Eleanor G. Gadon, Mayor Geminiano G. Galicia, Jr., the HRMO of Municipal Government of San Andres, and the CSCFO-Romblon, at their known addresses.

Quezon City.”

Aggrieved, Eleanor G. Gadon, in a letter[8] dated January 27, 2011 requesting for reconsideration of the aforesaid Decision, claims as follows:

“Please be it known that my position as Municipal Bookkeeper is existing and vacant since June 1, 2004. It is

stated in your letter that 'it is a basic rule that appointment may only be issued to an existing and vacant position.' As the record shows, my appointment duly complied with the requirements which justified its approval, x x x.

Being and existing position and duly funded, my appointment is clothed with legality, hence, this reconsideration.”

However, on October 14, 2011, the Civil Service Commission (Regional Office No. 4) promulgated its Resolution (No. 11-00164) denying Eleanor G. Gadon's request/motion for reconsideration, for lack of merit.

Unsatisfied, Eleanor G. Gadon, through counsel, filed a Notice of Appeal[9] dated November 23, 2011, which was treated by the Civil Service Commission (Central Office) as Petition for Review of the Decision dated January 5, 2011 and the Resolution dated October 14, 2011 of the Civil Service Commission Regional Office (CSCRO) No. IV, Quezon City.

On March 15, 2012, the CSC-Central Office, through the Office for Legal Affairs (OLA), directed Gadon's legal counsel to submit the appeal memorandum and certified true copies of the decision of CSCRO No. IV and evidence of his client. However, Gadon and her counsel failed to comply with the said directive of the Civil Service Commission-Central Office within the time allowed. Hence, on 16 October 2012, the CSC-Central Office promulgated its Decision[10] dismissing Gadon's petition for review, pursuant to Section 114, Rule 23, Revised Rules on Administrative Cases in the Civil Service (RRACCS).[11]

Undaunted, Gadon, through counsel, moved for the reconsideration of the CSC Decision (No. 12-0717) which was denied by the CSC-Central Office in its Resolution (No. 1301970) dated 27 August 2013.

Hence, the present petition, with the following assignment of errors:

I

THE HONORABLE CIVIL SERVICE COMMISSION – CENTRAL OFFICE – GRAVELY ERRED IN ITS FINDINGS OF FACTS WHEN IT DECLARED THAT THE PETITIONER FAILED TO SUBMIT THE REQUIRED DOCUMENTS/PLEADINGS AND SUBSEQUENTLY DISMISSED THE CASE, WHEN IN TRUTH AND IN FACT, PETITIONER HAD ALREADY SUBMITTED THE SAME DOCUMENTS BEFORE THE SAID OFFICE EXCEPT THOSE WHERE SHE WAS (SIC) NOT EXPRESSLY STATED IN THE LETTER-DIRECTIVE TO SUBMIT THE SAME.

II

THE HONORABLE CIVIL SERVICE COMMISSION – CENTRAL OFFICE – GRAVELY ERRED IN DENYING THE MOTION FOR RECONSIDERATION TO (SIC) THE ORDER OF DISMISSAL WITHOUT ANY JUST, VALID, AND JUSTIFIABLE GROUNDS.

III

THE HONORABLE CIVIL SERVICE COMMISSION – CENTRAL OFFICE – GRAVELY ERRED WHEN IT ORDERED THE DISMISSAL OF THE PETITIONER (SIC) BASED ON TECHNICALITIES INSTEAD OF DECIDING THE CASE ON THE MERITS.

At the heart of the controversy is the issue of whether the dismissal of petitioner's petition for review of the Decision of the Civil Service Commission-Regional Office No. 4 by the Civil Service Commission-Central Office is proper.

At the outset, it bears stressing that the right to appeal is a statutory right and one who seeks to avail of the right must comply with the statute or rules. The rules, particularly the manner for perfecting an appeal is outlined in Section 114, Rule 23 of the Revised Rules on Administrative Cases in Civil Service (CSC Resolution No.

11-01502 dated November 18, 2011), to wit:

“Section 114. Perfection of an Appeal. - To perfect an appeal, the appellant shall submit three (3) copies of the following documents:

- a. Appeal memorandum containing the grounds relied upon for the appeal, together with the certified true copy of the decision, resolution or order appealed from and certified copies of the documents or evidence. The appeal memorandum shall be filed with the appellate authority, copy furnished the appointing authority. The latter shall submit the records of the case, which shall be systematically and chronologically arranged, paged and securely bound to prevent loss, with its comment, within fifteen (15) days from receipt, to the appellate authority.
- b. Proof of service of a copy of the appeal memorandum to the appointing authority;
- c. Proof of payment of the appeal fee; and
- d. A statement or certificate of non-forum shopping.

When an appellant fails to comply with any of the above requirements within the reglementary period, the Commission, shall direct compliance within a period of ten (10) days from receipt thereof, with warning that failure to comply shall be construed as failure to perfect an appeal and shall cause the dismissal of the appeal with prejudice to its refiling.”

x x x

Therefore, an appeal is perfected by filing an appeal memorandum containing the grounds relied upon for the appeal, together with the certified true copy of the decision, resolution or order appealed from and certified copies of the documents or evidence.

In the instant case, petitioner failed to file the required documents for the perfection of her appeal, such as the appeal memorandum, together with the certified true copies of the decision and resolution appealed from and documents or evidence justifying her claim, despite receipt of the letter of compliance^[12] dated March 13, 2012 issued by Ma. Dolores C. Azis, Chief Personnel Specialist, Office for Legal Affairs, Civil Service Commission, directing her to do so.

The CSC Rules, akin to the Rules of Court, promulgated by authority of law, have the force and effect of law; and such CSC rules, particularly the manner of perfecting an appeal, are considered absolutely indispensable to the prevention of needless delays and to the orderly and speedy discharge of judicial business.^[13]

The perfection of an appeal within the reglementary period and in the manner prescribed by law is jurisdictional. Non-compliance therewith is fatal and it renders the judgment final and executory. Non-compliance with the required procedure deprives the appellate court of jurisdiction to alter the final judgment, much less, to entertain the appeal.^[14]

Corollary to the foregoing, the Honorable Supreme Court emphasized this caveat: “we cannot respond with alacrity to every clamor of injustice and bend the rules to placate a vociferous protestor crying and claiming to be a victim of a wrong. It is only in highly meritorious cases that this Court opts not to strictly apply the rules and thus prevent a grave injustice from being done.”^[15] However, this exception does not obtain here.

Thus, we find no compelling reason to reverse and set aside the Decision and Resolution of the Civil Service Commission-Central Office.

WHEREFORE, the petition is DENIED. The decision dated October 16, 2012 and Resolution dated 27 August

2013 of the Civil Service Commission-Central Office are hereby **AFFIRMED**.

SO ORDERED.

Carandang, R.D. (Chairperson), and Sorongon, E.D., JJ., concur.

[1] Rollo, at p. 93.

[2] Id., at pp. 76-80.

[3] Id., at pp. 28-32.

[4] Id., at pp. 56-60.

[5] Section 325. General Limitations. - The use of the provincial, city and municipal funds shall be subject to the following limitations:

a) The total appropriations, whether annual or supplemental, for personal services of a local government unit for one (1) fiscal year shall not exceed forty five (45%) percent in the case of the first to third class provinces, cities, and municipalities, and fifty five (55%) percent in the case of fourth class or lower, of the total annual income from regular sources realized in the next preceding fiscal year ..." (emphasis supplied)

x x x x

[6] Section 327. Review of Appropriation Ordinances of provinces, cities and municipalities. - The Sangguniang Panlalawigan shall review the ordinance authorizing annual or supplemental appropriations of component cities and municipalities in the same manner for the review of other ordinances.

If within ninety (90) days from receipt of copies of such ordinance, the Sangguniang Panlalawigan takes no action thereon, the same shall continue to be in full force and effect. If within the same period the Sangguniang Panlalawigan shall have ascertained that the ordinance authorizing annual or supplemental appropriations has not complied with the requirements set forth in this title, the Sangguniang Panlalawigan shall, within the ninety (90) days period herein above prescribed, declare such ordinance inoperative in its entirety or in part. Items of appropriations contrary to limitations prescribed in this Title or in excess of the amounts prescribed herein shall be disallowed or reduced accordingly.

The Sangguniang Panlalawigan shall within the same period advise the Sangguniang Panglungsod or Sangguniang Bayan concerned through the Local Chief Executive of any action on the ordinance under review. Upon receipt of such advice, the city or municipal treasurer concerned shall not make further disbursements of funds from any of the items of appropriation declared inoperative, disallowed or reduced.

[7] "If the Personal Services (PS) Cost has already exceeded, additional PS Cost like adoption of higher salary schedule, creation/conversion of positions, hiring of casual employees, increases/additional allowances (e.g. RATA) and filling of vacant positions and procreations of personnel shall not be allowed, except for waived activities under Item No. 5.3.3 of the said circular."

[8] Id., at p. 81.

[9] Id., at p. 85.

[10] Id., at p. 93.

[11] "The failure to submit the appeal memorandum, together with the certifies true copies of the documents or

evidence are grounds for the dismissal of an appeal involving non-disciplinary cases.”

[12] See page 87, Rollo.

[13] Arnold Ginete v. Court of Appeals, G.R. No. 127596, September 24, 1998, 296 SCRA 38.

[14] Corporate Inn Hotel v. Lizo, G.R. No. 148279, May 27, 2004, 429 SCRA 573.

[15] Supra.

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