

DIVINA FLORA A. PITPIT, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENT.

Ponente: GARCIA, R. R. J.

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GARCIA, R. R. J.:

Before Us is a Petition for Review[1] under Rule 43 of the 1997 Rules of Civil Procedure assailing the Decision[2] dated November 15, 2013 of respondent Civil Service Commission (CSC) which affirmed the Decision[3] dated December 5, 2012 of the Civil Service Commission - National Capital Region (CSC-NCR) invalidating the appointment of petitioner Divina Flora A. Pitpit; and the Resolution[4] dated March 17, 2014 denying the motion for reconsideration thereof.

THE FACTS

On March 26, 1997, petitioner Divina Flora A. Pitpit was issued a permanent appointment as Presidential Staff Assistant of the Presidential Management Staff, Office of the President, with salary grade 9[5]. At the time of her appointment, petitioner possessed Data Encoder Eligibility[6]. Petitioner remained to hold the position of Presidential Staff Assistant for three (3) years until her resignation in the year 2000.[7] Thereafter, she worked as Secretary III at the Home Guaranty Corporation; and, as Researcher at the Federation of Filipino-Chinese Chamber of Commerce and Industry, Inc. From January 2006 to September 2010, she was employed on a contractual basis as an Administrative Assistant at the Bases Conversion and Development Authority (BCDA).

On September 17, 2010, petitioner with the same Data Encoder Eligibility, was issued a permanent appointment as Secretary II at BCDA with salary grade 9.[8] On October 14, 2010, petitioner's appointment was submitted to the CSC Field Office – Development Bank of the Philippines (CSCFO-DBP) for validation. CSCFO-DBP, however, recommended to the Civil Service Commission – National Capital Region (CSC-NCR) that petitioner's appointment should be invalidated due to lack of eligibility requirement.[9]

In a Decision[10] dated December 5, 2012, the CSC-NCR invalidated petitioner's appointment as Secretary II at the BCDA. It was ratiocinated that while petitioner meets the education, experience and training requirements of the position of Secretary II, she lacks the appropriate eligibility which is Career Service (Subprofessional) First Level Eligibility. Pursuant to CSC Memorandum Circular No. 21, Series of 1999 (Appropriateness of Data Encoder Eligibility), the Data Encoder Eligibility is considered appropriate only for data encoder positions and shall no longer be considered appropriate for clerical and other first level positions requiring a Subprofessional Eligibility. The pertinent portions of the decision of the CSC-NCR are quoted:

Records on hand show that Pitpit was issued a permanent appointment as Secretary II (SG-09) at the Bases Conversion and Development Authority on September 17, 2010. The same was submitted to the CSCFO-DBP on October 14, 2010 which recommended its invalidation to this Office due to lack of the eligibility requirement.

The minimum qualification requirements for appointment to the position of Secretary II (SG-09) vis-a-vis the qualifications of Pitpit in her submitted Personal Data (PDS) accomplished on September 20, 2010 are as follows:

Qualification Standards Qualifications of Pitpit

Education: Completion of two years studies in college Bachelor of Arts in Economics (1986-1989)

Experience : None required –

Training : None required –

Eligibility : Career Service (Subprofessional) First Level Eligibility Data Encoder Eligibility

The above qualifications of Pitpit show that while she meets the education, experience and training requirement, she lacks the appropriate eligibility. This, therefore, does not qualify her for the issuance of a permanent appointment.

Of pertinent application on the matter is Section 2(a), Rule III of MC No. 40, s. 1998 as amended, provides that:

“a. Permanent – issued to a person who meets all the minimum qualification requirements for the position to which he is being appointed, including the appropriate eligibility prescribed, in accordance with the provisions of law, rules and standards promulgated in pursuance thereof.”(underscoring supplied)

The position Secretary II requires Career Service (Subprofessional) First Level eligibility. Pursuant to CSC Memorandum Circular No. 21, s. 1999 (Appropriateness of Data Encoder Eligibility), the Data Encoder Eligibility shall be considered appropriate only for Data Encoder Positions in the career service and shall no longer be considered appropriate for clerical and other first level positions requiring a CS Subprofessional eligibility or its equivalent. Nonetheless, the said eligibility shall continue to be appropriate for various IT positions pursuant to CSC Memorandum No. 6, s. 2010 dated March 26, 2010.

In the instant case, it was established that Pitpit meets the required education, experience and training requirement for the position, however, she lacked the required eligibility.

WHEREFORE, the permanent (reemployment) appointment of Divina Flora A. Pitpit as Secretary II (SG-09) at the Bases Conversion and Development Authority effective September 17, 2010 is hereby INVALIDATED.[11]

On January 11, 2013, petitioner moved for a reconsideration of the decision of the CSC-NCR. The motion was forwarded to public respondent Civil Service Commission pursuant to Rule 16 of the Revised Rules on Administrative Cases in the Civil Service. The motion for reconsideration was treated as a petition for review.[12]

In the assailed Decision[13] dated November 15, 2013, public respondent CSC affirmed the invalidation of petitioner's appointment. The dispositive portion of the assailed decision reads:

WHEREFORE, the petition for review of Divina Flora A. Pitpit, Secretary II (SG 9), Bases Conversion and Development Authority (BCDA), Taguig City, is hereby DISMISSED. Accordingly, the Civil Service Commission-National Capital Region (CSC-NCR) Decision No. AR-10-12096 dated December 5, 2012, invalidating the appointment of Divina Flora A. Pitpit, is AFFIRMED.

Pitpit is considered a de facto officer from September 17, 2010 up to the finality of the invalidation of her appointment as Secretary II. As such, she is entitled to the payment of salaries and benefits during said period.

The CSC-NCR is directed to reflect this Decision in the appointment, service card and other employment documents of Pitpit.[14]

Petitioners' motion for reconsideration[15] thereof was denied in a Resolution[16] dated March 17, 2014.

Hence, the instant petition for review which raised the lone assignment of error[17], to wit:

RESPONDENT CSC COMMITTED GRAVE ERROR WHEN IT INVALIDATED THE APPOINTMENT OF PETITIONER AS SECRETARY II FOR LACK OF ELIGIBILITY .

THE ISSUE

The only issue to be resolved in the instant case is whether or not respondent CSC committed a reversible error in affirming the decision of the CSC-NCR invalidating the appointment of petitioner as Secretary II at the Bases Conversion and Development Authority.

THE RULING

The petition is bereft of merit.

Petitioner essentially argues that she possessess all the qualification requirements for the position of Secretary II. It was incorrect to invalidate her appointment on the basis of the memorandum cricular issued by respondent CSC declaring that the Data Encoder Eligibility is no longer considered appropriate for clerical and other first level positions requiring Subprofessional Eligibility. This amendatory policy was applied retroactively in her case thereby prejudicing her right to use her certificate of eligibility issued way back in 1997 which stated that the same was appropriate for first level positions. She likewise argued that she is entitled to security of tenure.

We are not persuaded.

In *Abella vs. Civil Service Commission*[18], the Supreme Court explained that a permanent appointment in the career service is issued to a person who has met the requirements of the position to which the appointment is made in accordance with the provisions of law, the rules, and the standards promulgated pursuant thereto. It implies the civil service eligibility of the appointee. To make it fully effective, an appointment to a civil service position must comply with all legal requirements. Thus, the law requires the appointment to be submitted to respondent Civil Service Commission which will ascertain, in the main, whether the proposed appointee is qualified to hold the position and whether the rules pertinent to the process of appointment were observed.

Under Presidential Decree No. 807, otherwise known as Civil Service Decree of the Philippines, there are three (3) classes of positions in the career service, as follows: a) the first level which includes clerical, trades, crafts, and custodial service positions which involve non-professional or subprofessional work in a non-supervisory or supervisory capacity requiring less than four years of collegiate studies; b) the second level which includes professional, technical, and scientific positions which involve professional; technical, or scientific work in a non-supervisory or supervisory capacity requiring at least four years of college work up to Division Chief level; and c) the third level which shall cover positions in the Career Executive Service.[19] Entrance to the different levels requires the corresponding civil service eligibility. Specifically, entrance to the first two levels shall be through competitive examinations, while entrance to the third level shall be prescribed by the Career Executive Service Board.[20]

In the case at bench, the questioned appointment of petitioner pertained to that of Secretary II in the Bases Conversion Development Authority, a position which undisputably belongs to the first level of career service positions. As such, a permanent appointment thereto requires the appointee to possess the requisite career service eligibility obtained through a competitive examination administered by respondent CSC. Pertinently, under the Revised Qualification Standards Manual issued by respondent CSC in its Memorandum Circular No. 1, Series of 1997, it is required that an appointee to the said position should possess the following qualifications: a) completion of two (2) years studies in college; b) one (1) year relevant experience; c) four (4) hours of relevant training; and d) Career Service (Subprofessional) First level Eligibility.

Juxtaposed with the foregoing requirements, petitioner's qualifications as stated in her personal data sheet (PDS)[21] flounder to qualify her to the questioned appointment. As correctly pointed out by the administrative

agencies a quo, while petitioner more than satisfied the requirements of the position as to education, training and experience, she lacks the required eligibility. Particularly, petitioner's PDS states that she finished her degree in Bachelor of Arts in Economics; she has more than one (1) year of relevant experience and more than four (4) hours of relevant training. Her eligibility, however, is that of Data Encoder Eligibility (DEE) which is granted to qualified individuals under the Skills Certificate Equivalency Program (SCEP) adopted by respondent CSC and the Technical Skills Development Authority (TESDA) through a memorandum of agreement.[22] It involves the issuance of TESDA Competency Certificates to those who shall successfully demonstrate competence in specific qualifications.[23] Such certificates shall be provided equivalent eligibility by the CSC.[24] The Data Encoder Eligibility nevertheless falls short of the Career Service (Subprofessional) First Level Eligibility as required by the subject position.

The appropriateness of the Data Encoder Eligibility as a qualification for first level positions in the career service has been explained by respondent CSC in its Memorandum Circular No. 21, Series of 1999. It was declared therein, in no uncertain terms, that the Data Encoder Eligibility shall no longer be considered appropriate for clerical and other first level positions requiring a Career Service Subprofessional Eligibility or its equivalent. The same shall be appropriate only to data encoder positions in the career service. We quote Memorandum Circular 21, Series of 1999 in full:

MC. No. 21 s. 1999

MEMORANDUM CIRCULAR

TO: ALL HEADS OF DEPARTMENTS, BUREAUS AND AGENCIES OF THE NATIONAL GOVERNMENT, LOCAL GOVERNMENT UNITS, GOVERNMENT-OWNED AND CONTROLLED CORPORATIONS WITH ORIGINAL CHARTERS AND STATE UNIVERSITIES AND COLLEGES

SUBJECT: Appropriateness of Data Encoder Eligibility

Pursuant to CSC Resolution No. 992260 dated September 30, 1999, the Data Encoder Eligibility (DEE) shall be appropriate only to data encoder positions in the career service. The DEE shall no longer be considered appropriate for clerical and other first level positions requiring a Career Service Subprofessional eligibility or its equivalent. [Emphasis supplied]

Those who have been appointed as permanent to clerk and other first level position using the DEE shall retain their permanent status. However, they shall no longer be promoted to a higher first level position using the said eligibility, except to a higher position in the Data Encoder group.

This Memorandum Circular takes effect immediately.

[Sgd] CORAZON ALMA G. DE LEON
Chairman

From the foregoing, it is clear that the Data Encoder Eligibility that petitioner possessed is no longer sufficient for first level positions such as that of Secretary II of the BCDA. While the same is still considered an appropriate eligibility for certain positions in the career service, the position in question is not among those enumerated in respondent's Memorandum Circular No. 6, Series of 2010, appointment for which DEE shall continue to be appropriate. Memorandum Circular No. 6, Series of 2010 reads:

MC No. 6, s. 2010

MEMORANDUM CIRCULAR

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SUBJECT : Amendment to MC No. 3, s. 2008 (Grant of Eligibility; Revised Schedule of Skills Tests and

Civil Service Eligibilities; Skills Certificate Equivalency Program)

In CSC Resolution No. 100319 dated February 24, 2010, the Commission has adopted the amendment to CSC Memorandum Circular No. 3, s. 2008 as follows:

1. The Data Encoder eligibility shall continue to be appropriate eligibility for the following IT positions:

Computer Operator
Computer Operator I
Computer Operator II
Computer Operator III
Computer Operator IV
Data Encoder
Data Encoder I
Data Encoder II
Data Encoder III
Data Encoder IV
SeniorData Encoder
Data Encoder - Controller
Supervising Data Encoder – Controller
Data Controller
Data Controller I
Data Controller II
Data Controller III
Data Controller IV
Supervising Data Controller
Senior Computer Operator
Senior Computer Operator I
Senior Computer Operator II
Senior Computer Operator III
Data Entry Machine Operator I
Data Entry Machine Operator II
Data Entry Machine Operator III
Data Entry Machine Operator I
Data Entry Machine Operator II
Data Entry Machine Operator III
Data Entry Machine Operator IV
Accounting Machine Operator I
Accounting Machine Operator II
Accounting Machine Operator III
Auxiliary Machine Operator I
Auxiliary Machine Operator II
Auxiliary Machine Operator III
Auxiliary Machine Operator IV

xxx

In view of the foregoing memorandum circulars, there can be no reversible error on the part of respondent CSC in affirming the invalidation of petitioner's permanent appointment. As previously emphasized, a permanent appointment in the career service is issued to a person who has met the requirements of the position to which the appointment is made in accordance with the provisions of law, the rules, and the standards promulgated pursuant thereto. Indubitably, petitioner lacked the required eligibility to qualify her for the position of Secretary II.

Petitioner's argument that Memorandum Circular No. 21, Series of 1999 was wrongfully retroactively applied to her case and that the same prejudiced her security of tenure is misplaced. The prospective nature of the said memorandum circular is evident on its face. Notably, the second paragraph thereof categorically provides that those who have been appointed as permanent to clerk and other first level positions using Data Encoder Eligibility shall retain their permanent status. This provision implies that the memorandum circular protects the rights of incumbents as long as they remain in the positions to which they were previously appointed.[25] They are allowed to retain their positions in a permanent capacity notwithstanding the lack of Subprofessional Eligibility. In the case of petitioner who was previously appointed as Presidential Staff Assistant in the Office of the President using the Data Encoder Eligibility, she should have remained eligible to hold the same position by virtue of the second paragraph of Memorandum Circular No. 21 had she not resigned therefrom. She could have had security of tenure thereto notwithstanding the lack of appropriate eligibility. Petitioner, however, resigned from the said position. Consequently, she cannot properly claim for security of tenure when she held no more tenure prior to her appointment to the position of Secretary II. Now that petitioner has applied anew for another First Level position, it is incumbent upon her to satisfy the eligibility requirement at the time of application, that is, she should possess Subprofessional Eligibility at the time of her appointment.

Given the foregoing, respondent CSC, which is the agency tasked to ascertain whether a proposed appointee is qualified to hold a certain position, acted accordingly to its bounden duty when it declared that the appointment of petitioner who lacked the requisite eligibility to the position of Secretary II of the BCDA should be invalidated.

At this juncture, it is well to stress that the Constitution mandates that, as the central personnel agency of the government, respondent CSC should establish a career service and adopt measures to promote the morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the Civil Service.[26] It further requires that appointments in the civil service be made only through merit and fitness to be determined by competitive examination.[27] In invalidating petitioner's appointment to the position of Secretary II in the BCDA on the ground of lack of the requisite eligibility, respondent CSC has indubitably remained true to its mandate under the Constitution.

In fine, We find no compelling reason to depart from the assailed ruling of respondent Civil Service Commission.

WHEREFORE, premises considered, the instant Petition for Review is hereby DENIED. The Decision dated November 15, 2013 of respondent Civil Service Commission is AFFIRMED.

SO ORDERED.

Dimagiba, L. R., and [*]Manahan, C. S., JJ., concur.

[*] Acting Junior member per Office Order No. 56-15-ABR dated February 23, 2015.

[1] Rollo, pp. 3-11.

[2] Rollo, pp. 12-15.

[3] Rollo, pp. 34-35.

[4] Rollo, pp. 16-18.

[5] KSS Porma Blg. 33, Rollo, p. 24.

[6] Certificate of Eligibility, Rollo, p. 37.

[7] Petitioner's Personal Data Sheet, Rollo, p. 40; and Motion for Reconsideration of respondent's Decision dated November 15, 2013, Rollo, p. 20.

[8] Rollo, p. 36.

[9] Rollo, p. 34.

[10] Supra, at Note 3.

[11] Rollo, pp. 34-35.

[12] Decision dated November 15, 2013 of respondent CSC, Rollo, p. 13.

[13] Supra, at Note 2.

[14] Rollo, p. 15.

[15] Rollo, pp. 19-22.

[16] Supra, at Note 4.

[17] Rollo, p. 6.

[18] G.R. No. 152574, November 17, 2004.

[19] Home Insurance and Guaranty Corporation (HIGC) vs. Civil Service Commission, G.R. No. 95450. March 19, 1993.

[20] Ibid.

[21] Rollo, pp. 40-41.

[22] Resolution No. 072244 dated December 4, 2007 of respondent CSC.

[23] Technical Education and Skills Development Authority, Skills Certificate Equivalency Program (SCEP), <http://www.tesda.gov.ph/About/TESDA/112>, February 25, 2015.

[24] Ibid.

[25] Abella, vs. Civil Service Commission, G.R. No. 152574, November 17, 2004.

[26] Section 3, Article IX-B of the Constitution which reads:

Section 3. The Civil Service Commission, as the central personnel agency of the Government, shall establish a career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service. It shall strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability. It shall submit to the President and the Congress an annual report on its personnel programs.

[27] Abella vs. Civil Service Commission, G.R. No. 152574, November 17, 2004, citing Section 2, paragraph 2, Article IX-B of the Constitution; Section 5, PD 807; and Section 7, Title I, Book V, EO 292.

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