

## **PEDRO LUDOVICE, PETITIONER AND APPELLANT, VS. MARCOS T. CAUGMA, THE HON. COMMISSIONER OF THE BUDGET AND THE HON. COMMISSIONER OF CIVIL SERVICE, RESPONDENTS AND APPELLANTS.**

*G. R. No. L-22959. December 29, 1965*

Ponente: CONCEPCION, J.

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### **CONCEPCION, J.:**

Appeal taken by petitioner Pedro Ludovice from a decision of the Court of First Instance of Manila dismissing this case.

The relevant facts have been stipulated by the parties. Said petitioner and respondent Marcos T. Caugma are lawyers. On April 1, 1962 both held the position of Senior Legislative Analyst in the Budget Commission, to which position they had been appointed on July 1, 1961. As the office of Assistant Chief Legislative Analyst became vacant on August 16, 1961, owing to the promotion of its then incumbent, Jose R. Lim, respondent Caugma applied for promotion to said position, and the head of the division to which it belonged, recommended him for appointment thereto. Thereupon, Ludovice informed the Budget Commissioner that he (Ludovice) claimed to have better right to said promotion. Accordingly, the Budget Commissioner created a committee to study the matter and make its recommendation thereon. On March 7, 1962, the committee submitted its report stating:

"\* \* \* that both Messrs. Ludovice and Caugma are of the same rank, both are competent and qualified to hold the position involved, and both possess appropriate civil service eligibility. However, although the law does not specifically provide that the person who is more competent should be promoted, the Committee agreed that competence should be given priority consideration and weight in selecting the one to be promoted. The Committee took note of the fact that the Chief of the Legislative Staff, who is in a better position to judge the competence of the respective candidates to the position, had finally decided to recommend Mr. Caugma to the Position instead of Mr. Ludovice, and that Mr. Caugma has a higher efficiency rating than Mr. Ludovice especially as to the item 'quantity of work' and 'quality of work' which clearly shows the former is more competent than the latter."

This view of the committee was concurred in by the Acting Deputy Commissioner of the Budget. Thereafter, the Budget Commissioner issued in favor of Caugma the corresponding appointment, effective on April 1, 1962, which was approved, despite Ludovice's objections thereto, first, by the Executive Secretary, and then by the Acting Commissioner of Civil Service. On November 28, 1962, Ludovice instituted the present action to oust Caugma and compel the Commissioner of the Budget and the Commissioner of Civil Service to issue and approve, respectively, the corresponding promotional appointment in his (Ludovice's) favor.

The issue in this case is who, as between Ludovice and Caugma, has a better right to be appointed Assistant Chief Legislative Analyst of the Budget Commission. Petitioner maintains that he is entitled thereto because he is the

first in the list of Senior Legislative Analysts of said office and, accordingly, its ranking senior legislative analyst. The aforementioned committee found, however, that Ludovice and Caugma have the same rank, aside from the fact that both are competent and efficient, as well as possess the appropriate civil service eligibility. In fact, they were appointed as Senior Legislative Analysts on the same date (July 1, 1961). Moreover, Caugma has, in his favor, the following circumstances, namely: (1) he was in the Budget Commission since September 1, 1947, or over ten (10) years ahead of Ludovice, who joined said office on January 2, 1957; (2) Ludovice is a lawyer, whereas Caugma is, in addition thereto, a commerce graduate; (3) Ludovice's efficiency rating is 73.5% as against 81.5% of Caugma.

In the light of the foregoing, we agree with the lower court that petitioner, has no cause of action against respondents herein, and the decision appealed from is accordingly, affirmed, with costs against petitioner-appellant, Pedro Ludovice. It is so ordered.

Bengzon, C. J., Reyes, J. B. L., Dizon, Regala, Bengzon, J. P. and Zaldivar, JJ., concur.

Judgment affirmed.

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