AMELITA S. NAVARRO, PETITIONER, VS. ANTONIO L. SANTOS, RESPONDENT.

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GALAPATE-LAGUILLES, J:

Before this Court is a Petition for Review[1] under Rule 43 of the Rules of Court seeking the reversal and setting aside of the Decision[2] dated 5 December 2011 of the Civil Service Commission (CSC) Central Office, the dispositive portion of which reads:

> WHEREFORE, the petition for review of Mayor Amelita S. Navarro is hereby DISMISSED. The Civil Service Regional Office (CSCRO) No. II, Tuguegarao City, Cagayan, Decision No. CSC-RO2-NONDISC-DFR-08-02 dated February 14, 2008 and Resolution No. CSCRO-LSDDMR-11-00076 dated June 7, 2011 are AFFIRMED. The Memorandum No. 2006-12-073 dated December 12, 2006 issued by Mayor Navarro, dropping Antonio L. Santos from the rolls is NOT IN ORDER. Accordingly, Mayor Amelita S. Navarro is directed to immediately effectuate reinstatement of Santos to his position as City Government Department Head (HRMO), Santiago City, and the payment of his back salaries and other benefits including RATA.

Likewise assailed in the instant Petition is the Resolution[3] dated 10 April 2012 denying petitioner Amelita S. Navarro's Motion for Reconsideration.

The following are the facts:

On 29 November 2001, then City Mayor Jose C. Miranda of Santiago City appointed respondent Antonio L. Santos (hereinafter respondent) as City Government Department Head I (HRMO) on a permanent capacity.[4] Relative to the said appointment, the City Council of Santiago City issued Resolution No. 4THCC-42[5] on even date confirming the appointments of several heads of offices. In the “whereas clause” of the said Resolution, the appointment of respondent was referred to as permanent; however, in the dispositive portion thereof, his appointment was denominated as “Co-Terminus (sic) Permanent.”[6]

On 7 December 2001, the Civil Service Commission Field Office (CSCFO) of Isabela initially disapproved the appointment conferred on respondent as City Government Department Head I (HRMO) for lack of concurrence/confirmation by the members of the Sangguniang Panlungsod of Santiago City.[7]

On 14 March 2002, the disapproval was reconsidered and the appointment was approved by the CSCFO of Isabela as permanent.[8]

On 12 December 2006, petitioner Amelita S. Navarro (hereinafter petitioner), as City Mayor of Santiago City issued Memorandum No. 2006-12-073[9] dropping Santos from the rolls of employees on the ground of the expiration of his term of office as a co-terminous employee.

Aggrieved, Santos went to the CSC Regional Office II (CSCRO II), Tuguegarao City, Cagayan, assailing the foregoing Memorandum issued by Navarro.

On 14 February 2008, the CSCRO II rendered a Decision[10] declaring Memorandum No. 2006-12-073 as null and void, the dispositive portion of which reads:

> WHEREFORE, premises considered, it is hereby ruled:
>
> - That Memorandum No. 2006-12-073 dated December 12, 2006 of City Mayor Amelita S. Navarro is NULL AND VOID;
>
> - The dropping from the roles of Appellant Antonio L. Santos is INVALID;
>
> - Antonio L. Santos is Ordered to be REINSTATED to his position and the payment of his back salaries and other benefits including RATA should be immediately effected.
>
> SO DECIDED.

Consequently, petitioner moved for reconsideration of the aforesaid Decision which, however, was denied by the CSCRO II in a Resolution[11] dated 7 June 2011.

Still undaunted, petitioner sought review before the CSC Central Office. Unfortunately, in the assailed Decision dated 5 December 2011, the CSC Central Office affirmed the Decision dated 14 February 2008 and the Resolution dated 7 June 2011 of the CSCRO II. Petitioner then filed her Motion for Reconsideration, to which the CSC Central Office denied in the challenged Resolution dated 7 June 2011.

Hence, the present recourse by petitioner contending that the CSC Central Office committed reversible error when:

> - It upheld the decision of the Civil Service Regional Office No. 2 (CSCRO 2 for brevity), in effect ruling that Memorandum No. 2006-12-073 is null and void;
>
> - It ordered the reinstatement of Antonio L. Santos with payment of back salaries and other benefits including the latter's RATA; and

It declared that the dropping from the rolls of Antonio L. Santos is invalid.[12]

The petitioner essentially argues that the appointment of respondent as City Government Department Head I (HRMO) was merely on a co-terminous capacity.

The instant Petition lacks merit.

In Lazo v. Civil Service Commission,[13] the Supreme Court held that “under the Constitution, the Civil Service Commission is the central personnel agency of the government charged with the duty of determining questions of qualifications of merit and fitness of those appointed to the civil service.”

The powers and functions of the Civil Service Commission are defined in Section 9 (h) of the Civil Service Law, thus:

> “SECTION. 9. Powers and Functions of the Commission. – The Commission shall administer the Civil Service and shall have the following powers and functions:
>
> x x x
>
> (h) Approve all appointments, whether original or promotional, to positions in the civil service, except those of presidential appointees, members of the Armed Forces of the Philippines, police forces, firemen, and jailguards, and disapprove those where the appointees do not possess the appropriate eligibility or required qualifications. An appointment shall take effect immediately upon issue by the appointing authority if the appointee assumes his duties immediately and shall remain effective until it is disapproved by the Commission, if this should take place, without prejudice to the liability of the appointing authority for appointments issued in violation of existing laws or rules: Provided, finally, That the Commission shall keep a record of

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> appointments of all officers and employees in the civil service. All appointments requiring the approval of the Commission as herein provided, shall be submitted to it by the appointing authority within thirty days from issuance, otherwise, the appointment becomes ineffective thirty days thereafter;
>
> x x x."

While the appointing authority has the discretion to choose whom to appoint, the choice is subject to the caveat that the appointee possesses the required qualifications.[14]

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 the CSC, 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.[15]

The appointing officer and the CSC acting together, though not concurrently but consecutively, make an appointment complete. In acting on the appointment, the CSC determines whether the appointee possesses the appropriate civil service eligibility or the required qualifications. If the appointee is qualified, the appointment must be approved; if not, it should be disapproved.[16]

In the instant case, the appointment extended to Santos by then Santiago City Mayor Miranda was on a permanent capacity. However, in the "whereas clause" of Resolution No. 4THCC-42 passed by the City Council of Santiago confirming the appointment of Santos, his appointment was referred to as permanent, but in the dispositive portion thereof, the appointment of Santos was denominated as "Co-Terminus (sic) Permanent." The permanent[17] appointment was initially disapproved by the CSCFO of Isabela for lack of concurrence/confirmation by the members of the Sangguniang Panlungsod of Santiago City. However, upon reconsideration, the appointment of Santos was approved by CSCFO of Isabela as permanent. Verily, by approving the permanent appointment of Santos as City Government Department Head 1 (HRMO) of Santiago City, the CSCFO of Isabela found Santos to have possessed all the requirements for the said position, including the appropriate eligibility prescribed in accordance with the provisions of law, rules and standards promulgated in pursuance thereof.[18] Noteworthy is the fact that both the CSCRO II and the CSC Central Office upheld findings of the CSCFO of Isabela that respondent was conferred a permanent appointment.

Navarro's vaunted claim that the City Council of Santiago City only confirmed the appointment of Santos as co-terminous rings hollow. We note the observation of the CSCRO II that there is no evidence at all indicating that the position of City Government Department Head I (HRMO) has been declared as primarily confidential. This assumes greater significance given the fact that positions in the Civil Service are presumed to be career positions. Petitioner never even attempted to assert nor present any evidence that the said position has been classified as primarily confidential. There is no quibble at all then that respondent was appointed permanently to a career position. Also, the appointment enjoys the presumption of regularity and is, thus, considered valid.

What further militates against the assertion of Navarro that the position of City Government Department Head I (HRMO) is a primarily confidential position is the fact that the power to declare a position as primarily confidential is vested with the Civil Service Commission pursuant to Section (9), Book V of Executive Order 292 which provides that:

> Section 12. Powers and Functions. - The Commission shall have the following powers and functions:
>
> x x x
>
> (9) Declare positions in the Civil Service as may properly be primarily confidential, highly technical or policy determining;

x x x

Ergo, local government units do not have the power to declare motu proprio positions as primarily confidential.

Moreover, if petitioner, then as Mayor of Santiago City, deemed that the appointment of respondent was erroneously extended, she should have filed the necessary action before the CSC for the recall of respondent's permanent appointment pursuant to Section 71 of Rule V (B) of the Uniform Rules on Administrative Cases in the Civil Service, as amended, which provides:

> Section 71. Complaint or Appeal to the Commission.–Other personnel actions, such as but not limited, to separation from the service due to unsatisfactory conduct or want of capacity during the probationary period, dropping from the rolls due to Absence Without Official Leave (AWOL), physically and mentally unfit and unsatisfactory or poor performance, action on appointments (disapproval, invalidation, recall and revocation), reassignment, transfer, detail, secondment, demotion, or termination from the services, may be brought to the Commission, by way of an appeal.

In this connection, expiration of term of office is not among those grounds enumerated in Section 2, Rule XII of the Revised Omnibus Rules on Appointments and Other Personnel Actions, as amended, whereby an employee in the civil service may be dropped from the rolls of employees, viz:

> Sec. 2. Dropping from the Rolls. Officers and employees who are either habitually absent or have unsatisfactory or poor performance or have shown to be physically and mentally unfit to perform their duties may be dropped from the rolls x x x

Indubitably, the ground relied upon by petitioner in dropping the respondent from the rolls of employees, i.e., purported expiration of term of office, is without any legal basis to stand on.

From the foregoing disquisitions, We find petitioner to have exceeded her authority in issuing Memorandum No. 2006-12-073 to respondent as it is not in accordance with law. For one, it is not grounded on just or valid cause. Section 2(3), Article IX-B of the 1987 Constitution mandatorily dictates that, “No officer or employee of the civil service shall be removed or suspended except for cause provided by law.” Article IX, Section 36 of P.D. No. 807 (Civil Service Decree of the Philippines) likewise provides that, No officer or employee in the Civil Service shall be suspended or dismissed except for cause as provided by law and after due process.

On a final note. Jurisprudence establishes that the Court is not bound by the classification of positions in the civil service made by the legislative or executive branches, or even by a constitutional body like the CSC.[19] The Court is expected to make its own determination as to the nature of a particular position, such as whether it is a primarily confidential position or not, without being bound by prior classifications made by other bodies.[20] The findings of the other branches of government are merely considered initial and not conclusive to the Court.[21] Here, We find no cogent reason to veer away from the conclusion of the CSC Central Office that respondent was permanently appointed to a career position.

WHEREFORE, premises considered, the instant Petition is hereby DISMISSED.

SO ORDERED.

Punzalan Castillo, M.P., (Chairperson) and [*]Peralta, JR., E. B., JJ., concur.

[*] Vice Justice Amy C. Lazaro-Javier per Office Order No. 150-14-RSF dated April 21, 2014

[1] Rollo, pp. 35-47.

[2] Id., pp. 71-75, Annex “F” to the Petition.

[3] Id., pp. 76-78, Annex “G” to the Petition.

[4] Id., p. 71.

[5] Id., pp. 57-58, Annex “B” to the Petition.

[6] Id.

[7] Id., p. 62.

[8] Id.

[9] Id., p. 59, Annex “C” to the Petition.

[10] Id., pp. 60-68, Annex “D” to the Petition.

[11] Id., pp. 69-79, Annex “E” to the Petition.

[12] Id., p. 41.

[13] G.R. No. 108824, September 14, 1994.

[14] Civil Service Commission v. Tinaya, G.R. No. 154898, February 16, 2005, citing Francisco Abella, Jr. vs. Civil Service Commission, G.R. No. 152574, November 17, 2004; Umoso vs. Civil Service Commission, 234 SCRA 617, 623 (1994); Español vs. Civil Service Commission, 206 SCRA 715, 721 (1992).

[15] Civil Service Commission v. Tinaya, supra, citing Francisco Abella, Jr. vs. Civil Service Commission, supra; Tomali vs. Civil Service Commission, 238 SCRA 572, 576 (1994).

[16] Civil Service Commission v. Tinaya, supra, citing Cortez vs. Civil Service Commission, 195 SCRA 216, 222 (1991).

[17] Under Executive Order No. 292, or the Administrative Code of 1987, civil service positions are currently classified into either 1) career service and 2) non-career service positions.

Career positions are characterized by: (1) entrance based on merit and fitness to be determined as far as practicable by competitive examinations, or based on highly technical qualifications; (2) opportunity for advancement to higher career positions; and (3) security of tenure.

In addition, the Administrative Code, under its Book V, sub-classifies career positions according to "appointment status," divided into: 1) permanent - which is issued to a person who meets all the requirements for the positions 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; and 2) temporary - which is issued, in the absence of appropriate eligibles and when it becomes necessary in the public interest to fill a vacancy, to a person who meets all the requirements for the position to which he is being appointed except the appropriate civil service eligibility; provided, that such temporary appointment shall not exceed twelve months, and the appointee may be replaced sooner if a qualified civil service eligible becomes available.

Positions that do not fall under the career service are considered non-career positions, which are characterized by: (1) entrance on bases other than those of the usual tests of merit and fitness utilized for the career service; and (2) tenure which is limited to a period specified by law, or which is co-terminous with that of the appointing authority or subject to his pleasure, or which is limited to the duration of a particular project for which purpose employment was made.

[18] Cf. Home Insurance and Guaranty Corporation v. Civil Service Commission, G.R. No. 95450, March 19,

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1993.

[19] Civil Service Commission v. Javier, G.R. No. 173264, February 22, 2008, citing Civil Service Commission v. Salas, G.R. No. 123708, June 19, 1997, 274 SCRA 414; Griño v. Civil Service Commission, G.R. No. 91602, February 26, 1991, 194 SCRA 458.

[20] Civil Service Commission v. Javier, supra, citing Piñero v. Hechanova, 124 Phil. 1022, 1026 (1966).

[21] Civil Service Commission v. Javier, supra, citing Laurel V v. Civil Service Commission, G.R. No. 71562, October 28, 1991, 203 SCRA 195.

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