

DR. MARIQUITA J. MANTALA, PETITIONER, VS. HON. IGNACIO L. SALVADOR, JUDGE, REGIONAL TRIAL COURT OF QUEZON CITY, AND DR. JULIA P. REGINO.

G.R. No. 101646. February 13, 1992

Ponente: NARVASA, C.J.

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NARVASA, C.J.:

At issue in this certiorari proceeding is (a) the validity of the assumption of jurisdiction by the Regional Trial Court over the matter of who is entitled, under the law and rules governing the civil service, to a contested position in the Department of Health, as well as (b) the correctness of said Court's decision on the question.

It appears that sometime in July, 1988, Dr. Mariquita J. Mantala, a private medical practitioner, was given by the Secretary of Health a temporary appointment to the then vacant position of Division Chief, Medical Division III, Monitoring and Evaluation Division of the TB Control Service, Office of Public Health, of the Department of Health.

That temporary appointment was shortly made subject of a formal protest filed by Dr. Julia P. Regino with the Committee on Evaluation and Protest of the Department of Health. Dr. Regino claimed that it was she to whom the appointment should have been extended since the post of Medical Officer III then held by her was next-in-rank to the office in question, and moreover she had been in the service for thirty-five years. However, the Committee on Evaluation and Protest ruled adversely to her and upheld the Health Secretary's appointment of Dr. Mantala as Division Chief.

Dr. Regino appealed to the Merit Systems Board of the Civil Service Commission. On December 14, 1989, the Board rendered a verdict adversely to Dr. Mantala and in Dr. Regino's favor. This decision the Department of Health appealed to the Civil Service Commission.

Some three weeks later, or more precisely on January 8, 1990, Secretary Bengzon made Dr. Mantala's appointment as Division Chief permanent. He also filed, under date of January 23, 1989, a motion for reconsideration of the aforementioned decision of the Merit Systems Board which was, however, denied, on February 12, 1990.

Secretary Bengzon thereupon took the case up to the Civil Service Commission. In its Resolution dated June 14, 1990 (No. 90--553), the Commission dismissed the appeal and affirmed the decision of the Merit Systems Board in Dr. Regino's favor.

On a motion for reconsideration, however, the Commission, by its Resolution No. 90-1012 dated November 14, 1990, set aside the resolution of dismissal and upheld Dr. Mantala's appointment. It declared "that insofar as overall rating of the qualification, attitude and performance (was concerned), Dr. Mantala outscored Dr. Regino," and that the appointing authority is not limited to promotion in filling up vacancies but may opt to fill them by the appointment of persons with civil service eligibility appropriate to the position. Dr. Regino filed a motion for

reconsideration stressing her status as "a qualified next-in-rank" officer. This was denied, the Commission declaring that it would "not delve into who is more qualified or who possesses more impressive qualifications" in deference to the discretion lodged by law in the appointing authority.

No appeal was taken from said Resolution No. 90-1012. It consequently became final and executory.

In the meantime, or more precisely on March 12, 1990, Dr. Regino instituted an action of quo warranto and mandamus in the Regional Trial Court at Quezon City against Dr. Mantala, Secretary Bengzon and other officials of the Department of Health, claiming that having an established right to the position of Division Chief in question, she should be installed therein (Civil Case No. Q-90-5486). This resulted in a judgment dated August 30, 1991 which -

- 1) annulled and set aside Dr. Mantala's appointment as Chief of Medical Division III in the Tuberculosis Control Service, Office for Public Health Services, Department of Health;
- 2) directed the Secretary of Health to withdraw Dr. Mantala's appointment and "issue in its place one for ** Dr. Julia P. Regino and, without delay, to forward the latter's promotional appointment to the Civil Service Commission for approval pursuant to law;" and
- 3) declared Dr. Mantala not entitled to said office and ousting her therefrom **."

Hence this petition for review on certiorari in which it is prayed that the Regional Trial Court's decision be reversed.

The petition has merit and will be granted. The decision of August 30, 1991 is fatally flawed. It was rendered without jurisdiction, and it runs afoul of established doctrine.

Disciplinary cases, and cases involving "personnel actions" affecting employees in the civil service -- including "appointment through certification, promotion, transfer, reinstatement, re-employment, detail, reassignment, demotion and separation," and, of course, employment status and qualification standards -- are within the exclusive jurisdiction of the Civil Service Commission. The Constitution declares the Commission to be "the central personnel agency of the Government,"[1] having power and authority to administer the civil service;[2] to promulgate its own rules concerning pleadings and practice before it or before any of its offices;[3] and to render decision in "any case or matter brought before it within sixty days from the date of its submission for decision or resolution," which decision, or order or ruling "may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof." [4]

On October 9, 1989, pursuant to the constitutional authority on it conferred, the Civil Service Commission, in its Resolution No. 89-779, approved, adopted and promulgated its "Rules on Administrative Disciplinary Cases and Rules on Protest Cases." Part B of said Rules, entitled "B. Rules on Protest Cases," inter alia sets out with particularity the Commission's jurisdiction broadly set forth in the Constitution, to wit:

"Section 3. Final Appellate Jurisdiction.--The Civil Service Commission shall exercise final and exclusive appellate jurisdiction over all cases decided by the Merit Systems Protection Board and the Civil Service Regional Offices involving contested appointments or promotions."

and prescribes the procedure (Rule IV) governing protest cases. Said protest cases are described as follows:[5]

- "(a) An appointment made in favor of another next-in-rank employee who is not qualified;
- (b) An appointment made in favor of one who is not next-in-rank;
- (c) An appointment made in favor of one who is appointed by transfer and not next-in-rank, or by

reinstatement or by original appointment, if the employee making the protest is not satisfied with the written special reason or reasons given by the appointing authority for such appointment."

These protest cases are decided in the first instance by the head of Department or agency, subject to appeal to the Merit Systems Protection Board, whose decisions are in turn subject to appeal to the Civil Service Commission. The latter's decision may, in turn, be brought to the Supreme Court.

It was thus error, because beyond its competence, for the respondent Trial Court to take cognizance of the quo warranto and mandamus action instituted by Dr. Regino which was in essence a protest against the appointment of Dr. Mantala. Moreover, this protest, as already stated, had earlier been submitted by Regino herself to the civil service adjudicatory system laid down for the purpose in accordance with the Constitution, the law, and the Commission's rules. Dr. Regino appealed to the Merit Systems Protection Board from the decision of the Secretary of Health rejecting her protest and upholding the appointment of Dr. Mantala. She ventilated her position in the appellate proceedings instituted by Dr. Mantala in the Civil Service Commission, in connection with the latter's attempt to overthrow the adverse judgment of the Board. When the Commission, in its Resolution of November 14, 1990, eventually sustained Dr. Mantala's appeal, Dr. Regino filed a motion for reconsideration. It was only after that Resolution of November 14, 1990, in Dr. Mantala's favor, became final and executory by reason of Dr. Regino's failure to take an appeal therefrom -- and evidently to remedy this fatal procedural lapse -- that the latter thought of filing her quo warranto and mandamus action in the Regional Trial Court. Such a stratagem cannot be allowed to succeed.

Even on the merits, Dr. Regino's cause fails. For one thing, the Commissions' conclusion -- "that insofar as overall rating of the qualification, attitude and performance (was concerned), Dr. Mantala outscored Dr. Regino" -- is basically a factual one and may not be reviewed on certiorari; and its legal opinion -- that the appointing authority is not limited to promotion in filling up vacancies but may opt to fill them by the appointment of persons with civil service eligibility appropriate to the position -- is entirely in accord with law. For another, the now firmly established doctrine is that the discretion exercised by the appointing power in extending an appointment to a given position to one of two or more employees possessing the requisite minimum qualifications for the position, will not generally be interfered with and must be sustained, and the Civil Service Commission has no authority to revoke the said appointment simply because it believes that another employee is better qualified, for that would constitute an encroachment on the discretion vested solely in the appointing authority.[6]

WHEREFORE, the decision of the Regional Trial Court of August 30, 1991 is hereby ANNULLED AND SET ASIDE, and Resolution No. 90-1012 dated November 14, 1990 of the Civil Service Commission upholding Dr. Mantala's appointment to the contested position, which has long since become final and executory, is hereby declared to be determinative and conclusive of the controversy at bar and, if not yet carried out, must now be forthwith executed. Costs against private respondent.

SO ORDERED.

Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., Romero, and Nocon, JJ., concur.

[1] ART. IX-B, Sec. 3

[2] Id., Sec. 1 (1)

[3] ART. IX-A, Sec. 6

[4] Id., Sec. 7

[5] Rule 4, Sec. 6

[6] *Luego v. Civil Service Commission*, 143 SCRA 327, 333. The doctrine has since been confirmed and applied in, among others, *Central Bank v. Civil Service Commission*, 171 SCRA 744; *Santiago, Jr. v. Civil Service Commission*, 178 SCRA 733.

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