

DANILO F.C. RIMONTE, PETITIONER, VS. CIVIL SERVICE COMMISSION, OFFICE OF THE OMBUDSMAN AND HENRIETTA F. ROQUE, RESPONDENTS.

G.R. No. 112045. May 29, 1995

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

Petitioner seeks review on certiorari of CSC Resolution No. 93-2368 dated 29 June 1993[1] which dismissed his appeal from the appointment of respondent Henrietta F. Roque as Records Officer V, Central

Records Division, Office of the Ombudsman, and CSC Resolution No. 93-3775 dated 10 September 1993[2] denying his motion for reconsideration.

On 7 November 1989 R.A. No. 6770, "An Act Providing for the Functional and Structural Organization of the Office of the Ombudsman and for other purposes," was enacted into law.

On 13 June 1990 Ombudsman Conrado M. Vasquez issued Office Order No. 90-32 directing the implementation of the "performance appraisal system," as basis for evaluation of all incumbents. On 14 June 1990, he issued Office Order No. 90-33 providing for the "General Policy and Procedural Guidelines in the Placement of Personnel for the New Staffing Pattern."

Petitioner was then the incumbent Planning Officer III in the Office of the Ombudsman. On 27 June 1990, petitioner applied for any of the positions of Records Officer V of the Central Records Division, Chief of Monitoring and EDP Division, or Administrative Officer V of the Office of the Deputy Ombudsman for the Armed Forces.

On 1 October 1990, petitioner was appointed to the position of Associate Graft Investigation Officer III[3] while respondent Henrietta F. Roque was appointed Records Officer V or Chief of the Central Records Division, Office of the Ombudsman.

On 19 November 1990 petitioner filed his appeal and protest against the appointment of respondent Roque. On 21 December 1990, in a letter to petitioner, Ombudsman Vasquez denied the appeal thus —

Reference is made to your letter of appeal/reconsideration dated November 10, 1990 praying that the appointment of Ms. Henrietta F. Roque as Records Officer V, Central Records Division, be recalled claiming you[^] have better qualification than her and that you be appointed as such in her place.

Please be informed that as appointing authority, I am given ample discretion to appoint to any vacant position any person who possesses at least the minimum qualifications thereof. In your appeal, you failed to show that Ms. Roque is not qualified to hold the contested position. Accordingly, your appeal is hereby denied.[4]

On 4 January 1991 petitioner appealed from the decision of the Ombudsman to the Civil Service Commission alleging that the Ombudsman erred (a) in holding that being the appointing authority he was given ample

discretion to appoint to any vacant position any person who possesses at least the minimum qualifications; and, (b) in holding that petitioner failed to show that respondent Roque was not qualified to hold the contested position.

On 17 June 1993 respondent Roque submitted to respondent Commission her personal data and other documents to show that she was qualified for the position of Records Officer V to which she was appointed.

On 29 June 1993, respondent Commission issued Resolution No. 93-2368[5] dismissing the appeal of petitioner on the basis of pronouncements of this Court holding that an appointment is essentially discretionary on the part of the appointing authority provided the appointee is qualified. Respondent Commission also found that petitioner did not dispute the qualification of respondent Roque to the contested position.

Petitioner moved to reconsider the resolution of respondent Commission alleging that the latter erred: (a) in applying the doctrine laid down in *Luego v. Civil Service Commission* [6] to the appeal of petitioner; (b) in admitting the letter and documents submitted by respondent Roque in support of her claim that she possessed the experience requirement for the position of Records Officer V; and, (c) in ruling that respondent Roque was qualified for appointment to the contested position.

On 10 September 1993, respondent Commission issued Resolution No. 93-3775[7] stating that the grounds raised by petitioner had been thoroughly discussed and resolved in Resolution No. 93-2368 dated 29 June 1993 and that it had already been established that respondent Roque met the minimum requirements for the position.

Petitioner comes to us imputing error to respondent Civil Service Commission in not finding that the appointment by the Ombudsman of respondent Roque as Records Officer V was not in accord with the legal requirements of R.A. 6656 and the Rules on Government Reorganization, and in finding respondent Roque qualified for the position of Records Officer V.

We shall discuss jointly the issues raised by petitioner as they are interrelated.

Petitioner contends that there were flagrant violations of the reorganization law and rules attendant to the appointment of respondent Roque to the post of Records Officer V. Petitioner also submits that the Final Ranking Form[8] for the position of Records Officer V signed by the members of the Central* Placement Committee shows certain violations, i.e., (a) no incumbent Ombudsman personnel was considered for the contested position except respondent Roque despite his application for the position; (b) respondent Roque was considered and assessed for the contested position on the basis of an "ASSUMED" performance rating given by the Central Placement Committee; and, (c) the percentage weight of the criteria for evaluation used by the Central Placement Committee was different from those prescribed under Office Order No. 90-32.[9] Petitioner alleges that respondent Civil Service Commission failed to take into account these violations when it affirmed the appointment of respondent Roque. Petitioner insists that he is more qualified than Roque in terms of performance which is one of the criteria provided by the reorganization law, and that while the appointing authority has discretion in the appointment of its personnel such discretion is not absolute but must yield to the intent and criteria laid down by law.

The arguments of petitioner cannot be sustained.

The Civil Service Commission is the single arbiter of all contests relating to civil service; as such its judgments are unappealable and subject only to the certiorari jurisdiction of this Court,[10] at least until 1 June 1995 when Rev. Adm. Circ. No. 1-95, amending Rev. Circ. No. 1-91, shall take effect.[11] In view thereof, this Court cannot engage in a review of facts found or even of law as interpreted by the agency concerned unless the supposed errors of fact or law are so serious and prejudicial as to amount to a grave abuse of discretion. Moreover,

erroneous findings and conclusions do not render the respondent Commission vulnerable to the corrective writ of certiorari, for where the Commission has jurisdiction over the case, even if its findings are not correct, they would at most constitute errors of law and not an abuse of discretion correctible by certiorari.

After a review of the questioned CSC Resolutions Nos. 93-2368 and 93-3775, this Court fails to find any grave abuse of discretion committed by respondent Civil Service Commission in the issuance thereof to justify a grant of the writ prayed for.

The qualification standards for the position of Records Officer V are: Education - a Bachelor's degree with training in Records Management; Experience - three (3) years of responsible experience in supervising personnel engaged in records management activities, developing work standards and efficient methods and procedures in the maintenance of active continuing program of records disposition and preservation or other related work; Eligibility - CS Professional.[12]

In order to comparatively assess the relative fitness and competence of employees considered for placement, Office Order No. 90-32[13] issued 13 June 1990 by Ombudsman Vasquez provided for the following criteria: (a) performance for the last two years or from the date of effectivity of appointment until the present, 65%; (b) manifested personality attributes, 15%; (c) education and training, 10%; and, (d) experience and outstanding accomplishments, 10%. Office Order No. 90-33 issued on 14 June 1990 by the Ombudsman provides that the latter shall be assisted by a Central Placement Committee created by Office Order 90-27 in the selection of personnel to be recommended in the Central Office of the Ombudsman[14]. It is worthy to emphasize at this point that even the internal rules of the Office of the Ombudsman in the selection and appointment of its personnel confer upon the Ombudsman the ultimate discretionary power to appoint and that the evaluation or selection of personnel by the Central Placement Committee is merely recommendatory.

Respondent Civil Service Commission found from the records that respondent Roque possessed the minimum qualifications required for the position of Records Officer V to which she was appointed. She graduated with a degree of Bachelor of Business Administration. She has the General Clerical, Stenographer and Career Service Professional eligibilities. Her work experience also shows she is qualified for the position.[15]

These findings are not refuted by petitioner. He claims however that his performance rating is outstanding being placed at 65/65[16] which is equivalent to 100%, while the performance rating of respondent Roque given by the Central Administrative Bureau is 2.4/3[17] which is equivalent to .80 or 80%, and was indicated as an assumed rating only because none was given by her immediate supervisor. Petitioner banks on this seeming disparity in their performance ratings, with him obtaining a higher rating, to justify the nullification of the appointment of respondent Roque.

The head of an agency who is the appointing power is the one most knowledgeable to decide who can best perform the functions of the office. Appointment is an essentially discretionary power and must be performed by the officer vested with such power according to his best lights, the only condition being that the appointee should possess the qualifications required by law. If he does, then the appointment cannot be faulted on the ground that there are others better qualified who should have been preferred. Indeed, this is a prerogative of the appointing authority which he can alone decide.[18] The choice of an appointee from among those who possess the required qualifications is a political and administrative decision calling for considerations of wisdom, convenience, utility and the interest of the service which can best be made by the head of the office concerned, the person most familiar with the organizational structure and environmental circumstances within which the appointee must function.[19] Hence, when Ombudsman Vasquez appointed respondent Roque to the position of Record Officer V, his act in doing so confirmed Roque's performance rating which can be understood to be at

least very satisfactory. From the vantage point of the Ombudsman, she is the person who can best fill the post and discharge its function. We cannot argue against this proposition.

Since there is no doubt that Roque possesses the minimum qualifications for the position, respondent Civil Service Commission acted well within its discretion in the exercise of its jurisdiction in attesting the appointment of Roque. As long as the appointee is qualified the Civil Service Commission has no choice but to attest to and respect the appointment even if it be proved that there are others with superior credentials. The law limits the Commission's authority only to whether or not the appointees possess the legal qualifications and the appropriate civil service eligibility, nothing else. If they do then the appointments are approved because the Commission cannot exceed its power by substituting its will for that of the appointing authority[20]. Neither can we.

WHEREFORE, the petition is DISMISSED and the Resolutions of respondent Civil Service Commission Nos. 93-2368 dated 29 June 1993 and 93-3775 dated 10 September 1993 are AFFIRMED.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Regalado, Davide, Jr., Romero, Melo, Puno, Vitug, Kapunan, Mendoza and Francisco, JJ., concur.

Quiason, J., on official leave.

[1] Rollo, p. 51.

[2] Id., p. 48.

[3] Id., p. 73.

[4] Id., p. 66.

[5] Id., p. 51.

[6] G.R. No. 69137, 5 August 1986, 143 SCRA 327.

[7] Rollo , p. 48.

[8] Id., p. 196.

[9] Id., p. 22.

[10] Mancita v. Barcinas, G.R. No. 98120, 22 December 1992, 216 SCRA 772.

[11] See par. 16, Rev. Adm. Circ. 1-95, "Rules Governing Appeals to the Court of Appeals from Judgments or Final Orders of the Court of Tax Appeals and Quasi-judicial Agencies."

[12] Rollo , p. 105.

[13] Id., p. 55.

[14] Id., p. 58.

[15] Id., p. 52.

[16] Id., p. 101.

[17] Id., pp. 196.

[18] *Apurillo v. Civil Service Commission*, G.R. No. 105112, 13 October 1993, 227 SCRA 230.

[19] *Abila v. Civil service Commission*, G.R. No. 92573, and *Quezon City v. Civil Service Commission*, G.R. No. 92867, both prom. 3 June 1991, 198 SCRA 102.

[20] *Lopez v. Civil Service Commission*, G.R. No. 92140, 9 February 1991, 194 SCRA 269.

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