

**CARLOS COTIANGCO, LUCIO SALAS, EDITHA SALONoy, MA.
FILIPINA CALDERON, ROSALINDA ABILAR, MEDARDA LARIBA, TITO
GUTIERREZ, BENJAMIN LUCIANO, MYRNA FILAMOR AND MONIANA
NAJARRO, PETI...**

G.R. No. 157139. October 19, 2011

Ponente: SERENO, J.

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SERENO, J.:

Before us is a Petition for Review on Certiorari under Rule 45 seeking a reversal of the Decision of the Court of Appeals dated 16 July 2002,[1] and its Resolution dated 24 January 2003 which affirmed Resolution No. 000894 dated 30 March 2000 of the Civil Service Commission (CSC). The CSC Resolution held that petitioners' removal from their respective positions in the Biliran Provincial Health Office as a result of the reorganization of the provincial government was lawful.

Petitioners held permanent appointments as public health workers in the Province of Biliran.

On 23 October 1998, the Sangguniang Panlalawigan (SP) of Biliran passed SP Resolution No. 102, Series of 1998, approving the revised structure and staffing pattern of the provincial government submitted by its then incumbent governor, Danilo Parilla.

Pursuant to said Resolution, Governor Parilla issued Executive Order (EO) No. 98-07, Series of 1998, dated 4 November 1998, declaring all positions in the provincial government of Biliran as abolished except those of the Provincial Treasurer and all elective positions.

EO No. 98-07 was revoked by EO No. 98-08, Series of 1998, which in turn declared "all positions under the new staffing pattern vacant" and directed "all permanent employees to submit their application within fifteen (15) days from the date of posting of the approved new staffing pattern on November 4, 1998."

Petitioners filed a suit for Prohibition[2] to question the validity of EO No. 98-08, Series of 1998.

Meanwhile, pursuant to said EO, a Personnel Placement Committee (Committee) was created to screen and evaluate all applicants for the vacant positions.

Petitioners failed/refused to apply for any position under the new staffing pattern, claiming that to do so would be inconsistent with their pending suit for prohibition. At any rate, petitioners argue that under Rule VI, Section 9 of Civil Service Commission (CSC) Resolution No. 91-1631,[3] as well as Sections 5 and 6 of the Rules on Government Reorganization, there should be a screening of the qualifications of all existing employees, and not merely of those who filed their respective applications under the new staffing pattern.

As a result of the reorganization, the following positions in the Biliran Provincial Health Service occupied by petitioners were excluded or abolished:

Dr. Carlos C. Cotiangco --- Provincial Health Officer I
Licio J. Salas ----- Administrative Officer II
Edeltha O. Salonoy ----- Senior Bookkeeper I
Ma. Filipina V. Calderon --- Cashier II
Rosalinda A. Abilar ----- Pharmacist III
Medarda S. Lariba ----- Cook I
Tito G. Gutierrez ----- Driver II
Benjamin J. Luciano ----- Cook I
Myrna A. Filamor ----- Nurse II
Monina Najarro ----- Medical Technologist

On 13 January 1999, petitioners received their notices of termination/non-reappointment dated 12 January 1999, which stated that their service was "only up to February 11, 1999."

Petitioners appealed to the governor, but he denied their appeal.

Petitioners thereafter filed an appeal to the CSC, which likewise dismissed it in CSC Resolution No. 000894 dated 30 March 2000.[4] The CSC held that petitioners failed to show that the reorganization was tainted with bad faith. They failed to establish that they were replaced by less qualified employees "in terms of status of appointment, performance and merit." The Commission noted that the reorganization resulted in a significant decrease in the number of positions in the staffing pattern of the Biliran Provincial Hospital.[5] The CSC further held that the reorganization did not violate the Magna Carta of Public Health Workers (Republic Act No. 7305), because the governor implemented a procedure for the reorganization, as follows:

1. Information dissemination regarding the reorganization to be effected;
2. The Committee was established to screen and evaluate the qualifications of existing employees;
3. Publication and dissemination of the new staffing pattern;
4. Invitation of employees to apply for the new positions; and
5. Notices to appellants that they were not reappointed in the revised organization structure and staffing pattern.

Moreover, it was pointed out that petitioners' positions were duplications of other positions. Finally, the CSC ruled that petitioners could no longer be appointed to other positions as the records show that these do not include their former positions, which had in fact remained unfilled after the reorganization.

Petitioners moved for reconsideration of the CSC Resolution. This motion was denied for lack of merit by the CSC in its Resolution No. 010530[6] dated 4 September 2000.

Petitioners elevated the case to the Court of Appeals (CA), citing similar cases (CSC Resolution Nos. 002617, 002624, and 002629 dated 6 March 2001)[7] wherein the CSC found that the Province of Biliran failed to comply with the required procedure with respect to the other employees who were also not reappointed. Petitioners claimed that in these companion cases, employees of the province were reinstated on the ground that the reorganization had been implemented in violation of Republic Act No. (R.A.) 6656 and its Implementing Rules, as it was not shown that the subject employees' qualifications were assessed or evaluated by the committee.

In its Decision dated 16 July 2002, the CA affirmed the CSC resolution with modification, in that the Province of Biliran was directed to take up petitioner Salvador Rosel's possible reappointment as Sanitation Inspector I of the Municipality of Caibiran. The CA held that what petitioners referred to as companion cases "involve circumstances different from the case at bench where petitioners had not presented any concrete evidence to prove

their claim." [8]

Petitioners moved for reconsideration of the said Decision but the CA denied their motion. Hence, petitioners filed the present Rule 45 petition, basically posing the following issue for resolution:

- Whether or not the reorganization was done in bad faith
- Whether or not petitioners were denied due process when they were not screened and evaluated for possible appointment to new positions

We rule to deny the petition.

1. Petitioners failed to show that the reorganization was done in bad faith. They have not adduced sufficient evidence to establish the existence of bad faith.

Section 8 of the Magna Carta of Public Health Workers (R.A. 7305) provides that "(i)n case of regular employment of public health workers, their services shall not be terminated except for cause provided by law and after due process."

Nevertheless, a government officer or employee's removal from office as a result of a bona fide reorganization is a valid cause for that employee's removal. [9]

Hence, the pertinent issue would be whether the reorganization herein was undertaken in bad faith.

Petitioners claim that the provincial government's reorganization implemented by Governor Parilla was not caused by a desire to streamline the local bureaucracy to save on resources. They allege that despite the availability of a sufficient number of vehicles for official use, the provincial government bought five motor vehicles, which were used by provincial officials belonging to the same political party as that of Governor Parilla. Allegedly, there were also excessive numbers of casuals hired and positions/items abolished, only to create new ones with substantially the same functions. Petitioners were all appointees of former Governor Wayne Jaro, who is the political enemy of Governor Parilla.

On the other hand, the provincial government argued, and the CSC found, that the Biliran Province had a total of 162 personnel in 1990. However, this number swelled to 381 personnel in 1998. Reorganization was therefore called for to lessen the budget allocation for personnel services; and to increase that for development projects, the purchase of medicines and supplies, and the maintenance of infrastructure.

It is a basic principle that good faith is presumed and that the party who alleges bad faith has the burden of proving the allegation. Petitioners therefore had the burden of proving bad faith on the part of the province when it undertook the reorganization. Section 2 of R.A. 6656 (An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization) cites instances that may be considered as evidence of bad faith in the removal from office of a government officer or employee pursuant to a reorganization, to wit:

SECTION 2. No officer or employee in the career service shall be removed except for a valid cause and after due notice and hearing. A valid cause for removal exists when, pursuant to a bona fide reorganization, a position has been abolished or rendered redundant or there is a need to merge, divide, or consolidate positions in order to meet the exigencies of the service, or other lawful causes allowed by the Civil Service Law. The existence of any or some of the following circumstances may be considered as evidence of bad faith in the removals made as a result of reorganization, giving rise to a claim for reinstatement or reappointment by an aggrieved party:

- (a) Where there is a significant increase in the number of positions in the new staffing pattern of the

department or agency concerned;

(b) Where an office is abolished and other performing substantially the same functions is created;

(c) Where incumbents are replaced by those less qualified in terms of status of appointment, performance and merit;

(d) Where there is a reclassification of offices in the department or agency concerned and the reclassified offices perform substantially the same function as the original offices;

(e) Where the removal violates the order of separation provided in Section 3 hereof. (Underscoring supplied.)

Measured against the foregoing guidelines, petitioners failed to adduce evidence to show bad faith on the part of the Province in effecting the reorganization.

First, petitioners have failed to show that there was a "significant increase in the number of positions in the new staffing pattern" of Biliran Province as a result of the reorganization. On the contrary, it is undisputed that from a high of 120 positions in 1998, the number of those at the Biliran Provincial Health Office was reduced to only 98 after the reorganization.[10] Even assuming the truth of petitioners' claim that the CSC and the CA committed a misapprehension of facts in equating the number of personnel in the Biliran Provincial Hospital with the number of personnel in the entire Provincial Health Office, this conclusion cannot be altered in the absence of glaring error in such apprehension.

Second, petitioners have failed to present evidence that an office performing substantially the same functions as an abolished office was created as a result of the reorganization. We note that there were four new positions created within the Provincial Health Office (one Medical Technologist II for the Health Services Group; and one Storekeeper each for Caibiran Community Hospital, Culaba Community Hospital and Maripipi Community Hospital). None of these positions may be considered as having been created to perform substantially the same functions as any of the abolished offices. None of the petitioners held the position of Storekeeper; and, although petitioner Najarro held the position of Medical Technologist II, he was then assigned to the Maripipi Community Hospital, and not to the Health (Field) Services Group.

Third, petitioners have not shown that there was a "reclassification of offices in the department or agency concerned and the reclassified offices perform substantially the same function as the original offices."

Fourth, petitioners have not adduced evidence that they were "replaced by those less qualified in terms of status of appointment, performance and merit." Alternatively, petitioners have not adduced any evidence to show that their qualifications in terms of performance and merit are any better than those possessed by the persons who were eventually appointed to the reorganized positions.

Neither have petitioners been able to demonstrate that their removal from office as a result of the reorganization violated the order of separation as found in Section 3 of R.A. 6656, particularly, in the provision that "those ... who are least qualified in terms of performance and merit shall be laid [off] first, length of service notwithstanding."

Petitioners also erroneously insist on the application of the "next in rank" rule in claiming that they should have been appointed to the available positions after the reorganization. However, the "next in rank rule" specifically applies only to promotions and not to positions created in the course of a valid reorganization.[11] Apart from the fact that the "next in rank" rule only gives preference to the person occupying the position next in rank to a vacancy, it does not by any means give him exclusive right to be appointed to the said vacancy. Indeed, the appointing authority is vested with sufficient discretion to appoint a candidate, as long as the latter possesses the

minimum qualifications under the law.[12]

2. Petitioners were not deprived of due process when they were not screened and evaluated for possible appointment to new positions, as they had not filed their applications notwithstanding the invitation for them to do so.

Petitioners allege that they were deprived of their employment without due process of law, because respondent province did not show proof that its Personnel Placement Committee had screened and evaluated them for possible appointment to new positions.

On the other hand, respondent province argues that petitioners were not considered for the new positions, because they had not filed their applications notwithstanding the invitation for them to do so.

In response, petitioners argue that under the Implementing Rules of R.A. 6656, "qualifications of existing employees," and not merely those who filed their respective applications under the new staffing pattern, should be screened and evaluated, as follows:

SECTION 5. Who will be Evaluated. - All officers and employees, including those who have pending administrative charges, or any derogatory records/reports, shall be evaluated on the basis of standards for retention/termination as provided for herein. (Underscoring and emphasis supplied.)

Moreover, Section 9 of the same Implementing Rules provides that the Placement Committee shall evaluate the qualifications and competence of both "the applicants and other employees in the agency," to wit:

SECTION 9. Selection and Placement of Personnel. --

(1) Within five (5) days from receipt by the agency concerned of its approved staffing pattern, or the Organizational Staffing and Classification Action Summary (OSCAS), the head of office shall cause copies thereof to be posted in the bulletin boards and other conspicuous places in its central and regional/field offices.

(2) Officers and employees shall be invited to apply for any of the authorized position. Said Application shall be considered by the Placement Committee in the placement and selection of personnel.

(3) The Committee shall evaluate/assess the qualifications and competence of the applicants and other employee in the agency based on the criteria and preference provided for in these Rules.

(4) The Committee shall prepare the Personnel Placement List and submit the same to the appointing authority for his approval.

(5) Within thirty (30) days from submission of the Personnel Placement List by the Placement Committee, the appointing authority shall approve, modify or revise the Personnel Placement List which shall then constitute the New Plantilla of Personnel. (Underscoring and emphasis supplied.)

Petitioners' reliance upon the words used in the above portions of the Implementing Rules is misplaced.

R.A. 6656 itself, the law that these Implementing Rules seek to implement, provides only that all officers and employees of the agency being reorganized shall be invited to apply for any of the positions in the new staffing pattern, and that the "(s)aid application shall be considered by the (Placement) Committee in the placement and selection of personnel," as shown by the following provision:

SECTION 6. In order that the best qualified and most deserving persons shall be appointed in any reorganization, there shall be created a Placement Committee in each department or agency to assist the appointing authority in the judicious selection and placement of personnel. The Committee shall consist of two (2) members appointed by the head of the department or agency, a representative of the appointing authority,

and two (2) members duly elected by the employees holding positions in the first and second levels of the career service: Provided, That if there is a registered employee association with a majority of the employees as members, that employee association shall also have a representative in the Committee: Provided, further That immediately upon approval of the staffing pattern of the department or agency concerned, such staffing pattern shall be made known to all officers and employees of the agency who shall be invited to apply for any of the positions authorized therein. Said application shall be considered by the Committee in the placement and selection of personnel. (Underscoring supplied.)

Clearly, the law mandates that only those who have filed the requisite applications for the subject position may be considered by the placement committee for possible appointment. The intent of this law is clear enough. After all, it is the submission of the application form that signals an employee's interest in a position. The placement committee cannot spend its limited time and resources in considering the qualifications of all previous employees of the agency being reorganized, even if they have not signified their intention to continue working in the said agency. Otherwise, there is a possibility that it would recommend the appointment of a person to a position in which the latter is not interested. Also, without the filing of the requisite application form, there would hardly be a basis for evaluating the qualifications of the candidates for employment.

WHEREFORE, premises considered, the petition is denied for lack of merit. The 16 July 2002 Decision and the 24 January 2003 Resolution of the Court of Appeals are hereby **AFFIRMED**.

SO ORDERED.

Corona, C.J., Carpio, Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Bersamin, Abad, Perez, Mendoza, Reyes, and Perlas-Bernabe, JJ., concur.

Del Castillo, and Villarama, Jr., JJ., no part.

[1] The Decision of the Court of Appeals, Seventh Division was penned by Associate Justice Conchita Carpio Morales (now a retired member of this Court) and concurred in by Associate Justices Martin S. Villarama, Jr. and Mariano C. del Castillo (now members of this Court); rollo, pp. 31-38.

[2] The case was entitled Dr. Carlos Cotiangco, et al. v. Gov. Danilo Parilla, et al., docketed as Civil Case No. B-1050, and raffled to the Regional Trial Court, Branch 16 of Naval, Biliran.

[3] SECTION 9. To ensure objectivity in promotion, a Selection/Promotion Board shall be established in every department or agency which shall be responsible for the adoption of a formal screening procedure and formulation of criteria for the evaluation of candidates for promotion.

Reasonable and valid standards and methods of evaluating the competence and qualifications of all employees competing for a particular position shall be established and applied fairly and consistently. The criteria established for evaluation of qualification of candidates for promotion must suit the job requirements of the position.

The Selection/Promotion Board shall then evaluate the qualifications of an employee being considered for promotion in accordance with the department or agency Merit Promotion Plan.

The Selection/Promotion Board shall likewise determine en banc the list of employees recommended for promotion from which the appointing authority may choose the employee to be promoted. In preparing the list, the Board shall see to it that the qualifications of employees recommended for promotion are comparatively at par and that they are the best qualified from among the candidates.

As soon as the promotional appointment is issued, a notice announcing the promotion shall be posted by the head

of the Personnel Division/department/office on the bulletin board of the department, agency or regional offices concerned.

Selection, promotion board shall maintain records of deliberations which shall be available for inspection by the Commission or its duly authorized representatives.

[4] Rollo, pp. 63-70.

[5] Id. at 71.

[6] Id. at 81-84.

[7] Id.

[8] Rollo, pp. 6-7.

[9] R.A. No. 6656, Section 2.

[10] Biliran Provincial Health Office Personnel Schedule; rollo, pp. 55-62.

[11] Panis v. Civil Service Commission, G.R. No. 102948, 2 February 1994, 229 SCRA 589.

[12] Central Bank of the Philippines v. Civil Service Commission, G.R. Nos. 80455-56, 10 April 1989, 171 SCRA 744.

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