OFFICE OF THE OMBUDSMAN, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENT.

G.R. NO. 162215. July 30, 2007

Ponente: CORONA, J.

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CORONA, J.:

This Court is once again called upon to settle a controversy between two independent constitutional bodies and delineate the limits of their respective powers. In the exercise of its mandate, this Court reaffirms its commitment to constitutionalism and the rule of law.

This controversy traces its roots to Ombudsman Simeon V. Marcelo's letter[1] dated July 28, 2003 to the Civil Service Commission (CSC) requesting the approval of the amendment of qualification standards for Director II positions in the Central Administrative Service and Finance and Management Service of the Office of the Ombudsman. The letter read:

> This is in relation to the career positions of Director II of the Central Administrative Service and the Finance and Management Service of this Office. The qualification standards set for said Director II positions pursuant to Civil Service Commission Memorandum Circular No. 1 dated January 24, 1997 are as follows:
>
> Education : Bachelor's degree
>
> Experience : 3 years of supervisory experience
>
> Training : None required.
>
> Eligibility : Career Service Executive Eligibility (CSEE)/Career Executive Service (CES)
>
> The requirement for a Civil Service Executive Eligibility (CSEE)/Career Executive Service (CES) eligibility presupposes that the Director II position belongs to the third level and positions therein are covered by the Career Executive Service.
>
> However, in the Decision of the Court of Appeals dated January 18, 2001 on CA-G.R. SP No. 49699 as affirmed by the Supreme Court with finality on July 2, 2002 in G.R. No. 148782 entitled "Khem N. Inok vs. Civil Service Commission", it is stated in said Decision that the letter and intent of the law is to circumscribe the Career Executive Service (CES) to CES positions in the Executive Branch of Government, and that the Judiciary, the Constitutional Commissions, the Office of the Ombudsman and the Commission on Human Rights are not covered by the CES governed by the Career Executive Service Board. Said Decision effectively granted the petition of Mr. Inok for security of tenure as Director III of the Commission on Audit despite the absence of a CES eligibility.
>
> Accordingly and consistent with the provision of Section 22(2), please be advised that the Office of the Ombudsman has established the qualification standards for the positions of Director II of the Central Administrative Service and Finance Management Service as follows:

Education : Bachelor's degree

Experience : 3 years of supervisory experience

Training : None required.

Eligibility : Career Service Professional/
Relevant Eligibility for Second Level Position

In view of the foregoing, it is respectfully requested that the Commission approve the qualification standards for the above positions.[2]

Acting thereon, the CSC issued Opinion No. 44, s. 2004[3] dated January 23, 2004 disapproving the request.

This refers to [the Office of the Ombudsman's] proposed qualification standards (QS) for Director II position in the Central Administrative Service and Finance Management Service, Office of the Ombudsman, which was forwarded to this Office by Director Agnes Padilla of CSC-NCR.

Invoking the Decision of the Court of Appeals in the Inok case, that Office established the QS for the position of Director II of the Central Administrative Service and Finance Management [Service], as follows:

Education : Bachelor's degree

Experience : 3 years of supervisory experience

Training : None required.

Eligibility : Career Service Professional/
Relevant Eligibility for Second Level Position

Under the 1997 Revised Qualification Standards Manual, the qualification requirements for Director II positions are as follows:

Education : Bachelor's degree

Experience : 3 years of supervisory experience

Training : None required.

Eligibility : Career Service Executive Eligibility
(CSEE)/Career Executive Service (CES)

The Commission strictly subscribes to the policy that Director II position being third level eligibility and [is] covered by the Career Executive Service.[4] In CSC Resolution No. 030919 dated August 28, 2003, the Commission rule[d] as follows:

"The pronouncement of the Court of Appeals in the Inok case cannot be made the basis for changing the employment status of De Jesus. Let it be stressed that nowhere in the aforesaid decision states that the Office of the Ombudsman or other constitutional agencies mentioned therein are exempt or are not covered by Civil Service Law and Rules. On the contrary, the same decision declares that these bodies are covered by the civil service system.Basic is the rule that all appointments in the government service, particularly the career service, must be in accordance with the qualification requirements as laid down under existing civil service rules and regulations. x x x"

The Commission, as the central personnel agency of the government, is mandated by the Constitution to administer all levels in the civil service, including that of the third level. The Administrative Code enumerated the powers and functions of the Commission, worthy to mention are the following:

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> "Section 12. Powers and Functions. – The Commission shall have the following powers and functions:(1) Administer and enforce the constitutional and statutory provisions on the merit system for all levels and ranks in the Civil Service;x x x(4) Formulate policies and regulations for the administration, maintenance and implementation of position classification and compensation and set standards for the establishment, allocation and reallocation of pay scales, classes and positions; x x x"
>
> The Ombudsman and other constitutional offices are covered by the civil service system. To set aside the authority of the Commission to require third level eligibilities to said offices would be to nullify and strike down the very core of the civil service, that is, the promotion of merit and fitness principle in all aspects of personnel administration including the establishment of qualification standards for all levels and ranks in the government.
>
> In view of the foregoing, we regret that [the Office of the Ombudsman's] request for approval of the qualification standards for the position of Director II at the Central Administrative Service and Finance Management Service, Office of the Ombudsman, cannot be granted.[5]

The Office of the Ombudsman, claiming that its constitutional and statutory powers were unduly curtailed, now seeks to set aside and nullify CSC Opinion No. 44, s. 2004 via this petition for certiorari.[6]

The Office of the Ombudsman asserts that its specific, exclusive and discretionary constitutional and statutory power as an independent constitutional body to administer and supervise its own officials and personnel, including the authority to administer competitive examinations and prescribe reasonable qualification standards for its own officials, cannot be curtailed by the general power of the CSC to administer the civil service system. Any unwarranted and unreasonable restriction on its discretionary authority, such as what the CSC did when it issued Opinion No. 44, s. 2004, is constitutionally and legally infirm.

We agree with the Office of the Ombudsman.

The CSC's opinion that the Director II positions in the Central Administrative Service and the Finance and Management Service of the Office of the Ombudsman are covered by the CES is wrong. Book V, Title I, Subtitle A, Chapter 2, Section 7 of EO[7] 292, otherwise known as "The Administrative Code of 1987," provides:

> SECTION 7. Career Service. – The Career Service shall be characterized by (1) entrance based on merit and fitness to be determined as far as practicable by competitive examination, or based on highly technical qualifications; (2) opportunity for advancement to higher career positions; and (3) security of tenure.
>
> The Career Service shall include:
>
> (1) Open Career positions for appointment to which prior qualification in an appropriate examination is required;
>
> (2) Closed Career positions which are scientific, or highly technical in nature; these include the faculty and academic staff of state colleges and universities, and scientific and technical positions in scientific or research institutions which shall establish and maintain their own merit systems;
>
> (3) Positions in the Career Executive Service; namely, Undersecretary, Assistant Secretary, Bureau Director, Assistant Bureau Director, Regional Director, Assistant Regional Director, Chief of Department Service and other officers of equivalent rank as may be identified by the Career Executive Service Board, all of whom are appointed by the President;
>
> x x x x x x x x x (emphasis supplied)

Thus, the CES covers presidential appointees only. As this Court ruled in Office of the Ombudsman v. CSC:[8]

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> From the above-quoted provision of the Administrative Code, persons occupying positions in the CES are presidential appointees. x x x (emphasis supplied)

Under the Constitution, the Ombudsman is the appointing authority for all officials and employees of the Office of the Ombudsman, except the Deputy Ombudsmen.[9] Thus, a person occupying the position of Director II in the Central Administrative Service or Finance and Management Service of the Office of the Ombudsman is appointed by the Ombudsman, not by the President. As such, he is neither embraced in the CES nor does he need to possess CES eligibility.[10]

To classify the positions of Director II in the Central Administrative Service and the Finance and Management Service of the Office of the Ombudsman as covered by the CES and require appointees thereto to acquire CES or CSE[11] eligibility before acquiring security of tenure will lead to unconstitutional and unlawful consequences. It will result either in (1) vesting the appointing power for said position in the President, in violation of the Constitution or (2) including in the CES a position not held by a presidential appointee, contrary to the Administrative Code.[12]

Section 6, Article XI of the Constitution provides:

> Sec. 6. The officials and employees of the Office of the Ombudsman, other than the Deputies, shall be appointed by the Ombudsman according to the Civil Service Law.

This is complemented by RA[13] 6770, otherwise known as "The Ombudsman Act of 1989." Section 11 thereof states:

> Sec. 11. Structural Organization. – The authority and responsibility for the exercise of the mandate of the Office of the Ombudsman and for the discharge of its power and functions shall be vested in the Ombudsman, who shall have supervision and control of the said Office.
>
> (1) The Office of the Ombudsman may organize such directorates for administration and allied services as may be necessary for the effective discharge of its functions.
>
> Those appointed as directors or heads shall have the rank and salary of line bureau directors.
>
> x x x x x x x x x
>
> (5) The position structure and staffing pattern of the Office of the Ombudsman, including the Office of the Special Prosecutor, shall be approved and prescribed by the Ombudsman. The Ombudsman shall appoint all officers and employees of the Office of the Special Prosecutor, in accordance with the civil service law, rules and regulations. (emphasis supplied)

Under the Constitution, the Office of the Ombudsman is an independent body.[14] As a guaranty of this independence, the Ombudsman has the power to appoint all officials and employees of the Office of the Ombudsman, except his deputies.[15] This power necessarily includes the power of setting, prescribing and administering the standards for the officials and personnel of the Office.

To further ensure its independence, the Ombudsman has been vested with the power of administrative control and supervision of the Office. This includes the authority to organize such directorates for administration and allied services as may be necessary for the effective discharge of the functions of the Office, as well as to prescribe and approve its position structure and staffing pattern. Necessarily, it also includes the authority to determine and establish the qualifications, duties, functions and responsibilities of the various directorates and allied services of the Office. This must be so if the constitutional intent to establish an independent Office of the Ombudsman is to remain meaningful and significant.

Qualification standards are used as guides in appointment and other personnel actions, in determining training needs and as aid in the inspection and audit of the personnel work programs.[16] They are intimately connected to the power to appoint as well as to the power of administrative supervision. Thus, as a corollary to the Ombudsman's appointing and supervisory powers, he possesses the authority to establish reasonable qualification standards for the personnel of the Office of the Ombudsman.

In this connection, Book V, Title I, Subtitle A, Chapter 5, Section 22[17] of the Administrative Code provides:

> SEC. 22. Qualification Standards. – (1) A qualification standard expresses the minimum requirements for a class of positions in terms of education, training and experience, civil service eligibility, physical fitness, and other qualities required for successful performance. The degree of qualifications of an officer or employee shall be determined by the appointing authority on the basis of the qualification standard for the particular position.
>
> Qualification standards shall be used as basis for civil service examinations for positions in the career service, as guides in appointment and other personnel actions, in the adjudication of protested appointments, in determining training needs, and as aid in the inspection and audit of the agencies' personnel work programs.
>
> It shall be administered in such manner as to continually provide incentives to officers and employees towards professional growth and foster the career system in the government service.
>
> (2) The establishment, administration and maintenance of qualification standards shall be the responsibility of the department or agency, with the assistance and approval of the Civil Service Commission and in consultation with the Wage and Position Classification Office. (emphasis supplied)

Since the responsibility for the establishment, administration and maintenance of qualification standards lies with the concerned department or agency, the role of the CSC is limited to assisting the department or agency with respect to these qualification standards and approving them. The CSC cannot substitute its own standards for those of the department or agency, specially in a case like this in which an independent constitutional body is involved.

Accordingly, the petition is hereby GRANTED and Opinion No. 44, s. 2004 dated January 23, 2004 of the Civil Service Commission is SET ASIDE.

The Civil Service Commission is hereby ordered to approve the amended qualification standards for Director II positions in the Central Administrative Service and the Finance and Management Service of the Office of the Ombudsman.

No costs.
SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Garcia, Velasco, Jr., and Nachura, JJ., concur.

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[1] Rollo, pp. 34-37.

[2] Id.

[3] Signed by Chairperson Karina Constantino-David. Id., pp. 32-33.

[4] Id. Emphasis supplied for this particular statement only. Subsequent emphases were made in the original.

[5] Id.

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[6] Under Rule 65 of the Rules of Court.

[7] Executive Order.

[8] G.R. No. 159940, 16 February 2005, 451 SCRA 570.

[9] Section 6, Article XI.

[10] Besides, this Court has already set aside CSC resolution no. 030919 dated August 28, 2003. (Office of the Ombudsman v. CSC supra). Hence, the CSC could not validly invoke it to justify its position regarding the Office of the Ombudsman's request for approval of the amendment of qualification standards for Director II positions in its Central Administrative Service and its Finance and Management Service.

[11] Career Service Executive.

[12] Office of the Ombudsman v. CSC, supra.

[13] Republic Act.

[14] See Section 5, Article XI of the Constitution.

[15] The rationale for the constitutional grant to the Office of the Ombudsman, the constitutional commissions (i.e., the CSC, the Commission and Elections and the Commission on Audit) and the Commission on Human Rights of the power to appoint their own officers and employees is mainly to safeguard their independence. This power of appointment is similar to the authority granted to this Court with regard to the officials and employees under Section 5(6) of the Constitution.

[16] See Book V, Title I, Subtitle A, Chapter 5, Section 22 of the Administrative Code.

[17] This is identical to Section 20 of PD 807, otherwise known as "The Civil Service Decree of the Philippines."

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