

HOUSE OF REPRESENTATIVES AS REPRESENTED BY ITS SECRETARY GENERAL, ROBERTO P. NAZARENO, PETITIONER, VS. ATTY. VICTORIA V. LOANZON, RESPONDENT.

G.R. NO. 168267. February 16, 2006

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

On challenge is the Court of Appeals October 28, 2004 Decision and May 20, 2005 Resolution in CA-G.R. SP No. 75944, “House of Representatives as Represented by its Secretary-General Roberto P. Nazareno v. Atty. Victoria V. Loanzon.”

Atty. Victoria V. Loanzon (respondent) was appointed on March 8, 1999 as Deputy Secretary General, Public Relations and Information Department (PRID) of the House of Representatives by then Speaker Manuel Villar of the Eleventh Congress. Her Civil Service Commission (CSC) appointment paper (KSS Porma Blg. 33)[1] stated that her status was “PERMANENT,” albeit with a caveat annotated thereon that “THE APPOINTEE DOES NOT HAVE SECURITY OF TENURE UNTIL [SHE] OBTAINS A C[AREER] E[XECUTIVE] S[ERVICE] ELIGIBILITY.”

On July 3, 2001, as there was yet no House Speaker for the Twelfth Congress, House of Representatives Secretary General Roberto P. Nazareno (Nazareno) approved a request from Quezon City Mayor Feliciano Belmonte, Jr. (Mayor Belmonte) for respondent’s part-time detail at the Office of the Quezon City Mayor from July 3 to 31, 2001.

After Jose de Venecia, Jr. assumed office as Speaker on July 23, 2001 or on July 25, 2001, he issued Special Order No. 35-01 (SPK) appointing Emmanuel A. Albano (Albano) as Deputy Secretary General, PRID on temporary status, effective the same day. On even date, Mayor Belmonte again requested for the detail of respondent to his office effective August 1, 2001.

Respondent was, however, advised on July 31, 2001 that since Albano had been appointed to her position, she should accomplish her accountability clearance.

On August 2, 2001, Albano assumed office as Deputy Secretary General, PRID of the House of Representatives.

Respondent thus sought clarification on August 3, 2001 from the CSC about the status of her appointment in light of Albano’s appointment to her position.

In the meantime or on September 20, 2001, the CSC approved Albano’s appointment.

Speaker de Venecia later approved on October 25, 2001 Mayor Belmonte’s request for respondent’s detail to the latter’s office effective August 1, 2001.

By Resolution No. 02-0224 issued on February 14, 2002, the CSC declared the appointment of Albano in order.

x x x [T]his Commission finds . . . the subsequent appointment of Emmanuel A. Albano as Deputy Secretary General, Public Relations and Information Department (PRID), as per Special Order No. 35-01, in Loanzon's stead, in order. And the issuance thereof signals the expiration of the term of office of Loanzon. For this reason, the approval of her detail by Speaker De Venecia can no longer be implemented as she no longer holds the position of Deputy Secretary General.

WHEREFORE, the Commission rules that with the appointment of Emmanuel A. Albano in Loanzon's stead, the latter's appointment as Deputy Secretary General expired.[2] (Emphasis and underscoring supplied)

Respondent moved to reconsider CSC Resolution No. 02-0224. By Resolution No. 021103[3] dated August 20, 2002, the CSC partially granted respondent's Motion for Reconsideration by holding that she was a rightful holder of the position of Deputy Secretary General up to July 31, 2001.

The Commission agrees that when Speaker De Venecia appointed Emmanuel A. Albano as Deputy Secretary General, PRID, on July 25, 2001, Victoria V. Loanzon was still detailed at the Office of Mayor Belmonte. Thus, in deference to the approved detail, Speaker De Venecia should not have issued an appointment to Albano until after its expiration, that is July 31. In other words, Albano's appointment on July 25, 2001 is legally infirm because there was no vacancy yet at that time. . .

x x x x

Viewed in the light of the foregoing, Victoria V. Loanzon should be rightfully holding her position as Deputy Secretary General until July 31, 2001 and she is entitled to the payment of her salaries and other benefits up to that period only.

As to Emmanuel A. Albano, he is considered a de facto officer from July 25 to July 31, 2000. For actual services rendered he is entitled to the salary covering said period under the principle of quantum meruit.

However, as to the request of Mayor Belmonte for the extension of her detail which was approved by Speaker De Venecia to take effect on [August 1, 2001], the same is no longer valid since after July 31, 2001, Loanzon was no longer Deputy Secretary General. said approval is not tantamount to a renewal of Loanzon's appointment as Deputy Secretary General, PRID.

Finally, Loanzon's allegation that since she was occupying a permanent position, the Commission has no power to change the nature of her appointment, the same is devoid of merit. It must be stressed that the Commission did not change her appointment from permanent to temporary, because in reality her appointment although proposed as permanent is with a colatilla that "the appointee does not have security of tenure unless he obtains CES eligibility." This colatilla makes the appointment temporary for lack of the appropriate eligibility required for the position. Said annotation is a notice to the holder thereof that the appointment extended is merely temporary, hence without security of tenure. Since the nature of the appointment extended to Loanzon was merely temporary, the same cannot acquire permanence simply because the item occupied is a permanent position, for "what characterizes an appointment is not the nature of the item filled but the nature of the appointment extended." (University of the Philippines v. Court of Industrial Relations, 107 Phil. 849)

x x x x[4]

On September 12, 2002, petitioner House of Representatives filed a Manifestation and Urgent Motion for Reconsideration [5] of CSC Resolution No. 021103 which was denied by CSC Resolution No. 030065[6] of January 20, 2003.

On Petition for Review[7] before the Court of Appeals, petitioner raised the following issues:

I

WHETHER OR NOT THE RESPONDENT IS THE RIGHTFUL HOLDER OF THE POSITION OF DEPUTY SECRETARY GENERAL, PUBLIC RELATIONS AND INFORMATION DEPARTMENT UNTIL 31 JULY 2001.

II

WHETHER OR NOT THE APPOINTMENT OF EMMANUEL A. ALBANO, VICE THE RESPONDENT, ON 25 JULY 2001 IS NOT IN ORDER.[8]

By Decision[9] of October 28, 2004,[10] the appellate court found that the position of Deputy Secretary General, PRID pertains to the non-career service; respondent held a primarily confidential position and her tenure was thus coterminous with and subject to the pleasure of the appointing authority, and her termination could be justified only on the ground of loss of confidence; and respondent's removal was without cause, as petitioner itself made no pretense about the absence of said ground.

The appellate court thus affirmed CSC Resolution Nos. 021103 and 030065 with modification in that it declared the removal of Loanzon and the appointment of Emmanuel Albano in her place null and void.

Hence, the present petition submitting that the appellate court gravely erred in:

I

x x x CLASSIFYING THE POSITION OF DEPUTY SECRETARY GENERAL, PUBLIC RELATIONS AND INFORMATION DEPARTMENT AS A PRIMARILY CONFIDENTIAL POSITION BELONGING TO THE NON-CAREER SERVICE.

II

x x x HOLDING THAT RESPONDENT'S TERMINATION OF HER TEMPORARY APPOINTMENT AS DEPUTY SECRETARY GENERAL, PUBLIC RELATIONS AND INFORMATION DEPARTMENT IS IL[L]EGAL AND THE APPOINTMENT OF MR. EMMANUEL ALBANO IN HER PLACE, NULL AND VOID.[11]

Petitioner contends that contrary to the appellate court's ruling, the position of Deputy Secretary General, PRID belongs to the career service, as the appointee to said position is chosen only if he or she meets the qualification standards for the position including eligibility requirement; and respondent's appointment was made on the basis of the usual test of merit and fitness for the career service because she was required to have either Career Service Executive (CSE) or Career Executive Service (CES) eligibility, which explains why her appointment was denominated permanent with a colatilla, however, that she did not have security of tenure until she obtained a CES eligibility.

Petitioner also asseverates that respondent's tenure cannot be considered coterminous with the appointing authority as she held the same position under Speakers Villar, Fuentebella and Belmonte, all of the Eleventh Congress, and was even allowed to serve under the Twelfth Congress. If respondent's appointment was highly confidential and coterminous, then, concludes petitioner, her term should have ended when Speaker Villar ceased to hold the speakership.

Petitioner further contends that although respondent's appointment was denominated as permanent, it was in reality temporary because of the express qualification that she did not have security of tenure unless she obtained a CES eligibility; and that following the Revised Administrative Code of 1987 which provides that temporary appointments shall not exceed twelve months, respondent's appointment ceased on March 8, 2000, citing *Pangilinan v. Maglaya*. [12]

The petition is impressed with merit.

Paragraph 6 of CSC Resolution No. 967961[13] furnishes the qualification standards for Deputy Secretary General of the House of Representatives, thus:

6. DEPUTY SECRETARY GENERAL OF THE HOUSE OF REPRESENTATIVES (SG – 30)

Education : Bachelor's degree

Experience : 3 years supervisory experience

Training : None required

Eligibility : Career Service Executive (CSE) Career Executive Service (CES)[14]

(Emphasis supplied)

Clearly, the position of Deputy Secretary General of the House of Representatives belongs to the career service which is, so the Civil Service Law provides, characterized, among other things, by entrance based on merit and fitness to be determined as far as practicable by competitive examinations, or based on highly technical qualifications and security of tenure. The holder of the position can only enjoy security of tenure if he or she possesses the qualifications and eligibility prescribed for it.[15]

In respondent's case, although respondent's appointment was denominated as "permanent," it having been "proposed as permanent," it was in reality temporary for, so her CSC appointment paper clearly stated, she did not enjoy security tenure as she lacked the eligibility requirement for the position. Thus the Revised Administrative Code of 1987 provides:

Section 27. Employment Status. – Appointment in the career service shall be permanent or temporary.

(1) Permanent status. – A permanent appointment shall be issued to a person who meets all the requirements for the position 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.

(2) Temporary appointment. – In the absence of appropriate eligibles and it becomes necessary in the public interest to fill a vacancy, a temporary appointment shall be issued 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, but the appointee may be replaced sooner if a qualified civil service eligible becomes available.[16] (Emphasis and underscoring supplied)

In fine, respondent's appointment was merely temporary, not to exceed twelve months. Since she was appointed on March 8, 1999, it was effective only for one year or up to March 8, 2000. Having continued, however, to hold on to her position up to July 25, 2001 when Albano was appointed by Speaker de Venecia, she did so in a hold-over capacity.

Respondent argues that Albano too does not possess CES eligibility and his appointment in her stead is thus legally untenable. The case of General v. Roco[17] instructs otherwise. Roco was appointed in August 1996 by then President Ramos as Land Transportation Office (LTO) Regional Director, a position equivalent to CES rank level V. He was subsequently appointed to the same position by President Estrada in February 1999. In August 1999, he was conferred CES eligibility, but still did not possess the appropriate CES rank level V for his position. General, who was not a CES eligible, was subsequently appointed by President Estrada to the same position occupied by Roco.

On a petition for quo warranto filed by Roco, the Court of Appeals nullified General's appointment.

When the case reached this Court, this Court, ruling in favor of General, held that the law allows the appointment

of those who are not CES eligible, subject to the obtention of said eligibility, in the same manner that the appointment of Roco, who did not possess the required CES rank level V for the position of LTO Regional Director, was allowed in a temporary capacity.

Even if Albano then did not possess the required eligibility, following General, his appointment was not legally infirm.

CSC Resolution No. 021103 which subsequently held that Speaker De Venecia should not have issued an appointment to Albano on July 25, 2001 until after the expiration on July 31, 2001 of respondent's detail on the Quezon City Mayor's Office does not thus lie. As correctly pleaded by petitioner before the appellate court, when Nazareno approved Mayor Belmonte's request for respondent's detail until July 31, 2001, Speaker de Venecia had not yet been elected and assumed office as speaker. With Speaker de Venecia's subsequent election and assumption of office as speaker, Nazareno's action as secretary-general became subject to supervision and control, hence, it could be revoked anytime.

By thus appointing Albano on July 25, 2001, Speaker de Venecia impliedly revoked or modified Nazareno's action by shortening the period of the approved detail.

As for the Speaker's approval on October 25, 2001 of Mayor Belmonte's second request for respondent's detail to his office effective August 1, 2001, the same may be taken as mere oversight on the part of the Speaker.

WHEREFORE, the petition is GRANTED. The challenged Court of Appeals Decision and Resolution are SET ASIDE. Civil Service Commission Resolution No. 02-0224 dated February 14, 2002 is REINSTATED.

SO ORDERED.

Panganiban, C.J., Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Azcuna, Tinga, Chico-Nazario and Garcia, JJ., concur.
Corona and Callejo, Sr., JJ., on leave.

[1] Court of Appeals (CA) rollo, p. 319.

[2] Quoted on page 1 of CSC Resolution No. 021103, CA rollo, p. 122-129.

[3] CA rollo, pp. 122-129.

[4] Id. at 127-129.

[5] Id. at 139-155.

[6] Id. at 130-138.

[7] Id. at 2-121 (The pagination skipped pp. 21-120)

[8] Id. at 7.

[9] Id. at 254-283.

[10] Penned by Justice Jose L. Sabio, Jr. and concurred in by Justices Delilah Vidallon-Magtolis and Hakim S. Abdulwahid.

[11] Rollo, p. 9.

[12] G.R. No. 104216, August 20, 1993, 225 SCRA 511.

[13] CA rollo, pp. 302-304.

[14] Id. at 304.

[15] *Erasmio v. Home Insurance & Guaranty Corporation*, 436 Phil. 689, 694-695 (2002).

[16] Administrative Code, Book V, Title I, Subtitle A, Chapter 5, Sec. 27.

[17] G.R. Nos. 143366 & 143366, January 29, 2001, 350 SCRA 528.

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