MAYOR MARCEL S. PAN, REPRESENTING THE MUNICIPALITY OF GOA, CAMARINES SUR AS MAYOR, PETITIONER, VS. YOLANDA O. PEÑA, MARIVIC P. ENCISO, MELINDA S. CANTOR, ROMEO ASOR AND EDGAR A....

G.R. No. 174244. February 13, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Marcel Pan (the mayor), after winning the mayoralty post in the Municipality of Goa, Camarines Sur in the 1998 Elections, initiated a reorganization of the local government, allegedly due to the large budgetary deficit of the municipality brought about by a bloated bureaucracy.[1]

To start the bureaucratic shake-up, the Sangguniang Bayan (Sanggunian) passed Resolution No. 025-98[2] authorizing the mayor to partly reorganize the bureaucracy. This resolution was eventually amended by Resolution No. 046-98[3] to give the mayor full authority to restructure the local government unit (LGU).

The Sanggunian thereafter created a Placement Committee via Resolution No. 054-98[4] to oversee the LGU reorganization in terms of selection and placement of personnel, in consonance with the procedures laid down in Republic Act (R.A.) No. 6656,[5] the Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization of 1988, and its implementing rules.[6]

Affected by this reorganization were herein respondents Yolanda Peña (Peña), Marivic Enciso (Marivic), Melinda Cantor (Cantor), Romeo Asor (Asor) and Edgar Enciso (Enciso), who were permanent employees assigned at the various departments of the LGU but whose positions were abolished. The positions held by respondents were: local revenue collection officer I (waterworks supervisor) for Peña; utility worker II for Marivic; revenue collection clerk II for Cantor; utility worker II for Asor; and utility worker I for Enciso.[7]

Respondents applied for the newly created positions in the LGU's new organization and staffing pattern, â”€ Peña as cashier II; Marivic as local legislative staff or bookbinder; Cantor as revenue collection clerk; Asor as local legislative staff; and Enciso as bookbinder.

The Placement Committee did not approve respondents' applications. Instead, it recommended, and the mayor appointed Evelyn Granadino, Salvacion Asor, Myrna Macuja, Ma. Christina Mendoza and Mina Natalia Vargas to fill up the ranks.[8]

After due notice and hearing, a total of thirty one (31) employees, including respondents, were separated from the service effective October 30, 1998.[9]

Respondents filed an appeal with the Civil Service Commission (CSC) which, after consideration of the qualifications of the parties involved, noted as follows:

> Romeo Asor, fourteen (14) years in government service and with 112 training hours, applied for local

> legislative staff, but was denied. Instead, Myrna Macuja, who has three (3) years government service was appointed.
>
> Mayor Pan's only justification was that Asor has no civil service eligibility. Records, [sic] show that Macuja also has no civil service eligibility. He likewise did not dispute Asor's allegation.
>
> Edgardo Enciso, a college level (engineering third year) [sic] who has six (6) years government service and with 16 training hours, applied for Bookbinder position, but was denied. In his stead, C[h]ristina Mendoza, a graduate of midwifery[,] was appointed.
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> Again, Mayor Pan justified that Edgardo Enciso is non-eligible. However, records reveal that Mendoza is likewise a non-civil service eligible. Under the Qualification Standard (QS), civil service eligibility is not required for the said position. Enciso's allegation was also uncontested.
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> x x x x
>
> Yolanda Peña, an Accounting graduate with Civil Service Eligibility (Professional) and has been in the government service for twenty five (25) years and 289 hours of training [sic], applied for Cashier II position. She was not appointed to said position and neither to any position and, instead Evelyn Granadino who has only eleven (11) years in the service was preferred and appointed to Cashier II.
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> The justification by Mayor Marcel Pan for not appointing Peña to Cashier II is self-serving. There was no proof shown to support his allegation that the Municipality of Goa incurred losses of Four Hundred Thousand Pesos (P400,000.00) during Peña's incumbency as Supervisor of Waterworks System.
>
> Marivic Enciso, who has been in the government service for ten years and eight months (10 years & 8 months) and with 119 hours of training, applied for Local Legislative Staff and in the alternative for Bookbinder but her application was denied. Instead, Myrna Macuja, who is new in the service[,] was appointed. Natalia Vargas, who has seven years in service[,] was appointed as Bookbinder.
>
> The only justification Mayor Pan gave for not appointing [Marivic] was that the latter has no civil service eligibility. Records, however, show that Macuja and Vargas also have no civil service eligibilities. Further, Mayor Pan did not rebut [Marivic's] allegation regarding Macuja[`s] and Vargas' length of service.
>
> Melinda Cantor, civil service eligible (Subprofessional) and who has seven (7) years government service and 104 hours training, likewise applied for Clerk II position. The same was denied. Instead[,] Salvacion Asor, with only four (4) months government service, and Fernando Pardinas and Leticia Parpan, both High School graduates were appointed.[10]

The CSC, by Resolution No. 992183 dated September 23, 1999, found for respondents, disposing as follows:

> WHEREFORE, the appeal is hereby granted. The Commission rules that the separation of herein appellants, except Aurora Pacis, was in violation of the provisions of Republic Act No. 6656. Accordingly, Yolanda O. Peña, Marivic Enciso, Melinda Cantor, Romeo Asor and Edgar Enciso shall be reinstated or reappointed to their former positions or their equivalent under the new staffing pattern without loss of seniority rights and shall be paid backwages from the time they were separated until their actual reinstatement. Aurora Pacis' non-appointment was, however, justified. (Emphasis and underscoring supplied)

Via Motion for Reconsideration,[11] the mayor adduced additional evidence and grounds in support of his decision not to appoint respondents, such as Peña's poor job performance as former waterworks supervisor resulting in financial losses; Cantor's lack of actual experience in the work of a revenue collections clerk; and Marivic's, Asor's and Enciso's failure to submit their respective performance evaluation reports for them to be considered by the Placement Committee, as well as their questionable promotions to their last stated positions.

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And the mayor informed:

> When the present administration reorganized, the most affected department was the Municipal Treasurer's Office where Melinda Cantor, Romeo Asor and Marivic Enciso belonged to make the local treasury more viable. From twenty-seven (27) employees, this department was reduced to nine (9) employees. Another office affected heavily by the reorganization is the Waterworks operation where Yolanda Pe[ñ]a and Edgar Enciso were formerly connected. From eight (8) employees, this office was trimmed down to two (2) employees. (Emphasis and underscoring supplied)

The motion for reconsideration having been denied by Resolution No. 000617,[12] he went up to the Court of Appeals for recourse.

In sustaining the CSC, the appellate court, by Decision[13] of July 14, 2005, took note of why the new positions were filled up by others "who are less preferred or qualified in terms of status of appointment, training, education and length of service,"[14] instead of by respondents who were holding permanent positions.

Reconsideration of the appellate court's Decision having been denied by Resolution[15] of August 14, 2006, the present petition was filed by the mayor "representing the municipality of Goa" (hereafter petitioner) on the following contentions:

> I
>
> THE DECISION OF THE HONORABLE COURT OF APPEALS IS NOT SUPPORTED BY EVIDENCE ON RECORD AND IS BASED ON SURMISES AND CONJECTURES.
>
> II
>
> THE PRINCIPLE OF FINALITY OF FACTUAL FINDINGS OF ADMINISTRATIVE AGENCIES SHOULD HAVE BEEN FIRST APPLIED TO THE DECISION OF THE PLACEMENTS BOARD. (Underscoring supplied)

Petitioner insists that all those retained in the reorganization are permanent employees holding permanent positions who are equally, if not better, qualified compared with respondents.[16] And he questions the conflicting actions of the CSC when it still ordered the reinstatement of respondents despite its approval of the appointment of the new appointees.[17]

In their Comment[18] on the petition, respondents prefatorily contend that the petition calls for a re-assessment of the evidence adduced before the CSC and the appellate court which this Court, so they argue, is not permitted to do in the absence of any of the recognized exceptions.[19] On the substantive aspect, respondents merely quote, for the most part, the appellate court's conclusions.

The issue arising from petitioner's first contention is whether petitioner complied with the provisions of R.A. 6656 in effecting respondents' separation from the service. The second contention raised by petitioner is misplaced as the findings of facts of the CSC pertain to whether the Municipality of Goa undertook a reorganization in good faith, and not whether the qualifications of the appointees are on a par with, or even above par respondents', wherein there lies no dispute.

The petition is bereft of merit.

A reorganization "involves the reduction of personnel, consolidation of offices, or abolition thereof by reason of economy or redundancy of functions."[20] It alters the existing structure of government offices or units therein, including the lines of control, authority and responsibility between them[21] to make the bureaucracy more responsive to the needs of the public clientele as authorized by law.[22] It could result in the loss of one's position

through removal or abolition of an office. For a reorganization for the purpose of economy or to make the bureaucracy more efficient to be valid, however, it must pass the test of good faith, otherwise it is void ab initio. [23]

> . . . As a general rule, a reorganization is carried out in "good faith" if it is for the purpose of economy or to make bureaucracy more efficient. In that event, no dismissal (in case of a dismissal) or separation actually occurs because the position itself ceases to exist. And in that case, security of tenure would not be a Chinese wall. Be that as it may, if the "abolition," which is nothing else but a separation or removal, is done for political reasons or purposely to defeat security of tenure, or otherwise not in good faith, no valid "abolition" takes place and whatever "abolition" is done, is void ab initio. There is an invalid "abolition" as where there is merely a change of nomenclature of positions, or where claims of economy are belied by the existence of ample funds. (Underscoring supplied)

Section 2 of R.A. No. 6656 cites certain circumstances showing bad faith in the removal of employees as a result of any reorganization, thus:

> Sec. 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 exist 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 the 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 another 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 functions as the original offices;
>
> e) Where the removal violates the order of separation provided in Section 3 hereof. (Emphasis, italics and underscoring supplied)

And Section 3 of the same law provides for the order of removal of employees as follows:

> Sec. 3.In the separation of personnel pursuant to reorganization, the following order of removal shall be followed:
>
> (a) Casual employees with less than five (5) years of government service;
>
> (b) Casual employees with five (5) years or more of government service;
>
> (c) Employees holding temporary appointments; and
>
> (d) Employees holding permanent appointments: Provided, That those in the same category as enumerated above, who are least qualified in terms of performance and merit shall be laid first, length of service notwithstanding.

In the case at bar, petitioner claims that there has been a drastic reduction of plantilla positions in the new staffing pattern in order to address the LGU's gaping budgetary deficit. Thus, he states that in the municipal treasurer's

office and waterworks operations unit where respondents were previously assigned, only 11 new positions were created out of the previous 35 which had been abolished; and that the new staffing pattern had 98 positions only, as compared with the old which had 129.

The CSC, however, highlighted the recreation of six (6) casual positions for clerk II and utility worker I, which positions were previously held by respondents Marivic, Cantor, Asor and Enciso. Petitioner inexplicably never disputed this finding nor proferred any proof that the new positions do not perform the same or substantially the same functions as those of the abolished. And nowhere in the records does it appear that these recreated positions were first offered to respondents.

The appointment of casuals to these recreated positions violates R.A. 6656, as Section 4 thereof instructs that:

> Sec. 4. Officers and employees holding permanent appointments shall be given preference for appointment to the new positions in the approved staffing pattern comparable to their former positions or in case there are not enough comparable positions, to positions next lower in rank.
>
> No new employees shall be taken until all permanent officers and employees have been appointed, including temporary and casual employees who possess the necessary qualification requirement, among which is the appropriate civil service eligibility, for permanent appointment to positions in the approved staffing pattern, in case there are still positions to be filled, unless such positions are policy-determining, primarily confidential or highly technical in nature. (Emphasis and underscoring supplied)

In the case of respondent Peña, petitioner claims that the position of waterworks supervisor had been abolished during the reorganization. Yet, petitioner appointed an officer-in-charge in 1999 for its waterworks operations[24] even after a supposed new staffing pattern had been effected in 1998. Notably, this position of waterworks supervisor does not appear in the new staffing pattern of the LGU.[25] Apparently, the Municipality of Goa never intended to do away with such position wholly and permanently as it appointed another person to act as officer-in-charge vested with similar functions.

While the CSC never found the new appointees to be unqualified, and never disapproved nor recalled their appointments as they presumably met all the minimum requirements therefor, there is nothing contradictory in the CSC's course of action as it is limited only to the non-discretionary authority of determining whether the personnel appointed meet all the required conditions laid down by law.[26]

Congruently, the CSC can very well order petitioner to reinstate respondents to their former positions (as these were never actually abolished) or to appoint them to comparable positions in the new staffing pattern.

In fine, the reorganization of the government of the Municipality of Goa was not entirely undertaken in the interest of efficiency and austerity but appears to have been marred by other considerations in order to circumvent the constitutional security of tenure of civil service employees like respondents.

WHEREFORE, the petition is DENIED. The challenged July 14, 2005 Decision of the Court of Appeals is AFFIRMED.

Costs against petitioner.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, and Peralta, JJ., concur.

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[1] Rollo, p. 188.

[2] Id. at 51-52, Annex "E."

[3] Id. at 53, Annex "F."

[4] Id. at 54, Annex "G."

[5] Approved on June 10, 1988; 84 Official Gazette No. 24, p. S-1.

[6] Implementing Rules on Government Reorganization, promulgated by the Civil Service Commission on June 30, 1988.

[7] Rollo, p. 219.

[8] Id. at 27-28.

[9] Supra note 7.

[10] Id. at 59, 62.

[11] Id. at 165-168.

[12] Id. at 65-75

[13] Penned by Justice Roberto A. Barrios with Justices Amelita G. Tolentino and Vicente S.E. Veloso concurring. Rollo, pp. 34-42.

[14] CA rollo, p. 264.

[15] Id. at 304-307.

[16] Rollo, pp. 113-117. The qualifications of the appointees are: Evelyn Granadino as cashier II (1986 Sub-Prof Examination-74%, 1990 Prof. Exam-80.27%, Accountancy degree holder and completed academic requirements for a masters degree in Business Administration; Salvacion Asor as revenue collection clerk (Midwifery graduate and passed the licensure examinations, and revenue collection clerk for at least 10 years); Myrna Macuja as local legislative staff (Bachelor of Science in Elementary Education and Library Science Information, with 21 units undertaken in Masters in Library Science, and 3 years actual legislative work experience); Ma. Christina Mendoza as bookbinder (Midwifery graduate, worked for 7 years at the mayor's office where the position is assigned); and Mina Natalia Vargas as bookbinder (Library Science graduate, with secretarial course and previous experience with the Sanggunian where the position is assigned).

[17] Id. at 120.

[18] Id. at 192-203.

[19] Rosario v. PCI Leasing and Finance, G.R. No. 139233, 474 SCRA 500, 506 (2005) citing Sarmiento v. CA, G.R. No. 110871, 291 SCRA 656 (1998).

[20] Canonizado v. Aguirre, G.R. No. 133132, January 25, 2000, 323 SCRA 312.

[21] Vide: Buklod ng Kawanihang EIIB v. Zamora, G.R. Nos. 142801-802, July 10, 2001, 360 SCRA 718, 726 citing Martin, Philippine Political Law 276.

[22] Sinon v. Civil Service Commission, G.R. No. 101251, November 5, 1992, 215 SCRA 410, 420.

[23] Dario v. Mison, 176 SCRA 84 (1989). Vide: Dytiapco v. Civil Service Commission, G.R. No. 92136, July 3,

1992, 211 SCRA 88 (1992); Domingo v. Development Bank of the Philippines, G.R. No. 93355, April 7, 1992, 207 SCRA 766 and Pari-an v. Civil Service Commission, G.R.No. 96535, October 15, 1991, 202 SCRA 772 (1991).

[24] Rollo, pp. 82-85. Vicente Garchitorena appears therein as officer-in-charge of the Office of the Goa Municipal Water System.

[25] CA rollo, pp. 234-236.

[26] Luego v. Civil Service Commission, No. L-69137, August 5, 1986, 143 SCRA 327, 333.

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