

CIVIL SERVICE COMMISSION, PETITIONER, VS. NELIA O. TAHANLANGIT, RESPONDENT.

G.R. No. 180528. July 27, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Via petition for review, the Civil Service Commission (CSC or petitioner) seeks the reversal of the Court of Appeals Decision of September 17, 2007[1] and Resolution of November 9, 2007[2] reversing and setting aside petitioner's Resolution Nos. 03-0237[3] of February 21, 2003 and 03-0814[4] of July 30, 2003 insofar as they refer to Nelia Tahanlangit (respondent).

On January 1, 1998, the Bureau of Patents, Trademarks and Technology Transfer (BPTTT) was, pursuant to Republic Act No. 8293, "The Intellectual Property Code of the Philippines," reorganized into what is now known as the Intellectual Property Office (IPO).

As a consequence of the reorganization, 137 incumbents of the BPTTT including respondent were appointed to new positions in the approved staffing pattern of the IPO. Under the BPTTT plantilla, respondent occupied the position of Trademark Principal Examiner I -- a position said to be comparable to the item of Intellectual Property Rights Specialist I (IPRS-I) under the new IPO plantilla to which she was appointed.

By Decision[5] of May 8, 2001, petitioner's National Capital Regional [NCR] Office disapproved respondent's permanent appointment, along with those of two (2) other appointees, Manuel S. Rojas (Rojas) and Ferdinand G. Quevedo (Quevedo), on the ground that they did not qualify to the respective positions to which they were appointed, respondent and Rojas having lacked the requisite educational qualifications, and Quevedo have lacked the appropriate eligibility.

In the meantime, or on December 31, 2001, Quevedo availed himself of early retirement under Republic Act No. 1616.

Then Department of Trade and Industry Secretary Manuel Roxas II, in his capacity as the appointing authority, appealed the NCR Office Decision to petitioner which it, by Resolution No. 03-0237 of February 21, 2003, affirmed.

On March 11, 2003, Rojas reached the mandatory retirement age of 65 years. The IPO sought reconsideration of petitioner's Resolution No. 03-0237 which petitioner partly granted by Resolution No. 03-0814 of July 30, 2003. Petitioner held that since Quevedo's retirement took effect on December 31, 2001, prior to the issuance of Resolution No. 03-0237 on February 21, 2003, his appointment as Intellectual Property Rights Specialist II should no longer be disturbed, as the same remained valid and subsisting at the time of his availment of optional retirement.

Petitioner further held that the same ruling applied to Rojas, who retired mandatorily on March 11, 2003, after its Resolution No. 03-0237 was issued on February 21, 2003; but in view of the timely filing by Rojas of a motion

for reconsideration of said Resolution, his appointment to the position of Intellectual Property Rights Specialist I should also be deemed valid and subsisting. Petitioner affirmed the disapproval of respondent's appointment, however.

Respondent appealed petitioner's Resolution of July 30, 2003 to the Court of Appeals. In the meantime or on August 31, 2003, she optionally retired under Republic Act No. 8291, "The Government Service Insurance System Act of 1997."

By the assailed Decision dated September 17, 2003, the appellate court granted respondent's petition and reversed and set aside petitioner's disapproval of her appointment.

The appellate court held that petitioner's challenged Resolutions had been rendered moot and academic by respondent's retirement from the government service on August 31, 2003. Further, it held that respondent's "optional retirement prior to the finality of [petitioner's] assailed Resolutions is sufficient grounds to accord her the same consideration granted to Rojas and Quevedo; and that in line with its (the appellate court's) equity jurisdiction, "the ends of substantial justice will be better served if herein respondent be allowed to retire from the service upholding that her permanent appointment be considered valid and subsisting at the time of her retirement."

Petitioner's motion for reconsideration having been denied by Resolution of November 9, 2007, the present petition was filed.

Petitioner contends that its ruling in Quevedo's and Rojas' cases cannot be applied to respondent's case, because the attendant circumstances are not analogous, it pointing out that in the former's cases, while the NCR disapproved their appointments as IPRS II and IPRS I, respectively, the disapproval was not yet final and executory at the time of their retirement, whereas in respondent's case, she availed of optional retirement only on August 31, 2003 or after its Resolution No. 03-0814 of July 30, 2003 had become final and executory, pursuant to Item 6 of CSC Memorandum Circular No. 15, s. 2002, which states:

6. The denial of the Commission proper of the Motion for Reconsideration shall be final and executory.

Petitioner further contends that while respondent appealed its Resolutions to the appellate court, the appeal did not stay the execution thereof; hence, at the time she retired, the disapproval of her appointment had been affirmed.

Petitioner also maintains that upholding respondent's appointment to the IPO as IPRS I despite its disapproval thereof having become final and executory would establish a bad precedent in government reorganization, as it relaxes the requirements of the law on appointments/reappointments. Moreover, it contends that a permanent appointment can be issued only to a person who meets all the requirements for the position to which he or she is being appointed; and if respondent did not qualify as IPRS I due to lack of a college degree, the disapproval of her appointment is justified.

Petitioner goes on to debunk respondent's claim that as a permanent employee of BPTTT she is entitled, as a matter of right, to a permanent position in the IPO, it ratiocinating that the circumstance arose out of a valid reorganization plan and, therefore, her security of tenure was not violated. It adds that with the abolition of BPTTT under Republic Act No. 8293, the plantilla positions thereunder ceased to exist and, therefore, there is in law no occupant thereof and no security of tenure to speak of.

Citing *De La Llana v. Alba*,^[6] petitioner furthermore avers that the abolition of an office within the competence of a legitimate body, if done in good faith, suffers from no infirmity; and a valid abolition of office results in neither removal nor separation of the incumbents.

Finally, petitioner asserts that, contrary to respondent's position, there is no vested property right to be re-employed in a reorganized office, following *National Land Titles and Deeds Registration Administration v. Civil Service Commission*.^[7]

Respondent, in her Comment,^[8] insists that her retirement rendered moot and academic the present petition. Invoking humane considerations and illnesses, she begs for the Court's indulgence in order that the retirement benefits that she is presently enjoying be not disturbed.

The Court notes that neither the assailed Decision of the appellate court nor respondent's Comment touched on the validity of Republic Act No 8293. Neither was the propriety of petitioner's disapproval of respondent's appointment passed upon.

The only issue thus presented for resolution is whether respondent's optional retirement mooted the disapproval of her appointment.

The Court holds in the affirmative.

When respondent retired from the service on August 31, 2003, petitioner's Resolution No. 03-0237 of July 30, 2003 had not attained finality, as it was pending appeal before the appellate court.

Section 80 of petitioner's Resolution No. 99-1936, "The Uniform Rules on Administrative Cases in the Civil Service," provides that a decision of the CSC or its Regional Office shall be immediately executory after fifteen (15) days from receipt thereof, unless a motion for reconsideration is seasonably filed, thus:

Section 80. Execution of Decision. - The decisions of the Commission Proper or its Regional Offices shall be immediately executory after fifteen (15) days from receipt thereof, unless a motion for reconsideration is seasonably filed, in which case the execution of the decision shall be held in abeyance. (Emphasis and underscoring supplied)

In respondent's case, she received petitioner's Resolution of July 30, 2003 on August 18, 2003¹; hence, she had until September 2, 2003 to file with the Court of Appeals her appeal or motion for extension of time to file it, in accordance with Section 12, Rule 43 of the Revised Rules of Civil Procedure; otherwise, the said Resolution would become final and executory. Records show that respondent timely filed the petition for review on September 1, 2003. Thus, when she optionally retired from the service on August 31, 2003, petitioner's July 30, 2003 Resolution invalidating her appointment had not attained finality. Petitioner's ruling in the cases of *Rojas* and *Quevedo* thus applies.

Petitioner contends, however, that under Item 6 of CSC Memorandum Circular No. 15, s. 2002, its denial of "the Motion for Reconsideration shall be final and executory." The Circular must, however, be read in conjunction with the above-stated rule on the disposition of cases before the CSC, as well as Rule 43 of the Revised Rules of Procedure providing appeal from decisions and final orders of quasi-judicial agencies of which it is one. To rule that respondent was effectively terminated from office as of July 30, 2003, the date of promulgation of petitioner's Resolution affirming the disapproval of her appointment would render nugatory and inutile the relief provided for under Rule 43, wherein one can even ask for a stay of the execution of the questioned Resolution.

When respondent was then allowed to avail herself of optional retirement under the law after having served the government for more than 40 years, within the 15-day period to appeal under Rule 43, petitioner's July 30, 2003 Resolution had become moot and academic.

Courts have generally refrained from even expressing an opinion on cases where the issues have become moot and academic, there being no more justiciable controversy to speak of, so that a determination thereof would be of

no practical use or value.[9] In the present case, when her appointment was disapproved by petitioner, respondent would still have been able to retire under the applicable law, R.A. 8291, as said law only requires that the employee concerned must have rendered at least 15 years of service and must not have been receiving disability benefits at the time of retirement. Petitioner, having retired on August 31, 2003, the position of IPRS I is presumed to have been already filled up and to be now occupied by one bearing the requisite qualifications. Hence, passing on the disapproval of respondent's appointment no longer has any practical value.

This leaves it unnecessary to pass on petitioner's apprehension that upholding as valid the appointment of one who has not qualified for the position would set a bad precedent. Suffice it to state that petitioner failed to show that according respondent the same treatment granted to Rojas and Quevedo would result in prejudice to the government or to any individual.

WHEREFORE, the petition is DENIED.

SO ORDERED.

CONCHITA CARPIO MORALES

Associate Justice

WE CONCUR:

REYNATO S. PUNO

Chief Justice

LEONARDO A. QUISUMBING

Associate Justice

ANTONIO T. CARPIO

Associate Justice

CONSUELO YNARES- SANTIAGO

Associate Justice

RENATO C. CORONA

Associate Justice

MINITA V. CHICO-NAZARIO

Associate Justice

ANTONIO EDUARDO B. NACHURA

Associate Justice

PRESBITERO J. VELASCO, JR.

Associate Justice

TERESITA J. LEONARDO-DE CASTRO

Associate Justice

ARTURO D. BRION

Associate Justice

DIOSDADO M. PERALTA

Associate Justice

LUCAS P. BERSAMIN

Associate Justice

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- [1] Annex "A" of the Petition, rollo, pp. 44-54. Penned by Associate Justice Myrna Dimaranan Vidal and concurred in by Associate Justices Jose L. Sabio, Jr., and Jose C. Reyes, Jr.
- [2] Annex "B" of the Petition, rollo, p. 55. Penned by Associate Justice Myrna Dimaranan Vidal and concurred in by Associate Justices Jose L. Sabio, Jr., and Jose C. Reyes, Jr.
- [3] Annex "E" of the Petition, rollo, pp. 66-70. Penned by then Chairperson Karina Constantino David and concurred in by Commissioners Jose F. Erestain, Jr. and J. Waldemar V. Valmores.
- [4] Annex "D" of the Petition, rollo, pp. 58-65. Penned by then Chairperson Karina Constantino David and concurred in by Commissioners Jose F. Erestain, Jr. and J. Waldemar V. Valmores.
- [5] Annex "C" of the Petition, rollo, 56-57. Penned by Atty. Myrna Macatangay, Director III, CSC-NCR.
- [6] No. L-57883, March 12, 1982, 112 SCRA 294.
- [7] G.R. No. 84301, April 7, 1993, 221 SCRA 145.
- [8] Rollo, pp. 136-138.
- [9] Engaño v. Court of Appeals, G.R. No. 156959, June 27, 2006, 493 SCRA 323, 329.

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