

NATIONAL POWER CORPORATION, PETITIONER, VS. EMILIA A. CANAR, RESPONDENT.

G.R. No. 234031. September 02, 2020

Ponente: INTING, J.

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INTING, J.:

This is a Petition for Review[1] under Rule 45 of the Rules of Court seeking to set aside the Decision[2] dated February 13, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 144458 denying the petition for review filed by National Power Corporation (petitioner) against Emilia A. Canar (respondent); and its subsequent Resolution[3] dated August 23, 2017 denying petitioner's motion for reconsideration.

The Antecedents

Petitioner is a government-owned and -controlled corporation created by virtue of Republic Act No. (RA) 6395, as amended.[4] Respondent was a permanent employee of petitioner prior to the new table of organization and holding the position of Department Manager of the Facilities Management Department.[5]

On July 9, 2012, the Governance Commission for Government-Owned and -Controlled Corporation,[6] through Memorandum Order No. 2012-06,[7] approved and confirmed the continuing reorganization of petitioner, and adopted a new table of organization.

Respondent submitted her application for the following vacant positions in the new table of organization, to wit:

- Department Manager, General Services, Administration and Finance (A&F)
- Department Manager, Logistics, A&F
- Department Manager, Human Resource Management, A&F
- Department Manager, Revenue Management, Corporate Affairs (waived)[8]

However, petitioner did not consider respondent in any of the positions she applied for in the table of organization. It also did not reappoint her. Thus, it considered respondent separated from the service.

Instead, petitioner appointed the following personnel:

1. Paquito F. Garcia

—

General Services Department

2. Natalia O. Guinto

—

Logistics Department

3. Marciana B. Guinto

—

Human Resources Department

4. Salvador D. Sarmiento, Jr.

—

Revenue Management Department.[9]

Consequently, petitioner issued to respondent a Notice of Non-Appointment (Notice of Separation)[10] dated February 15, 2013 in accordance with RA 6656[11] and the guidelines issued pursuant thereto.[12]

Heavy-hearted, respondent appealed her non-appointment to then President of petitioner, Froilan A. Tampinco (Tampinco).[13] In her appeal, she specifically challenged the appointment of the department managers of the Logistics and Human Resource Management as not in consonance with the requirement of RA 6656.[14]

In a Memorandum[15] dated March 20, 2013, Tampinco denied respondent's appeal. The pertinent portions of the Memorandum state:

First, please be informed that the criteria used in the evaluation are the applicant's qualifications (e.g., Education, Training, Experience, Eligibility) vis-à-vis the CSC prescribed Qualification Standards (i.e., Education, Training, Experience, and Eligibility) all of which are already contained in the certified copy of the CAF provided to you.

x x x x

Finally, after careful and thorough review of the issues raised in said memo, the undersigned finds no cogent reason to reverse the decision on the appointment made to the person for the position which is the subject of your appeal.[16]

Not satisfied and feeling aggrieved by the above decision, respondent filed an appeal (ad cautelam) before the Civil Service Commission (CSC) assailing the decision as a violation of her rights under RA 6656 when Tampinco failed to follow the order of preference of removal from the service due to the reorganization; and when he filled out vacant positions by promoting incumbents of lower level positions.

Petitioner filed its comment to the appeal of respondent. Subsequently, respondent filed her reply.

In the Decision No. 130743[17] dated July 15, 2013, the CSC partially granted respondent's appeal by directing petitioner to consider respondent to the next lower positions in the new table of organization. The dispositive portion of the Decision No. 130743 reads:

WHEREFORE, the petition for review of Emilia A. Canar, former Department Manager, National Power Corporation (NAPOCOR), is PARTLY GRANTED. Accordingly, NAPOCOR is hereby directed to consider Canar to the next lower positions in the new staffing pattern/table of organization thereat.[18]

Both petitioner and respondent moved for reconsideration.[19]

In the Resolution No. 1500487[20] dated April 17, 2015, the CSC denied petitioner's motion for reconsideration. The dispositive portion thereof reads:

WHEREFORE, the motion for reconsideration of Froilan A. Tampinco, President, National Power Corporation (NAPOCOR), is DENIED. Accordingly, CSC Decision No. 13-0743 dated July 15, 2013 STANDS. NAPOCOR is hereby directed to consider Canar to the next lower positions in the new staffing pattern/table of

organization thereat.[21]

Petitioner elevated the case to the CA assailing the Decision No. 130743 and the Resolution No. 1500487 of the CSC by filing a petition for review on March 21, 2016. Subsequently, respondent filed her comment dated May 6, 2016 on the petition.[22]

In the Decision[23] dated February 13, 2017, the CA denied the petition. It held that respondent may not automatically be separated from Service. It noted that the first paragraph of Section 4 of RA 6656 provides that in case there are not enough comparable positions, the permanent employees shall be given preference to the positions next lower in rank, viz.:

WHEREFORE, the petition is DENIED. The Decision No. 13-0743 promulgated on July 15, 2013 and Resolution No. 1500487 promulgated on April 17, 2015 of the Civil Service Commission are hereby AFFIRMED.

SO ORDERED.[24]

Petitioner moved for reconsideration. The CA denied it in its Resolution[25] dated August 23, 2017.

Hence, the instant petition raising the sole issue of whether the CA erred in affirming the decision and resolution of the CSC.

Petitioner relied on the case of Cotiangco, et al. v. Province of Biliran, et al.[26] (Cotiangco), and contended that the CA erred in affirming the decision and resolution of the CSC directing petitioner to consider respondent to the next lower positions in the new staffing pattern/table of organization despite the fact that she did not apply for the next lower positions.

Our Ruling

Petitioner's contention lacks merit.

Before proceeding to the merits of the case, the Court deems it necessary to emphasize that a petition for review under Rule 45 is limited only to questions of law.[27] The rule, however, is not without exception. In *Medina v. Mayor Asistio, Jr.*,[28] it was held that findings of fact by the CA may be passed upon and reviewed by the Court in the following instances: (1) when the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) where there is a grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the CA, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) the findings of the CA are contrary to those of the trial court; (8) when the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and (10) the finding of fact of the CA is premised on the supposed absence of evidence and is contradicted by the evidence on record.[29]

Although jurisprudence has provided several exceptions to the rules, exceptions must be alleged, substantiated, and proved by the parties so that the Court may evaluate and review the facts of the case.[30] In the instant case, petitioner merely alleged that the CSC and the CA misappreciated the facts of the case; it did not substantiate the cited exceptions, and that indeed, the exception is obtaining to justify a review of the CA Decision. Hence, the Court finds that the case does not fall under any of the exceptions.

Anent the main issue, Section 4 of RA 6656 explicitly provides that "[o]fficers and employees holding permanent appointments shall be given preference for the appointment to new positions in the approved staffing pattern

comparable to their former position or in case there are not enough comparable positions, to positions next lower in rank."

Thus, the CA was correct in ruling that respondent may not automatically be separated from service.

Petitioner's reliance in Cotiangco is misplaced. There, the subject personnel totally did not apply for any newly created positions; whereas in the instant case, respondent filed several applications to positions comparable to the position she formerly occupied. Her act of filing multiple applications is a clear indication that she wanted to remain in the office, and thus, should be considered in the placement process.

As a rule, administrative agencies' factual findings that are affirmed by the CA are conclusive on the parties and not reviewable by the Court, except only for very compelling reasons;^[31] and where the findings of the administrative body are amply supported by substantial evidence, such findings are accorded not only respect but also finality, and are binding on the Court.^[32] The Court finds no cogent reason to deviate from the general rule.

WHEREFORE, the petition is DENIED. The Decision dated February 13, 2017 and the Resolution dated August 23, 2017 of the Court of Appeals in CA-G.R. SP No. 144458 are hereby AFFIRMED.

SO ORDERED.

Perlas-Bernabe, (Chairperson), Hernando, and Delos Santos, JJ., concur.
Baltazar-Padilla, J., On official leave.

[1] Rollo, pp. 11-30.

[2] Id. at 33-39; penned by Associate Justice Ma. Luisa C. Quijano-Padilla with Associate Justices Normandie B. Pizarro and Samuel H. Gaerlan (now a member of the Court), concurring.

[3] Id. at 41-42.

[4] An Act Revising the Charter of the National Power Corporation.

[5] Rollo, p. 33.

[6] The Governance Commission for Government-Owned and -Controlled Corporation was created by virtue of Republic Act No. 10149 with the authority to evaluate the performance and to determine the relevance of the government-owned and -controlled corporation's (GOCC), to ascertain whether such GOCC should be reorganized, merged, streamlined, abolished or privatized, in consultation with the department or agency to which a GOCC is attached (Section 6 thereof).

[7] Rollo, pp. 43-45.

[8] Id. at 47.

[9] Id. at 13-14: as culled from the Petition for Review of National Power Corporation.

[10] Id. at 46.

[11] Entitled "An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization," approved on June 10, 1988.

[12] Rollo, p. 14.

[13] See Memorandum dated March 12, 2013, id. at 47-48.

[14] Id. at 14.

[15] Id. at 49.

[16] Id.

[17] Id. at 51-56. Signed by Commissioner Robert S. Martinez, Chairman Fransico T. Duque III, and Commissioner Nieves L. Osorio and attested by Director IV Dolores B. Bonifacio.

[18] Id. at 56.

[19] Id. at 15.

[20] Id. at 58-62. Signed by Commissioners Nieves L. Osorio and Robert S. Martinez and attested by Director IV Dolores B. Bonifacio.

[21] Id. at 62.

[22] Id. at 16.

[23] Id. at 33-39.

[24] Id. at 39.

[25] Id. at 41-42.

[26] 675 Phil. 211 (2011).

[27] *Miro v. Vda. de Erederos, et al.*, 721 Phil. 772, 785 (2013).

[28] 269 Phil. 225 (1990).

[29] Id. at 232. Citations omitted.

[30] *Pascual v. Burgos*, 776 Phil. 167, 169 (2016).

[31] *Gannapao v. Civil Service Commission, et al.*, 665 Phil. 60, 77-78 (2011). Citations omitted.

[32] *Nacu, et al. v. Civil Service Commission, et al.*, 650 Phil. 309, 325 (2010).

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