

**FELICIDAD ANZALDO, PETITIONER, VS. JACOBO C. CLAVE, AS
CHAIRMAN OF THE CIVIL SERVICE COMMISSION AND AS
PRESIDENTIAL EXECUTIVE ASSISTANT; JOSE A. R. MELO, AS
COMMISSIONER OF THE ...**

G.R. No. 54597. December 15, 1982

Ponente: AQUINO, J.

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AQUINO, J.:

This is a controversy over the position of Science Research Supervisor II, whose occupant heads the Medical Research Department in the Biological Research Center of the National Institute of Science and Technology (NIST).

Doctor Felicidad Estores-Anzaldo, 55, seeks to annul the decision of Presidential Executive Assistant Jacobo C. Clave dated March 20, 1980, revoking her appointment dated January 5, 1978 as Science Research Supervisor II and directing the appointment to that position of Doctor Eulalia L. Venzon, 48.

The contested position became vacant in 1974 when its incumbent, Doctor Quintin Kintanar, became Director of the Biological Research Center. Doctor Kintanar recommended that Doctor Venzon be appointed to that position. Doctor Anzaldo protested against that recommendation. The NIST Reorganization Committee found her protest to be valid and meritorious (p. 34, Rollo). Because of that impasse, which the NIST Commissioner did not resolve, the position was not filled up.

At the time the vacancy occurred, or on June 30, 1974, both Doctors Anzaldo and Venzon were holding similar positions in the Medical Research Department: that of Scientist Research Associate IV with an annual compensation of P12,013 per annum. Both were next-in-rank to the vacant position.

Later, Doctor Pedro G. Afable, Vice-Chairman, became the Officer-in-Charge of the NIST. Effective January 5, 1978, he appointed Doctor Anzaldo to the contested position with compensation at P18,384 per annum. The appointment was approved by the Civil Service Commission.

Doctor Afable, in his letter dated January 20, 1978, explained that the appointment was made after a thorough study and screening of the qualifications of Doctors Anzaldo and Venzon and upon the recommendation of the NIST Staff Evaluation Committee that gave 88 points to Doctor Anzaldo and 61 points to Doctor Venzon (p. 78, Rollo).

Doctor Venzon in a letter dated January 23, 1978, addressed to Jacobo C. Clave, appealed to the Office of the President of the Philippines (pp. 139-40). The appeal was forwarded to the NIST Officer-in-Charge, Jose P. Planas, who reiterated Doctor Afable's decision appointing Doctor Anzaldo to the contested position (p. 63, Rollo). The appeal-protest was later sent to the Civil Service Commission.

Chairman Clave of the Civil Service Commission and Commissioner Jose A. R. Melo recommended in

Resolution No. 1178 dated August 23, 1979 that Doctor Venzon be appointed to the contested position, a re-commendation which is in conflict with the 1978 appointment of Doctor Anzaldo which was duly attested and approved by the Civil Service Commission (pp. 30 and 48, Rollo).

The resolution was made pursuant to section 19(6) of the Civil Service Decree of the Philippines, Presidential Decree No. 807 (which took effect on October 6, 1975) and which provides that "before deciding a contested appointment, the Office of the President shall consult the Civil Service Commission."

After the denial of her motion for the reconsideration of that resolution, or on January 5, 1980, Doctor Anzaldo appealed to the Office of the President of the Philippines. As stated earlier, Presidential Executive Assistant Clave (who was concurrently Chairman of the Civil Service Commission) in his decision of March 20, 1980 revoked Doctor Anzaldo's appointment and ruled that, "as recommended by the Civil Service Commission" (meaning Chairman Clave himself and Commissioner Melo), Doctor Venzon should be appointed to the contested position but that Doctor Anzaldo's appointment to the said position should be considered "valid and effective during the pendency" of Doctor Venzon's protest (p. 36, Rollo).

In a resolution dated August 14, 1980, Presidential Executive Assistant Clave denied Doctor Anzaldo's motion for reconsideration. On August 25, 1980, she filed in this Court the instant special civil action of certiorari.

What is manifestly anomalous and questionable about that decision of Presidential Executive Assistant Clave is that it is an implementation of Resolution No. 1178 dated August 23, 1979 signed by Jacobo C. Clave, as Chairman of the Civil Service Commission and concurred in by Commissioner Jose A. R. Melo.

In that resolution, Commissioner Clave and Melo, acting for the Civil Service Commission, recommended that Doctor Venzon be appointed Science Research Supervisor II in place of Doctor Anzaldo.

When Presidential Executive Assistant Clave said in his decision that he was "inclined to concur in the recommendation of the Civil Service Commission", what he meant was that he was concurring with Chairman Clave's recommendation: he was concurring with himself (p. 35, Rollo).

It is evident that Doctor Anzaldo was denied due process of law when Presidential Executive Assistant Clave concurred with the recommendation of Chairman Clave of the Civil Service Commission. The case is analogous to *Zambales Chromite Mining Co. vs. Court of Appeals*, L-49711, November 7, 1979, 94 SCRA 261, where it was held that the decision of Secretary of Agriculture and Natural Resources Benjamin M. Gozon, affirming his own decision in a mining case as Director of Mines was void because it was rendered with grave abuse of discretion and was a mockery of administrative justice.

Due process of law means fundamental fairness. It is not fair to Doctor Anzaldo that Presidential Executive Assistant Clave should decide whether his own recommendation as Chairman of the Civil Service Commission, as to who between Doctor Anzaldo and Doctor Venzon should be appointed Science Research Supervisor II, should be adopted by the President of the Philippines.

Common sense and propriety dictate that the Commissioner in the Civil Service Commission, who should be consulted by the Office of the President, should be a person different from the person in the Office of the President who would decide the appeal of the protestant in a contested appointment.

In this case, the person who acted for the Office of the President is the same person in the Civil Service Commission, who was consulted by the Office of the President: Jacobo C. Clave. The Civil Service Decree could not have contemplated that absurd situation for, as held in the *Zambales Chromite* case, that would not be fair to the appellant.

We hold that respondent Clave committed a grave abuse of discretion in deciding the appeal in favor of Doctor Venzon. The appointing authority, Doctor Afable, acted in accordance with law and properly exercised his discretion in appointing Doctor Anzaldo to the contested position.

Doctor Anzaldo finished the pharmacy course in 1950 in the College of Pharmacy, University of the Philippines. She obtained from the Centro Escolar University the degree of Master of Science in Pharmacy in 1962 and in 1965 the degree of Doctor of Pharmacy.

Aside from her civil service eligibility as a pharmacist, she is a registered medical technologist and supervisor (unassembled).

She started working in the NIST in 1954 and has served in that agency for about twenty-eight (28) years now. As already stated, in January, 1978, she was appointed to the contested position of Science Research Supervisor II. Her present salary as Science Research Supervisor II, now known as Senior Science Research Specialist, is P30,624 per annum, after she was given a merit increase by Doctor Kintanar, effective July 1, 1981 (p. 259, Rollo).

On the other hand, Doctor Venzon finished the medical course in the University of Santo Tomas in 1957. She started working in the NIST in 1960. She has been working in that agency for more than twenty-one (21) years. Doctor Anzaldo is senior to her in point of service.

Considering that Doctor Anzaldo has competently and satisfactorily discharged the duties of the con-tested position for more than four (4) years now and that she is qualified for that position, her appoint-ment should be upheld. Doctor Venzon's protest should be dismissed.

WHEREFORE, the decision of respondent Clave dated March 20, 1980 is set aside, and petitioner Anzaldo's promotional appointment to the contested position is declared valid. No costs.

SO ORDERED.

Makasiar, (Chairman), Guerrero, Abad Santos, and Escolin, JJ., concur.

Concepcion, Jr., J., no part.

De Castro, J., in the result.

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