

EDITHA L. LIRA, PETITIONER, VS. HON. CIVIL SERVICE COMMISSION AND BRENDA JARANILLA, RESPONDENTS.

G.R. No. 62133. September 30, 1986

Ponente: FERNAN, J.

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FERNAN, J.:

In this petition for certiorari, petitioner Editha L. Lira seeks to set aside the Resolution No. 82-563[1] of the Civil Service Commission dated June 2, 1982 which dismissed for lack of merit petitioner's appeal and ordered the immediate appointment of private respondent Brenda R. Jaranilla as City Budget Officer of Iloilo City, and the Resolution[2] dated August 13, 1982 which denied petitioner's motion for reconsideration.

The background facts are as follows:

Petitioner Editha L. Lira, an employee of the city government of Iloilo City holding the position of Barangay Field Coordinator, was detailed in the Budget, Fiscal Management and Fiscal Research Division of the Office of the City Mayor from August 7, 1978 until her appointment to the position of Budget Officer of Iloilo City.

Private respondent Brenda R. Jaranilla, on the other hand, was the Chief, Budget Operations Division, Office of the City Treasurer, Iloilo City since June 2, 1975 until her appointment as Internal Auditor in the Office of the City Treasurer.

When the City Government of Iloilo adopted in 1979 a Position Classification and Pay Plan [PCPP] pursuant to Presidential Decree No. 1136, otherwise known as "The Local Government Personnel Administration and Compensation Plan Decree of 1977", the local body tasked with the classification of city governments positions reclassified, among others, the position of Barangay Field Coordinator to Budget Officer while the position of Chief, Budget Operations Divisions of the City Treasurer's Office was reclassified to Internal Auditor.

Upon approval of the PCPP of Iloilo City by the Joint Commission on Local Government Personnel Administration, the Mayor of Iloilo City appointed on February 1, 1980 petitioner Editha L. Lira as Budget Officer effective January 1, 1979.

Private respondent Brenda R. Jaranilla, on the other hand, was appointed as Internal Auditor under the PCPP of Iloilo City on February 18, 1980 effective January 1, 1979.

Six [6] months later, or more specifically on August 29, 1980, the City Mayor sent to petitioner Lira a Notice of Salary Adjustment increasing her salary as "Budget Officer in the City Budget Office" effective January 1, 1980 from P18,316.80 to P35,532.00 per annum pursuant to LOI No. 1039[3] dated June 19, 1980.

Private respondent Jaranilla filed a protest on November 18, 1980 with the Civil Service Regional Office No. VI, Iloilo City contesting the issuance of the Notice of Salary Adjustment to Editha L. Lira, claiming, among others, that the position of Budget Officer, as reclassified from Barangay Field Coordinator, and Lira's appointment thereto were not in implementation of Presidential Decree No. 1375[4] promulgated on May 16, 1978 and its

implementing letter of instruction, LOI No. 1039. Thus, private respondent concluded, said appointment was null and void for lack of legal basis, and she prayed that she instead be appointed as City Budget Officer.

On December 16, 1980, the Civil Service Regional Office No. VI, Iloilo City, referred Jaranilla's protest to the Office of City Mayor Luis C. Herrera, who in an undated decision,[5] dismissed said protest of Jaranilla for lack of merit.

Private respondent appealed to the Merit System Board of the Civil Service Commission which in a decision[6] dated September 3, 1981 declared as null and void the notice of salary adjustment for the position of City Budget Officer of Iloilo City issued to Editha L. Lira, and ordered that Ms. Brenda R. Jaranilla, who appears fully qualified and held the highest position in the Budget Operations Division of the City Treasurer's Office should be appointed as City Budget Officer of Iloilo City.

A motion for reconsideration was filed by petitioner but on February 15, 1982, the Merit System Board of the Civil Service Commission denied said motion.

Dissatisfied, petitioner then elevated her case on appeal to the Civil Service Commission which dismissed the appeal in its resolution of June 2, 1982. In ordering the immediate appointment of Ms. Brenda R. Jaranilla as City Budget Officer of Iloilo City, the Civil Service Commission declared that private respondent's qualification exceed those of petitioner in terms of experience and potential considering her previous position as Chief of the Budget Operations Division in the City Treasurer's Office which pursuant to PD 477 is the Local Budget Staff whose qualified personnel should have been transferred to the new Budget Office upon its establishment in accordance with PD 1375. The Commission noted the following:

"Jaranilla holds the degree of Bachelor of Science in Commerce from the Far Eastern University. She is a Certified Public Accountant [RA 1080] with more than six [6] years experience in budgeting work having served as Tax Examiner from January 16, 1974 to June 1, 1975 and as Chief, Budget Operations Division in the City Treasurer's Office, Iloilo City, from June 2, 1975 until said position was reclassified to Internal Auditor effective in 1979. She is a Director of the Government Association of Certified Public Accountants and a member of the Philippine Association for Government Budget Administration, Local and National Taxation Consumer's Cooperative, and Institute on Civil Service.

"On her part, Lira is also a graduate of Bachelor of Science in Commerce [Accounting major] from the University of San Agustin, Iloilo City; a Career Service Professional [Local Government] eligible, with budgeting experience of a little over two [2] years as of the effectivity of her appointment as Budget Officer on January 1, 1979. She was an Accounting Aide from April 1, 1976 to September 30, 1976 or about six [6] months; Statistician from December 1, 1976 to January 1, 1978 or for one [1] year and two months; and Barangay Field Coordinator from August 7, 1978 to December 31, 1978 or for more than four [2][4] months. She acquired her budgeting experience when she was detailed in the Budget, Fiscal Research and Fiscal Management Division in the Office of the City Mayor. Except the orientation course on management on September 4-7, 1977 at Cebu City, all other seminars/workshops attended by Lira were subsequent to her appointment as Budget Officer.

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"Significantly, we credited the two [2] years of relevant experience gained by Lira when she was detailed in 1979 to the Budget, Fiscal Research and Fiscal Management Division, Office of the City Mayor. However, we found that she lacks the required budgeting experience of three years at the inception of the protest case on November 8, 1980 while Jaranilla has already gained more than the minimum of three years relevant experience. Jaranilla's appointment as Division Chief of Budget Operations before it was reclassified to Internal Auditor will attest to her potential in contrast to the position of Barangay Field Coordinator."

Petitioner filed a motion for reconsideration but the same was denied on August 13, 1982.

Hence, the instant petition for certiorari, petitioner contending that the resolution of the respondent Civil Service Commission ordering the appointment of Brenda R. Jaranilla to the position of City Budget Officer of Iloilo City is without legal basis and contrary to law and Civil Service rules and regulations; that the discretion to appoint, if a City Budget Officer has to be appointed, is granted to the appointing authority, and not to be dictated by the respondent Civil Service Commission; that the notice of salary adjustment increasing the salary of petitioner from P18,316.80 to P35,532.00 per annum was issued to give effect to Section 4, LOI No. 1039; that private respondent Brenda R. Jaranilla, who accepted the reclassified position of Internal Auditor, is estopped from contesting the appointment of petitioner or from claiming that she is entitled to the position of City Budget Officer.

The issue in the instant case is whether or not the appointment of petitioner Lira to the reclassified position of Budget Officer in the Office of the City Mayor pursuant to the Position Classification and Pay Plan of Iloilo City was in substantial compliance with the requirements of appointment to the position of City Budget Officer - a new position created under Presidential Decree No. 1375 and its implementing letter of instruction LOI No. 1039 as a result of the transfer of the local government budget administration from the Ministry of Finance to the Ministry of the Budget.

We find the answer in the negative.

To start with, both petitioner and private respondent relied on Presidential Decree 1375 issued on May 16, 1978 and its implementing letter of instruction LOI No. 1039 issued on June 19, 1980 in support of their respective claims to the contested position of City Budget Officer of Iloilo City. The pertinent provisions of Presidential Decree No. 1375 state thus:

"Section 1. The Budget Commission shall be responsible for the review and evaluation and for taking appropriate action on the annual principal and supplemental budgets and other financial statements covering all funds of local governments; and the review and formulation of recommendation on resolutions of local legislative bodies involving appropriation of local funds. These functions and generally those pertaining to expenditures of local governments, governed by P.D. 477 and presently performed by the Department of Finance, are hereby transferred to the Budget Commission. All pertinent records, appropriations and such qualified personnel as may be necessary, from the Office of Local Government Finance or other units of the Department of Finance, involved in or connected with the aforesaid functions are likewise hereby transferred to the Budget Commission [underscoring ours].

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"Section 3. Local Government units shall constitute and include in their administrative organization, an office/section/unit responsible for budget functions. It shall provide technical and staff services to the Chief Executive and other local officials on budget matters. x x x

"Section 4. Budget officers of provinces, cities and municipalities shall be appointed by the local government head concerned from persons meeting the minimum qualification requirements for provincial, city and municipal treasurers as the case may be subject to the civil service law and subject to the approval of the Commissioner of the Budget.

Paragraphs 1 and 3 of Letter of Instruction No. 1039 which implements Presidential Decree 1375 further provide that:

"1. All local government units shall create, on or before June 30, 1980, a regular provincial, city or municipal budget office, as the case may be, which shall implement in full the provisions of P.D. 1375 within their respective jurisdiction.

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"3. The Local Chief Executive shall appoint the provincial, city or municipal budget officer, subject to the qualification requirements issued by the Ministry of the Budget and the appropriate civil service law, rules and regulations."

Aside from the aforequoted provisions, it is clear that under Presidential Decree No. 477 otherwise known as "Decree on Local Fiscal Administration" the local government budget administration falls within the exclusive domain of the Department of Finance, now Ministry of Finance, through the Office of the Treasurer of each local government unit. In the local government budget process, the treasurer is the chief financial officer of their respective local government and in such capacity provides technical and staff services to the Chief Executive and other local officials in budget preparation, authorization, execution and accountability.[7] In the Office of the City Treasurer of Iloilo City, the Budget Operations Division headed by private respondent Jaranilla is the Local Budget Staff within the meaning of Section 24, P.D. 477.

However, with the enactment of Presidential Decree No. 1375 on May 16, 1978, the local government budget administration was transferred from the Ministry of Finance to the Ministry of the Budget through the creation of a Budget Office in each local government unit. In other words, any office, section, division or unit in the Office of the Mayor other than the Local Budget Staff of the Treasurer's Office performing budgetary functions before the transfer of the local government budget administration to the Ministry of the Budget is but a budget policy-determining arm of the local chief executive. In the instant case, the Budget, Fiscal Management and Fiscal Research Division of the Office of the City Mayor of Iloilo City where petitioner was temporarily detailed falls in this category. Otherwise, the said division would be performing functions which duplicate, if not overlap, the functions of the Local Budget Staff of the City Treasurer's Office mandated under Section 24 of Presidential Decree No. 477 to provide technical and staff services to the Local Chief Executive.

The contested position of City Budget Officer under Presidential Decree No. 1375 is a new position created as a result of the transfer of the local government budget administration from the Ministry of Finance to the Ministry of the Budget. Consequently, no particular employee could claim that he or she is the incumbent Budget Officer. Such being the case, the contested position of City Budget Officer is open to all applicants provided that they are qualified and eligible.

Basically, in addition to the three [3]-year experience in the treasury service or its equivalent number of years of service in budgeting or in any related field or its substitute as provided under Local Budget Circular No. 6, any prospective appointee to the position of City Budget Officer must meet the minimum qualification requirements for provincial, city and municipal treasurers, and his/her appointment by the local government head shall be subject to civil service law and approval of the Commissioner of the Budget, now Minister of the Budget.[8]

While it is true that a local chief executive is granted wide discretion and prerogative in his choice of an appointee to a new office, and in determining who possesses the requisite reputation, integrity, knowledgeability, energy and judgment, the appointing officer's exercise of discretion is circumscribed in that he is duty-bound to consider only those who are qualified and eligible.[9]

To that extent, petitioner's assertion of her alleged qualification as having performed budgetary functions while she, as Barangay Field Coordinator, was detailed in the Budget, Fiscal Management and Fiscal Research Division of the City Mayor's Office adds nothing to her plea for the reversal of the decision of the respondent Civil Service Commission. As reproduced heretofore, the decision of the Civil Service Merit System Board which was upheld by the Civil Service Commission contains an exhaustive and judicious assessment of the qualifications of both petitioner and private respondent Jaranilla, revealing a careful study of the controversy between the parties, which

cannot be peremptorily ignored. The revocation of petitioner's appointment by the Merit System Board and the Civil Service Commission reveals neither arbitrariness nor grave abuse of discretion.

Of course, it is not disputed that petitioner was appointed as Budget Officer by the Iloilo City Mayor on February 1, 1980, but it must be recalled however, that her appointment as Budget Officer was the result of the reclassification of her previous position as Barangay Field Coordinator while she was temporarily detailed in the Budget, Fiscal Management and Fiscal Research Division of the Office of the City Mayor pursuant to the Position Classification and Pay Plan of Iloilo City. It cannot, therefore, be said that said appointment was in implementation of the provisions of LOI No. 1039 issued on June 19, 1980 pursuant to the mandate of Presidential Decree No. 1375 regarding the creation of a regular Budget Office in each local government unit.

Extending appointments to an office in the guise of complying with the requirements of P.D. 1375 on the creation of the City Budget Office is repugnant not only to its enabling statute but to Civil Service Law, rules and regulations as well. Section 19 par. [1] of the Civil Service Law provides that opportunity for government employment shall be open to all qualified citizens and positive efforts shall be exerted to attract the best qualified to enter the service. This may be implemented effectively only through the judicious exercise of the best judgment and discretion of the appointing authority.[10]

The issuance of the notice of salary adjustment increasing the salary of the Budget Officer from P18,316.80 to P35,532.00 - the salary of a regular City Budget Officer equivalent to the rank and salary of a Department Head - cannot justifiably cure the defect of lack of the minimum qualification requirements of petitioner Lira to assume the office of the regular City Budget Officer as envisioned by P.D. 1375 aside from the non-compliance with the procedural requirements before a valid appointment is issued as required by the civil service rules and regulations.

It is interesting to note that Local Budget Circular No. 8 dated November 20, 1980 require that "In case a Local Budget Officer has been appointed as such prior to June 19, 1980 pursuant to Local Budget Circular No. 2 as amended by Local Budget Circular No. 6, he shall be issued a new appointment to the position as elevated in rank and salary under LOI No. 1039 with the position title of Provincial, City, Municipal Budget Officer, effective June 19, 1980." Records reveal that she was not issued a new appointment. Even if she was issued a new appointment, still she cannot validly claim the contested position of City Budget Officer since it was not approved by the Budget Commissioner, now the Minister of Budget. Appointment becomes complete when the last act required of the appointing power is performed.[11] Worse, there is no showing at all that the City Mayor of Iloilo City has reported to the Minister of the Budget his compliance with the requirements for the creation of the local budget office as imposed by LOI No. 1039, par. 5.

The preceding discussion has virtually rendered inconsequential the contention of petitioner that since private respondent had accepted the reclassified position of Internal Auditor on February 18, 1980, she (private respondent) is now estopped from contesting the appointment of petitioner Lira or from claiming that private respondent is entitled to the position of City Budget Officer. At the time petitioner Lira was appointed as Budget Officer under the Position Classification and Pay Plan of Iloilo City on February 1, 1980, the City Budget Office authorized under P.D. 1375 was not yet formally created, thus, private respondent cannot be considered in estoppel for having accepted the reclassified position of Internal Auditor under the Position Classification and Pay Plan of Iloilo City.

WHEREFORE, in view of the foregoing, the petition is DISMISSED. The appointment of private respondent Brenda R. Jaranilla as City Budget Officer of Iloilo City as ordered by the Civil Service Merit System Board and the Civil Service Commission should be effected immediately.

This decision is immediately executory. No costs.

SO ORDERED.

Teehankee, C.J., Feria, Yap, Narvasa, Melencio-Herrera, Alampay, Gutierrez, Jr., Cruz, and Paras, JJ., concur.
Feliciano, J., on leave.

[1] pp. 57-62, Rollo.

[2] p. 69, Rollo.

[3] Providing for the Immediate Creation of Local Budget Office, Vol. 73, Vital Legal Documents, pp. 82-84.

[4] Transferring to the Budget Commission the Functions of Local Government Budget Administration, Vol. 54, Vital Legal Documents.

[5] p. 28, Rollo.

[6] p. 32, Rollo.

[7] Section 24, Presidential Decree No. 477.

[8] Section 4, Presidential Decree No. 1375.

[9] Medalla vs. Sayo, 103 SCRA 587 [1981]; Eugenio vs. Torrijos, 85 SCRA 512 [1978]; Claudio vs. Subido, 40 SCRA 381 [1971]; Aguilar vs. Nieva, 40 SCRA 113 [1971]; Pineda vs. Claudio, 28 SCRA 34 [1969].

[10] Pineda vs. Claudio, 28 SCRA 34 [1969].

[11] Mechem, A Treatise on the Law of Public Office and Public Officers, s. 114, citing State vs. Barbour, 53 Conn 76, 55 Am Rep. 65.

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