

AUGUSTO L. GASPAR, PETITIONER, VS. COURT OF APPEALS, CIVIL SERVICE COMMISSION, AND ZENAIDA F. LANTING, RESPONDENTS.

G.R. No. 90799. October 18, 1990

Ponente: NARVASA, J.

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NARVASA, J.:

Augusto L. Gaspar seeks the setting aside of the Decision of the Civil Service Commission dated July 19, 1985 (affirmed by the Court of Appeals), which revoked his appointment as Administrative Officer II of the Parks Development Office, Manila, and directed the appointment of Zenaida F. Lanting as such, in his stead.

Gaspar was the Chief of the Security Section of the Parks Development Office of the City of Manila when Executive Order No. 81-01 was issued by the Governor of the Metro Manila Commission on May 24, 1981. The Executive Order established a comprehensive position classification and pay plan for MMC officers and employees, and contained a provision reclassifying Gaspar's position of Chief, Security Section, to Administrative Officer II. On April 25, 1983, Gaspar was appointed to that position of Administrative Officer II, effective on October 1, 1982.

Zenaida F. Lanting, then Senior Accounting Clerk in the same Parks Development Office, filed with the Merit Systems Board a protest against Gaspar's appointment as Administrative Officer II, contending that she was better qualified for, and should have been named to, the office.

After due proceedings, the Merit Systems Board (MSB) revoked Gaspar's appointment and directed Lanting's appointment to the office of Administrative Officer II, in a decision rendered on November 28 1984. Gaspar appealed to the Civil Service Commission (CSC).

After initially sustaining Gaspar (in Resolution No. 85-177, May 21, 1985), the CSC ultimately affirmed the judgment of the MSB by Resolution numbered 85-291 promulgated on July 19, 1985 and, as the MSB had done, directed "the appointment of ** Lanting to the position of Administrative Officer II in the Parks Development Office **." The CSC said:

"A comprehensive evaluation of the qualifications of the parties would show that while both are at par in experience and training, Lanting has an edge over Gaspar in education. Her masteral degree in Public Administration as compared to 36 academic units in Business Administration course earned by Gaspar provide her with the required knowledge in management principles and techniques as well as substantial preparation to assume higher duties and responsibilities taking into account the supervisory nature of the position. It can therefore be concluded that Lanting is better qualified and more competent for appointment as Administrative Officer II. Such being the case, Lanting has better potentials to assume the duties and responsibilities of this contested position."

There is no intimation whatever that Gaspar is not qualified for the position of Administrative Officer II. On the contrary, it seems quite evident that the Civil Service Commission considers both him and Lanting to possess the minimum qualifications for the office, but that, in the Commission's view, "Lanting has an edge over Gaspar in

education" and "has better potentials to assume the duties and responsibilities of ** (the) contested position."

The same situation was presented to this Court in a case decided on August 5, 1986, *Luego v. Civil Service Commission, and Felicula Tuozo*.^[1] It will therefore be in accordance with the doctrine therein that the appellate proceeding at bar will be resolved.

In *Luego*, the appointment by the City Mayor of Cebu of Felimon Luego as Administrative Officer II, Administrative Division, Cebu City, was protested by Felicula Tuozo and another employee. The issue presented was identical to that posed in the case at bar. It was, according to the Court, "starkly simple: Is the Civil Service Commission authorized to disapprove a permanent appointment on the ground that another person is better qualified than the appointee and, on the basis of this finding, order his replacement by the latter?"

The Court ruled that under the circumstances, and in light of the relevant legal provisions, "all the Commission is actually allowed to do is check whether or not the appointee possesses the appropriate civil service eligibility or the required qualifications. If he does, his appointment is approved; if not, it is disapproved. No other criterion is permitted by law to be employed by the Commission when it acts on -- or as the (Civil Service Decree says, 'approves' or 'disapproves' -- an appointment made by the proper authorities."

The only function of the Civil Service Commission in cases of this nature, according to *Luego*, is to review the appointment in the light of the requirements of the Civil Service Law, and when it finds the appointee to be qualified and all other legal requirements have been otherwise satisfied, it has no choice but to attest to the appointment. *Luego* finally points out that the recognition by the Commission that both the appointee and the protestant are qualified for the position in controversy renders it *functus officio* in the case and prevents it from acting further thereon except to affirm the validity of the former's appointment; it has no authority to revoke the appointment simply because it considers another employee to be better qualified for that would constitute an encroachment on the discretion vested in the appointing authority.

The doctrine has since been subsequently applied, in *Central Bank of the Philippines, et al. v. Civil Service Commission, et al.*, G.R. Nos. 80455-56, April 10, 1989, and *Maximo Gabriel v. Hon. Eufemio Domingo, et al.*, etc., G.R. No. 87420, September 17, 1990.^[2]

The determination of who among several candidates for a vacant position has the best qualifications is vested in the sound discretion of the Department Head or appointing authority and not in the Civil Service Commission. Every particular job in an office calls for both formal and informal qualifications. Formal qualifications such as age, number of academic units in a certain course, seminars attended, etc., may be valuable but so are such intangibles as resourcefulness, team spirit, courtesy, initiative, loyalty, ambition, prospects for the future, and best interests of the service. Given the demands of a certain job, who can do it best should be left to the Head of the office concerned provided the legal requirements for the office are satisfied. The Civil Service Commission cannot substitute its judgment for that of the Head of Office in this regard.

In the case at bar, therefore, the respondent Commission acted beyond the scope of its authority and with grave abuse of discretion in revoking the petitioner's appointment and directing the appointment in his stead of the private respondent.

WHEREFORE, Resolution No. 85-291 of the respondent Civil Service Commission, dated July 19, 1985, is SET ASIDE and the petitioner, Augusto L. Gaspar, is hereby declared to be entitled to the office of Administrative Officer II of the Parks Development Office of the City of Manila by virtue of the appointment extended to him on April 25, 1983, effective on October 1, 1982.

Fernan, C.J., Melencio-Herrera, Gutierrez, Jr., Cruz, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino,

Medialdea, and Regalado, JJ., concur.
Paras and Feliciano, JJ., on leave.

[1] G.R. No. 69137, 143 SCRA 327, per Cruz, J.

[2] Both per Gancayco, J.; See also, Resolutions in *Pintor v. Tan*, G.R. Nos. 84022 and 85804, March 9, 1989; *Saet v. Alvarez*, G.R. No. 82862, Sept. 26, 1988; *Remigio v. Chairman, Civil Service Commission*, G.R. No. 86324, July 6, 1989; *Cacatian v. Civil Service Commission*, G.R. No 87343, July 18, 1989; *Galura v. Civil Service Commission*, G.R. No. 85812, June 1, 1989; *Zulueta v. Mamangun*, G.R. No. 85941, June 15, 1989.

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