

BLANCA R. MARCAYDA, petitioner, vs. THE CIVIL SERVICE COMMISSION, THE HON. PRESS SECRETARY, THE DIRECTOR OF THE NATIONAL PRINTING OFFICE, OPS REORGANIZATION APPEALS BOARD, (OPS-...

G.R. No. 95246. June 19, 1991

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The issue of whether or not a final decision of the Civil Service Commission (CSC) may be set aside by it is brought to the fore in this petition.

The facts of this case are undisputed.

On July 25, 1987, the President of the Philippines issued Executive Order No. 285 abolishing the General Services Administration and transferring its functions to appropriate government agencies. Pursuant to Section 6 thereof, the Government Printing Office (GPO for brevity) under the then General Services Administration would be merged with the then relevant printing units of the then Philippine Information Agency of the then National Media Production Center (PIA-NMPC for brevity). Thus, the National Printing Office was created (NPO for brevity) for which a staffing pattern was prepared and approved. In the meanwhile, all officials and employees of the GPO and the relevant printing units of PIA-NMPC were retained under a hold-over capacity pending their reappointments to the new approved staffing pattern of the new office, the NPO.

Petitioner Blanca R. Marcayda was then a Budget Examiner III, Budget Section, Finance and Management Division, while private respondent Veronica A. Balcos was a Management and Audit Analyst I, Management and Audit Section, Finance and Management Division, both of the GPO. The NPO was placed under the administrative supervision and control of the Office of the Press Secretary (OPS for short) and so the appointing authority of officials and employees thereof was lodged with the Press Secretary and the President of the Philippines, as the case may be.

On February 29, 1988, petitioner was served notice that her name was not included in the approved deliberation on the new staffing pattern and she was advised to retire at the close of office hours on March 31, 1988.

She immediately appealed therefrom on March 24, 1988 to the CSC contesting the termination of her services.[1] Several other employees similarly affected appealed to the CSC.

Pending said appeal, the NPO Placement Committee considered the petitioner's appeal meritorious and recommended her reappointment to the position of Budget Officer II, a comparable position to that of her position as Budget Examiner III.

On June 1, 1988, private respondent protested with the Reorganization Appeals Board of OPS (OPS-RAB) the appointment of petitioner as Budget Officer II effective March 1, 1988 which was approved by the CSC on

September 23, 1988, a copy of which was furnished the CSC on July 4, 1988.[+] This protest together with the appeal of petitioner and other employees was docketed in the CSC as CSC Case No. 271. When the matter was referred by the CSC, for comment by the NPO, information was relayed to the CSC, among others, that petitioner was given the comparable position of Budget Officer TT and private respondent the comparable position of Budget Examiner HI in the new staffing pattern.

On May 5, 1989, the CSC rendered a resolution in CSC Case No. 271, a part of which reads as follows:

Regarding the protest of Veronica Balcos, we find the same without merit. It appears that Ms. Balcos and Ms. Marcamayda, presently holding the position subject of protest, were merely reappointed to the Budget Examiner III and Budget Officer II positions, which positions are both comparable to the positions they were previously occupying. Such reappointments are congruent to the provisions of Section 4 of RA 6656 giving preference to permanent officers for appointment to the new positions in the approved staffing pattern comparable to their former positions or in case there are not enough comparable positions, to position next lower in rank."[3]

No motion for reconsideration thereof or appeal therefrom was filed.

Meanwhile, on November 10, 1989, the OPS-RAB prepared a memorandum addressed to the Chairman of the OPS-RAB recommending, among others, as follows:

"2. Grant the protest of Ms. Veronica Balcos against the appointment of Ms. Blanca Marcamayda to the position of Budget Officer III.

We agree with protestor that substitution of required educational attainment is not allowed in position in question, citing CSC rules, and the protestee targeted the position she was appointed to (Budget Officer Til) only after she was dislodged from her old position in GPO of Budget Examiner 11, to which she was recommended by NPO PC. Also, next-in-rank rule cannot be the sole criterion for placement in a new agency."[4]

It appears to have been approved by said Chairman of the OPS-RAB.[5] On November 14, 1989, said memorandum was transmitted by the Head Executive Assistant of the OPS to the Press Undersecretary and Chairman of the OPS-RAB for evaluation and appropriate action.[6]

On April 19, 1990, Press Secretary Tomas Gomez III issued a Memorandum to the National Printing Office director affirming the recommendation of the OPS-RAB for its implementation and/or appropriate action.[7]

On April 24, 1990, petitioner appears to have been furnished a copy of the said memorandum of the Press Secretary and of the OPS-RAB recommendation. She immediately appealed to the Director of the NPO on the same date and said Director immediately wrote to the Press Secretary on April 24, 1990 answering the memorandum dated April 19, 1990. The said Director said that the protest of private respondent has been rendered moot and academic as it was acted upon already by the CSC in CSC Case No. 271.[8]

On May 18, 1990 private respondent filed a motion for reconsideration of the decision dated May 5, 1989 in CSC Case No. 271 with the CSC furnishing it a copy of the recommendation of OPS-RAB on November 10, 1989 which she received also on April 24, 1990.[9]

Acting thereon, on June 20, 1990, the CSC issued a resolution in CSC Case No. 672, reconsidering the resolution dated May 5, 1989 in CSC Case No. 271 stating that it had been rendered prematurely as the appeal was still pending decision in the agency level and that since the decision of the OPS-RAB has been rendered final and executory, the case should now be considered closed.[10]

Petitioner filed a motion for reconsideration of said resolution. On August 17, 1990, it was denied.[11]

Hence, this petition for review on certiorari with a prayer for the issuance of a writ of preliminary injunction and temporary restraining order. Herein petitioner prays, among others, that the Court declare null and void the proceedings in CSC Case No. 672 as well as the recommendation of the OPS-RAB dated November 10, 1989 and the memorandum of the Press Secretary dated April 19, 1990; that the Court declare valid and lawful CSC resolution dated May 5, 1989 in CSC Case No. 271 and the letter of the Director of the NPO dated April 19, 1990; and that the appointment of petitioner as Budget Officer II in the NPO be declared valid and lawful.

The petition is impressed with merit.

There is no question that the decision of the CSC dated May 5, 1989 in CSC Case No. 271 finding no merit in the protest of private respondent and upholding the reappointment of petitioner as Budget Officer II which is comparable to the position she previously held, had become final and executory, no appeal therefrom having been interposed by private respondent to this Court within the time prescribed by the Constitution.[12]

The CSC has no power or authority to reconsider its decision which has become final and executory. More so in this case when more than a period of one year had lapsed since the CSC decision became final and executory. Even ordinary courts may not, as a rule, set aside or even modify its decision that have become final and executory. The duty of the CSC in such instance is to enforce its final decision rather than disturb it.

Both private and public respondents contend, however, that the protest of private respondent against the appointment of petitioner was filed with the OPS-RAB and that the CSC was merely furnished a copy of said protest, so that the latter has no jurisdiction to act thereon. It is further contended that the said resolution of OPS-RAB as approved by the Press Secretary had become final and executory.

The Court is not persuaded.

Although under Sections 7 and 8 of Republic Act 6656, an officer or employee aggrieved by an appointment should appeal to the appointing authority and if not satisfied to the CSC, the parties in this case never questioned the assumption by the CSC of jurisdiction over the protest when it was furnished a copy thereof. In fact after its resolution, private respondent did not ask a reconsideration or appealed the questioned CSC decision.

Moreover, the memorandum-recommendation of the OPS-RAB dated November 10, 1989 appears to have been affirmed by the Press Secretary only on April 19, 1990.[13] Petitioner was notified and furnished a copy thereof only on April 24, 1990. On the same day, petitioner appealed to the Director of the NPO informing him of the final decision in CSC Case No. 271. In turn, the Director of the NPO informed the Press Secretary, also on the very same day, that the appeal of private respondent before the said office was rendered moot and academic as it had already been denied by the CSC.[14]

Consequently, as petitioner had appealed to the Director of the NPO who positively acted upon the same, it must be the reason petitioner did not interpose another appeal on the same matter to the CSC. Indeed, petitioner knew the CSC had already decided the issue much earlier in her favor.

Thus, the findings of the CSC that the memorandum of the OPS-RAB dated November 10, 1989 had become final and executory, petitioner not having appealed therefrom, is without lawful basis and should be set aside.

Lastly, the Solicitor General took a different stance from that of the public respondent in this case. He shares the view of petitioner that she should be sustained and upheld having been validly appointed to the contested position of Budget Officer II and the protest of private respondent had been finally and properly disposed of by the CSC.

WHEREFORE, the petition is hereby GRANTED. The questioned decision and resolution of the public respondent CSC dated June 20, 1990 and August 17, 1990, respectively, in CSC Case No. 672 are hereby set aside

as null and void. The resolution of public respondent CSC dated May 5, 1989 in CSC Case No. 271 and the letter of the Director of the NPO dated April 24, 1990 are hereby declared to be lawful and valid. Petitioner is hereby declared to be legally and properly appointed to the position of Budget Officer II of the NPO. No costs in this instance.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Griho-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.
Sarmiento, J., on leave.

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- [1] Annex B to Petition.
 - [2] Annex A to Comment of private respondent.
 - [3] Page 26, Rollo, Annex D to Petition.
 - [4] Annex E-1 to the Petition.
 - [5] Ibid
 - [6] Annex E-2 to the Petition.
 - [7] Annex E to the Petition.
 - [8] Annex F to the Petition.
 - [9] Annex B to Comment of private respondent.
 - [10] Annex G to the Petition.
 - [11] Annex H to the Petition.
 - [12] Section 7, Article IX(A) of the 1987 Constitution.
 - [13] Annex E to the Petition.
 - [14] Annex F to the Petition.

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