

RENATO M. LAPINID, PETITIONER, VS. CIVIL SERVICE COMMISSION PHILIPPINE PORTS AUTHORITY AND JUANITO JUNSAY, RESPONDENTS.

G.R. No. 96298. May 14, 1991

Ponente: CRUZ, J.

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CRUZ, J.:

The issue raised in this case has been categorically resolved in a long line of cases that should have since guided the policies and actions of the respondent Civil Service Commission. Disregard of our consistent ruling on this matter has needlessly imposed on the valuable time of the Court and indeed borders on disrespect for the highest tribunal. We state at the outset that this conduct can no longer be countenanced.

Petitioner Renato M. Lapinid was appointed by the Philippine Ports Authority to the position of Terminal Supervisor at the Manila International Container Terminal on October 1, 1988. This appointment was protested on December 15, 1988, by private respondent Juanito Junsay, who reiterated his earlier representations with the Appeals Board of the PPA on May 9, 1988, for a review of the decision of the Placement Committee dated May 3, 1988. He contended that he should be designated terminal supervisor, or to any other comparable position, in view of his preferential right thereto. On June 26, 1989, complaining that the PPA had not acted on his protest, Junsay went to the Civil Service Commission and challenged Lapinid's appointment on the same grounds he had earlier raised before the PPA. In a resolution dated February 14, 1990, the Commission disposed as follows:

After a careful review of the records of the case, the Commission finds the appeal meritorious. In the comparative evaluation sheets, the parties were evaluated according to the following criteria, namely: eligibility; education; work experience; productivity/performance/attendance; integrity; initiative/leadership; and physical characteristics/personality traits. The results of the evaluation are as follows:

JUNSAY, Juanito - 79.5

VILLEGAS, Benjamin - 79

LAPINID, Renato - 75

DULFO, Antonio - 78

MARIANO, Eleuterio - 79

FLORES, Nestor - 80

DE GUZMAN, Alfonso - 80

VER, Cesar - 80

It is thus obvious that Protestants Junsay (79.5) and Villegas (79) have an edge over that of protestees Lapinid (75) and Dulfo (78).

Foregoing premises considered, it is directed that Appellants Juanito Junsay and Benjamin Villegas be appointed as Terminal Supervisor (SG 18) vice protestees Renato Lapinid and Antonio Dulfo respectively who may be considered for appointment to any position commensurate and suitable to their qualifications, and that the Commission be notified within ten (10) days of the implementation hereof.

SO ORDERED.

Upon learning of the said resolution, Lapinid, who claimed he had not been informed of the appeal and had not been heard thereon, filed a motion for reconsideration on March 19, 1990. This was denied on May 25, 1990. The Philippine Ports Authority also filed its own motion for reconsideration on June 19, 1990, which was denied on August 17, 1990. A second motion for reconsideration filed on September 14, 1990, based on the re-appreciation of Lapinid's rating from 75% to 84%, was also denied on October 19, 1990.

When the petitioner came to this Court on December 13, 1990, we resolved to require Comments from the respondents and in the meantime issued a temporary restraining order. The Solicitor General took a stand against the Civil Service Commission, which, at his suggestion, was allowed to file its own Comment. The petitioner filed a Reply. The private respondent's Comment was dispensed with when it was not filed within the prescribed period.

We see no reason to deviate from our consistent ruling on the issue before us.

In *Luego v. Civil Service Commission*,^[1] this Court declared:

The issue is 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?

.....

Appointment is an essentially discretionary power and must be performed by the officer in which it is vested according to his best lights, the only condition being that the appointee should possess the qualifications required by law. If he does, then the appointment cannot be faulted on the ground that there are others better qualified who should have been preferred. This is a political question involving considerations of wisdom which only the appointing authority can decide.

.....

Significantly, the Commission on Civil Service acknowledged that both the petitioner and the private respondent were qualified for the position in controversy. That recognition alone rendered it *functus officio* in the case and prevented it from acting further thereon except to affirm the validity of the petitioner's appointment. To be sure, it had no authority to revoke the said appointment simply because it believed that the private respondent was better qualified for that would have constituted an encroachment on the discretion vested solely in the city mayor.

The same ruling has been affirmed, in practically the same language as *Luego*, in *Central Bank v. Civil Service Commission*, 171 SCRA 744; *Santiago v. Civil Service Commission*, 178 SCRA 733; *Pintor v. Tan*, G.R. No. 84022 and G.R. No. 85804, March 9, 1989, En Banc, Minute Resolution; *Galura v. Civil Service Commission*, G.R. No. 85812, June 1, 1989, En Banc, Minute Resolution; *Zulueta v. Mamangun*, G.R. No. 85941, June 15, 1989, En Banc, Minute Resolution; *Remigio v. Chairman, Civil Service Commission*, G.R. No. 86324, July 6, 1989, En Banc, Minute Resolution; *Aurora Macacua v. Civil Service Commission*, G.R. No. 91520, July 31, 1990, En Banc, Minute Resolution; *Abdulwahab A. Bayao v. Civil Service Commission*, G.R. No. 92388, September 11, 1990, En Banc, Minute Resolution; *Orbos v. Civil Service Commission*, G.R. No. 92561,

September 12, 1990; Alicia D. Tagaro v. The Hon. Civil Service Commission, et al., G.R. No. 90477, September 13, 1990, En Banc; Minute Resolution; Elenito Lim v. Civil Service Commission, et al., G.R. No. 87145, October 11, 1990, En Banc, Minute Resolution; Teologo v. Civil Service Commission, G.R. No. 92103, November 8, 1990; Simpao v. Civil Service Commission, G.R. No. 85976, November 15, 1990.

Only recently, in Gaspar v. Court of Appeals,[2] this Court said:

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 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.

It is therefore incomprehensible to the Court why, despite these definitive pronouncements, the Civil Service Commission has seen fit to ignore, if not defy, the clear mandate of the Court.

We declare once again, and let us hope for the last time, that the Civil Service Commission has no power of appointment except over its own personnel. Neither does it have the authority to review the appointments made by other offices except only to ascertain if the appointee possesses the required qualifications. The determination of who among aspirants with the minimum statutory qualifications should be preferred belongs to the appointing authority and not the Civil Service Commission. It cannot disallow an appointment because it believes another person is better qualified and much less can it direct the appointment of its own choice.

Appointment is a highly discretionary act that even this Court cannot compel. While the act of appointment may in proper cases be the subject of mandamus, the selection itself of the appointee - taking into account the totality of his qualifications, including those abstract qualities that define his personality - is the prerogative of the appointing authority. This is a matter addressed only to the discretion of the appointing authority. It is a political question that the Civil Service Commission has no power to review under the Constitution and the applicable laws.

Commenting on the limits of the powers of the public respondent, Luego declared:

It is understandable if one is likely to be misled by the language of Section 9(h) of Article V of the Civil Service Decree because it says the Commission has the power to "approve" and "disapprove" appointments. Thus, it is provided therein that the Commission shall have inter alia the power to:

"9(h) Approve all appointments, whether original or promotional, to positions in the civil service, except those presidential appointees, members of the Armed Forces of the Philippines, police forces, firemen, and jailguards, and disapprove those where the appointees do not possess of appropriate eligibility or required

qualifications." (Emphasis supplied)

However, a full reading of the provision, especially of the underscored parts, will make it clear that 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 Decree says, "approves" or "disapproves" - an appointment made by the proper authorities.

The Court believes it has stated the foregoing doctrine clearly enough, and often enough, for the Civil Service Commission not to understand them. The bench does; the bar does; and we see no reason why the Civil Service Commission does not. If it will not, then that is an entirely different matter and shall be treated accordingly.

We note with stern disapproval that the Civil Service Commission has once again directed the appointment of its own choice in the case at bar. We must therefore make the following injunctions which the Commission must note well and follow strictly.

Whatever the reasons for its conduct, the Civil Service Commission is ORDERED to desist from disregarding the doctrine announced in *Luego v. Civil Service Commission* and the subsequent decisions reiterating such ruling. Up to this point, the Court has leniently regarded the attitude of the public respondent on this matter as imputable to a lack of comprehension and not to intentional intransigence. But we are no longer disposed to indulge that fiction. Henceforth, departure from the mandate of *Luego* by the Civil Service Commission after the date of the promulgation of this decision shall be considered contempt of this Court and shall be dealt with severely, in view especially of the status of the contemner.

While we appreciate the fact that the Commission is a constitutional body, we must stress, as a necessary reminder, that every department and office in the Republic must know its place in the scheme of the Constitution. The Civil Service Commission should recognize that its acts are subject to reversal by this Court, which expects full compliance with its decisions even if the Commission may not agree with them.

The Commission on Civil Service has been duly warned. Henceforth, it disobeys at its peril.

WHEREFORE, the petition is GRANTED. The Resolutions of the respondent Civil Service Commission dated February 14, 1990, May 25, 1990, August 17, 1990, and October 19, 1990, are REVERSED and SET ASIDE. The temporary restraining order dated December 13, 1990, is made PERMANENT. No costs.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

[1] 143 SCRA 327.

[2] G.R. No. 90799, October 18, 1990.

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