

CELSO LUSTRE, PETITIONER, VS. CIVIL SERVICE COMMISSION TASK FORCE ON REORGANIZATION APPEALS AND JAPAR TAHIR, RESPONDENTS.

G.R. No. 96578. May 20, 1991

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The position of municipal agriculture officer (MAO) after a reorganization under Republic Act (R.A.) No. 6656 is the subject of this controversy.

Pursuant to the reorganization in Region XII of the Department of Agriculture under R.A. No. 6656 (An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization), petitioner was appointed Municipal Agricultural Officer (MAO) in Tubao, Lanao del Norte, effective July 1, 1988.[1]

Upon protest filed by private respondent, the Department of Agriculture Reorganization Appeals Board (DA-RAB) issued on March 26, 1990 Resolution No. 58 upholding the protest and thereby ordering the recall of petitioner's appointment.[2]

Petitioner filed a request for reconsideration with public respondent Civil Service Commission (CSC), which treated said motion as an appeal, and thereafter promulgated a resolution on August 2, 1990 dismissing the appeal for lack of merit.[3] A motion for reconsideration filed by petitioner was denied by respondent CSC on November 6, 1990.[4]

Thus, this petition for review on certiorari predicated on the following assigned errors:

“I

THAT THE RESPONDENT CIVIL SERVICE COMMISSION ERRED IN NOT OBSERVING THE GUARANTEES PROVIDED FOR UNDER RA 6656 (AN ACT TO PROTECT THE SECURITY OF TENURE OF CIVIL SERVICE OFFICERS AND EMPLOYEES IN THE IMPLEMENTATION OF GOVERNMENT REORGANIZATION) IN DENYING THE PETITIONER'S APPEAL, WHICH DENIAL CONSTITUTES A VIOLATION OF THE PETITIONER'S RIGHT TO SECURITY OF TENURE.

II

THE CIVIL SERVICE COMMISSION ERRED IN REFUSING TO ACCEPT AND CONSIDER THE CERTIFICATES OF TRAINING WHICH THE PETITIONER PREVIOUSLY EARNED PRIOR TO 1988 AND WHICH HE WAS ABLE TO SECURE FROM HIS FORMER PLACES OF ASSIGNMENT ONLY DURING THE APPEAL.”[5]

Petitioner contends that his security of tenure as mandated under Section 1 of R.A. No. 6656 and under the Constitution,[6] was violated inasmuch he had been holding the contested position for more than two (2) years

under a "permanent" status. Prior to the reorganization, petitioner was holding the position of supervising fishery officer which is equivalent to the contested position of MAO, so petitioner alleges he has priority to said post in accordance with Section 4 of R.A. No. 6656. He questions the conditional approval of his appointment subject to the final decision of the agency Reorganization Appeals Board, although the same is allegedly a permanent appointment. Moreover, he contends that under Section 7 of R.A. No. 6656, such an appeal must be decided within 30 days from the filing thereof and that in this case the lapse of two (2) years is too much. He decries the denial by the CSC of his request for a period of 30 days within which to produce certificates of training to show that he had more hours of training than private respondent.

The petition is devoid of merit.

True it is that petitioner was extended a permanent appointment as MAO by the Regional Director, CESO II, Department of Agriculture on July 1, 1988 but it was "without prejudice to the final outcome of the protest filed against this appointment." [7]

Verily on March 26, 1990, the DA-RAB resolved the protest of private respondent against petitioner's appointment to the contested position, together with other similar protests, under Resolution No. 58, whereby, among others, it was found that the protest was meritorious, the appointment of petitioner was ordered recalled and it was held that private respondent should be appointed to the contested position. [8] This is predicated on an evaluation of the qualifications of the two as follows:

J. Tahir C.
(Protestant)

Lustre
(Protestee)

Education

10.00%

4.00%

Performance

16.00%

16.02%

Relevant Experience

6.00%

15.00%

Training

10.00%

5.00%

Examination

16.82%

16.50%

TOTAL

58.82%

56.52%”[9]

Resolving the appeal of petitioner on August 2, 1990, respondent CSC upheld the aforesaid evaluation of the DA-RAB In this wise -

"Mr. Lustre had earned 54 units in his 2 years study towards a bachelor's degree in Agriculture at the University of the Philippines. He later enrolled at the College of Fisheries, UP earning 57 creditable units. In the appreciation of his education, the DA-RAB credited him with 4.00 points. Per DA Table of Ratings, such score corresponds to a completion of three (3) years college work. In fact, the DA-RAB had liberally appreciated his educational attainment by basing its appreciation on the number of units earned rather than on the curriculum level (i.e. freshman, sophomore, etc.) of the subjects taken. It would be noted that in the College of Agriculture and College of Fisheries, the highest subjects he took were both in the 2nd year curriculum level and not on the 3rd year level. Based on his transcript of records which includes his earned units in both colleges at UP, he was conferred a Certificate in Fisheries, a 2-year course. He score of 4.00 points in education then, is in accordance with the DA Table of Ratings used during the reorganization.

Mr. Lustre claimed that he had attended 1,200 training hours and not 520 hours as credited to him by the DA-RAB. The factor of training refers to the training attended relevant to the position to be filled. As such, trainings he completed while a Secondary School Teacher and are not relevant have to be excluded (sic). The effectivity date of the appointments issued during the reorganization was July 1, 1988. Hence, trainings (sic) participated in by Mr. Lustre in December 1988 and 1989 were no longer credited as they were conducted beyond the effectivity of the appointment. Mr. Lustre submitted machine copies of his certificates of attendance on 8 training programs held between June 1971 and January 1988, however, the number of session hours of each of them was not reflected. He indicated in his Personal Data Sheet the training programs he attended and their corresponding session hours, however, these are not supported by evidences. The DA is in a better position to know and to review the creditable hours of the training conducted. As such, there is no ground to disturb the score in the factor of training credited to him by the DA-RAB.

Suming up, Mr. Lustre's score in the factors of education and training shall remain at 4.00 points and 5.00

points, respectively. Consequently, his total score of 56.52 points shall stand. As can be gleaned from the Summary of Evaluation, Mr. Tahir got a higher score of 58.82 points compared to Mr. Lustre's, 56.52 points. This being so, it can be said that Mr. Tahir is more qualified for appointment to the contested position.

Wherefore, premises considered, this Commission resolves as it hereby resolved to dismiss the appeal of Mr. Lustre, for lack of merit."^[10]

A motion for reconsideration of said resolution filed by petitioner was denied by respondent CSC on November 6, 1990 as it held -

"Mr. Lustre raises several issues:

1. He was appointed MAO in a permanent status so he could not be removed except for a cause provided by law;
2. He is entitled to full point in the factor of education;
3. His score in training should be increased to 10 points;
4. He be given one (1) month to produce all the certificates of training.

On Mr. Lustre's first issue, it should be pointed out that appointments issued during reorganization are conditionally approved by the CSC. They are subject to the final decision of the agency Reorganization Appeals Board or the Civil Service Commission as the case may be should an aggrieved employee file a protest. Such provision is even indicated on the face of the appointment paper itself. This is to give form to Sections 18 and 19 of the Rules on Government Reorganization which provide that any officer or employee aggrieved by the appointments made may file an appeal with the appointing authority and should he be still not satisfied with the decision, he may further appeal with the Civil Service Commission.

Mr. Lustre contends that he should be given full score in the factor of education since the educational requirement per DA Memorandum calls for any combination of training and experience equivalent to graduation from college with a degree in either agriculture, home economics, or fisheries which he meets.

The qualification standards for MAO approved by the CSC require a bachelor's degree on Agriculture, Food Technology, Home Economics, Fisheries or other related courses or a bachelor's degree. There is, however, the principle of substitution. A deficiency in the educational requirement may be substituted by relevant experience and training. Mr. Lustre was promoted Supervising Fisheries Officer, his latest position prior to the 1988 reorganization and was considered for the position of MAO during the said reorganization even without a bachelor's degree because of such substitution. Mr. Lustre had earned a Certificate of Fisheries.

The DA, however, adopted an evaluation system giving premium to educational attainment by assigning corresponding points to different education levels. Per DA Table of Ratings for MAO, a certificate is credited with 4 points; a 3rd year college (sic), 6 points, a bachelor's degree, 10 points and a masteral degree, 15 points. As such, Mr. Lustre's claim for a full score or eight (8) points in the factor of education can not be given due course. Neither is his petition to reduce the score of Mr. Tahir to eight (8) points in the factor of education. A bachelor's degree which Mr. Tahir possesses is credited, as indicated above, with 10 points.

On his claim to increase his score in the factor of training from 5.00 points to 10.00 points is without basis (sic). The DA based its rating on the data available during the reevaluation. It set a deadline for protestants and protestees to submit authenticated documents to support their claims beyond which documents submitted were no longer considered in the reevaluation. Reasonable office order shall have to be observed and complied with, otherwise, proceedings on protest cases would drag on for years causing injustice to the aggrieved party. It is, likewise, for this reason that his petition to be given one (1) month to produce all training certificates can not be given due course.

Considering that there are no cogent reasons which would warrant reversal of the subject decision, the Commission considers the instant motion for reconsideration without merit.

Wherefore, premises considered, this Commission denies the motion for reconsideration of Mr. Lustre."^[11]

The above findings and conclusions of respondent CSC are binding on this Court there being no showing that it acted without jurisdiction or otherwise committed a grave abuse of discretion.

Indeed, there is no reason why the rating of 10% for private respondent as against 4% for petitioner should be disturbed as the former is a holder of a Bachelor of Arts degree besides being a third year college student in agriculture, while the latter is only a second year college student also in agriculture.^[12]

In training, private respondent garnered a 10% rating as he underwent more than 720 hours training while petitioner got 5% as he underwent only 520 hours training.^[13] The claim of petitioner that he had more training hours was not upheld by respondent CSC on the ground that the training programs which he completed as a secondary school teacher are not relevant and that training hours after June, 1988 were excluded inasmuch as the effective date of his appointment was July 1, 1988. The machine copies of eight certificates of various training programs held between January, 1971 and January, 1988 submitted by petitioner to support his stand do not reflect the number of session hours of each of them. The training programs he indicated in his personal data sheet are not supported by evidence, so the respondent CSC relied on the evaluation of the DA-RAB.^[14] And even considering the three certificates of training for 104 hours belatedly submitted by petitioner on October 24, 1990,^[15] it is not sufficient to offset the number of hours credited to private respondent.

Of course, as correctly observed by respondent CSC in its resolution dated November 7, 1990, it was not unreasonable to set a deadline for the parties to submit authenticated documents to support their claims. If a contrary view is to prevail, protest cases would drag on for years.^[16]

The Court agrees. Moreover, even the latest documents presented by petitioner, did not change the comparative qualifications of the parties.

The appointment extended to petitioner was conditional and subject to the resolution of the protest of private respondent. The DA-RAB upheld the protest. It appears the respondent CSC agrees with the findings of the DA-RAB.

The power of the respondent CSC is to approve or disapprove said appointment. It is limited to the determination only of whether the appointee possesses the required qualification for the position.^[17] The CSC may not direct the appointment of another candidate simply because it believes him to be better qualified than the appointee. That would be an encroachment on the sole discretion of the appointing authority, which in this case is the Department of Agriculture.^[18]

WHEREFORE, the petition is DISMISSED. No costs in this instance.

SO ORDERED.

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

[1] Annex A to the Petition.

[2] Annex B to the Petition.

- [3] Annex D to the Petition.
- [4] Annex A to the Petition.
- [5] Pages 5 to 6, Rollo.
- [6] Section 3, Article IX(B), 1987 Constitution.
- [7] Annex H to the Petition; back page-paragraph (i).
- [8] Annex B to the Petition.
- [9] Ibid.
- [10] Annex D to the Petition; pages 31 to 32, Rollo.
- [11] Annex A to the Petition; pages 14 to 15, Rollo.
- [12] Annex B to the Petition; page 21, Rollo.
- [13] Ibid.
- [14] Annex D to the Petition; page 32, Rollo.
- [15] Annex J to the Petition.
- [16] Annex A to the Petition; page 15, Rollo.
- [17] Central Bank vs. Civil Service Commission, 171 SCRA 744 (1989) and Orbos vs. Civil Service Commission, G.R. No. 92561, September 12, 1990.
- [18] Luego vs. Civil Service Commission, 143 SCRA 327 (1986).

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