

GAGA G. MAUNA, PETITIONER, VS. CIVIL SERVICE COMMISSION AND CRISTETO J. LIMBACO, RESPONDENTS.

G.R. No. 97794. May 13, 1994

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

This special civil action for certiorari impugns the decision promulgated on February 14, 1990 of the Merit Systems Protection Board (MSPB) finding private respondent Cristeto Limbaco's appeal meritorious thereby revoking the petitioner's appointment as Chief Election Officer of the Precincts and Barangay Affairs Department of the Commission on Elections (COMELEC) and directing the Chairman of the COMELEC to appoint private respondent in petitioner's stead, the decision of the MSPB dated May 24, 1990 denying the petitioner's Motion for Reconsideration, as well as the Resolution No. 90-1001 promulgated on November 9, 1990 of respondent Civil Service Commission (CSC) dismissing petitioner's appeal for having been filed out of time and Resolution No. 91-215 dated February 11, 1991 denying the petitioner's Motion for Reconsideration.

The antecedent facts are as follows:

On November 16, 1987, then COMELEC Chairman Ramon H. Felipe, Jr. appointed petitioner Gaga G. Mauna as Chief Election Officer of the Precincts and Voting Centers Division of the Election and Barangay Affairs Department (EBAD) of the COMELEC.[1] Said appointment was approved by Celerina G. Gotladera, authorized representative of CSC.[2]

On December 28, 1987, private respondent Cristeto J. Limbaco, the incumbent Assistant Chief Election Officer filed a protest against the petitioner's appointment before the COMELEC on the grounds that (1) he is more qualified than petitioner; (2) he is next--in-rank as Assistant Chief Election Officer; and (3) he is more senior than petitioner, having been employed by the COMELEC since 1979.

The COMELEC en banc dismissed the private respondent's protest, reasoning that:

"Considering the choice as to who would be appointed to the contested position, to borrow the words of the Supreme Court, is a political question involving consideration of wisdom which only the appointing authority can decide; in appointing protestee to the contested position, the Chairman exercised this discretion, and in the absence of showing that there was grave abuse of discretion, his judgment on the matter should not be interfered with, on motion duly seconded, the Commission resolved to dismiss the protest filed by Atty. Cristeto v. Limbaco against the appointment of Atty. Gaga G. Mauna as Chief Officer, Precincts and voting Centers Division, EBAD, for lack of merit. "[3]

Aggrieved by the said resolution, private respondent filed an appeal on March 15, 1988 before the Merit System Protection Board (MSPB) of respondent Civil Service Commission reiterating the grounds earlier raised before the COMELEC.[4]

Commenting thereon, the Commission on Elections (COMELEC) through Nancy H. Madarang, Manager of the

Personnel Department, alleged that:

"It is to be admitted that the position of protestant is the next lower position relative to the contested office. To that extent protestant may claim to be next-in-rank. But in actuality the appointing authority widened his choice to admit another one who is equally qualified within the department, and this is the protestee.

"In doing so, judgment was exercised on the principle that there is no mandatory nor peremptory requirement that persons next-in-rank are entitled to preference in appointment. What the law provides is that they would be among the first to be considered, if qualified, and if the vacancy is not filled by promotion, the same shall be filled by transfer or other modes of appointment. (Taduran vs. Civil Service Commission, 131 SCRA 66).

'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 the 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 consideration of wisdom which only the appointing authority can decide.' (Luego vs. Civil Service Commission, 143 SCRA 327)

"Let it be noted that both protestant-appellant and protestee-appellee possess the qualifications required of the position. This being so, the choice as to who would be appointed to the contested position became a political question involving consideration of wisdom which only the appointing authority (could) decide.'

"The Chairman exercised this discretion, and in the absence of showing that there was grave abuse of discretion, his judgment on the matter should not be interfered with.

"Further, in point of seniority, it is submitted that protestee-appellee Mauna has an added advantage. He has been in the department (Election and Barangay Affairs Department (EBAD)) where the contested position organizationally belongs, ahead of protestant-appellant. Protestee-appellee joined the Election and Barangay Affairs Department in July 1985 whereas protestant first worked in said department only in October 1986, although protestant Limbaco entered into the service of the Comelec in 1979. But, as a matter of policy seniority is not a decisive factor in the process of personnel recruitment or appointment. What is important is that the appointee possesses the qualifications required for the position. The fact that protestant-appellant is also qualified, or even granting but without admitting, that he is better qualified than protestee-appellee, may not be used to revoke protestee-appellee's appointment. To do so would be to encroach on the discretion vested solely in the appointing authority.

"Protestant-appellant contends that the challenged appointment violated the constitutional requirement that appointments in the civil service shall be made only according to merit and fitness. Let it be noted that from the comparative qualifications of protestant-appellant and protestee-appellee (Appeal, p. 2), their qualifications are at par. Hence, the criteria of merit and fitness were considered."[5]

On February 14, 1990, the MSPB rendered its decision finding the appeal of private respondent meritorious, the dispositive portion of which reads:

"WHEREFORE, premises considered, the Board finds the appeal meritorious. Accordingly, the appointment of appellee Atty. Gaga Mauna to the contested position is hereby revoked and the Chairman, Commission on Elections is hereby directed to appoint appellant Atty. Cristeto Limbaco in his stead."[6]

Petitioner filed a motion for reconsideration of the said decision, but the same was denied by the MSPB in its decision dated May 24, 1990.[7]

Thereafter, petitioner appealed to public respondent CSC. However, in Resolution No. 90-1001 dated November 9, 1990, the said respondent dismissed the appeal for being filed out of time.[8] Petitioner moved for reconsideration but this was denied by the CSC in Resolution No. 91-215 dated February 17, 1991.[9]

Aggrieved by the foregoing resolution, petitioner filed the instant petition for certiorari with prayer for preliminary injunction or restraining order.

On July 8, 1991, the Solicitor General filed its Comment recommending that the petition be given due course and praying that public respondent CSC be granted a new period within which to submit its Comment.[10] On October 10, 1991, public respondent CSC filed its Comment to the petition,[11] while private respondent Limbaco did likewise on May 9, 1991.[12]

In our resolution of January 21, 1992,[13] we resolved to give due course to the petition and required the parties to file their respective memoranda, to which they all complied.[14]

The central issue raised for resolution in this petition is whether respondent Civil Service Commission committed grave abuse of discretion in revoking the appointment of petitioner and ordering appointment of private respondent in his place.

Petitioner takes the position that public respondent has no authority to revoke his appointment on the ground that another person is more qualified and to direct the appointment of a substitute of its choice. In support of said contention, petitioner cites the case of *Orbos vs. Civil Service Commission*,[15] where we ruled that the authority of the CSC is limited to approving or disapproving an appointment, its duty being merely to attest appointments. The CSC has no authority to revoke an appointment on the ground that another person is more qualified for a particular position. It will be in excess of its power if it substitutes its will for that of the appointing authority. The CSC does not have the authority to direct the appointment of a substitute of its choice.

The principles defining the power of the appointing authority vis-a-vis that of the Civil Service Commission are well-settled.[16] The power of appointment is essentially discretionary and the CSC cannot substitute its judgment for that of the appointing power. Neither does it have the power to overrule such discretion even if it finds that there are other persons more qualified to the contested position.[17] The CSC may only approve or disapprove the appointment after determining whether or not the appointee possesses the appropriate civil service eligibility or the required qualifications. It cannot order or direct the appointment of a successful protestant. Thereafter its participation in the appointment process ceases. Substituting its judgment for that of the appointing authority constitutes encroachment on the latter's discretion. In fact, even this Court cannot control the appointing authority's discretion as long as it is exercised properly and judiciously. Thus, in the leading case of *Luego vs. Civil Service Commission*,[18] the Court ruled:

"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 consideration of wisdom which only the appointing authority can decide.

x x x x x x x x

"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 appropriate eligibility or required qualifications.' (Italic 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.

"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 doctrine was reiterated in the case of *Central Bank vs. Civil Service Commission*,^[19] where it was stated:

"x x x It is well-settled that when the appointee is qualified, as in this case, and all the other legal requirements are satisfied, the Commission has no alternative but to attest to the appointment in accordance with the Civil Service Laws. The Commission has no authority to revoke an appointment on the ground that another person is more qualified for a particular position. It also has no authority to direct the appointment of a substitute of its choice. To do so would be an encroachment on the discretion vested upon the appointing authority. An appointment is essentially within the discretionary power of whomsoever it is vested, subject to the only condition that the appointee should possess the qualifications required by law."

Respondent CSC's further insistence in disregarding the choice of the appointment authority, drew a stern rebuke from the Court in *Lapinid vs. Civil Service Commission, et. al.*,^[20] thus:

"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."

One last time in *Felipa Guieb vs. Civil Service Commission, et. al.*^[21], respondent CSC was reminded in no uncertain terms of the limits of its power to approve or disapprove appointments in the Civil Service. This Court said:

"x x x As a creation of the Constitution, the respondent Commission should be the last to trivialize the judiciary, one of the three most important touchstones of our democratic government. Regardless of the views of the respondent Commission, it is this court that has been endowed with the exclusive and ultimate authority to interpret the laws of the land, including the fundamental law itself, which often times requires throwing light to the many intersecting shadows that blur the boundaries of power of our different branches of government. Our people have entrusted to this Court the power to be the final arbiter of all questions of law and the rule of law demands that as disputes ought to reach an end in the interest of societal peace, submission should follow this court's final fiat. To undermine the authority of this Court as the final arbiter of legal disputes is to foster chaos and confusion in our administration of justice."

Furthermore, as a civil service employee with a permanent appointment, petitioner cannot be removed except for cause provided by law. Well-entrenched is the rule on security of tenure that such an appointment is issued and the moment the appointee assumes a position in the civil service under a completed appointment, he acquires a legal, not merely equitable right (to the position), which is protected not only by statute, but also by the Constitution [Article IX-B, Section 2, paragraph (3)] and cannot be taken away from him either by revocation of the appointment, or by removal, except for cause, and with previous notice and hearing.[22]

Finally, when the public respondent was asked to review the decision of the MSPB dated February 14, 1990 and May 24, 1990, it affirmed the same and dismissed the petitioner's appeal for being filed out of time.

Assuming for the sake of argument that the petitioner's appeal was filed out of time, it is within the power of this Court to temper rigid rules in favor of substantial justice. While it is desirable that the Rules of Court be faithfully and even meticulously observed, courts should not be so strict about procedural lapses that do not really impair the proper administration of justice. If the rules are intended to ensure the orderly conduct of litigation, it is because of the higher objective they seek which is the protection of substantive rights of the parties.[23] As held by the Court in a number of cases:

"...Because there is no vested right in technicalities, in meritorious cases, a liberal, not literal, interpretation of the rules becomes imperative and technicalities should not be resorted to in derogation of the intent and purpose of the rules which is the proper and just determination of litigation. Litigations, should as much as possible, be decided on their merits and not on technicality. Dismissal of appeals purely on technical grounds is frowned upon, and the rules of procedure ought not to be applied in a very rigid, technical sense, for they are adopted to help secure, not override, substantial justice, and thereby defeat their very aims. As has been the constant rulings of this Court, every party-litigant should be afforded the amplest opportunity for the proper and just disposition of his cause, free from the constraints of technicalities..."[24]

WHEREFORE, the questioned decisions of the Merit Systems Protection Board dated February 14, 1990 and May 24, 1990 and the resolutions of respondent Civil Service Commission dated November 9, 1990 and February 11, 1991 are hereby set aside, and the petitioner is hereby declared to be entitled to the office in dispute by virtue of his permanent appointment thereto dated November 16, 1987. No costs.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Regalado, Romero, Bellosillo, Melo, Quiason, Puno, and Vitug, JJ., concur.

Davide, Jr., J., no part.

[1] Rollo, p. 27, Annex "E", Petition.

[2] Ibid.

- [3] Id., at p. 33; Annex "G," Petition.
- [4] Id., at p. 34; Annex "H," Petition.
- [5] Id., at pp. 40-41; Annex "I," Petition.
- [6] Id., at p. 18; Annex "A," Petition
- [7] Id., at pp. 42-51 and pp. 19-20, Annexes "J" and "B", respectively, Petition.
- [8] Id., at pp. 21-23; Annex "C," Petition.
- [9] Id., at pp. 24-16; Annex "D," Petition.
- [10] Id., at pp. 109-125.
- [11] Id., at pp. 134-138.
- [12] Id., at pp. 92-96.
- [13] Id., at p. 145.
- [14] Id., at pp. 155-160, 165-171, and 177-182.

[15] 189 SCRA 459.

- [16] Cabagnot vs. Civil Service Commission, et al., G.R. No. 93511, June 3, 1993; Medalla, Jr. v. Sto. Tomas, G.R. No. 94255, May 5, 1992, 208 SCRA 351; Alim v. Civil Service Commission (CSC), G.R. No. No. 99391, December 2, 1991, 204 SCRA 510; Abila v. CSC, G.R. Nos. 92573, 92867, June 3, 1991, 198 SCRA 102; Lustre v. CSC, G.R. No. 96578, May 20, 1991, 197 SCRA 288; Lapinid v. CSC, G.R. No. 96298, May 14, 1991, 197 SCRA 106; Lopez v. CSC, G.R. No. 92140, February 19, 1991, 194 SCRA 269; Simpao v. CSC, G.R. No. 85976, November 15, 1990, 191 SCRA 396; Gaspar v. Court of Appeals, G.R. No. 90799, October 18, 1990, 190 SCRA 774; Orbos v. CSC, G.R. No. 92561, September 12, 1990, 189 SCRA 459; Patagoc v. CSC, G.R. No. 90229, May 14, 1990, 185 SCRA 411; Central Bank v. CSC, G.R. Nos. 80455-56, April 10, 1989, 171 SCRA 744; Luego v. CSC, G.R. No. 69137, August 5, 1986, 143 SCRA 327; and Pamantasan ng Lungsod ng Maynila v. Intermediate Appellate Court, G.R. No. 65439, November 13, 1985, 140 SCRA 22).
- [17] Tario v. Civil Service Commission, 219 SCRA 677; Dela Cruz v. Civil Service Commission, 264 SCRA 419; Gaspar v. Civil Service Commission, 190 SCRA 774.

[18] 149 SCRA 327.

[19] 171 SCRA 744.

[20] 197 SCRA 106.

- [21] G.R. No. 93935, February 9, 1994.
- [22] Aquino vs. Civil Service Commission, 208 SCRA 240; Mitra vs. Subido, 21 SCRA 127.
- [23] Riconada Telephone Company, Inc. vs. Buenaviaje, 184 SCRA 701; Serina vs. Court of Appeals 170 SCRA 421; Leyte vs. Cusi, 151 SCRA 496.
- [24] Riconada Telephone Company, Inc. vs. Buenviaje, supra, citing Fonseca vs. Court of Appeals, 165 SCRA 40 and Hernandez vs. Quitain, 168 SCRA 99.

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