

JOSE A. ABAYA, ANICETO O. CADA, JR., PRESIDIO M. CARINO, AIDA D. FULGENCIO, ERNESTO G. GARCIA, BONIFACIO S. MOLINA, REMIGIO P. PUGAT AND DOMINGO C. TOBIAS, PETITIONERS, VS. CIVI...

G.R. No. 98027. October 07, 1994

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

Petitioners were employees of the Department of Agriculture in the Province of Pangasinan when on 30 January 1987 then President Corazon Aquino issued Executive Order No. 116 reorganizing the Department.[1] Jose Abaya, Aniceto O. Cada, Jr., Presidio M. Cariño and Ernesto J. Garcia were Municipal Agriculture and Food Officers (MAFO's), while petitioners Aida Fulgencio,[2] Bonifacio S. Molina,[3] Remigio Pugat[4] and Domingo C. Tobias[5] were occupying lower positions.

In the reorganization, the position of MAFO was abolished and replaced with Municipal Agricultural Officer (MAO). Former MAFO's did not automatically become MAO's. Pursuant to Memorandum Circular No. 7 issued in October 1987,[6] only those who took the evaluation examination and qualified to the Personnel Placement List (PPL) were considered for MAO positions. On 5 March 1988 petitioners took the examination given by the Regional Personnel Placement Committee, qualified to the placement list, and were subsequently appointed MAO's "effective upon assumption of duty but not earlier than July 1, 1988." [7]

However aspirants who failed to qualify, hence were not appointed, lodged a protest with the Reorganization Appeals Board (RAB),[8] so that a second evaluation was conducted on 7 November 1988.[9] After considering the documents submitted by the protestants and the result of the second evaluation, the RAB issued Resolution No. 17 dated 7 November 1988 modifying the ranking of the MAO's in the PPL which resulted in the exclusion of petitioners Abaya, Cada and Fulgencio from the PPL and in their ouster as MAO's.

Petitioners Jose Abaya, Aniceto Cada, and other aggrieved parties who are not petitioners herein,[10] filed a petition dated 30 January 1989 for re--evaluation of their standing in the PPL. They were given until 31 May 1989 to submit authenticated documents in support of their request. On 26 March 1990, acting on their petition as well as on the separate request for evaluation of Alfredo Casimiro, the RAB issued Resolution No. 17-A affirming the exclusion of petitioners Abaya, Cada and Fulgencio, and further disqualifying petitioners Presidio Cariño, Ernesto Garcia, Remigio Pugat, Domingo Tobias and Bonifacio Molina, among others,[11] from the PPL for failing to land in the first forty-eight places, the equivalent number of positions needed to be filled.

Petitioners appealed the RAB orders to the Civil Service Commission,[12] but on 28 September 1990 their appeal was dismissed for lack of merit. Their motion for reconsideration was also denied on 8 February 1991; hence, this petition for certiorari.

On 22 October 1991, several incumbent MAO's[13] whose rankings were upheld by the RAB and the

Commission filed a motion to intervene "so as to clothe them with personality to move (a) for dismissal of the above-entitled case and Civil Case No. D-9953, and (b) for contempt on the ground of forum shopping." [14] In their Comment, [15] Rejoinder [16] and Memorandum, [17] movant-intervenors assumed another stance in praying that "petitioners namely Jose Abaya, Aniceto O. Cada, Jr., Presidio M. Cariño and Ernesto J. Garcia, the ten (10) intervenors and the eight (8) plaintiffs in Civil Case No. D-101140 be declared entitled to reinstatement to their respective positions as MAFO, now MAO, pursuant to the ruling in the Pari-an and Sison cases."

It may be recalled that the reorganization of the Department of Agriculture was challenged in the consolidated cases of Bustamante v. Dominguez, [18] and Dominguez v. Ligot-Telan, [19] where we ordered the reinstatement of petitioners and private respondents therein, respectively, to their former positions or positions of comparable rank in the reorganized department without loss of seniority rights except, in the latter case, of those who retired or opted to be phased out and who have received their separation and retirement benefits.

In *Pari-an v. Civil Service Commission*, [20] we had occasion to discuss Memorandum Circular No. 4 issued by the Department of Agriculture dated 9 October 1987 providing that MAO appointees shall be selected from candidates who qualify in a competitive examination to be administered by Sycip, Gorres and Velayo (SGV) under authority of the Civil Service Commission. After petitioners made it to the PPL, *Pari-an*, et al., were appointed MAO's and were redeployed to the same stations they held as MAFO's. In resolving the various protests of the affected employees, the RAB displaced them from the PPL and later demoted them as Agricultural Productivity Technicians (APT). We set aside the reorganization for non-compliance with the guidelines in E.O. No. 17 dated 28 May 1986, [21] Sec. 2, par. (3), Art. IX of the Constitution, [22] and R.A. 6656, and declared invalid the removal of former MAFO's and ordered their reinstatement to their newly renamed positions as MAO's under the new staffing pattern. We also directed the return of other private respondents therein to their former positions or their equivalent under the new staffing pattern, with compensation based on comparable or equivalent rates but not lower than their former salaries. We reiterated this ruling in *Sison v. Civil Service Commission*. [23]

The case at bench is on all fours with *Pari-an* and *Sison*; accordingly, petitioners should be returned to the positions equivalent to what they held before the reorganization. This means that former MAFO's, namely, Jose Abaya, Aniceto O. Cada, Jr., Presidio M. Cariño and Ernesto J. Garcia should be appointed MAO's as prayed for by movant-intervenors in their succeeding pleadings. The rest should be properly reverted to their positions prior to the reorganization or their equivalent.

However, only petitioner Molina could be deemed to have pursued his case to the end hence entitled to a decision on the merits. Incidentally, all petitioners failed to file their memoranda so that they were required to explain to the Court why no disciplinary action should be taken against them for such inaction. [24] Only Molina and Cariño filed their memorandum although the latter subsequently withdrew as petitioner. [25]

Meanwhile, on 1 April 1993 Cada was reappointed MAO in the Municipality of San Quintin, Pangasinan, due to devolution of functions under the new Local Government Code. [26] Although he prays for a decision in his favor, his reappointment to the same position, albeit by a different appointing authority due to devolution, constitutes a reconsideration of the previous objection to his appointment. Accordingly, the petition is already moot as to him.

Petitioner Abaya has never been heard of since the filing of the petition; [27] Fulgencio never responded nor paid the fine as our Resolutions sent her were returned with notations "Addressee in U.S.A."; [28] Garcia paid the P500.00 fine and prayed that he be dropped as petitioner since he was already MAO of Pozorrubio, the position he prayed for in the petition; [29] Pugat "elected to be appointed to a lower item/position as Sr. Agriculturist to be able to support my (his) family"; [30] and, Tobias retired from the service effective 5 May 1992. [31]

But on the issues alone raised by Molina, independently of Pari-an and Sison, the petition must fail. Molina does not challenge the whole reorganization but only the orders dislodging him from the PPL. This is understandable because annulment of the reorganization would restore him to an equivalent position he held prior to the reorganization which was lower than MAO or MAFO. He alleges that the RAB committed grave abuse of discretion in altering the ranking in the PPL since the same criteria were used in the first and subsequent evaluations, and the RAB was essentially composed of the same members. He questions the dramatic climb in the ranking of particular persons who eventually dislodged him from the PPL, despite the fact that they were disqualified from the first ranking. He particularly mentions the case of Alexander Alcantara who was given the maximum 15% relevant experience despite being an AFT,[32] hence, failed to qualify with the salary range requirement, and Ernesto de Sola who lacked supervisory and managerial experience but had the proper connections.

Molina miserably failed to show bad faith on the actuations of the RAB. In the case at bar, what he considers as evidence of bad faith is the substantial advance in the ranking of protestants who were disqualified in the initial evaluation. But this fact in itself does not constitute bad faith, as it has been shown that the re-ranking came as a result of the late submission of authenticated documents by some aspirants. Hence, notwithstanding the similarity of the criteria and the composition of the reviewing board, it is not at all improbable for the RAB to alter its findings.

Molina also ascribes grave abuse of discretion on the part of respondent Commission when it sustained the RAB despite omission on its part and Undersecretary Barbosa to file their own comment. He also faults the Commission for deciding his appeal beyond the period allowed by law.

Failure of respondents RAB and Undersecretary Barbosa to file their comment with the Commission, or the fact that the Commission rendered the decision beyond the statutory period, does not result in a reversal. Although delay is not countenanced, this cannot be a valid basis for granting the instant petition.

Incidentally, it was Molina's station in San Fabian, Pangasinan, where we directed Sison in G.R. No. 97180 to be reinstated.

There being sufficient basis to resolve the petition, we need not go into other matters directly or indirectly raised therein.

As regards intervenors, by moving solely for the purpose of seeking the dismissal of the case as well as Civil Case No. D-9953, and to cite petitioners for contempt for forum shopping, they cannot claim any affirmative relief hereunder.

WHEREFORE, the petition is DISMISSED and the motion to intervene is DENIED.

SO ORDERED.

Narvasa, C.J., Cruz, Regalado, Davide, Jr., Romero, Melo, Quiason, Puno, Vitug, Kapunan, and Mendoza, JJ., concur.

Feliciano, Padilla, and Bidin, JJ., on leave.

[1] Renaming the Ministry of Agriculture and Food as Ministry of Agriculture, Reorganizing its Units; Integrating All Offices and Agencies Whose Functions Relate to Agriculture and Fishery into the Ministry and for Other Purposes.

[2] Supvg. Fish. Tech., Rollo, p. 44.

[3] Sr. Fish. Bio., Rollo, pp. 44, 46.

[4] AES I, Rollo, p. 46.

[5] FES I, Rollo, p. 46.

[6] Exact date not available in the record.

[7] Jose A. Abaya (Sta. Maria, Pangasinan), Aniceto Cada, Jr. (Balungao, Pangasinan), Presidio Carino (Laoac, Pangasinan), Aida D. Fulgencio (Lingayen, Pangasinan), Ernesto G. Garcia (Pozorrubio, Pangasinan), Remigio Pugat (Villasis, Pangasinan), Bonifacio S. Molina (San Fabian, Pangasinan) and Domingo C. Tobias (Binmaley, Pangasinan).

[8] Letter complaint dated 25 August 1988 where Estelita C. Kagaoan sought reconsideration of her exclusion from the list of qualifiers. A similar motion was filed by Diosdado Caasi, Jovencio Legaspi, Mario Buccat, Jose Austria, Napoleon Tugade, Perfecto Repato, Alfredo Casimiro, Benjamin Licuanan, Angel Tawatao, Jr., Arturo Sison, Lilia Tolete, Genaro Tabuno, Dominador Marra, Juan Bergonio, Porfirio Almojeras and Manuel Perez, Rollo, pp. 28-29.

[9] Rollo, p. 4.

[10] Necitas Mundin, Amparo Nevado, Fred Botardo, Ernesto Paguirigan, Oscar Pecson, Wilberto Peralta and Arsenio Maningding, Rollo, p. 37.

[11] Domingo Rosario, Benjamin Sison and Pablo Gatoc who did not join in the petition.

[12] CSC Case No. 738, Rollo, p. 47.

[13] Juan Bergonio, Porfirio Almojera, Warina Peros, Angel Tawatao, Jr., Napoleon Tugade, Diosdado Caasi, Alfredo Casimero, Dominador Marra, Mario Buccat and Lilia Tolete.

[14] Rollo, pp. 103-105.

[15] Filed 23 March 1992, Rollo, pp. 295-301.

[16] Filed 24 June 1992, Rollo, pp. 315-318.

[17] Filed 6 October 1992, Rollo, pp. 332-340.

[18] G.R. No. 81998, 4 June 1990, 186 SCRA 108, and companion cases.

[19] G.R. No. 86547, 4 June 1990, and companion cases.

[20] G.R. No. 96535, 15 October 1991, 202 SCRA 772.

[21] E.O. No. 17 provides the grounds for separation/termination of personnel: (a) Existence of a case for summary dismissal pursuant to Sec. 40 of the Civil Service Law; (b) Existence of a probable cause for violation of the Anti-Graft and Corrupt Practices Act as determined by the Ministry Head concerned; (c) Gross incompetence or inefficiency in the discharge of functions; (d) Misuse of public office for partisan political purposes; (e) Any other analogous ground showing that the incumbent is unfit to remain in the service or his separation/replacement is in the interest of the service.

[22] No officer or employee of the civil service shall be removed or suspended except for cause provided by law.

[23] G.R. No. 97180, 8 May 1992, 208 SCRA 859.

[24] Resolution of 8 June 1993, Rollo, p. 370.

[25] Cariño manifested that "he is no longer interested in the further prosecution of the case as he is not in a financial position to maintain the appeal x x x (and) for his peace of mind and to relieve him from stress and worry brought about by the case," Rollo, p. 490. Pursuant to our Resolution of 10 March 1994, Rollo, p. 493, Atty. Armando G. Misleng, Sr., counsel for Cariño who filed a memorandum in his behalf, interposed no objection, Rollo, p. 506.

[26] Rollo, p. 376. When the petition was filed, Cada was MAO for Balungao, Pangasinan, Rollo, p. 14.

[27] According to co-petitioner Cada, Abaya "who has been suffering from mental illness for quite a time now, may have received (Court resolutions) but due to his condition did not call our attention to it," Rollo, p. 371. This was affirmed by co-petitioner Pugat, Rollo, p. 467.

[28] In our Resolution of 2 June 1994, Rollo, p. 529, we considered the resolutions sent her as deemed served after they were returned "unclaimed".

[29] Rollo, p. 501. We granted his prayer on 12 April 1994, Rollo, p. 531.

[30] Rollo, p. 467. In our 8 March 1994 Resolution, we exempted Pugat from filing memorandum.

[31] The telegraphic message is found on p. 437, Rollo, which we noted on 3 February 1994, Rollo, p. 512.

[32] A position lower than MAFO or MAO.

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