

ARANSAZO, Melchor D.

MONTES, JUANITO E.

NAVARRO, Fatima S.

Valdez, Avelino M.

**Re: Appointment; Non-Submission;
Administrative Order 100; Appeal**

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RESOLUTION NO. 002861

Executive Director Sikatuna Z. Fonacier, Livestock Development Council (LDC), Department of Agriculture, Quezon City, appeals the decision of Civil Service Commission-National Capital Region (CSC-NCR) invalidating the appointments of Melchor D. Aransazo and Juanito E. Montes, both as Driver I; and Fatima S. Navarro and Avelino M. Valdez, both as Clerk II, LDC.

Said decision reads, in part, as follows:

"This refers to your letter dated 10 April 2000 requesting reconsideration on the invalidation of the casual appointments of Juanito B. Montes and Melchor D. Aranzaso as Driver II, Avelino A. Valdez and Fatima S. Navarro as Clerk II, effective January 1, 2000 to June 30, 2000. Said appointments were invalidated by this Office because they are covered by Administrative Order No. 100 prescribing the prohibition on hiring of new personnel in the Executive Branch of the government, being that (sic) previous appointments were considered lapsed and ineffective.

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"Records show that Mr. Juanito B. Montes was originally appointed as Driver II effective March 8, 1999 to June 30, 1999. Said appointment, however, was not reported for the month of April and that the same was not submitted to the CSC-DA Field Office for notation within the reglementary period of submission. Likewise, the appointments of subject employees effective July 1, 1999 to December 31, 1999 were not supported on the ROPA for the month of August 1999 or the succeeding months of 1999. Records, on the other hand, show that it was only on January 31, 2001 that the ROPA for said months were submitted to the CSC-DA Field Office.

"In sum, the appointment effective march 8, 1999, of Mr. Montes lapsed on April 16, 1999 and the appointments effective July 1, 1999 issued to the four employees lapsed and became ineffective on August 16, 1999 . As a consequence the issuance of the said appointments on January 31, 2000 are considered re-employment and not renewal, there being gap in the service. More importantly, if said appointments are to be made effective December 31, 1999, they are already covered by

the provisions of Administrative Order No. 100 as implemented by DBM National Budget Circular No. 17, dated December 17, 1999."

The material allegations of Executive Director Fonacier in his appeal are, as follows:

"The decision of the CSC-NCR Director to invalidate said appointments is hereby being appealed to the Commission on the following grounds and circumstances:

"1. The invalidated appointments belong to employees hired to provide indispensable and additional manpower for the Council to effectively carry out its plans, programs and activities as the Secretariat of the Agrikulturang Makamasa Livestock of the Department of Agriculture.

"2. It is admitted that the renewal of appointments of Mr. Montes for the period March - June 1999 and the four (4) employees for the period July-December 1999, were not submitted to the CSC Field Office for recording due to inadvertence of the Personnel Officer-Designate (attached as Annex 'A' is the written explanation of then newly designated Personnel Officer attesting to the non-submission of the renewal appointments for recording due to attendant transitional work adjustments and inadvertence). However, please note that the issuance of original and renewal appointments of said personnel were previously submitted to CSC Field Office for recording and were found to be in order during its personnel audit and inventory. Likewise, the subsequent renewal of appointments are in order as it substantially complied with the Accreditation Program under CSC Memorandum Circular No. 27, series of 1994, in relation with CSC Resolution No. 94-4783 (herein attached as Annex 'B' - Accrediting the Livestock Development Council and authorizing it to take final action on its appointments), which seek to ensure the promotion of merit and fitness in the civil service and compliance with CSC rules and regulations of appointments issued by accredited agencies.

"3. Subject employees are not 'new entrants' in the Civil Service. They have been working for us for years and their contracts are regularly renewed by the Office. Attached as Annexes 'C1', 'C2', 'C3', 'C4', 'C5', and 'C6' are photocopies of their appointments, daily time records, payroll, performance evaluation forms, service records & CSC inventory of government personnel that would attest to their continuous employment with the Council.

"4. For the humanitarian reasons, the employment service of said employees (longest is 8 years) should not be terminated nor disrupted due to inadvertent non-submission of ROPA to the Field Office for recording considering that this is not their fault.

"5. The inadvertence made was the first on the part of the Council."

The records disclose that on March 9, 1999, Montes was issued an appointment as Driver I under casual status to be effective up to June 30, 1999. Said appointment, however, was not submitted to the Commission for monitoring and

recording. This notwithstanding, his appointment was renewed for the period for the period. This notwithstanding, his appointment was renewed for the period July 1, 1999 to December 31, 1999. Again, this appointment was not submitted to the Commission. After the supposed expiration of this appointment, Montes was issued another one for the period January 1, 2000 to June 30, 2000. This last appointment was submitted to the Civil Service Commission- Department of Agriculture (CSC-DA) Field Office (FO). Said appointment, however, was invalidated by the CSC-NCR upon the recommendation of the CSC-DA FO.

On the other hand, Aransazo, Navarro, and Valdez have been employed at the LDC since 1994, 1992, and 1996, respectively, all under casual status. Their appointments were renewed for the period covering July 1, 1999 to December 31, 1999. Said appointments, however, were never submitted to the CSC-DA FO. Nevertheless, they were again issued new appointments covering the period from January 1, 2000 to June 30, 2000. These last appointments were submitted to the CSC-DA FO but the CSC-NCR likewise invalidated the same also upon the recommendation of the former.

It is of record that the LDC is an accredited agency to act on appointments it issued. This notwithstanding, appointments of its personnel are subject to evaluation by the Commission through its Regional /Field Offices. And once it is established that the issuances of said appointments are in violation of the Civil Service Law and rules, the same are invalidated.

In the present case, all of the abovementioned appointments were invalidated by the CSC-NCR on the sole reason that their issuances were ostensibly in contravention of the provisions of Administrative Order 100, which suspended the hiring of new personnel. The CSC-NCR entertained the notion that Aransazo, Montes, Navarro, and Valdez are not existing employees such that they are covered by the prohibition mandated by AO 100. The LDC moved for the reconsideration of the invalidation of said appointments but the same was denied by the CSC-NCR.

Hence, the present appeal where central issue to be resolved is whether Aransazo, Montes, Navarro, and Valdez are, under the foregoing facts, considered existing employees of LDC.

Admittedly, the appointments issued immediately preceding the January 1, 2000 to June 30, 2000 of Aransazo, Montes, Navarro, and Valdez are defective. It is of record, however, that during the period of their defective appointments, they assumed and discharged the functions of the positions to which they were respectively appointed. This being the case, they are considered existing employees of LDC although in the concept of a de facto employees. This principle was expounded by the Commission in CSC Resolution No. 00-1979 dated August 31, 2000 (Laguna, Jude Ray P.), to wit:

"While it may be true that Laguna's two appointments are defective, there is no dispute that effective June 16, 1999 when he was initially issued an appointment as Agriculturist II under permanent status, he assumed office and discharged the functions of the position to which he was appointed. And on October 7, 1999, the date when the BAR received the decision invalidating his first appointment, Director Ponce, on that very same date, immediately reappointed Laguna to the same position but under temporary status. Although this latter appointment was again invalidated, Laguna, nonetheless, was

allowed to remain in office and continue discharging the functions thereof.

"With the foregoing facts duly established by the records, it becomes indubitable that Laguna is considered an existing employee of the BAR, albeit de facto, prior to January 1, 2000, the date of effectivity of Administrative Order 100. This is so because a de facto officer or employee is one who exercises and discharges the duties and functions of his office under color of a valid appointment or election thereto. He differs from that of a mere usurper since the latter undertakes to act officially without any color of a right. On the other hand, he differs from a de jure officer or employee since the latter is in all respects legally appointed or elected and qualified and whose term of office has not expired."

Thus, being existing employees of LDC, Aransazo, Montes, Navarro, and Valdez maybe reappointed without violating AO 100 and its implementing guidelines. This is explicit in paragraph 4.7 of National Budget Circular No. 466 dated December 17, 1999, which provides that:

"4.7 Other Personnel Actions/Movements. Other personnel actions/movements, i.e., reappointment, reinstatement, renewal, change of status (from temporary to permanent), demotion, upgrading/ reclassification, adjustments (change of item number only, salary adjustment, step -increment, and reinstatement to same position), reassignment, detail, secondment, or job rotation, as defined under Section 4, Rule III of CSC MC No. 40, s. 1998, as amended by MC 15, s. 1999, are not covered by restrictions provided under AO 100." (emphasis supplied)

Corollarily, Section 4 (f), Rule III of CSC Memorandum Circular No. 40, s. 1998, as amended, defines reappointment as follows:

"f. Reappointment. - is the re-issuance of an appointment during reorganization, devolution, salary standardization, renationalization or similar events or subsequent appointment of substitute teachers. Reappointment presupposes no gap in the service."

From the foregoing disquisition, it is evident that Aransazo, et al. are not covered by the prohibition provided for in AO 100 and its implementing rules such that they may be issued another appointments.

WHEREFORE, the Commission hereby rules that Melchor D. Aransazo, Juanito E. Montes, Fatima S. Navarro, and Avelino M. Valdez are not covered by the prohibition provided for in AO 100 and its implementing rules.

Quezon City, DEC. 29, 2000

(SGD.) **J. WALDEMAR V. VALMORES**

Commissioner

(SGD.) **CORAZON ALMA G. DE LEON**

Chairman

(SGD.) **JOSE F. ERESTAIN, JR.**

Commissioner

Attested by:

(SGD.) **ARIEL G. RONQUILLO**

Director III

JJC/MVM/Y9/w11

Laguna/vog

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