

MORENO, Romelyn V.

GABASA, Danilo G.

Re: Recall of Appointments; Personnel
Selection Board; Appeal

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RESOLUTION No. 01-0557

Mayor Ernesto L. Gedalanga, Municipality of Sibunag, Guimaras, appeals the recall of the appointments of Romelyn V. Moreno as Municipal Accountant and Danilo G. Gabasa as Draftsman, same Municipality, by the Civil Service Commission Regional Office (CSCRO) No. VI, Iloilo City. The said appointments were recalled on the ground that the same did not go through the agency's Personnel Selection Board.

The said letter of Mayor Gedalanga reads, in part, as follows:

“This is an appeal from the Decision dated February 19, 1999 of the Civil Service Commission Regional Office No. 6 denying the motion for reconsideration of the appellant Ernesto Gedalanga for lack of merit and revoking the appointments of Romelyn V. Moreno as Municipal Accountant and Danilo G. Gabasa as Draftsman, all of the Municipality of Sibunag, Guimaras.

“On May 18, 1999, appellant received the Order of this Office, dated May 3, 1999, ordering appellant Ernesto Gedalanga to submit his appeal Memorandum and to pay the required appeal fee within ten (10) days from receipt.

“BRIEF STATEMENT OF FACTS

“The subject of this case are the appointments issued by Ernesto L. Gedalanga, Mayor, Municipality of Sibunag, to Danilo G. Gabasa on July 1, 1998 and that of Romelyn V. Moreno as Municipal Accountant on July 24, 1998. Both appointments are temporary and classified as ‘Renewal’. In their original appointments, both have passed through the selection evaluation and screening process of the Personnel Selection Board of the Municipality of Sibunag.

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“ISSUE

“The sole issue to be resolved is whether or not the renewal of the temporary appointments of Romelyn Moreno as Municipal Accountant and Danilo Gabasa as Draftsman I is a violation of existing civil service law and rules, particularly Sec. 20(b), Rule VI of the Omnibus Rules Implementing Book V of Executive Order No. 292.

“DISCUSSION OF ARGUMENTS

“There was substantial compliance with the requirements set by the rules on the renewal of the subject appointments.

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“It must be emphasized that both Romelyn Moreno and Danilo Gabasa have passed through the original screening process of the Personnel Selection Board of the Municipality of Sibunag, Guimaras. Naturally, their previous appointments have been classified as ‘Original’. When their appointments expired there is no doubt that their official relation with the office have terminated. The fact, however, remains that the appointees have met the qualification standards to the same position. The termination of their employment by reason of their status did not extinguish the fact that there was a previous judicious and objective selection. Mayor Gedalanga was of the honest belief that the original selection process, with respect to the appointees, was sufficient. Hence, the renewal. And with more reasons because, upon

compliance with the other requirements set by the rules, no other applicants have applied.

“The requirements for the renewal of temporary appointments should be liberally applied to promote continuity in the service.

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“The appointments of Romelyn Moreno and Danilo Gabasa were renewed because of the absence of appropriate eligibles in the area who are willing and able to assume the position. This is particularly important in the case of the Municipality of Sibunag, Guimaras, a faraway municipality which was created only in 1995. For lack of other interested applicants, Mayor Gedalanga was left with no choice but to renew the appointments of Romelyn Moreno as Municipal Accountant and Danilo Gabasa as Draftsman I for continuity in the service.

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“With the provision, the Commission has a wide discretion whether or not to recall an appointment. The interest of the service is such a paramount consideration to be prejudiced by a minor inadvertence, especially in the case of temporary appointments. Without any willful intention on the part of Mayor Ernesto Gedalanga to disregard the said requirement and under whose belief the previous screening and evaluation is sufficient, the revocation is harsh and unmeritorious.

The CSCRO No. VI commented that *“As regards the allegation of Mayor Gedalanga that the appointments involved have passed the selection process of the PSB as manifested by the certification at the back thereof, the same is bereft of any proof and cannot, therefore, overturn the findings relative to the fact that the subject appointments were issued in patent contravention of Civil Service Law and rules.”*

Records show that Sibunag Mayor Gedalanga appointed Gabasa as Draftsman I on July 1, 1998 and Moreno as Municipal Accountant on July 24, 1998, both under temporary status. The said appointments were a renewal of their previous appointments which were also under temporary status.

On October 20, 1998, Vice-Mayor Luben G. Vilcher of the same Municipality, together with SB Members Edang, Regidor and Francisco filed a complaint against Mayor Gedalanga and HRMO Lilibeth M. Laygo for dishonesty, falsification and perjury before the CSCRO No. VI and requested the invalidation of the appointments of, among others, Moreno and Gabasa because the same were not renewed and evaluated by the agency's PSB. Hence, by reason of the complaint, an investigation was conducted, and on November 25, 1998 the CSC Provincial Office, Jordan, Guimaras recalled the appointments of Moreno and Gabasa. The motion for reconsideration with the CSCRO No. VI was also denied in a decision dated February 19, 1999.

Hence, this appeal.

Pertinent to the instant case is **Section 1(h) of Rule III of the Omnibus Rules on Appointments and Other Personnel Actions (Civil Service Commission Memorandum Circular No. 40, s. 1998)** which provides, as follows:

“h. Personnel Selection Board (PSB) Evaluation/Screening. All appointees should be screened and evaluated by the PSB, if applicable. As proof thereof, a certification signed by the Chairman of the Board at the back of the appointment or alternatively, a copy of the proceedings/minutes of the Board's deliberation shall be submitted together with the appointment. The issuance of the appointment shall not be earlier than the date of the final screening/deliberation of the PSB.

Candidates for the following appointments shall no longer be subject to the screening of the PSB:

- `.i. Substitute appointment due to their short duration and emergency nature. However, should the position be filed by regular appointment, candidates for the position should be screened and passed upon by the PSB.*
- `.ii. Appointment of faculty members and academic staff of state universities and colleges who belong to the closed career service.*
- `.iii. Appointment to entry laborer positions*

`iv. *Change of status of appointment from temporary to permanent.*

`v. *Appointment to positions in the non-career service.” (Underlining ours)*

A reading of the abovequoted provision would reveal that the prior screening and evaluation by the Agency’s Personnel Selection Board is mandatory. The exceptions to the rule are enumerated in the second paragraph. However, the Commission has added another exception which is the *renewal of temporary appointment issued to the incumbent* (letter e, Number 8 of the Revised Policies on Merit Promotion Plan [Civil Service Commission–Memorandum Circular No. 03, s. 2001]).

Although, the said Memorandum Circular was issued only on January 26, 2001 the same may be applied retroactively. Rules and regulations issued by administrative authorities pursuant to the powers delegated to them have the force and effect of law; they are binding on all person subject to them, and the courts will take judicial notice of them (Philippine Association of Service Exporters vs. Torres, 225 SCRA 417, dated August 19, 1993). Being considered a law, the general rule is that administrative rules and regulations shall have no retroactive effect unless the contrary is provided (Article 4, Chapter I, Preliminary Title, Civil Code of the Philippines [Republic Act No. 386]). However, one of the exceptions to this rule is that if the law, rule or regulation is curative in nature.

Curative statutes are those which undertake to cure errors or irregularities in judicial or administrative proceedings and which are designed to give effect to contracts and other transactions between parties which otherwise would fail of producing their intended consequence by reason of some statutory disability or the failure to comply with some technical requirement (Sibal, Statutory Construction [1994 Ed.] p. 279).

In this case, Memorandum Circular No. 03, s. 2001, served to promote the expediency of the renewal of temporary appointments. Hence, the appointments issued to Moreno and Gabasa under temporary status can now be classified as one of the exceptions from the mandatory evaluation and screening of appointments by the PSB.

WHEREFORE, the appeal of Mayor Ernesto L. Gedalanga of the Municipality of Sibunag is hereby **GRANTED**. Accordingly, the decision of the CSCRO No. VI recalling the appointments of Romelyn V. Moreno as Municipal Accountant and Danilo G. Gabasa as Draftsman, under temporary status, same municipality, is reversed.

Quezon City, **March 8, 2001**

(SIGNED)

J. WALDEMAR V. VALMORES

Commissioner

(no chairman)

Chairman

(SIGNED)

JOSE F. ERESTAIN, JR.

Commissioner

Attested by:

(SIGNED)

ARIEL G. RONQUILLO

Director III

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