

AMOR, Cherry M.
EBDANE, Nimfa G.
GARDOQUE, Bella F.
OMBROG, Nilma P.
TIDONG, Lannie O.
GLODO, Gregorio M

Re: Recall of Appointments; Appeal

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RESOLUTION No. 01-0644

Municipal Mayor Gary M. Lavin of Allen, Northern Samar, appeals the Order dated February 4, 1999 of the Civil Service Commission Regional Office (CSCRO) No. VIII, Candahug, Palo, Leyte, denying his request to recall the appointments of Cherry M. Amor, Records Officer I; Nimfa G. Ebdane, Assessment Clerk I; Ma. Bella F. Gardoque, Human Resource Management Officer I; Gregorio Glodo, Utility Worker I; Nilma P. Ombrog, Clerk I; and Lannie O. Tidong as Budgeting Assistant, all of the same municipality. Mayor Lavin claims that the appointments of these persons are inefficacious as they were not duly evaluated by the validly constituted Personnel Selection Board.

The relevant portions of said Order read, as follows:

“The allegation that the Municipality of Allen, has no Personnel Selection Board since the effectivity of R.A. 7160, is likewise, not given credence. Records show that SB Resolution No. 003-s-1993 dated January 25, 1993, created the PSB of Allen, Northern Samar, naming thereon three (3) members, SB Members Arturo Verzosa, Alberto Cabacang and Jude Diaz.

“Did the eight (8) appointees pass through the local PSB as certified to by former Mayor Suan?”

“A perusal of the minutes of the PSB meetings held on May 7, 1998 and June 11, 1998 shows that present in said deliberation were the former (sic) Mayor Rodulfo Suan, SB Member Alberto Cabacang and Lydia Tidong, the Human Resource Management Officer. In both deliberations of the PSB, SB Member Versoza was absent.

“Was there a quorum in said deliberation? It would appear that there was, since with five (5) members of the local PSB one (1) Chairman, three (3) SB Members and the Personnel Officer as ex-officio member], (sic) three (3) members present, would thus constitute a quorum.

“Was the deliberation still in order with the recantation made by SB Member Cabacang, assailing that there was no deliberation actually made and withdrawing his signature in the minutes of the proceedings. It would appear that the recantation of SC Cabacang cannot be given weight in law. For one, the alleged signature that he affixed on the minutes of the deliberation of the PSB is non-existent. The signatories in the minutes of the PSB deliberations conducted on May 7 and June 11, 1998 are the Personnel Officer, Lydia Tidong, who prepared the minutes and approved by Mayor Rodulfo Suan, in his capacity as Chairman of the PSB. Moreover, granting for the sake of argument that SB Cabacang is not in conformity with the decision of the PSB in finding the eight (8) appointees qualified, the same cannot change the fact that the eight (8) members underwent evaluation and screening of the PSB. It is worthwhile to note that the action of the PSB is only recommendatory in nature.

x x x

“WHEREFORE, foregoing premises considered, the action . . . on . . . the appointments of Cherry M. Amor, Records Officer I, Nimfa G. Ebdane, Assessment (sic) Clerk I, Ma. Bella F. Gardoque, Human Resources Management Officer I, Gregorio Glodo, Utility Worker I, Nimfa (sic) P. Ombrog, Clerk I and Lannie O. Tidong as Budgeting Assistant, the approval on said appointments are affirmed.”

In his appeal, Mayor Lavin alleged as follows:

“Civil Service Commission Regional Office No. VIII erred:

“1. In holding that the recantation of Kgd. Alberto Cabacang that the Personnel Selection Board of the Municipality of Allen, Northern Samar did not convene on May 7, 1998, June 11, 1998 and June 24, 1998 has no weight in law;

x x x

“Section 80 (b) of RA 7160, otherwise known as the Local Government Code of 1991, provides:

‘(b) There shall be established in every province, city or municipality a personnel selection board to assist the local chief executive in the judicious and objective selection of personnel x x x x x x x x’

“Likewise, CSC Memorandum Circular No. 38 s. 1993, provides:

‘II COMMON REQUIREMENTS AND PROCEDURE FOR REGULAR APPOINTMENTS

‘APPOINTMENT SUBMITTED TO THE CSC CONCERNED SHOULD MEET THE REQUIREMENTS LISTED BELOW, NON-COMPLIANCE OF SUCH REQUIREMENT SHALL BE A GROUND FOR DISAPPROVAL OF SAID APPOINTMENTS’

“10. Personnel Selection Board (PSB) Evaluation/Screening

‘a. The appointees should have been screened/evaluated/recommended by the Personnel Selection Board, if applicable, in which case, the Chairman of the Board shall sign the certification to this effect at the back of the appointment.’

“Further, under Rule V (Appointment) of Omnibus Rules Implementing Book V of Executive Order No. 292, Section 9, provides:

‘Section 9. An appointment accepted by the appointee cannot be withdrawn or revoked by the appointing authority and shall remain in full force and effect until disapproved by the Commission. However, an appointment may be void from the beginning due to fraud on the part of the appointee or because it was issued in violation of law.’

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“Considering therefore that out of the five (5) PSB Members, only two (2) are claiming that indeed the PSB convened since SB Member Jude Diaz lost during the 1995 elections, SB Member Arturo Versoza was not notified and SB Member Alberto Cabacang made verbal and written manifestations that he only signed the alleged minutes to accommodate the request of Ex-Mayor Suan, the appointments extended to Ma. Bella F. Gardoque, HRMO, Nimfa Ebdane, Assessment Clerk I, Cherry M. Amor, Records Officer I, Nilma P. Ombrog, Clerk I, and Gregorio Glodo, Utility (sic) should be recalled having been issued in violation of CSC Memorandum Circular No. 38 s. 1993 and Executive Order No. 292.”

An examination of the records shows that on June 16, 1998, then Mayor Rodolfo P. Suan appointed under permanent status Amor, Ebdane, Gardoque, Ombrog, Tidong, and Glodo as employees of the Municipal Government of Allen, Northern Samar. These appointments were duly approved under said status by the Civil Service Commission Field Office in Catarman, Samar. When incumbent Mayor Lavin, the winner in the 1998

local election, assumed office, he sought the recall of the appointments of Amor, et al. before CSCRO No. VIII. As reasons thereof,

he claims that aside from having been issued after the May 11, 1998 election, said appointments were not assessed by the Personnel Selection Board (PSB) prior to their issuance. Hence, he now contends that said appointments are void and ineffective for having been issued in violation of law. The CSCRO No. VIII, however, flatly rejected the contention of Mayor Lavin and denied his request.

Hence the instant appeal where the central issue to be resolved is whether the appointees in the present case were duly assessed by the PSB.

Mayor Lavin asserts that the appointees in the instant case could not have been duly screened and evaluated by the PSB during its May 7, 1998 and June 11, and 24, 1998 meetings due to lack of quorum. He claims that although three members of the 5-member PSB affixed their signatures on the minutes of the meetings held during said dates, one of these 3, Sangguniang Bayan member Alberto Cabacang, denied that meetings were ever held during these dates. And to prove this, Mayor Lavin submitted the affidavit of Cabacang which partly reads, as follows:

“3. That I vehemently deny that the Personnel Selection Board of this municipality of which I am a member convened on May 07, 1998; June 11, 1998 and June 24, 1998 to screen and treat the applicants on vacant positions of the municipal government, the truth of the matter is that at around last week of June 1998, Mrs. Lydia Tidong, HRMA II came and intimated to me that there is a request coming from ex-Mayor Rodolfo Suan bringing with her a prepared minutes of the proceedings of the PSB dated May 7, 1998, June 11, 1998 and June 24, 1998 and asked me to sign the said minutes of the PSB which I signed for accommodating ex-Mayor Suan;”

On account of the foregoing, Mayor Lavin wants to impress upon the Commission that there was no quorum since only 2 PSB members actually signed the said minutes. As such, he claims that the respective appointments of the appointees in the present case are defective and inefficacious as they were not duly evaluated by the PSB as required by law.

The Commission is not impressed.

In his letter dated July 20, 1998, requesting the recall of the appointments of the appointees in this present case, and in his

Position Paper dated August 21, 1998, Mayor Lavin categorically stated that there exists no PSB as not one was ever created at the Municipal Government of Allen since the effectivity of the Local Government Code of 1991. In his present appeal, however, he now admits the existence of the PSB but that it could not have validly assessed the said appointees as there was no quorum. These fickle and vacillating averments of Mayor Lavin casts serious doubt on the veracity and truthfulness to his allegations.

In the same manner, the Commission cannot give weight and credence to the claim of SB member Cabacang that the PSB did not deliberate on the qualifications of the said appointees as the PSB did not hold meetings on May 7, 1998 and June 11, and 24, 1998 as indicated in the minutes. It must be noted that he affixed his signature on the minutes without any force or coercion employed upon him. Neither is there any showing that he was duped or misled in signing said documents. Being an SB member, he surely knows the implications of his signing said minutes. Hence, for him to suddenly turn around grievously affects his credibility. Indeed, he cannot simply and conveniently repudiate the same later on just to suit his whims and caprices.

With the foregoing disquisition, and considering the fact that the respective appointments of the appointees in the present case were duly signed by the Chairman of the PSB attesting that said appointees were evaluated by the PSB, and that said appointments were prepared by the Human Resource Management Assistant, the presumption of regularity in the performance of official functions prevails. This being the case, the Commission finds no infirmity in the appointing process of the herein appointees.

WHEREFORE, the appeal of Mayor Gary M. Lavin is hereby **DISMISSED** for lack of merit. Accordingly, the appealed Order is affirmed.

Quezon City, **March 22, 2001**

(SIGNED)

JOSE F. ERESTAIN, JR.

Commissioner

(SIGNED)

KARINA CONSTANTINO-DAVID

Chairman

(SIGNED)

J. WALDEMAR V. VALMORES

Commissioner

Attested by:

(SIGNED)

ARIEL G. RONQUILLO

Director III

FPG/KPZ/Y9/Y4/vog/volt27

amor

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