

LAMBERT, Aloysius Glenroy M.

Re: Appointment; Retirement;
Foreign National

x ----- x

RESOLUTION No. 01-1053

Aloysius Glenroy M. Lambert, a Sri Lankan national but presently holding the position of Professor VI, Visayas State College of Agriculture (VISCA), Baybay, Leyte, requests that the annual renewal of his appointment to said position under temporary status be authorized so that he could avail of retirement benefits upon reaching his compulsory retirement age of 65 years.

Said request reads, in part, as follows:

“The attached service records of UP at Los Baños and MSU-Iligan Institute of Technology indicate that I was holding itemized positions with temporary and probationary appointments, respectively, in those Government institutions. Moreover, I was made permanent at SEAFDEC, Iloilo, where I was hired at the local/national level, just like any other Filipino employee.

“The basic fact regarding this case is that I am a permanent resident in the Philippines, entitled to a living with some security of employment. I have an alien employment registration certificate. Besides, my wife and children are all Filipino citizens.

“I joined VISCA seven years ago not as a contractual but as a temporary faculty with itemized plantilla position. If not, I would not have joined VISCA.

“I have been in the Philippines for 27 years, serving the Philippine Government for 24 years now. During this period, I have contributed in a modest way to the Philippine development efforts by research and publications (which include two books and 46 professional papers) as well as by helping thousands of Filipino students graduate. Furthermore, I have always attained very satisfactory if not outstanding performance rating.

x x x

“Based on the fact that I have spent the most productive part of my life in the Philippines serving the country as professor-cum-researcher and that my services have been found useful by such institutions as UP at Los Banios (sic), SEARCA, UP Diliman, the Asian Institute of Journalism, MSU Iligan Institute of Technology, SEAFDEC, MSU Marawi, respectively, and now VISCA, I earnestly appeal that my present status quo, namely, temporary position with plantilla item be maintained.”

An addendum to the foregoing was received by the Commission, the relevant portions of which read, as follows:

“Since I am already 61 years old and have only four more years to serve before my compulsory retirement, I would like to make a special appeal to act on my case favorably.

“It is part and parcel of the Philippine society, as is the case in many a democratic society, to reward a person rendering many years of service to an institution like the Government.

“Since I have been working in the Philippines for many years as mentioned in my letter with very good if not outstanding performance ratings and with comparatively high output (which could be verified from my place of work), it is humanitarian to let me complete my remaining four prospective years of work with my present status of appointment. This, indeed, is a very modest and reasonable request. It is reasonable, because it is very much part of the Filipino culture, as that of any humane culture, to be considerate of the good done for many years.

“Whereas changing my status from itemized position to contractual is, in reality, a demotion, and, in turn, is a punishment, for no fault of mine. The effects of such a change will definitely be adversely felt by my wife and four children, who are all Filipino citizens.

“Even if there is a law that may be unfavorable to me because of my citizenship, the said law is to serve the Filipino people. But, in this particular case, my change of status will directly affect my family, whose members are Filipinos.”

Lambert admits that until this date, he remains a citizen of Sri Lanka. He, however, claims that he has been residing in the Philippines for the past 27 years. He also claims that he is married to a Filipino citizen who bore him four children, all of whom he

raised as Filipino citizens.

Records also reveal that on May 20, 1983, Lambert was issued an Immigrant Certificate of Residence by the Commission on Immigration and Deportation. He was also issued an Alien Employment Registration Certificate by the Department of Labor and Employment (DOLE) on February 9, 1994.

The Service Record of Lambert also shows that he first entered the government service as Instructor at the University of the Philippines at Los Baños under temporary status on November 11, 1976. Thereafter, he held several teaching positions in various government universities and colleges, either under casual, contractual, or probationary status, the last of which is his present position as Professor VI under temporary status, VISCA. Be it noted, however, that there is no showing from the records whether his appointments were submitted to or approved by the Commission.

Lately, Lambert was informed that his temporary appointment will expire on October 31, 2000 but said expiry date was moved earlier so that his appointment will have a uniform date of renewal with the appointments of other VISCA employees who are also under temporary status. But Lambert is in a quandary and apprehensive that his appointment will no longer be renewed by the appointing authority on account of his not being a Filipino citizen.

Hence, the instant request where the paramount issues to be resolved are: 1) whether Lambert can be legally and validly employed by the Philippine Government or any of its agencies, instrumentalities or offices; and 2) whether he can, on the basis of the foregoing factual milieu, avail of retirement benefits under existing retirement laws.

Apropos to the first issue is **Section 21, Title I, Subtitle A, Book V of the Administrative Code of 1987** which categorically provides that:

“Sec. 21. Recruitment and Selection of Employees.—Opportunity for government employment shall be open to all qualified citizens and positive efforts shall be exerted to attract the best qualified to enter the service. Employees shall be selected on the basis of fitness to perform the duties and assume the responsibilities of the positions.”

It is exceedingly clear from the aforementioned provision of law that employment in government shall be available only to

qualified citizens of the Philippines. In the early but still authoritative case of **Yee vs. Director of Public Schools, 7 SCRA 832**, it was held that only Filipino citizens may be appointed to positions falling under the classified service (now career service) and upon appointment to such position, the appointee must continue to be a citizen of the Philippines. In said case, the High Tribunal ruled that:

"There is, however, no doubt that her removal as a public school teacher because of loss of Filipino citizenship is legal. Not being included in Section 671 of the Revised Administrative Code which enumerates the officers and employees constituting the unclassified service (now non-career), teaching in a public school is in the classified service (now career service)—a public function which may be performed by Filipino citizens only. . . And after he had qualified himself to be eligible for appointment to a civil service position he must continue to be such citizen. A voluntary change of citizenship or a change thereof by operation of law disqualifies him to continue holding the civil service position to which he had qualified and had been appointed."

In a similar case, the Commission had the occasion to rule in **CSC Resolution No. 00-2422 dated October 19, 2000**, to wit:

"It is, thus, clear that Garcia is no longer entitled to hold any position in the government since he is already a citizen of the United States of America. In point on this matter is Section 18, Article XI of the 1987 Constitution and Section 33, Chapter 9, Book I of the Administrative Code of 1987 (Executive Order No. 292) which provides, as follows:

'Public officers and employees owe the State and the Constitution allegiance at all times, and any public officer or employee who seeks to change his citizenship or acquire the status of an immigrant of another country during his tenure shall be dealt with by law.'

"It is explicit from the aforequoted provision that a public officer or employee who becomes a citizen of another country is disqualified to hold public office. And if he is holding public office at the time he acquires foreign citizenship, he shall inevitably forfeit said office simply because he would necessarily owe allegiance to the new country to which he became a citizen. Consequently, the separation of Garcia by Mayor Jose L. Atienza, Jr., from the government service as evidenced by the Notice of Termination dated May 15, 2000 is but proper and in order."

It is thus indubitable that all foreigners are disqualified from employment in the Philippine government or any of its departments, agencies, instrumentalities, or offices. Consequently, considering that Lambert remained a citizen of a foreign country during his entire supposed employment in the government, all his appointments thereto, in whatever capacity and status, are void and inefficacious *ab initio*, the same having been issued in direct contravention of our Constitution and statutes.

Verily, the appointments issued to Lambert being void and inefficacious, the previous services he rendered up to the present cannot be accredited as part of his government service. This is so simply because he is not recognized and considered as a government employee, his regular payment of premiums and other contributions to the Government Service Insurance System (GSIS) notwithstanding. This is without prejudice, however, to the reimbursement to him of whatever amount he may have remitted to the GSIS, ostensibly as a member thereof.

WHEREFORE, the Commission hereby rules that Aloysius Glenroy M. Lambert is disqualified from being appointed to any position in government and from availing of retirement benefits from the Government Service Insurance System.

Quezon City, **June 25, 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

Jfe/rad72

Jcpa/agr/PVP/CM15-2001

JC/RTM/Y9/w13/Lambert/vog

NDC 00-1176