

GARCIA, Rosario A.

Re: Change of Status of Appointment;
Appeal

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RESOLUTION No. 01-1407

Elmer G. Mendoza, President and Chief Executive Officer, Quedan Corporation (QUEDANCOR), Quezon City, appeals the action of the Civil Service Commission–National Capital Region (CSC-NCR) denying the request for the change of status of the appointment from temporary to permanent of Rosario A. Garcia as Division Chief III, QUEDANCOR. The said request was denied by the CSC-NCR for lack of legal basis.

In his appeal, Mendoza submitted the following arguments:

- “1. *There was an honest mistake/oversight on the part of Quedancor when it failed to renew Ms. Garcia’s appointment on 31 May 1999; and*
- “2. *The appointee has continuously been discharging the duties of her position since she joined the government service in 1983 up to the present, and therefore, there was no gap in service to speak of. Besides, reemployment as contemplated under CSC MC No. 15, s. 1999 presupposes gap in service.”*

In a Memorandum dated March 19, 2001, CSC-NCR submitted its comment on the denial of the said request, as follows:

“Based on records, Ms. Garcia was appointed by Quedancor as Division Chief III under temporary status on June 1, 1998 pursuant to CSC Resolution No. 980577 `suspending the implementation of the Master’s Degree requirement for CPA’s occupying positions with salary grade 24 for two years from January 1, 1998 with allowable extension for another year’. Quedancor did not renew the said appointment anymore after it expired on May 31, 1999, believing that its duration shall be for two years as provided under said Resolution. Upon Ms. Garcia’s completion of a Masteral Degree, Quedancor issued another appointment (change of status) on June 1, 2000 and submitted the same to the CSC-NCR for approval in a letter-request dated 10 July 2000. “Director Grande, in his letter dated September 5, 2000 to former Quedancor President and CEO Garchitorena, denied said request and informed him that a temporary appointment is effective only for a year reckoned from the date it was issued but the appointee may be replaced sooner if a qualified eligible who is willing to accept the appointment becomes available. Thus, the temporary appointment issued to Ms. Garcia as Division Chief III on June 1, 1998 carries an effectivity period of twelve months only and should have been renewed right after its expiration. Since the temporary appointment of Ms. Garcia was not renewed after it expired on May 31, 1999, a gap in her service already existed from June 1, 1999 to May 31, 2000. Therefore, the issuance of an appointment on June 1, 2000 to Ms. Garcia for change of status from temporary to permanent has no legal basis but the same may be allowed provided that the nature of her appointment is reemployment and not change of status. This CSC-NCR opinion is in accordance with CSC MC 40, s. 1998, as amended by CSC MC 15, s. 1999.

“In the instant appeal, now Quedancor President and CEO Mendoza represented that there was an honest mistake/oversight on the part of Quedancor when it failed to renew Ms. Garcia’s appointment on 31 May 1999. He further represented that the appointee has continuously been discharging the duties of her position since she joined the government service in 1983 up to the present, and therefore, there was no gap in service to speak of. Besides, reemployment as contemplated under CSC MC No. 15, s. 1999, presupposes gap in the service.

“We believe that the second representation brought out in the appeal has been fully discussed by this Office. Hence, the matter is now being submitted to the Commission for decision.”

Records show that Garcia was issued a temporary appointment as Division Chief III on June 1, 1998 per CSC Resolution No. 98-0577 *“suspending the implementation of the Masters degree requirement for CPA occupying positions with Salary Grade (SG) 24, for two (2) years from January 1, 1998 with allowable extension for another year”*.

On June 1, 2000, when Garcia completed her Masters degree, she was issued an appointment for the change of status from temporary to permanent. However, the CSC-NCR denied the request for change of status of appointment because of lack of legal basis. Hence, the instant appeal.

After a careful evaluation of the records, the Commission finds the appeal meritorious.

Under Civil Service Law and Rules, an appointment under temporary status is valid and effective only for a period of one (1) year. Thus, the appointment issued to Garcia on June 1, 1998 is effective only up to May 31, 1999. However, QUEDANCOR’s failure to renew the appointment of Garcia on June 1, 1999 does not prevent it from issuing an appointment changing the status of her appointment from temporary to permanent as Garcia is considered as a *de facto* officer from the date of the expiration of her temporary appointment on June 1, 1999 up to May 31, 2000, the date immediately prior to the issuance of her latest appointment under permanent status. Being a *de facto* officer, she is deemed to be an existing employee such that she can be validly issued a subsequent appointment so as to effect a change of status of her appointment from temporary to permanent.

In **CSC Resolution No. 95-0770 dated February 9, 1995**, the Commission ruled, thus:

“Although it may appear that Balala’s provisional appointment is effective only for school year 1983-84 since it was approved with the notation as such . . . records, however, show that she held on to her post up to this date. She continuously performed and discharged the duties and functions of her position despite the expiration of her appointment.

“The facts presented calls for the application of the doctrine of de facto officer . . .

“In the absence of any constitutional or statutory provisions to the contrary, it is a general rule of law that an incumbent of an office will hold over after the conclusion or expiration of his term until the appointment or election of his successor. Hence, when an officer or employee remains in office after his title has ended, he is a de facto officer or employee.

“Applying the aforementioned principle to the facts established, Balala is considered a de facto employee. Her term of office may have expired, but she was allowed to discharge the duties of the position because her successor has not been appointed. She can be regarded as holding over to her teaching position in good faith.” (Emphasis supplied)

Considering therefore that Garcia now possesses all the qualifications required for the position of a Division Chief III, her appointment to the said position under permanent status may now be approved.

WHEREFORE, the appeal of Elmer G. Mendoza, QUEDANCOR, is hereby **GRANTED**. Accordingly, the request for the change of status of the appointment of Rosario A. Garcia as Division Chief III is approved.

The Civil Service Commission–National Capital Region (CSC-NCR) is directed to reflect this Resolution in the records of Garcia.

Quezon City, **August 17, 2001**

(Signed)
KARINA CONSTANTINO-DAVID
Chairperson

(On Leave)

JOSE F. ERESTAIN, JR.
Commissioner

(Signed)
J. WALDEMAR V. VALMORES
Commissioner

Attested by:

(Signed)
ARIEL G. RONQUILLO
Director III

*CPS/AGR/pvp/cm25-2001/fpg/rtm/x4/y2/rco51/
garcia-r/ndc-00-1098/2001-0430-092*