

AFRICA, Tomas P.

Re: CSC-NCR Decision dated August 2, 2000;

Effectivity of Appointments; Appeal

X-----X

RESOLUTION No. 01-1477

Administrator Tomas P. Africa, National Statistics Office (NSO), Manila, appeals the Decision dated August 2, 2000 of the Civil Service Commission-National Capital Region (CSC-NCR) denying his request that the appointments he issued on November 1, 1999 be made effective on same date.

The pertinent portions of the CSC-NCR Decision read, as follows:

“This refers to your letter . . . relative to the reason for the delay of the submission of the appointments and Report on Personnel Actions of the National Statistics Office Personnel. It is noted that Civil Service Field Office of the President recommended said appointments for invalidation due to delayed submission. You now request that the appointments be made effective November 1, 1999.

“ x x x

“ . . . we regret that your request cannot be given due course. However, the appointments may be allowed effective thirty days prior to submission to the Commission on March 17, 2000 or on February 17, 2000.”

The appeal of NSO Administrator Africa reads, as follows:

“This has reference . . . to the disapproved date of effectivity of our appointments . . . We would like

to appeal the decision of Director Grande.

“At the outset, we would like to give you a background for the reason for the late submission of our appointment. Sometime in the last week of October 1999, we received the Approved Staffing Modification of this Office from DBM by virtue of the Approved Executive Order # 5. We posed a query to the CSC on November 15, 1999 as to the effects of our approved organization structure on some positions incorrectly assuming that it was a reorganization.

“In response, the Commission pointed out their stand that in a reorganization, positions are deemed vacant and therefore previous incumbent cannot claim to be reappointed. . . .

“In December 27, 1999, we sent a letter to DBM seeking clarification as to the exact nature of the approved E.O. #5, whether it is a ‘streamlining or a reorganization measure’. . . .

“The opinion of DBM which was our basis in preparing for our appointments, was released on January 26, 2000. It is only at this time when we began preparing for the appointments to retroact on November 1, 1999, which is the date of the approval of our approved organizational structure. That is the reason for the delay of the submission of our .appointment papers.

“In this case, a re-issuance of the appointment is necessary . . . as most of the positions of the incumbents were renamed, reclassified and upgraded as a result of the streamlining, hence, the late submission of our appointments and ROPA.

“In this regard, we earnestly appeal for the reconsideration of the approval of our appointments effective November 1, 1999”

The CSC-NCR commented on the appeal, as follows:

“ . . . the CSC-NCR . . . denied the request of Administrator Africa but stated that the appointments may be allowed effective not earlier than thirty (30) days prior to submission to the Commission on March 17, 2000

or on February 17, 2000 . . .

“We are forwarding the records of subject appointment on file with this Office for your reference.”

Records show that on March 17, 2000, Administrator Africa submitted to the Civil Service Commission-Office of the President (CSC-OP) Field Office the Report on Personnel Actions and the appointments, dated November 1, 1999, of the personnel of the National Statistics Office (NSO). Administrator Africa explained to the said CSC field office the reasons for the delay of the submission of the said appointments and requested that they be made effective on November 1, 1999. According to him, the DBM Opinion which clarified the effects of E.O. No. 5 was released only on January 26, 2000 and it was only at that time that the appointments were prepared but the date of issuance was retroacted to November 1, 1999 which is the date of approval of the approved organizational structure. Subsequently, the CSC Field Office referred the said appointments and the letter-request to the Civil Service Commission-National Capital Region (CSC-NCR) recommending that they be invalidated on the ground of delayed submission. On August 2, 2000, the CSC-NCR allowed the said appointments but to be effective thirty (30) days prior to their submission or on February 17, 2000.

Hence, this appeal.

The sole issue to be resolved is whether the Decision dated August 2, 2000 of the CSC-NCR is in order.

Relevant to the instant appeal is **Section 1, Rule VI of the Omnibus Rules on Appointments and Other Personnel Actions (Civil Service Commission Memorandum Circular No. 40, s. 1998)** which provides:

“SEC. 1. An appointment shall be submitted to the Commission within thirty (30) calendar days from the date of issuance, which shall be the date indicated below the signature of the appointing authority. Otherwise it shall be made effective thirty (30) days prior to date of submission to CSC.

“In case of appointments issued by accredited agencies, the Report of Personnel Actions (ROPA) together with photocopies of appointments issued during the month shall be submitted within 15 days of the succeeding month. Appointments not submitted within the prescribed period shall be made effective 30 days

prior to date of submission.” (Underlining ours)

From the foregoing, it is clear that the failure of an accredited agency to submit its ROPA and the photocopies of the appointments it issued for the month within fifteen (15) days of the succeeding month would make the said appointments effective thirty (30) days prior to the date of submission.

However, it must be mentioned that although Executive Order No. 5 (STRENGTHENING THE NATIONAL STATISTICS OFFICE) was approved by then President Estrada as early as July 29, 1998, the NSO had no idea how to implement the new organizational structure of the said agency. Thus, it sought clarification from the Department of Budget and Management (DBM) on December 27, 1999, on the exact nature of the reorganization. On January 26, 2000, the DBM responded to the said query, in the following manner:

*“With regard to . . . NSO’s query, it could be inferred that in the use of the word ‘reorganization’, the agency is actually referring to ‘re-engineering’. In this regard and following the above distinct features of the two institutional/organizational development modes, the strengthening measures for NSO, as directed by EO5, are deemed those of **STREAMLINING**. The following institutional attributes/considerations are indicative of such streamlining arrangement in the agency under EO5.*

“ x x x

“It is hoped that the above guidelines clarify matters with regard to the approved organization and staffing changes in the NSO pursuant to EO 5.”

Upon receiving the said reply, the NSO started preparing for the appointments of its employee and retroacted the same to November 1, 1999.

The Commission finds the explanation of the appellant acceptable. Although, there was really a delay in the submission of the subject appointments, it is noted that the agency was not totally at fault. It was important for them to wait for the answer of the DBM before they could issue the appointments, precisely because they did not know the nature of the appointments they will issue.

At this point, it is worth mentioning that the said appointments were issued by virtue of the reclassification of the positions at the National Statistics Office.

Upgrading/Reclassification refers to the change in position title with the corresponding increase in salary grade. Positions are upgraded in order to attain effectively the functions and duties attached to the position and for the employee to perform an all-around adaptability in meeting diverse work assignments. This requires the issuance of appointment.

Upgrading/Reclassification usually involves abolition and collapsing of positions which the agency finds insignificant to augment the salaries assigned to the upgraded/reclassified position.

The incumbent of a position in a permanent capacity which has been upgraded/reclassified shall be appointed to the upgraded/reclassified position without change in employment status, irrespective of whether or not he meets the qualification requirements therefor. However, he shall no longer be promoted to the next higher position unless he meets the qualification requirements of the position involved.^[1]

From the foregoing, it is clear that the incumbent of a reclassified position shall be automatically appointed thereto. Thus, the NSO could have issued the appointments of its personnel and submitted the ROPA within the reglementary period (15 days of the succeeding month) if only they requested an opinion from the DBM earlier. To repeat, Executive Order No. 5 (streamlining the NSO) was issued as early as July 29, 1998, however, they requested an opinion only on December 27, 1999. Nevertheless, the Commission finds the appeal meritorious.

It must also be emphasized that an appointment shall take effect immediately upon the issuance by the appointing authority.^[2] Moreover, no appointment shall be made effective earlier than the date of issuance.^[3]

However, the appellant should be reminded that as an accredited agency, the NSO is expected to be adept on civil service matter. The leniency with which the Commission has treated this incident will not be the same with respect to appointments and personnel actions it may issue later. In consonance with **Section 65, Chapter 10, Subtitle A, Title I, Book V of the Administrative Code of 1987**, the appointing authority shall be accountable for all the appointments he issues. In case an appointment is found to have been issued in violation of the Civil Service Law and Rules, the appointing authority shall be personally

liable for the pay that would have accrued had the employment been lawful.^[4]

WHEREFORE, the appeal of Administrator Tomas P. Africa is hereby **GRANTED**. Accordingly, the CSC-NCR Decision dated August 2, 2000 is reversed. Therefore, the appointments issued by Administrator Africa shall be effective on November 1, 1999.

Quezon City, **September 5, 2001**

(SIGNED)

KARINA CONSTANTINO-DAVID

Chairman

(SIGNED)

JOSE F. ERESTAIN, JR.

Commissioner

(SIGNED)

J. WALDEMAR V. VALMORES

Commissioner

Attested by:

(SIGNED)

ARIEL G. RONQUILLO

Director III

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Africa/NDC-00-1016

- [1] Section 4 (k), Rule III of the Omnibus Rules on Appointments and Other Personnel Actions (Civil Service Commission Memorandum Circular No. 40, s. 1998)
- [2] Section 1, Rule IV of the same rules
- [3] Section 2, Rule IV of the same rules
- [4] Chapter IX of Civil Service Commission Memorandum Circular No. 07, s. 1993 (ACCREDITATION OF DEPARTMENTS AND AGENCIES WHICH CAN TAKE FINAL ACTION ON APPOINTMENTS)