

NAVALTA, Rosalinda L.

Re: Query; Nepotism;
Upgraded/Reclassified Position
CSC Resolution No. 01-1246

X-----X

RESOLUTION NO. 01-1500

Atty. Jacqueline V. Mejia, Executive Director, Commission on Human Rights (CHR), Quezon City, requests clarification as to whether the law on nepotism will apply to incumbents of positions declared by the Commission as career in CSC Resolution No. 01-1246 dated July 24, 2001.

The request of Executive Director Mejia reads, as follows:

“CSC Resolution No. 01-1246 dated July 24, 2001 approved the request of CHR Chairperson Aurora P. Navarrete-Reciña for two (2) messengerial positions in the Office of the Chairperson and the Commissioner to be considered as career positions from being primarily confidential due to its reclassification/upgrading to Process Server (SG-5).

“The incumbent of the upgraded messengerial position in the Office of the Chairperson occupied by Ms. Rosalinda L. Navalta is a granddaughter of the Chairperson from her nephew. Now that the said position has been granted permanent status, will the law on nepotism affect the incumbent’s appointment considering that the Chairperson is the appointing authority? If so, is there a remedial measure to correct this situation? Is it legal under civil service rules to revoke a permanent appointment when there is an existing ground for nepotism?

“Please note that all the messengerial positions in the Office of the Chairperson and the Commissioners have been granted permanent status in view of the upgrading to Process Server (SG-5). All

other coterminous positions in the same offices, e.g., Secretary and Stenographer, are still primarily confidential in nature.

“This is a precedent case, hence, we are seeking your advice on this.”

It may be recalled that in CSC Resolution No. 01-1246 dated July 24, 2001, the Commission granted the request of CHR Chairperson Aurora Navarrete-Reciña to declare as career from being primarily confidential the two (2) messengerial positions currently occupied by Orlando A. Lita and Rosalinda L. Navalta in the Offices of the Chairman and Commissioner, CHR, due to said positions’ reclassification/upgrading. These positions were reclassified/upgraded into Process Server (SG-5) pursuant to CHR Resolution No. AY2K-035 dated June 21, 2000. The dispositive portion of **CSC Resolution No. 01-1246 dated July 24, 2001** reads, as follows:

“WHEREFORE, the request of Chairperson Aurora Reciña is hereby GRANTED. Accordingly, the reclassified/upgraded positions of Orlando A. Lita and Rosalinda L. Navalta as Process Server (SG-5) shall now be approved as permanent in accordance with this Resolution.”

Subsequently, Executive Director Jacqueline V. Mejia, CHR, brought to the attention of the Commission their quandary as to whether the law on nepotism shall apply to the appointment of Rosalinda L. Navalta, the incumbent of the now career (permanent) Process Server position, considering that she is the granddaughter of Chairperson Reciña from the latter’s nephew.

Relevant to the instant query is **Section 59 (1), Chapter 8, Subtitle A, Title I, Book V of Executive Order No. 292 (The Administrative Code of 1987)** which provides, as follows:

“Section 59. Nepotism. – (1) All appointments in the national, provincial, city and municipal governments or in any branch or instrumentality thereof, including government-owned or controlled corporations, made in favor of a relative of the appointing or recommending authority, or of the chief of the bureau or office, or of the persons exercising immediate supervision over him, are hereby prohibited.

“As used in this Section, the word ‘relative’ and members of the family referred to are those related within the third degree either of consanguinity or of affinity.” (Emphasis supplied)

From the foregoing, it is clear that for an appointment to be included within the prohibition against nepotism, the same must satisfy the following requisites: (1) that the appointment was issued in favor of a relative of either the *appointing or recommending authority or of the chief of the bureau or office or of the person exercising immediate supervision over the appointee*; (2) that the appointee is a *relative within the third degree* ^[1] of consanguinity or affinity; and (3) that the appointment is not among the exceptions enumerated under the law.

The issue now to be resolved is whether the appointment as Process Server, a career position, issued to Rosalinda Navalta by Chairperson Recaña, satisfies the foregoing requisites as to come within the prohibition against nepotism in the career service.

After a careful evaluation of the records, the Commission finds the appointment issued by CHR Chairperson Recaña to Rosalinda Navalta as Process Server, not violative of the rule prohibiting nepotism appointments in the civil service.

As represented by Executive Director Mejia, Navalta is the granddaughter of Chairperson Recaña from her nephew. Thus, Chairperson Recaña is related within the third degree of consanguinity to her nephew who is the father of Navalta. In like manner, Chairperson Recaña is related to Navalta within the fourth degree of consanguinity. And under the rule on nepotism abovementioned, an appointment extended to a relative within the fourth degree of consanguinity or affinity no longer comes within the purview of the prohibition.

In sum, the Commission finds the appointment issued by Chairperson Recaña to Rosalinda Navalta as Process Server, in order.

WHEREFORE, the Commission hereby rules that the appointment of Rosalinda L. Navalta to the position of Process Server, issued by CHR Chairperson Aurora Navarrete-Recaña, does not violate the rule prohibiting nepotism appointments in the civil service.

Quezon City, September 10, 2001

(Signed)
J. WALDEMAR V. VALMORES
Commissioner

(Signed)
KARINA CONSTANTINO-DAVID
Chairman

(Signed)
JOSE F. ERESTAIN, JR.
Commissioner

Attested by:

(Signed)
ARIEL G. RONQUILLO
Director III

Jjc/fpg/kpz/x2/x13/vog/volt40
Navalta 1n
ndc-00-0868

[1] Within the fourth degree, in case of Local Government Units.