CAMARAO, Fedeserio C.
Re: Complaint; Nepotism
x----------x

RESOLUTION NO. 01-1673

Julian O. Marquez, Jr., Professor, Technological University of the Philippines (TUP), Manila, files a complaint against Fedeserio C. Camarao, President, that University, for Nepotism.

In his sworn affidavit-complaint, Professor Marquez decries as nepotic the designation made by President Camarao of his wife, Dr. Gloria C. Camarao, Professor VI, College of Science, as Assistant to the Vice President for Academic Affairs (AVPAA) on Research, Extension and Graduate Education, same University. He further notes that the designation order issued by President Camarao, stating that Dr. Camarao *"will remain as a core faculty of the College of Science is a ploy to circumvent the law, hence, considered `nepotism in disguise'".*

The TUP Order No. 45, s. 2001 which is adverted to above reads in full, as follows:

"1. To help strengthen research and extension at the level of the colleges in the main campus and the graduate program of the University, Dr. Gloria C. Camarao, Professor of the College of Science, is hereby designated as Assistant to the Vice President for Academic Affairs (VPAA) on Research, Extension and Graduate Education.

"2. As Assistant to the VPAA, Dr. Camarao shall perform the following functions:

`a. Assists the VPAA in matters pertinent to the planning, implementation and advancement of research and extension in the Manila campus, and the

graduate education of the University;

`b. Assists the Coordinators of research and extension in the colleges and the Coordinators of graduate education in the development of programs/projects that are aligned to the identified University directions in research, extension and graduate education;

`c. Assists in strengthening of the capabilities of the colleges and external campuses, the faculty as researchers, thesis advisers, and extension specialists; and

`d. Perform other related tasks as directed by the higher authority.'

"3. Dr. Camarao will remain as a core faculty of the College of Science."

Apparently, in compliance with civil service law and rules, President Camarao apprised this Commission, in a letter dated July 19, 2001, of the fact of his having designated his wife, the surrounding circumstances thereof, and the justifications for the same. The letter states:

"This is a report in compliance with Section 49(b) of Article X of PD 807, otherwise known as the Civil Service Law, which exempts teachers, among others, from the rule on nepotism.

"I had appointed my wife, DR. GLORIA C. CAMARAO, as Professor 6 in the College of Science of this University (Annex A). She had been appointed to a teaching position. No other appointment, let alone an administrative appointment as defined and/or contemplated by law, had been extended to her.

"Being a university teacher -- an academic rather than and administrative personnel -- she has to perform the conventional and commonly accepted triologic functions of instruction, research

and extension. Thus, in line with the performance of these three academic functions, it was just proper, natural, and logical that she had likewise been recommended by no less than the Vice President for Academic Affairs (VPAA) to do certain specific academic tasks as enumerated in the letter-request of VPAA Josefino Gascon dated July 2, 2001 (Annex B) and which tasks are essentially reflected in the TUP ORDER No. 45, s. 2001 (Annex C), issued by me, which designated her as assistant (technical rather than administrative assistant) to the VPAA on research, extension, and graduate education without additional compensation -- tasks which are not simply supportive of but rather essentially constitutive of her academic and/or teaching job."

Section 59 of the Administrative Code of 1987 expressly provides:

"Sec. 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 or 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.

"(2) The following are exempted from the operation of the rules on nepotism: (a) persons employed in a confidential capacity; (b) teachers; (c) physicians; and (d) members of the Armed Forces of the Philippines; Provided, however, That in each particular instance full report of such appointment shall be made to the Commission."

x x x

As a general rule, nepotism is proscribed in the civil service. Public policy appears to be the paramount consideration behind the prohibition. In the light of the adverse and oftentimes demoralizing effects of the practice of

"patronage" in the workings of the civil service, especially on employees' morale, merit and fitness rather than family bonds or ties, should be, as much as practicable, the singular determinant in effecting appointments and other personnel actions.

Essentially, as spelled out under the above-quoted provision, there arises nepotism when an appointment is issued to a relative of either the appointing or recommending authority, the head of the office or the immediate supervisor of the appointee. The relationship subsisting between the appointee and the official concerned, either by blood kinship or by fact of marriage, should, however, fall within the proscribed third civil degree for there to be nepotism, otherwise the same cannot properly be imputed.

Lest it be misconstrued, the rule against nepotism operates not only with regard to appointments but its coverage extends just as well to other personnel actions such as promotion and designation. So held by the Supreme Court in one case:

> *"Petitioner, however, contends that since what he extended to his brother is not an appointment, but a DESIGNATION, he is not covered by the prohibition. Public respondent disagrees, for: `By legal contemplation, the prohibitive mantle on nepotism would include designation, because what cannot be done directly cannot be done indirectly'. We cannot accept petitioner's view. His specious and tenuous designation between appointment and designation is nothing more than either a ploy ingeniously conceived to circumvent the rigid rule on nepotism or a last-ditch maneuver to cushion the impact of its violation. The rule admits of no distinction between appointment and designation. Designation is also defined as `an appointment or assignment to a particular office'; and `to designate' means `to indicate, select, appoint, or set apart for a purpose or duty'."* ***(Laurel vs. Civil Service Commission, 203 SCRA 195)*** (Underscoring supplied)

Nonetheless, the prohibition is not one sheathed in ironclad armor. It does not purport to be absolute. On the contrary, as can readily be discerned from the language of the law, certain exceptions therefrom are recognized. Confidential employees, teachers, physicians and members of the military are expressly outside the purview of the stricture. Thus, even if the appointee is related within the prohibited degree, say, to the appointing authority, but it

happens that his appointment pertains to a position of confidential nature, no case for nepotism may be found to lie.

In the case at bar, there is no question that the appointment of Dr. Camarao as Professor VI, even though issued by her husband, does not amount to nepotism. In fact, Professor Marquez does not assail the propriety of the said appointment. Perhaps, this is because of the implicit recognition or acknowledgement, and rightly so, of the fact that as Professor VI, she can be considered as a teacher within the contemplation of the exemption. What is actually being challenged on the ground of nepotism was the subsequent designation of Dr. Camarao as Assistant to the Vice-President for Academic Affairs.

So then, did her designation as AVPAA remove Dr. Camarao from the ambit of the exemption? In other words, did her status as a *"teacher"* change following her designation so as to place her already within the reach of the prohibition?

The ultimate resolution of the case evidently rests on the determination of what the term *"teacher"* means, under the contemplation of the provision on nepotism.

On this score, it is necessary to bear in mind a fundamental rule in statutory construction that statutes which are in *pari materia* or relating to the same subject matter should be reasonably construed together in order to come up with a complete and coherent legal system. *"Every statute should be so construed and harmonized with other statutes as to form a uniform system of jurisprudence. x x x For the assumption is that whenever the legislature enacts a law it has in mind the previous statutes relating to the same subject matter, and in the absence of any express repeal or amendment the new statute is deemed enacted in accord with the legislative policy embodied in those prior statutes. Provisions in an act which are omitted in another act relative to the same subject matter will be applied in a proceeding under the other act, when not inconsistent with its purpose".* **(Agpalo, Statutory Construction [3rd Edition], pp. 209-210; citing the cases, inter alia, of Valera vs. Tuason [80 Phil. 823]; and Corona vs. Court of Appeals [214 SCRA 378]).**

Conformably with the above canon of statutory construction, and since the exempting clause on nepotism envisages or speaks of *"teacher"*, then recourse maybe had to other existing laws, which similarly treat of teachers,

in order to shed light on the real import or meaning of the word.

On such law is the **Republic Act No. 4670** or the **Magna Carta for Public School Teachers.** Under Section 2 thereof, it defines *"teacher"*, to wit:

> *"x x x (T)he term `teacher' shall mean all persons engaged in classroom teaching, in any level of instruction, on full-time basis, including guidance counselors, school librarians, industrial arts or vocational instructors, and all other persons performing supervisory and/or administrative functions in all schools, colleges and universities operated by the Government or its political subdivisions; but shall not include school nurses, school physicians, school dentists, and other school employees."* (Underscoring supplied)

A cursory perusal of the provision above-quoted evinces that a *"teacher"*, contrary to layman's perception, does not solely and exclusively pertain to one engaged in classroom instructions. A school personnel in a state university or college clothed or vested with functions relating to supervision and administration is likewise deemed to be a *"teacher"*.

Using the above as yardstick, it becomes ineluctable that Dr. Camarao's designation as AVPAA did not render her less of a teacher. Her added duties and responsibilities, entailed by her designation, of assisting the Vice President for Academic Affairs and other school officials in such areas as planning, implementation and advancement of research and extension; development of programs/projects aligned to the identified goals of the University; and strengthening of capabilities of the colleges and satellite campuses -- all these partake of the nature of administrative work, which forms an integral part of the multifarious roles of teachers, going by the language of the Magna Carta for Public School Teachers.

Moreover, Dr. Camarao's designation states that she will remain a core faculty of the College of Science. Rather than view this as an ingenious scheme to circumvent the rule on nepotism, as what Professor Marquez seeks to impress, this is just a natural consequence considering that designation merely implies the temporary imposition of additional duties and responsibilities **(Section 6[e], Rule III, Revised Omnibus Rules on Appointments and Other Personnel Actions, as amended)**. Dr. Camarao did not lose her professorial position just because of her

designation.

All told, the Commission finds no *prima facie* evidence to sustain the imputation of nepotism in the designation of Dr. Gloria Camarao by Dr. Fedeserio C. Camarao.

WHEREFORE, the present complaint is hereby **DISMISSED.**

Quezon City, October 16, 2001

(Signed)
J. WALDEMAR V. VALMORES
Commissioner

O.B.
KARINA CONSTANTINO-DAVID
Chairman

(Signed)
JOSE F. ERESTAIN, JR.
Commissioner

Attested by:

(Signed)
ARIEL G. RONQUILLO
Director III

FPG/RTM/X1/Y22/jca164
D-01-0307
20010824-065
/camarao'r