

ABARCA, Michael C.

Re: Revocation of Appointment;
Qualification Requirements;
Experience; Appeal

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RESOLUTION NO. 011747

Mr. Joselito L. Calang, then Mayor of Sison, Surigao del Norte, appeals the invalidation of the permanent appointment of Michael C. Abarca as Municipal Engineer in the said Municipality. The said appointment was disapproved by the Civil Service Commission Regional Office (CSCRO) No. XIII, in a decision dated A

ugust 24, 2000, on the ground that the appointee failed to meet the three (3) years experience requirement of the said position. On January 08, 2001, the said regional office also denied the motion for reconsideration of Calang.

The pertinent portions of the Decision dated August 24, 2000 read, as follows:

“As regards the three (3) years experience required by Sec. 477(a) of the Local Government Code of 1991 and also by the 1997 Revised Qualification Standards Manual, pertinent thereto is CSC Memorandum Circular No. 42,s.1998...

“...Engr. Abarca’s work experience in the private sector should not be lightly dismissed provided the same is evidenced by the necessary supporting papers like the contract of employment with job description.

“This Office, upon verification of the records at hand, found out that prior to his appointment as municipal engineer, Abarca has worked as Project Engineer from December 1996 to November 1997 in the private sector; as Project Engineer in the Office of the District Engineer, DPWH Surigao

del Norte, 1st Engineering District from December 1, 1997 to November 30, 1998; and as Engineering Aide under casual Status from January 4, 1999 up to Dec. 31, 1999.

“It should be noted that ... Abarca’s appointment as Engineering Aide is not considered relevant to his present appointment since his experience in the former was gained from a first level position while the position of Municipal Engineer belongs to the second level.

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“It is evident that the Engineering Aide position does not require any eligibility ... so that even a non-engineer may be appointed to this position. Stated otherwise, the Engineering Aide position is not an exercise of a profession which this office can consider as relevant experience that will qualify Abarca to successfully perform the duties and responsibilities of the Municipal Engineer.

“. . . Hence, even if we assume that Abarca was actually performing the duties and responsibilities of a municipal engineer while appointed as Engineering Aide under casual status, the experience he may have gained therefrom shall not be considered relevant to the position of Municipal Engineer.

“Thus, Engr. Abarca does not meet the three (3) year experience requirement in order to be extended a valid appointment for the position of Municipal Engineer under permanent status.

“WHEREFORE, premises considered, the action of the HCSFO-Surigao del Norte approving the subject appointment is SET ASIDE and REVERSED. Accordingly, the permanent appointment of Engr. Michael C. Abarca as Municipal Engineer of Sison, Surigao del Norte is hereby REVOKED, without prejudice to his appointment to said position under temporary status provided that the CSFO of Surigao del Norte can certify that there is no qualified eligible for the said position, subject to the discretion of the appointing authority. The HCSFO of Surigao del Norte is directed to take appropriate action and report the implementation of this order within five (5) days upon receipt hereof.”

On the other hand, the Decision dated January 8, 2001 reads, in part, as follows:

“Mayor Joselito L. Calang . . . seeks reconsideration of the Order of this Office dated August 24, 2000 revoking the permanent appointment of Engr. Michael C. Abarca as Municipal Engineer . . . for failure to meet the three-year experience requirement.

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“Mayor Calang represented that while Abarca held a casual (non-career service) status of appointment at that time and was designated as engineering aide, he was actually performing the functions and duties of a Municipal Engineer – Designate. Thus, Abarca’s actual services as Municipal Engineer should have been taken in his favor and the Commission should have interpreted it as having complied with the three-year requirement provided for in the Local Government Code without resorting to strict technicality under the Memorandum Circular.

“The contention of Mayor Calang is not tenable.

“The determinative issues present in the instant case are : (1) whether or not Section 14 of CSC Memorandum Circular No. 40, s. 1998 is in conflict with the Local Government Code. (2) whether or not the services rendered by Abarca from January 4, 1999 to December 31, 1999 may be considered as ‘experience in the practice of profession.’

“With respect to the first issue, the movant erroneously mixed up the interpretation of the abovementioned law and the rules and regulations pertaining to prohibitions on appointment.

“X X X

“. . . the memorandum circular should not be taken as inconsistent with the Local

Government Code. Instead, the memorandum circular should be read together with the Code, the former being the governing rules and regulations relative to appointments in the local government units as expressly provided in the above-mentioned provision of the code and its implementing rules. This interpretation is in accordance with the principle in statutory construction that “the best interpretation is that which makes laws consistent with other laws . . .”

“As regards to the second issue, the Office is resolute on its stand that the experience earned by Abarca from January 4, 1999 to December 31, 1999 could not be taken as a practice of profession in view of its violation not only to Section 14 of the Memorandum Circular but also Section 15 of the same Circular.

“As noted in the records, Abarca was designated as engineering aide. In fact, his performance appraisal reports for two rating periods would show that he was an engineering-aide designate and performed the functions appurtenant thereto contrary to the arguments of herein movant that Abarca was actually rendering professional service to the local government of Sison. Besides, if it were true that he was actually designated to perform the functions and duties of a Municipal Engineer, then such designation would again violate Section 15 of CSC Memorandum Circular No. 40, s.1998. . .

“Such transgression would in effect render the services of Abarca void and should not be taken as a practice of profession.

“X X X

“In all instances, the legal basis of performing the duties of an office in the career service is a valid appointment thereto which is clearly a non-career employee does not have, like in the case of Abarca.

“WHEREFORE, the motion for reconsideration is hereby DENIED for reasons aforecited.

Accordingly, the assailed Order dated August 24, 2000 still stands.”

The appeal of then Mayor Calang reads, in part, as follows:

“At the outset we wish to reiterate in quoting Sec. 14, Rule XIII of the Memo Circular No. 40, s. 1998, provides: ‘No person appointed to a position in non-career service shall perform the duties properly belonging to any position in the service.’ The Honorable . . . Director anchored her disapproval and denial of the . . . appointment on the abovesited MC No. 40 . . .

“However ... Article VII, Section 477 ... Local Government Code ... reads: ‘No person shall be appointed unless . . . He (sic) must have (sic) acquired experience in the practice of his profession for at least . . . three years.’ Hence, in case of conflict between the former and the latter . . . the latter must prevail . . .

“. . . his actual work as professional engineer is of the opposite circumstances under the aforesited rule, for, while in the record it appeared that he was an engineering aide but the truth of the matter is that he was actually occupying and performing the job of a Municipal Engineer-Designate it being vacant . . . in the record . . . the salary was charged to the engineering aide is due to no budget allocated for the Municipal Engineer in view of the insufficiency of funds, an unfair compensation over his profession with a great responsibility described in the position as a Municipal Engineer-Designate.

“In support thereof, attached hereto is a Joint Affidavit of Two Disinterested Persons . . . showing that he worked as a professional engineer and not as an engineering aide. . .

“. . . although his record . . . has been reflected as non-career service . . . his real job is . . . a career service . . . not only in the government . . . but also before the . . . public sector he being a professional engineer.

“The appointment then on a permanent status extended to . . . Abarca is proof our

acknowledgement . . . of his professional services . . . I pray of this Honorable Commission to accredit (sic) his actual services rendered . . . beginning January 4, 1999 to December 4, 1999 . . .

“After all, he had already rendered his professional services with the best records since he started working . . . taking charge of the Engineering Division responsible for the maintenance of the Municipal Water System, garbage collection waste disposal, preparation of detailed plans of municipal projects and all other engineering services of the local government of Sison.

“WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Commission . . . to modify or reverse the Decision of the CSC-Regional Director . . . and . . . affirm the action of the HSCFO – Surigao del Norte approving the appointment of Michael C. Abarca on a permanent status as Municipal Engineer . . .”

The CSCRO No. XIII commented on the appeal, as follows:

“By way of recall, appellant Mayor Joselito Calang filed a Motion for Reconsideration before the Civil Service Commission Caraga Regional Office based on the aforesaid Decision revoking the approved appointment of Michael Abarca as Municipal Engineer. The issues raised in his Motion for Reconsideration were substantially the same issues now subject of this Appeal.

“x x x

“We maintain our stand on this matter. The justifications of this Office were embodied in the Order dated January 8, 2001 . . .

“x x x

“Appellant further contends that the experience earned by Abarca as engineering aide from January 4, 1999 to December 31, 1999 should have taken as a practice of professional service.

“Once more, we remain firm in our position on this aspect.

“x x x

“By mere assertion of Appellant that Abarca was performing the functions of a Municipal Engineer while still holding a casual appointment is more than sufficient evidence to convince the Commission of a clear violation of the abovesited provision because a Municipal Engineer is a position properly belonging to the career service.

“x x x

“So that, if we give credit to the experience earned by Abarca from January 4, 1999 to December 31, 1999, although a clear violation of Section (sic) 14 and 15 of said Circular, then the binding force and effect of the (sic) these contested provisions will all come to naught.

“THUS, it is respectfully prayed that the Order of this Office dated August 24, 2000 revoking the appointment of Michael Abarca as Municipal Engineer and the subsequent Order dated January 8, 2001 denying the Motion for Reconsideration be AFFIRMED by this Honorable Commission.”

On March 14, 2000, Abarca was issued a permanent appointment as Municipal Engineer by then Mayor Calang of Sison, Surigao del Norte. It was approved by the CSC Agusan del Norte Field Office. However, the approval of said appointment was invalidated by the CSCRO No. XIII on the ground that the appointee lacks the required three (3) years experience for the position.

Hence, this appeal.

A Municipal Engineer must be a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, and a licenced civil engineer. He must have acquired experience in the practice of his

profession for at least three (3) years. [\[1\]](#)

The qualifications of Abarca [\[2\]](#) are, as follows:

EDUCATION : Bachelor of Science in Civil Engineering

EXPERIENCE : Project Engineer from December, 1996 to
November, 1997 – Private Sector

Project Engineer from December 1, 1997 to
November 30, 1998 – Office of the District
Engineer, 1st Engineering District, Department of
Public Works and Highways – Surigao del Norte

Engineering Aide (Casual), from January 4, 1999 to
December 31, 1999 – Municipality of Sison

TRAINING : Sufficient

ELIGIBILITY : Licensed Civil Engineer

It must be mentioned that Abarca met the education, training and eligibility requirements except the experience requirement. Hence, the discussion in this resolution will center on the issue of whether the appointee met the experience requirement of the position for purposes of his permanent appointment as Municipal Engineer.

Relevant experience, as a requirement in the Qualification Standards Manual, refers to experience within the same level of position which will enable the candidate to successfully perform the duties and responsibilities of the position to be filled-up. [\[3\]](#) However, *it may be pointed out that relevant service experience in a first level position*

or even in the private sector is considered in cases of promotion to second level item. [\[4\]](#)

Abarca has a total of two (2) years experience as Civil Engineer since he was employed in the private sector from December, 1996 to November, 1997 and at the DPWH from December, 1997 to November, 1998 as Resident Project Engineer. So, the issue left to be considered is whether the designation of Abarca (Municipal Engineering Aide under casual status) as Municipal Engineer from January 4, 1999 to December 31, 1999 may be considered to complete the required three (3) years experience.

Under the Framework for Implementation of Policies on Qualification Standards [\[5\]](#), *experience acquired on the basis of designation shall not be considered for purposes of meeting the required experience unless said designation is covered by an Office or Memorandum Order.*

Abarca may have been designated to perform the function of a Municipal Engineer. However, the designation of a non-career employee to a position exercising control or supervision over regular and career personnel is prohibited. [\[6\]](#) Thus, the designation of Abarca as Municipal Engineer cannot be considered in the counting of his relevant experience since the same was done in violation of Civil Service rules and regulations.

Pertinently, the Commission ruled in the case of **TANGLAO, Rogelio C.** [\[7\]](#) in the following manner:

“The contention of mayor Morales that Tanglao’s experience in the Local Finance Committee (LFC) should be considered since the same is material in the approval of the latter’s appointment deserves scant and consideration. Be it emphasized that the designation by Mayor Morales of Tanglao as a member of the LFC is in violation of Republic Act No. 7160. . . and the Local Budgeting Manual issued by the Department of Budget and Management . . . This being the case, the experience he supposedly gained as a member of said committee must be completely disregarded. The Commission will not countenance the action of a local chief executive in designating a favored employee to a certain committee – where his membership is not in accordance with law in order to gain experience so that his future appointment will be approved by

the Commission. A person cannot be made to profit for violating the law." (Underlining ours)

However, the Commission finds the experience gained by Abarca sufficient to enable him to successfully perform the duties and responsibilities of Municipal Engineer, especially since he continued to perform the same from the time of the disapproval of his appointment by the Civil Service Commission Regional Office No. XIII on August 24, 2000, or for a period of more than one (1) year. Hence, adding this period to his previous experience of two (2) years will more than satisfy the required experience. Therefore, his appointment may now be approved as permanent.

Pertinent to the discussion is the decision of the Commission in the case of **CORPIN, Agnes R.**^[8] which provides:

"The designation of Corpin to the position of ARPO II is from October 21, 1999 until she was appointed thereto on July 17, 2000 or a total of eight (8) months. Since the relevant experience required for the said position is only one (1) year, then the appointee only lacks four (4) months.

"The Commission finds the experience gained by Corpin sufficient to enable her to successfully perform the duties and responsibilities of ARPO II, especially since she continued to perform the same from the time of the disapproval of her appointment by CSC-NCR on August 31, 2000, until this time or for a period of almost one (1) year. Hence, adding this period to her previous experience of eight (8) months will more than satisfy the required experience. Therefore, her appointment may be approved as permanent."

WHEREFORE, the appeal of then Mayor Joselito L. Calang of the Municipality of Sison, Surigao del Norte is hereby **GRANTED**. Accordingly, the Decision of the Civil Service Commission Regional Office No. XIII invalidating the permanent appointment of Michael C. Abarca as Municipal Engineer is reversed.

Quezon City, **OCT 30 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

[1] Section 477 (a) , Article 7, Title V, Book III of the 1991 Local Government Code (Republic Act No. 7160)

[2] Personal Data Sheet dated January 19, 2000 of Abarca

[3] EXPERIENCE REQUIREMENT, SPECIFIC POLICIES OF THE FRAMEWORK FOR IMPLEMENTATION OF POLICIES ON QUALIFICATION STANDARDS (Civil Service Commission Memorandum Circular No. 42, s. 1998)

[4] MAGO, Wenceslao Jr. and VALDEZ, Loyola M., CSC Resolution No. 00-0187 dated January 24, 2000

[5] Supra

[6] Section 15, Rule XIII of the Revised Omnibus Rules on Appointments and Other Personnel Actions (Civil Service Commission Memorandum Circular No. 40, s. 1998)

[7] CSC Resolution No. 00-2341 dated October 17, 2000

[8] CSC Resolution No. 01-1204 dated July 16, 2001