

GRULLA, Gil G.

Re: Invalidation of Appointment; AO 100;
Appeal

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RESOLUTION NO. 021174

Edilberto R. Feliciano, Deputy Administrator, Land Registration Authority (LRA), Quezon City, appeals the invalidation of the appointment of Gil G. Grulla as Clerk II by the Civil Service Commission-Social Security System (CSC-SSS) Field Office because it was issued in violation of Administrative Order No. 100. The request for reconsideration was subsequently denied. An appeal to the Civil Service Commission-National Capital Region (CSC-NCR) was likewise denied.

The pertinent portions of the Decision of the CSC-SSS Field Office read, as follows:

"This refers to the request for reconsideration of then OIC Ricardo F. Arandilla relative to the invalidation of the appointment of Mr. Gil G. Grulla as Clerk II, that Office. Subject appointment was invalidated as this was issued in violation of the provisions of Administrative Order No. 100. The clerical positions of that Office were not included in the exemption granted by then President Joseph E. Estrada.

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"In addition, the alleged contractual appointment of Mr. Grulla was not included in the Report of Personnel Actions (ROPA) submitted to this Field Office for post-audit per authority granted to your agency to act on appointments pursuant to the Civil Service Accreditation Program (CSCAP). There were no records whatsoever to prove that the alleged contractual appointment of Mr. Grulla was submitted to this Field Office for post-audit.

"In view of the foregoing, the request for reconsideration on the invalidation of the appointment of Mr. Grulla as Clerk II is hereby denied. Our action on the invalidation of subject appointment stands."

On the other hand, the relevant portions of the CSC-NCR Decision are, as follows:

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"In the Memorandum dated June 25, 2001 of Director Lucila Pagdanganan, she commented that, 'LRA-CARP appointments, if any, were not submitted to this Office for post-audit. We have no records of employment of

these employees starting from 1995 to present including that of the Report of Personnel Actions (ROPA) pursuant to CSC MC 27, s. 1994 re: Amendments to the Implementing Guidelines on the CSC Accreditation Program.'

"Records show that the appointment of Grulla as Clerk II was issued on December 26, 2000. It appears that the previous appointment of Grulla issued by that Office since September, 1997 were not submitted to the Field Office for post audit.

"It now appears that the issuance of the appointment of Grulla as Clerk II is not considered reappointment but original. Thus, the same is covered by the prohibition of Administrative Order No. 100. However, no approved request for exemption was submitted.

"In view thereof, the request is denied. Accordingly, the action of the CSC-SSS Field Office invalidating the appointment of GIL G. GRULLA stands."

The appeal of Deputy Administrator Edilberto Feliciano reads, in part, as follows:

"Under the circumstances, it is admitted that Mr. Grulla's contractual appointment was not included in the Report of Personnel Actions (ROPA) submitted to the Civil Service Commission SSS Field Office. For this reason, it is informed that Mr. Grulla has submitted his request to the Commission for accreditation of government service in consideration of the service rendered under CARP so as to be exempted from the prohibition of the provision of Administrative Order No. 100 (copy of said request is hereto attached).

"In the letter dated 28 June 2001 of OIC-Director Atanacia M. Guevarra, PARC Secretariat (copy attached), the opinion whether LRA-CARP Office is classified as 'new creation' in connection with the accreditation process being conducted by the CSC is clearly expressed, to wit:

'It is our view that the LRA-CARP Office should not be considered as a 'new office' for the purpose of accreditation with the Civil Service Commission of services rendered by its contractual employees.'

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"Considering that Mr. Grulla has rendered continuous service under the LRA Comprehensive Agrarian Reform Program (CARP) as Utility Worker II since 01 September 1997, in contractual basis, long before the advent of Administrative Order No. 100 on December 01, 2001, it is submitted that his re-appointment in permanent status with this Authority, copies of certificate of service is hereto attached, is not covered by the said Administrative Order.

"More importantly, it is informed that the status of the above-mentioned appointment of Mr. Grulla, is that of a contractual, not a contract of service as stated in his service, evidencing an employer-employee relationship, as in fact, paragraph 9 of the contract states that 'he shall be allowed to receive other benefits and/or allowance enjoyed by the regular employees and all other benefits x x x.' copy of contract hereto attached. While it may be true that his appointment paper then was denominated/captioned 'contract of service' which is a misnomer, the intention of his appointment is contractual appointment considering that Mr. Grulla, in his uninterrupted, continuous government service, has continuously received his PERA, uniform allowance, cash gifts and other benefits.

"In view of the foregoing, we earnestly appeal to the humane and judicious discretion of the Honorable Chairman that the appointment of Mr. Gil Grulla be allowed and remain effective as previously resolved by the Civil Service Commission in its Resolution No. 010337 dated February 2, 2001 in a similarly situated case of Presillas, et al."

Records show that the Land Registration Authority, through its then Administrator Reynaldo Maulit, entered into a Contract of Services with Grulla as Utility Worker II under the Comprehensive Agrarian Reform Program (CARP) in the LRA on August 28, 1997. The term of the contract was for a period of 4 months which commenced on September 1, 1997 and ended on December 31, 1997. This was followed by another Contract of Services also for Utility Worker II between the same parties, for a period of one year, from January 1, 1998 until December 31, 1998. Another Contract of Services ensued which commenced on January 1, 1999 until December 31, 1999. Thereafter, another Contract of Services between them, from January 1, 2000 to December 31, 2000, was executed. On December 26, 2000, however, Grulla was issued an appointment by the LRA as Clerk II. The CSC-SSS Field Office invalidated the same as it was issued in violation of the provisions of Administrative Order No. 100. A request for reconsideration was likewise denied by the said Field Office. On appeal to the CSC-NCR, the action taken by the CSC-SSS Field Office was affirmed. The CSC-NCR ruled that the appointment of Grulla as Clerk II is not a reappointment but an original appointment; hence, it is covered by the prohibition spelled out in Administrative Order No. 100. Likewise, there is no proof that an approved request for exemption was submitted. The LRA argued that said Contract of Service is a misnomer, in fact, the appointment of Grulla is under contractual status. In support of this argument, LRA submitted the Contract of Service indicating that Grulla is allowed to receive other benefits and/or allowance enjoyed by regular employees as well as employees of the other CARP implementing agencies. Defending its stand, the CSC-SSS Field Office countered that LRA-CARP appointments were not submitted to that Field Office for post-audit and that there are no records of employment of these employees from 1995 to the present including that of the Report of Personnel Actions (ROPA) pursuant to CSC Memorandum Circular No. 27, s. 1994 re: Amendments to the Implementing Guidelines on the CSC Accreditation Program. On the strength of CSC Resolution No. 01-0337 dated February 2, 2001 which it alleged to be a similar case, the LRA now wants to resolve the issue in the case at bar.

Thus, the instant appeal.

We are confronted with two issues: 1) Whether Grulla's service as Utility Worker II may be said to be a contractual

appointment or a contract of service; 2) Whether Grulla's appointment as Clerk II may be considered a reappointment or an original one.

After a careful examination of the records of this case, the Commission finds the appeal meritorious.

Section 2 of Administrative Order (AO) No. 100 dated December 1, 1999, states:

"Section 2. Prohibition. The hiring of new personnel whether on a permanent, temporary, substitute, co-terminus, contractual or casual status, is hereby suspended except for key positions, teaching, and uniformed personnel in the Philippine National Police, Bureau of Fire Protection and Bureau of Jail Management and Penology."

Pursuant to the provisions of AO No. 100, the Department of Budget and Management (DBM) issued **National Budget Circular (NBC) No. 466 dated December 17, 1999 (Guidelines on the Implementation of Administrative Order No. 100)**. Item 3.0 of DBM circular provides:

"3.0 PROHIBITION AND EXEMPTIONS

"3.1 General Prohibition. The hiring of new personnel whether on a permanent, temporary, substitute, co-terminous, contractual or casual status, is hereby suspended.

"Hiring of new personnel' as used in Section 2 of AO 100 refers to the first-time entry of personnel in the career and non-career service, involving the issuance of an original appointment/contract, or reemployment, whether on a permanent, temporary, substitute, co-terminous, contractual or casual status."

A careful reading of **AO No. 100** and **NBC No. 466** would reveal that the hiring of new personnel in the government is prohibited. Specifically, the following are prohibited:

1. First-time entry of personnel in the career and non-career service which would involve the issuance of an original appointment/contract; and
2. Reemployment, whether on a permanent, temporary, substitute, co-terminous, contractual or casual status.

The Commission holds that the appointment issued by the LRA to Grulla is not covered by the provisions of AO No. 100 and its implementing guidelines NBC No. 466.

What is proscribed by AO No. 100 and NBC No. 466 is the hiring of new employees and the reemployment of those who have been previously employed in the government. New employees are those who enter the government service for the first time, thus, necessitating the issuance of an original appointment or contract as the case maybe. Grulla cannot be considered

as a new employee of the LRA. Prior to the issuance of his appointment, he was already an existing employee. The contract of service is a misnomer. It is apparent that the intention therein is to issue a contractual appointment in favor of Grulla, considering that he has continuously received his PERA, uniform allowance, cash gifts and other benefits. The Commission ruled in this wise in **CSC Resolution No. 01-0337 dated February 2, 2001** when it ruled, as follows:

"In CSC Resolution No. 00-1938 (Soriano, Pedro C.) dated August 23, 2000 the Commission ruled, as follows:

'2. The definition of ORIGINAL appointment pursuant to MC 15, s. 1999 refers to the initial entry into the career and non-career service. When a casual employee is appointed to a regular plantilla position without any gap in the service, will the nature of appointment be still ORIGINAL? Or is this now a case of reappointment? This came about in light of the implementing guidelines of AO 100 where original appointments are covered by the AO.

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'In the situation contemplated, while it may be true that the appointment to be issued to a casual employee who is subsequently appointed to a regular plantilla position is original, the other requirement as expressed in the phrase (sic) 'first-time entry' is not present since the appointee is already an existing employee, albeit in casual status.

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'WHEREFORE, the Commission hereby rules that:

'2. Administrative Order No. 100 and its Implementing Guidelines do not cover a situation wherein a casual employee is subsequently appointed to a regular plantilla position without gap in the service.'

"While the above resolution speaks of casual appointments, the same should also apply to contractual appointments."

WHEREFORE, the appeal of LRA Deputy Administrator Edilberto R. Feliciano, is hereby **GRANTED**. Accordingly, CSC-NCR is hereby directed to approve the appointment of Gil G. Grulla to the position of Clerk II under permanent status, subject to Civil Service Law, Rules and Regulations.

Quezon City SEP 13 2002

(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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