

BAYUBAY, Natividad P.

Re: Disapproved Appointment

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RESOLUTION NO. 02-1343

Emilia P. Bayubay, Schools Division Superintendent, Kalinga Division, Department of Education-Cordillera Administrative Region, Bulanao, Tabuk, Kalinga appeals the disapproval by Civil Service Commission-Cordillera Administrative Region (CSC-CAR) of the appointment of Natividad P. Bayubay as Education Supervisor I, DepEd, Division of Kalinga, Tabuk on the ground that there was no prior consultation with the Local School Board.

Superintendent Bayubay anchored her appeal on the following assignment of errors:

"1. The CSC-CAR RO erred in disapproving the appointment of Ms. Natividad P. Bayubay on the ground that the required consultation with the Local School Board was not complied with;

X X X

"The required consultation is not a condition sine qua to a valid appointment and non-compliance therewith is, therefore, insufficient to warrant the disapproval of an appointment.

"2. The CSC-CAR RO erred in not appreciating and or considering Resolution No. 2011-05 of the Local School Board of the Province of Kalinga submitted by the herein appellant.

X X X

"Having considered the certification issued after the appointment of same Ms. Dalsen, there was no reason for the CSC-CAR RO not to have appreciated and considered as compliance with the required consultation the Resolution issued by the Board in favor of the appointment of Ms. Bayubay. The appreciation of the late resolution would have been in accordance with the principle of equity and the equal application of our laws. x x x"

When asked to comment, the CSC-CAR, through Director IV Dolores B. Bonifacio, stated, as follows:

"Appellant posits the view that her submitted document (in a separate protest case) should have been

taken into consideration. The CSC-CAR was now in possession of a document purportedly curative of the required document from the Local School Board. We disagree. The December 3, 2001 document is not curative of the situation. In fact, it makes matters worse. The appointment has already been made. There is no longer a proposed appointment but an appointment already made. Thus, the violation has already been perpetrated. Also, the Appellant may be held liable for not divulging the fact to the LSB that an appointment has already been made. She knew the appointment was already done yet she did nothing to explain or tell the real situation to the Local School Board. For all intents, the said resolution has no binding effect."

Records show that Natividad P. Bayubay was issued a promotional appointment dated September 19, 2001 under regular-permanent status as Education Supervisor I, DepEd, Division of Kalinga. Said appointment was disapproved by Director IV Dolores B. Bonifacio, CSC-CAR, in an Order dated November 12, 2001, on the ground that there was no prior consultation with the Local School Board (LSB).

Superintendent Bayubay filed a motion for reconsideration dated November 28, 2001 from the disapproval of the appointment of Natividad Bayubay. In said motion, Superintendent Bayubay alleged, in part:

"2. That this Honorable Commission erred in disapproving the aforesaid appointment on the said ground, for what the law merely requires is consultation and this was complied with by the issuance by the Sangguniang Panlalawigan of Kalinga of Resolution No. 2001-079, which was issued by the said August Body upon motion of the Hon. ARTHUR DALSEN, a member of the Local School Board, and which Resolution was approved by the Honorable MACARIO A. DUGUIANG, Chairman of the Provincial Local School Board. x x x"

Thus, the CSC-CAR, through Director Dolores Bonifacio rendered a Decision dated December 18, 2001 denying said motion for reconsideration. Said decision reads, in part, as follows:

"The representation that the required Local School Board Consultation was complied with upon the submission of the Sangguniang Panlalawigan Resolution No. 2001-079 which was approved upon motion of Honorable Arthur Dalsen, a member of the Local School Board and approved by Governor Macario A. Duguiang, Chairman of the Provincial Local School Board, is found to be of no merit. The Local School Board and the Sangguniang Panlalawigan are two (2) different bodies that have different membership and functions. x x x"

Hence, this appeal.

After a thorough review of the records of this case, the Commission finds no merit on the first ground relied upon by appellant Bayubay.

In explaining her position that the CSC-CAR erred in disapproving the appointment of Natividad P. Bayubay, Superintendent Bayubay stated that *"neither did the CSC-CAR RO nor did the CSC-CAR Field Office informed (sic) the herein appellant of the need to submit proof of compliance with the required consultation with the Local School Board."*

It is well worth to mention that consultation with the Local School Board prior to the issuance of an appointment of school officials is mandated by the last paragraph of **Section 99 of the Local Government Code**. It provides, as follows:

"The Department of Education, Culture and Sports shall consult the local school board on the appointment of division superintendents, district supervisors, school principals, and other school officials."

It must be stressed that the appointments issued by heads of different government agencies which are required to pass through this Commission for approval must be issued in accordance with pertinent laws and rules. The law requires that prior to the issuance of an appointment to school officials, in this case Natividad Bayubay as Education Supervisor I, the DepEd, through the appointing authority, shall consult the Local School Board. Records negate any showing that consultation with the Board was made prior to the issuance of said appointment. Pointedly, it is not incumbent upon the CSC-CAR to inform the appellant of the subject requirement because the latter has no judicial notice of the appointments issued by appellant Bayubay until the same are submitted to it for approval or unless an opinion is solicited prior to such issuance. There is even no showing that appellant Bayubay sought the opinion of CSC-CAR before he issued the appointment in favor of Natividad Bayubay.

Moreover, it must be stressed that pursuant to Section 1, Rule VII, CSC Memorandum Circular No. 40, s. 1998, one of the responsibilities of the Human Resource Management Officer/Personnel Officer is *"to review thoroughly and check the completeness of all the requirements and supporting papers in connection with all cases of appointments before submission to the Commission."* It appears at the back of the appointment dated September 19, 2001 issued in favor of Natividad Bayubay as Education Supervisor I that Irving B. Dasayon, Administrative Officer III/Personnel Officer certified that *"all the requirements and supporting papers pursuant CSC MC No. 40, s. 1998 have been complied with, reviewed and found to be in order."*

Evidently, the absence of proof of prior consultation with the Local School Board of the appointment of Natividad Bayubay is attributable to the Personnel Officer who certified as to the completeness of all the requirements and supporting papers of the subject appointment and not to the CSC-CAR whose function is to check whether all the requirements of the issuance of an appointment have been duly complied with.

However, the Commission finds the second assignment of error cited by appellant Bayubay meritorious.

It appears from the records that appellant Bayubay belatedly submitted Resolution No. 20011-5 dated December 3, 2001 entitled RESOLUTION INTERPOSING NO OBJECTION ON THE PROPOSED APPOINTMENT OF MS. NATIVIDAD P. BAYUBAY AS EDUCATION SUPERVISOR I, KALINGA DIVISION issued by the Provincial Local School Board. Said resolution was signed by Dominador W. Tumbali as the Presiding Officer, Designate, Emilia P. Bayubay as Co-Chairman, Teresita Uyam, Atty. Jerson Angog and Arthur Dalsen as members, all of the Provincial Local School Board. While it is true that said resolution of the Board was submitted only on December 3, 2001, the defect in the issuance of the appointment of Natividad Bayubay has already been cured upon the submission of the required document. The Commission considers it as substantial compliance with the requirement of prior consultation with the Local School Board.

Hence, although the action of CSC-CAR was appropriate, the submission of Provincial Local School Board Resolution No. 20011-5 dated December 3, 2001 is sufficient to warrant the approval of the appointment of Natividad P. Bayubay.

WHEREFORE, the appeal of Superintendent Emilia P. Bayubay is hereby **GRANTED**. Accordingly, the appointment of Natividad P. Bayubay as Education Supervisor I is approved effective on the date of its issuance. However, the Personnel Officer is hereby admonished to be cautious in the performance of his responsibilities enumerated in Rule VII, CSC Memorandum Circular No. 40, s. 1998.

Quezon City, **October 15, 2002**

(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

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