

ROSALADO, Natividad D.

CASURAO, Jesus T.

Re: Appeal; Disapproved Appointment

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RESOLUTION NO. 021558

Mayor Mel Senen S. Sarmiento of Calbayog City appeals from Order No. 01139 dated January 15, 2002 of the Civil Service Commission Regional Office (CSCRO) No. VIII, Candahug, Palo, Leyte, which disapproved the appointments of Natividad D. Rosalado and Jesus T. Casurao, both Supply Officer III, General Services Office, City Government of Calbayog, for violation of Item 15 of the CSC Memorandum Circular No. 03, s. 2001, and in the case of Casurao for failing to meet the minimum training and experience requirements. The pertinent portions of the assailed Order read, as follows:

"Aside from the aforestated bare allegations, Mayor Sarmiento failed to adduce proof that Mr. Casurao squarely met the minimum training requirement prescribed for the position.

Additionally, it can be gleaned from the records that the Office Order (Office Order No. 004, series of 1999) designating Casurao as Supply Officer of City Solid Waste Management Office, Calbayog City was issued only by Mr. Reynaldo L. Gonzaga, CSWM Officer. Designation is a management prerogative which can only be exercised by a person conferred with the authority to effect personnel actions. In this case, it should have been conferred by the City Mayor and not by a mere department head.

Thus, the Office Order issued by Reynaldo Gonzaga is not valid and does not have sufficient weight considering that it was issued by a person who had no authority to do so. Being so, Casurao not only failed to meet the minimum training requirement of the position, but also the experience requirement.

WHEREFORE, foregoing premises considered, the instant protest of Mr. Vivencio Tan and Mesdames Doreen Mancol and Maria Sagalar is hereby DISMISSED for lack of merit.

The appeal of Mayor Mel Senen Sarmiento on the action of disapproval on the appointments of Messrs. Humphrey Tacaldo, Jesus Casurao and Natividad Rosalado as Supply Officer III of LGU-Calbayog City, is also hereby DENIED, for lack of merit.

However, the action of approval on the appointment of Mr. Humphrey Tacaldo as Supply Officer III is

hereby **AFFIRMED**."

In his appeal, Mayor Sarmiento alleged in substance the following:

"2. While it is true that Item No. 15 of the CSC Memorandum Circular No. 3, s. of 2001 prohibits the promotion of an employee to more than three (3) salary grades higher than his present position, yet, this rule is not a hard and fast one, which admits exceptions. I cogently believe that the claim of the Regional Office that the rule limits only to the two instances enumerated in the said Memorandum Circular, which are: (1) If the vacant position is the next-in-rank as identified in the SRP approved by the head of agency; and (2) if the vacant position is a lone or entrance position as indicated in the agency's staffing pattern, is not a sound assertion. The use of the phrase "such as" could import the same as something just mentioned. The enumeration of the two instances is by way of an example such that circumstances similarly falling within those mentioned could be given due consideration. It is not exclusive such that it is limited only to those two instances.

3. The circumstances on the appointment of Natividad D. Rosalado and Jesus T. Casurao fall within the ambit of the phrase: very meritorious cases, as the aforementioned appointees possess skills and competence necessary in the fulfillment of their jobs.

*a. **MRS. NATIVIDAD D. ROSALADO** is a designated Supply Officer in the Office of the City Engineer. She later worked at the Office of the City Accountant as Supply Officer despite her clerical position. Her designation goes to elucidate that the authority has so much trust and confidence on her abilities and talents. Given the enormous skill she is endowed with respect to her job, the Personnel Selection Board, which screens and recommends appointees, invited her as one of the candidates. Further, may I apprise that Mrs. Rosalado graduated with flying colors in college as Cum Laude. I do believe that the Government wants to entice and lure the best and the brightest in the bureaucracy, and Mrs. Rosalado is one of them. Considering her exemplary scholastic record and outstanding performance, her promotion to Supply Officer III is therefore imperative.*

*b. **MR. JESUS T. CASURAO** is a Sanitary Inspector II in the Office of the City Health. He has long been employed in the government service for quite a number of years. He has been denied the necessary promotion despite possessing the second level eligibility since 1985 because of political reasons. Because of his vast experience and superior ability, he was assigned in the recently organized City Solid Waste and Management Office, where he assumed several roles, such as Sanitarian, Administrative Officer and Supply Officer. He has versatility in his work but he is more adept in the determination of fiscal requirements of supplies, materials and equipment and makes periodical inventories thereof. He was even recognized by the office for his admirable performance as Supply Officer-designate of the CSWMO, thus, contributing to operationalization of solid waste*

maintenance and management of the City. Awarding him through the necessary promotion would mean giving him justice throughout those years where he was deprived of it.

4. Anent the issue on the appointment of Mr. Jesus T. Casurao relative to his failure to meet the minimum requirements of training and experience, I would like to inform that the appointee underwent the screening process handled by the Personnel Selection Board and rated him above par. To stress, he was designated last 1999 as Supply Officer of the City Solid Waste and Management Office. Although his designation was only by virtue of Office Order No. 004 issued by Engr. Reynaldo L. Gonzaga, CSWM Officer, I believe that it is adequate for the employee to enjoin him to perform his tasks bestowed upon him. It is not imperative that the designation must be issued by the Chief Executive who is empowered to take personnel actions. In conformity with the principle of alter-ego, which means that the act of the superior officer is deemed to the act of the subordinate officer, the action taken by Engr. Gonzaga, the department head, is presumed to be the action by the City Mayor, unless the latter repudiate the act of the former. Absence of any act of repudiation, the designation is construed to be valid. Relative to his training deficiency, the rule requires that the subject appointee should have undergo eight (8) hours of relevant training. It is noteworthy to mention that the subject appointee has attended and participated for almost forty (40) hours on Regional Cold Chain and Logistics training on Expanded Program on Immunization last July 26-30, 1990. The seminar delves on the concept of supply management, particularly on the preparation of RIVs, proper handling, storage, distribution and inventories of supplies, equipments and facilities of cold chain. Last December 7-8, 2001, Mr. Casurao attended seminars on Updates on Supply and Property Management and Updated Rules on Public Bidding conducted by the Personnel Development and Consultancy Center. These seminars, I believe, are adequate enough to meet the minimum training requirement, not to mention the other relevant training and seminars as indicated in his Personal Data Sheet."

When asked to comment, the CSCRO No. VIII adopted the findings contained in its assailed Order as its comment to the instant appeal.

As culled from the records, the case arose when the promotional appointments of Humphrey Tacaldo, Natividad Rosalado and Jesus Casurao, all Supply Officers III, General Services Office, City Government of Calbayog were the subject of a protest case filed by Venancio Tan, Doreen Y. Mancol and Maria C. Sagaral, employees of the City Government of Calbayog with the CSCRO No. VIII, Candahug, Palo, Leyte. Their protest was premised on their assertion that the protestees failed to meet the minimum requirement for the position of Supply Officer III. Pending resolution of the same, the appointments of Casurao and Rosalado as Supply Officers III and two others (Emerenciana G. Santos and Felipe C. Ignacio as Public Services Officer III and Records Officer II, respectively) were disapproved by the CSC Samar Provincial Field Office for violation of Item 15, CSC Memorandum Circular (MC) No. 3, s. 2002. Mayor Sarmiento moved for a reconsideration but the same was denied in a letter dated October 4, 2001 by the said Provincial Field Office. Mayor Sarmiento appealed with the CSCRO No. VIII which resolved the same jointly with the earlier protest filed by Tan et al., against Rosalado, Casurao and Tacaldo.

Accordingly, in an Order dated January 15, 2002, the CSCRO No. VIII ruled that said disapproval is affirmed since the

appointments of Casurao and Rosalado were issued in violation of Item No. 15 of the CSC Memorandum Circular No. 03, s. 2001. Additionally, in the case of Casurao, he also failed to meet the minimum training and experience requirements of the position. In the same Order, the protest of Tan, et al. against Rosalado, Casurao and Tacaldo was likewise dismissed by the same CSC Regional Office pursuant to **Section 67, Rule V, (A) Protest, Uniform Rules on Administrative Cases (URAC)**, which provides as follows:

"Sec. 67. Dismissal of Protest - A protest shall be dismissed on any of the following grounds:

- a. The protestant is not a qualified next-in-rank;*
- b. The protest is x x x directed to two or more protestees;*
- c. x x x*
- d. x x x or the appointment has been disapproved."*

It must be stressed that Tacaldo was included in the protest case only and was not among those appointees whose appointments were disapproved by the CSC Samar Provincial Field Office and subsequently appealed by Mayor Sarmiento. Considering that the protest against Tacaldo did not actually prosper, his appointment as Supply Officer III was approved/affirmed by the CSCRO No VIII in its appealed Order of January 15, 2002 because he is not covered by Item 15 of CSC MC No. 3, s. 2001. Hence, only the disapproval of the appointments of Casurao and Rosalado as Supply Officer III was appealed by Mayor Sarmiento with the Commission Proper.

At the outset, worthy of note is that the dismissal of the protest case filed by Tan et al., against the promotional appointments of Rosalado, Casurao and Tacaldo as Supply Officer III was premised on the grounds provided for under Section 67, as abovequoted, particularly that the protest was directed to more than one protestee (Tacaldo, Rosalado and Casurao); that the appointments of protestees Rosalado and Casurao were disapproved by the Civil Service Samar Provincial Field Office; and the protestants (Tan et al.) failed to adduce evidence showing that they are occupying the next-in-rank position. A review of said protest indeed reveals that the grounds provided for under the rules for the dismissal of the protest are present in the protest case. Hence, the dismissal of the protest based on those grounds is proper.

However, since the protest likewise affirmed the disapproval of the appointments of Casurao and Rosalado and the same is now the subject of the instant appeal, a discussion on the propriety of said disapproval is imperative

The **Revised 1997 Qualification Standards Manual** provides the following qualifications for the position of Supply Officer III, (SG 18) as follows:

- Education : Bachelor's degree
- Experience : Two (2) years of relevant experience
- Training : Eight (8) hours of relevant training

Eligibility : Career Service (Professional) Second Level Eligibility

On the basis of the above data, records show that there is no dispute that Rosalado is qualified for the position in terms of education, experience, training and eligibility, she, being a graduate of Bachelor of Science in Accounting, a holder of P.D. No. 907 (Cum laude) eligibility and Career Service Professional eligibility. She has been discharging the duties and functions of a Supply Officer despite being a Clerk since 1994 and attended various seminars and trainings relevant to the job.

On the other hand, Casurao is a Bachelor of Arts graduate and a holder of a Career Service Professional eligibility. He holds the position of Sanitary Inspector before he was assigned in 1999 to the City Solid Waste and Management Office, Calbayog City, acting as Supply Officer after having been trained in Supply Management. Likewise, he has attended various trainings and seminars relevant to the job.

As to the allegation that Casurao lacks the experience and training required for the position, of note is that prior to the promotional appointment of Casurao, he was designated sometime in 1999 as Supply Officer in the City Solid Waste and Management Office (CSWMO), wherein his duties and responsibilities thereat adequately met the experience and training required for the position of Supply Officer III. His designation though was issued by the CSWMO Department Head and not by the City Mayor. However, since the City Mayor made no objection on the action taken by his subordinate regarding the designation of Casurao, in effect the action of the department head is presumed to be the action of the City Mayor. Even granting that Casurao's designation at the CSWMO is void, the fact still remains that by reason thereof, he has already gained the experience and training required for the position of Supply Officer III during the period of his designation.

Moreover, an additional ground for the disapproval of their appointments as Supply Officer was by reason of violation of **Item No. 15, CSC Memorandum Circular (MC) No. 03, s. 2001** which reads, as follows:

"An employee may be promoted or transferred to a position which is not more than three (3) salary, pay or job grades higher than the employee's present position except in very meritorious cases, such as: if the vacant position is next-in-rank as identified in the System of Ranking Position (SRP) approved by the head of agency, or the lone entrance position indicated in the agency staffing pattern."

Noteworthy to stress in this regard is the fact that prior to their proposed promotional appointments, Rosalado was holding the position of Accounting Clerk II, SG 6, which is twelve (12) salary grades lower than Supply Officer III which carries Salary Grade 18 while Casurao was promoted to a position which is ten (10) salary grades higher than his former position of Sanitary Inspector II, SG 8. Clearly, Rosalado and Casurao were appointed/promoted to positions allotted to more than three (3) salary grades higher than their previous positions.

The phrase "except in very meritorious cases" seems to contemplate only two instances considered as exceptions to the aforementioned rule, such as:

1. if the vacant position is next-in-rank as identified in the System of Ranking Position (SRP) approved by the head of agency; or
2. if the vacant position is a lone entrance position as indicated in the agency's staffing pattern.

However, at this point, the Commission would like to emphasize that the phrase "except in very meritorious cases" does not mean an absolute interpretation of the rule. Verily, there are other instances which may be considered as an exception to the rule so long as the Commission sees them as very meritorious. The same is true in the present case. While the burden lies on the part of qualified employees like Rosalado and Casurao whose only option might have been to accept a first level position, we cannot discount the fact that Rosalado and Casurao whose service to the government is characterized by their outstanding performance would qualify them to the higher position. It is never the intent of the Commission to frustrate the dreams of a qualified employee to be promoted to a second level position, by mere expediency of citing Item 15 of CSC MC No. 3, s. 2001. Likewise, it may be said that the matter is also prejudicial to the discretionary power of the appointing authority to choose freely according to his/her judgment among qualified employees whom he/she deems best qualified for any competitive position in the civil service.

In sum, the contention of Mayor Sarmiento that the promotional appointments of Rosalado and Casurao as Supply Officer III can be considered as an exception under Item 15 of CSC MC No. 3, s. 2001 is impressed with merit.

WHEREFORE, the appeal of Calbayog City Mayor Mel Senen S. Sarmiento is hereby **GRANTED**. Accordingly, the Order dated January 15, 2002 is hereby SET ASIDE. The CSCRO No. VIII is hereby directed to approve the appointments of Natividad D. Rosalado and Jesus T. Casurao as Supply Officer III.

Quezon City, DEC 11 2002

(Signed)
J. WALDEMAR V. VALMORES
Commissioner

(Signed)
KARINA CONSTANTINO-DAVID
Chairman

O.B.
JOSE F. ERESTAIN, JR.

Commissioner

Attested by:

(Signed)

ARIEL G. RONQUILLO

Director III

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