

## SECOND DIVISION

[ G.R. No. 234031, September 02, 2020 ]

**NATIONAL POWER CORPORATION, PETITIONER, VS. EMILIA A. CANAR, RESPONDENT.**

### DECISION

**INTING, J.:**

This is a Petition for Review<sup>[1]</sup> under Rule 45 of the Rules of Court seeking to set aside the Decision<sup>[2]</sup> dated February 13, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 144458 denying the petition for review filed by National Power Corporation (petitioner) against Emilia A. Canar (respondent); and its subsequent Resolution<sup>[3]</sup> dated August 23, 2017 denying petitioner's motion for reconsideration.

#### *The Antecedents*

Petitioner is a government-owned and -controlled corporation created by virtue of Republic Act No. (RA) 6395, as amended.<sup>[4]</sup> Respondent was a permanent employee of petitioner prior to the new table of organization and holding the position of Department Manager of the Facilities Management Department.<sup>[5]</sup>

On July 9, 2012, the Governance Commission for Government-Owned and -Controlled Corporation,<sup>[6]</sup> through Memorandum Order No. 2012-06,<sup>[7]</sup> approved and confirmed the continuing reorganization of petitioner, and adopted a new table of organization.

Respondent submitted her application for the following vacant positions in the new table of organization, to wit:

1. Department Manager, General Services, Administration and Finance (A&F)
2. Department Manager, Logistics, A&F
3. Department Manager, Human Resource Management, A&F
4. Department Manager, Revenue Management, Corporate Affairs (waived)<sup>[8]</sup>

However, petitioner did not consider respondent in any of the positions she applied for in the table of organization. It also did not reappoint her. Thus, it considered respondent separated from the service.

Instead, petitioner appointed the following personnel:

1. Paquito F. – General Services Department  
Garcia
2. Natalia O. – Logistics Department  
Guinto
3. Marciana B. – Human Resources Department  
Guinto
4. Salvador D. – Revenue Management Department.<sup>[9]</sup>  
Sarmiento, Jr.

Consequently, petitioner issued to respondent a Notice of Non-Appointment (Notice of Separation)<sup>[10]</sup> dated February 15, 2013 in accordance with RA 6656<sup>[11]</sup> and the guidelines issued pursuant thereto.<sup>[12]</sup>

Heavy-hearted, respondent appealed her non-appointment to then President of petitioner, Froilan A. Tampinco (Tampinco).<sup>[13]</sup> In her appeal, she specifically challenged the appointment of the department managers of the Logistics and Human Resource Management as not in consonance with the requirement of RA 6656.<sup>[14]</sup>

In a Memorandum<sup>[15]</sup> dated March 20, 2013, Tampinco denied respondent's appeal. The pertinent portions of the Memorandum state:

First, please be informed that the criteria used in the evaluation are the applicant's qualifications (e.g., Education, Training, Experience, Eligibility) vis-à-vis the CSC prescribed Qualification Standards (i.e., Education, Training, Experience, and Eligibility) all of which are already contained in the certified copy of the CAF provided to you.

x x x x

Finally, after careful and thorough review of the issues raised in said memo, the undersigned finds no cogent reason to reverse the decision on the appointment made to the person for the position which is the subject of your appeal.<sup>[16]</sup>

Not satisfied and feeling aggrieved by the above decision, respondent filed an appeal (*ad cautelam*) before the Civil Service Commission (CSC) assailing the decision as a violation of her rights under RA 6656 when Tampinco failed to follow the order of preference of removal from the service due to the reorganization; and when he filled out vacant positions by promoting incumbents of lower level positions.

Petitioner filed its comment to the appeal of respondent. Subsequently, respondent filed her reply.

In the Decision No. 130743<sup>[17]</sup> dated July 15, 2013, the CSC partially granted respondent's appeal by directing petitioner to consider respondent to the next lower positions in the new table of organization. The dispositive portion of the Decision No. 130743 reads:

WHEREFORE, the petition for review of Emilia A. Canar, former Department Manager, National Power Corporation (NAPOCOR), is PARTLY GRANTED. Accordingly, NAPOCOR is hereby directed to consider Canar to the next lower positions in the new staffing pattern/table of organization thereat.<sup>[18]</sup>

Both petitioner and respondent moved for reconsideration.<sup>[19]</sup>

In the Resolution No. 1500487<sup>[20]</sup> dated April 17, 2015, the CSC denied petitioner's motion for reconsideration. The dispositive portion thereof reads:

WHEREFORE, the motion for reconsideration of Froilan A. Tampinco, President, National Power Corporation (NAPOCOR), is DENIED. Accordingly, CSC Decision No. 13-0743 dated July 15, 2013 STANDS. NAPOCOR is hereby directed to consider Canar to the next lower positions in the new staffing pattern/table of organization thereat.<sup>[21]</sup>

Petitioner elevated the case to the CA assailing the Decision No. 130743 and the Resolution No. 1500487 of the CSC by filing a petition for review on March 21, 2016. Subsequently, respondent filed her comment dated May 6, 2016 on the petition.<sup>[22]</sup>

In the Decision<sup>[23]</sup> dated February 13, 2017, the CA denied the petition. It held that respondent may not automatically be separated from Service. It noted that the first paragraph of Section 4 of RA 6656 provides that in case there are not enough comparable positions, the permanent employees shall be given preference to the positions next lower in rank, viz.:

WHEREFORE, the petition is DENIED. The Decision No. 130743 promulgated on July 15, 2013 and Resolution No. 1500487 promulgated on April 17, 2015 of the Civil Service Commission are hereby AFFIRMED.

SO ORDERED.<sup>[24]</sup>

Petitioner moved for reconsideration. The CA denied it in its Resolution<sup>[25]</sup> dated August 23, 2017.

Hence, the instant petition raising the sole issue of whether the CA erred in affirming the decision and resolution of the CSC.