

FIRST DIVISION

[G.R. No. 245457, December 09, 2020]

MARILYN D. CLAVERIA, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENT.

DECISION

CARANDANG, J.:

For review is the Decision^[1] dated June 26, 2018 and the Resolution^[2] dated February 28, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 150189, which affirmed Decision No. 161484^[3] dated November 22, 2016 of respondent Civil Service Commission (CSC). The CSC's decision recalled petitioner Marilyn D. Claveria's (Claveria) appointment as Special Investigator III of the Bureau of Fire Protection (BFP).

Antecedents

On September 10, 2014, Claveria was appointed as BFP's Special Investigator III after passing a screening process by the Personnel Selection Board.^[4] The position (which was solely applied for by Claveria) was previously published in the BFP and CSC's respective websites. The said Notice of Publication^[5] stated:

NOTICE OF PUBLICATION

Publication Control No. PS-2014-005

As of 04 June 2014

XXXX

Region: NHQ Place of Assignment: Fire Suppression & Inv. Division

Position Title: Special Investigator III Salary Grade (SG): 18

ITEM NO (s): **New Item (1 Special Investigator III vacant position)**

QUALIFICATION STANDARDS:

Education : Bachelor's degree relevant to the job
Experience : 2 years of relevant experience
Training : 8 hours of relevant training
Eligibility : Career Service (Professional), Second Level Eligibility

XXXX^[6]

However, Director II Claudia Abalos-Tan (Dir. Tan) of the CSC Field Office - Department of Interior and Local Government (CSCFO-DILG) disapproved Claveria's

appointment in a Letter^[7] dated December 12, 2014, the pertinent portion of which reads:

Inasmuch as the subject position belongs to the non-uniformed group, the Fire Officer Eligibility cannot be used to meet the eligibility requirement of the position.

Hence, the appointment of Marilyn D. Claveria to Special Investigator III is **DISAPPROVED** for failing to meet the required eligibility for the position.^[8]

Dir. Tan's basis in finding Claveria ineligible for the position of Special Investigator III was Item No. 4 of CSC Resolution No. 1202190^[9] (*Re: Conduct of Fire Officer Examination and Grant of Fire Officer Eligibility*), which stated:

4. Grant a Fire Officer Eligibility to the Examinees who will pass the FOE, based on the test standard to be set by the Commission, which is appropriate for appointment to second level ranks in the fire protection service and functionally related positions only, except for ranks in the Philippine National Police.^[10]

Claveria appealed^[11] the disapproval with the CSC - National Capital Region (NCR) by comparing the Qualification Standards (QS) for the position of Special Investigator III with her personal record as basis to her claim of eligibility, viz.:

	Special Investigator III	Claveria's Qualifications
Education	Bachelor's degree relevant to the job	Bachelor of Science in Criminology
Training	8 hours of relevant training	Orientation Seminar on Fire Arson Investigation & Evidence Collection for Female Firefighters (24 hours)
Experience	2 years of relevant experience	Intelligence Agent Aide/Officer 2003 to 2014
Eligibility	Career Service (Professional)/Second Level Eligibility	Fire Officer Eligibility ^[12]

By emphasizing on the similarities between Claveria's qualifications and the requirements for the position of Special Investigator III, Claveria insisted that her Fire Officer Eligibility is compliant with the eligibility requirements of a Special Investigator III. Claveria maintained that the Fire Officer Eligibility applies to both uniformed and non-uniformed positions. Rebutting Dir. Tan's disapproval, Claveria averred that the phrase "second level ranks in the fire protection service and functionally related positions"^[13] includes non-uniformed positions such as that of a Special Investigator III, as evidenced by the congruence between the functions of a Special Investigator III, the BFP's mission/vision, and the functions of second level ranks. Claveria asserted that a Fire Officer Eligibility is a more appropriate eligibility

requirement for the position of a Special Investigator III than a generic Career Service Professional Eligibility.^[14]

Ruling of the CSC-NCR

In Decision No. 150101^[15] dated March 6, 2015, the CSC-NCR granted Claveria's appeal, thus, approved her permanent appointment as Special Investigator III. The CSC-NCR conclude that Claveria complied with CSC Resolution No. 1202190 by proving the functional relatedness between the duties of a Special Investigator III and those in the second level ranks of the BFP. It held:

A comparison of the duties and responsibilities of the foregoing positions shows (*sic*) that they are functionally related. [A p]erusal of the duties and responsibilities being discharged by the foregoing BFP personnel categorically showed that the same work towards the accomplishment of BFP's mandate of providing a modern fire protection agency that will prevent and suppress destructive fires, investigate its causes, provide emergency medical and rescue services and enforce fire-related laws (Section 54 of Republic Act No. 6975.). Evidently, the foregoing positions involve the discharge of duties and responsibilities that are similar and related to the duties and responsibilities of an SI III.^[16] (Emphasis and citation omitted)

This prompted the Legal Affairs Service of the BFP - National Headquarters to write a letter^[17] dated June 2, 2015 to the chairman of the CSC, praying that the latter recall the Claveria's appointment for violating Item No. 15^[18] of the Revised Policies on Merit Promotion Plan or the Three Salary Grace Limitation because Claveria's appointment would result in a jump in her salary grade (SG) from SG 6 to SG 18.^[19]

Ruling of the Civil Service Commission

In Decision No. 161484^[20] dated November 22, 2016, the CSC treated the letter as a Petition for Review and granted the same. Although the CSC did not apply the Three Salary Grade Limitation because Claveria's appointment was not a promotion but a change of status, the CSC still found it proper to recall Claveria's appointment. Applying the principle of *ejusdem generis*, the CSC held that the Fire Officer Eligibility applied only to functionally related uniformed positions, to wit:

While the Commission notes that the [Special Investigator III] position may involve functions which may be related to that of second level ranks in the fire protection service, however, it cannot deny the fact that [Special Investigator III] position belongs to the non-uniformed position which is a service-wide position requiring a Career Service Professional eligibility. Since Claveria is deficient in the required eligibility, she cannot be validly issued a permanent appointment to the subject position.^[21]

Claveria moved to have Decision No. 161484 reconsidered^[22] on the following grounds: (1) the decision is not supported by evidence on record;^[23] (2) CSC erred in entertaining the letter by someone who is not a party-in-interest;^[24] (3) the letter was filed beyond the 15-day reglementary period to file an appeal;^[25] and (4)

the decision incorrectly ruled that the term "functionally related positions" only referred to uniformed positions.^[26] However, the same was denied in Resolution No. 1700600^[27] dated March 7, 2017.

Aggrieved, Claveria filed a Petition for Review^[28] under Section 4, Rule 43 of the Rules of Court with the CA.

Ruling of the Court of Appeals

In its Decision^[29] dated June 26, 2018, the CA denied the petition for review. While the CA agreed that the Chief of the Legal Affairs Services lacked legal standing, the appellate court did not find anything anomalous with the CSC's review of Claveria's appointment. Citing Section 12(11),^[30] Book V of Executive Order No. 292^[31] and its implementing rules,^[32] the CA held that the CSC had the power to recall any appointment by virtue of the CSC's power to "review decisions and actions of its agencies and of the agencies attached to it."^[33]

Anent Claveria's eligibility, the CA sided with the CSC in finding Claveria's Fire Officer Eligibility insufficient to meet the required Career Service Professional Second Level Eligibility for the SI III position. The appellate court interpreted the Fire Officer Eligibility, stated under Item 4 of CSC Resolution No. 12-02190, to be applicable to uniformed personnel only. It quoted the CSC's findings, to wit:

While the Commission allows the use of Fire Officer Eligibility, the same is permitted exclusively to appointment to second level tanks in the fire protection service and functionally related positions only. Let it be clarified that the phrase "functionally related positions" in the afore-quoted provision must be construed to refer to uniformed positions in the BFP, and does not extend to non-uniformed positions which specifically require a Career Service Professional Eligibility.^[34]

Undaunted, Claveria filed the instant petition for review.^[35] Claveria averred that the CSC-NCR's decision affirming her appointment as Special Investigator III became final and immutable. Hence, Atty. Pagdanganan's Letter dated June 2, 2015 should have been disregarded by the CSC because it was filed beyond the 15 day reglementary period prescribed in Section 78,^[36] Rule 16 of the Revised Rules on Administrative Cases in the Civil Service. The CSC erred in limiting the applicability of a Fire Officer Eligibility to uniformed positions in the BFP only. Claveria pointed out that the term "ranks" refer to items in the uniformed service while the term "positions" refer to items in the non-uniformed service. CSC Resolution No. 12-02190's statement that the Fire Officer Eligibility can be used for appointment to second level ranks in the fire protection service and functionally related positions would necessarily include an appointment to the non-uniformed position of a Special Investigator III. Otherwise, it would render the phrase "functionally related positions" inoperative and would discriminate against civilian employees of the BFP who are allowed to take the Fire Officer Examination.^[37] In any case, Claveria asks for this Court's consideration similar to what this Court extended as she subsequently passed the Criminologist Licensure Examination held in June 2017.^[38]

In a Comment^[39] dated October 4, 2019, the CSC, through the Office of the

Solicitor General, maintained that the petition should be dismissed because the CA and CSC's factual findings are binding upon this Court.^[40] Claveria's appointment was correctly disapproved despite any seeming finality of the CSC-NCR's decision because of the CSC's Constitutional mandate to determine the qualification and fitness of persons appointed to the civil service. The CSC maintained that Claveria's Fire Officer Eligibility does not comply with the Special Investigator III's required Career Service Professional Second Level Eligibility. Neither is the position of a Special Investigator III a functionally related position to a second level rank in the fire protection service. Following the principle of *ejusdem generis*, the phrase "functionally related positions" in CSC Resolution No. 12-02190 pertained to uniformed positions only and not to a non-uniformed position such as a Special Investigator III even if a Special Investigator III involves functions that may be related to that of second level ranks in the fire protection service.^[41] Lastly, Claveria's subsequent passing acquisition of a Criminologist Eligibility cannot be used to cure the defect in her qualification for a Special Investigator III position because an appointee must possess the required qualifications at the date of the issuance of the appointment only.^[42]

Ruling of the Court

The petition is meritorious.

The CSC and CA failed to appreciate the rule on eligibility under the Omnibus Rules Implementing Book V of Executive Order No. 292 (Omnibus Rules). More particularly, Section 3,^[43] Rule III of the Omnibus Rules finds the eligibility resulting from civil service examinations requiring at least four years of college studies appropriate for positions in the second level. The Fire Officer Examination is one such examination. Under CSC's Examination Announcement No. 6, s. 2012 (which was the applicable issuance at the time Claveria took her Fire Officer Examination), an examinee must have a baccalaureate degree - necessarily entailing four years of college studies. Therefore, Claveria's passing the Fire Officer Examination qualified her for the second level position of Special Investigator III. From this vantage point, Claveria's petition can already be granted. Nevertheless, the Court shall now lay to rest the issue of interpreting the phrase "functionally related positions" in relation to a Fire Officer Eligibility.

It is undisputed that the CSC, as the government's central personnel agency, is Constitutionally mandated to insure that all appointments in the civil service be made only according to merit and fitness to be determined by competitive examination.^[44] Since the type of competitive examination an individual must take to enter into a second level career service position is unspecified, the CSC is given a wide latitude of discretion to determine the type of competitive examination with the end goal of promoting morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service.^[45]

One of these competitive examinations is the Fire Officer Examination (FOE). Examinees who successfully hurdle the FOE, like Claveria, obtain a Fire Officer Eligibility - which is a second level eligibility "specific and appropriate for appointment to second level ranks in the fire protection service and functionally related positions only, except for ranks under the Philippine National Police."^[46]