

## EN BANC

[ G.R. No. 182249, March 05, 2013 ]

### TRADE AND INVESTMENT DEVELOPMENT CORPORATION OF THE PHILIPPINES, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENT.

#### D E C I S I O N

**BRION, J.:**

We resolve the petition for review on *certiorari*<sup>[1]</sup> of Trade and Investment Development Corporation of the Philippines (TIDCORP) seeking the reversal of the decision<sup>[2]</sup> dated September 28, 2007 and the resolution<sup>[3]</sup> dated March 17, 2008 of the Court of Appeals (CA) in CA-G.R. SP. No. 81058. The assailed CA rulings affirmed the resolutions,<sup>[4]</sup> dated January 31, 2003 and October 7, 2003, of the Civil Service Commission (CSC), invalidating Arsenio de Guzman's appointment as Financial Management Specialist IV in TIDCORP. The CA subsequently denied the motion for reconsideration that followed.

#### **Factual Antecedents**

On August 30, 2001, De Guzman was appointed on a permanent status as Financial Management Specialist IV of TIDCORP, a government-owned and controlled corporation (GOCC) created pursuant to Presidential Decree No. 1080. His appointment was included in TIDCORP's Report on Personnel Actions (ROPA) for August 2001, which was submitted to the CSC – Department of Budget and Management (DBM) Field Office.<sup>[5]</sup>

In a letter<sup>[6]</sup> dated September 28, 2001, Director Leticia M. Bugtong disallowed De Guzman's appointment because the position of Financial Management Specialist IV was not included in the DBM's Index of Occupational Service.

TIDCORP's Executive Vice President Jane U. Tambanillo appealed<sup>[7]</sup> the invalidation of De Guzman's appointment to Director IV Agnes Padilla of the CSC-National Capital Region (NCR). According to Tambanillo, Republic Act No. (RA) 8494, which amended TIDCORP's charter, empowers its Board of Directors to create its own organizational structure and staffing pattern, and to approve its own compensation and position classification system and qualification standards. Specifically, Section 7 of RA 8494 provides:

Section 7. The Board of Directors shall provide for an organizational structure and staffing pattern for officers and employees of the Trade and Investment Development Corporation of the Philippines (TIDCORP) and upon recommendation of its President, appoint and fix their

remuneration, emoluments and fringe benefits: Provided, That the Board shall have exclusive and final authority to appoint, promote, transfer, assign and re-assign personnel of the TIDCORP, any provision of existing law to the contrary notwithstanding.

All positions in TIDCORP shall be governed by a compensation and position classification system and qualification standards approved by TIDCORP's Board of Directors based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans in the private sector and shall be subject to periodic review by the Board no more than once every four (4) years without prejudice to yearly merit reviews or increases based on productivity and profitability. TIDCORP shall be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards. It shall, however, endeavor to make the system to conform as closely as possible to the principles and modes provided in Republic Act No. 6758.

On the basis of Section 7 of RA 8494, Tambanillo argued that TIDCORP is authorized to adopt an organizational structure different from that set and prescribed by the CSC. Section 7 exempts TIDCORP from existing laws on compensation, position classification and qualification standards, and is thus not bound by the DBM's Index of Occupational Service. Pursuant to this authority, TIDCORP's Board of Directors issued Resolution No. 1185, s. 1998 approving the corporation's re-organizational plan, under which De Guzman was appointed Financial Management Specialist IV. De Guzman's appointment was valid because the plan providing for his position followed the letter of the law.

Tambanillo also noted that prior to De Guzman's appointment as Financial Management Specialist IV, the position had earlier been occupied by Ma. Loreto H. Mayor whose appointment was duly approved by Director Bugtong. Thus, Director Bugtong's invalidation of De Guzman's appointment is inconsistent with her earlier approval of Mayor's appointment to the same position.

### **The CSC-NCR's Ruling**

Director Padilla denied Tambanillo's appeal because De Guzman's appointment failed to comply with Section 1, Rule III of CSC Memorandum Circular No. 40, s. 1998, which requires that the position title of an appointment submitted to the CSC must conform with the approved Position Allocation List and must be found in the Index of Occupational Service. Since the position of Financial Management Specialist IV is not included in the Index of Occupational Service, then De Guzman's appointment to this position must be invalid.<sup>[8]</sup>

Director Padilla pointed out that the CSC had already decided upon an issue similar to De Guzman's case in CSC Resolution No. 011495 (*Geronimo, Rolando S.C., Macapagal, Vivencio M. Tumangan, Panser E., Villar, Victor G., Ong, Elizabeth P., Re: Invalidated Appointments; Appeal*) where it invalidated the appointments of several Development Bank of the Philippines (DBP) employees because their position titles did not conform with the Position Allocation List and with the Index of Occupational Service. Like TIDCORP, the DBP's charter exempts the DBP from

existing laws, rules, and regulations on compensation, position classification and qualification standards. It also has a similar duty to “endeavor to make its system conform as closely as possible to the principles under [the] Compensation and Position Classification Act of 1989 (Republic Act No. 6758, as amended)[.]”<sup>[9]</sup>

Lastly, Padilla stressed that the 1987 Administrative Code empowers<sup>[10]</sup> the CSC to formulate policies and regulations for the administration, maintenance and implementation of position, classification and compensation.

### **TIDCORP’s appeal to the CSC-CO**

In response to the CSC-NCR’s ruling, TIDCORP’s President and CEO Joel C. Valdes sent CSC Chairperson Karina Constantino-David a letter<sup>[11]</sup> appealing Director Padilla’s decision to the CSC-Central Office (CO). Valdes reiterated TIDCORP’s argument that RA 8494 authorized its Board of Directors to determine its own organizational structure and staffing pattern, and exempted TIDCORP from all existing laws on compensation, position classification and qualification standards. Citing *Javellana v. The Executive Secretary, et al.*,<sup>[12]</sup> Valdes asserted that the wisdom of Congress in granting TIDCORP this authority and exemption is a political question that cannot be the subject of judicial review. Given TIDCORP’s functions as the government’s export credit agency, its Board of Directors has been provided flexibility in administering its personnel so that it can hire qualified employees from the private sector, such as banks and other financial institutions.

In addition, prior actions of the CSC show that it recognized TIDCORP’s exemption from all laws regarding compensation, position classification and qualification standards of its employees. The CSC has approved prior appointments of TIDCORP’s officers under its July 1, 1998 re-organization plan. It also approved Mayor’s previous appointment as Financial Management Specialist IV. Further, a memorandum dated October 29, 1998 issued by the CSC-NCR noted that “pursuant to Sec. 7 of RA 8494[,], TIDCORP is exempt from existing laws, rules and regulations on compensation, position classification and qualification standards.”<sup>[13]</sup>

### **The CSC-CO’s ruling**

In its Resolution No. 030144,<sup>[14]</sup> the CSC-CO affirmed the CSC-NCR’s decision that De Guzman’s appointment should have complied with CSC Memorandum Circular No. 40, s. 1998, as amended by CSC Memorandum Circular No. 15, s. 1999. Rule III, Section 1(c) is explicit in requiring that the position title indicated in the appointment should conform with the Position Allocation List and found in the Index of Occupational Service. Otherwise, the appointment shall be disapproved. In disallowing De Guzman’s appointment, the CSC-CO held that Director Bugtong was simply following the letter of the law.

According to the CSC-CO, TIDCORP misconstrued the provisions of Section 7 of RA 8494 in its attempt to bypass the requirements of CSC Memorandum Circular No. 40, s. 1998. While RA 8494 gave TIDCORP staffing prerogatives, it would still have to comply with civil service rules because Section 7 did not expressly exempt TIDCORP from civil service laws.

The CSC-CO also supported the CSC-NCR’s invocation of CSC Resolution No.

011495. Both the charters of the DBP and TIDCORP have similar provisions in the recruitment and administration of their human resources. Thus, the ruling in CSC Resolution No. 011495 has been correctly applied in TIDCORP's appeal.

Lastly, the CSC-CO noted that the government is not bound by its public officers' erroneous application and enforcement of the law. Granting that the CSC-NCR had erroneously approved an appointment to the same position as De Guzman's appointment, the CSC is not estopped from correcting its officers' past mistakes.

TIDCORP moved to reconsider<sup>[15]</sup> the CSC-CO's decision, but this motion was denied,<sup>[16]</sup> prompting TIDCORP to file a Rule 65 petition for *certiorari*<sup>[17]</sup> with the CA. The petition asserted that the CSC-CO committed grave abuse of discretion in issuing Resolution No. 030144 and Resolution No. 031037.

### **The Appellate Court's Ruling**

The CA denied<sup>[18]</sup> TIDCORP's petition and upheld the ruling of the CSC-CO in Resolution No. 030144 and Resolution No. 031037. The CA noted that filing a petition for *certiorari* was an improper recourse; TIDCORP should have instead filed a petition for review under Section 1, Rule 43 of the Rules of Court. The CA, however, brushed aside the procedural defect, ruling that the assailed resolutions should still stand as they are consistent with law and jurisprudence.

Citing *Central Bank of the Philippines v. Civil Service Commission*,<sup>[19]</sup> the CA stood by the CSC-CO's ruling that it has authority to approve and review De Guzman's appointment. The CSC has the power to ascertain whether the appointing authority complied with the requirements of the law; otherwise, it may revoke the appointment. As TIDCORP is a government-owned corporation, it is covered by civil service laws and is therefore bound by the CSC's jurisdiction over all matters pertaining to personnel, including appointments.

Further, the CA cited the CSC's mandate under the 1987 Constitution to approve or disapprove appointments and to determine whether an appointee possesses civil service eligibility. As TIDCORP's charter does not expressly or impliedly divest the CSC of administrative authority over personnel concerns at TIDCORP, the latter is still covered by the existing civil service laws on compensation, position classification and qualification standards. Its appointment of De Guzman as Financial Management Specialist IV should have complied with these rules.

The CA thus concluded that the CSC was well-within its authority when it invalidated De Guzman's appointment. It held that an appointee's title to the office does not permanently vest until the appointee complies with the legal requirements of his appointment. The requirements include the submission of the appointment to the CSC for the determination of whether the appointee qualifies to the position and whether the procedure for appointment has been properly followed. Until these requirements are complied with, his appointment may still be recalled or withdrawn by the appointing authority.<sup>[20]</sup>

TIDCORP moved for reconsideration<sup>[21]</sup> but the CA denied the motion in a

resolution<sup>[22]</sup> dated March 17, 2008.

### **The Present Petition**

In its present petition for review on *certiorari*,<sup>[23]</sup> TIDCORP argued that the CSC's interpretation of the last sentence of Section 7 of RA 8494 (which mandates it to endeavor to make the system conform as closely as possible with the principles provided in RA 6758) is misplaced. This provision does not bar TIDCORP from adopting a position classification system and qualification standards different from those prescribed by the CSC. TIDCORP asserts that it is not also duty bound to comply with civil service rules on compensation and position classification, as it is exempt from all these rules. Instead, TIDCORP is only required to furnish the CSC with its compensation and position classification system and qualification standards so that the CSC can be properly guided in processing TIDCORP's appointments, promotion and personnel action.

Insisting on its exemption from RA 6758 and CSC Memorandum Circular No. 40, s. 1998, TIDCORP emphasizes that the provisions of RA 6758, which the CSC applied to TIDCORP, is a general law, while TIDCORP's charter, RA 8494, is a special law. In interpreting conflicting provisions of a general law and a special law, the provisions of the two laws should be harmonized to give effect to both. But if these provisions cannot be reconciled, then the special law should prevail because it is a qualification to the general rule.

Further, RA 8494 is a later expression of Congress' intent as it was enacted nine years after RA 6758 was approved, and should therefore be construed in this light in its relation with the latter. A new statute should be interpreted in connection with those already existing in relation to the same subject matter and all should be made to harmonize and stand together – *interpretare et concordare legibus est optimus interpretandi*.

Under these principles, TIDCORP argued that Section 7 of RA 8494, the provision of a special law, should be interpreted as an exemption to RA 6758. Thus, CSC Memorandum Circular No. 40, s. 1998, which was issued pursuant to RA 6758, should not have been applied to limit TIDCORP's staffing prerogatives.

In its comment,<sup>[24]</sup> the CSC noted that CSC Memorandum Circular No. 40, series of 1998, as amended by CSC Memorandum Circular No. 15, s. 1999, was issued in accordance with its authority to prescribe rules and regulations to carry out the provisions of civil service laws and other pertinent laws (Administrative Code), and not pursuant to RA 6758.

The CSC maintained that Section 2(1), Article IX-B of the Constitution includes government and controlled corporations as part of the civil service. TIDCORP, a GOCC, is therefore covered by the civil service rules and by the CSC. It should submit its Position Allocation List to the DBM, regardless of its exemption under RA 6758.

Lastly, the CSC argued that RA 8494 should not prevail over RA 6758 because the latter also applies to GOCCs like TIDCORP; RA 8494 even makes a reference to RA