

EN BANC

[G.R. No. 149497, January 25, 2010]

**NATIONAL ELECTRIFICATION ADMINISTRATION, PETITIONER,
VS. CIVIL SERVICE COMMISSION AND PEDRO RAMOS,
RESPONDENTS.**

DECISION

PERALTA, J.:

By way of a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, petitioner National Electrification Administration (NEA) seeks to annul and set aside the Decision^[1] dated May 11, 2000 and the Resolution^[2] dated August 2, 2001 of the Court of Appeals (CA) in CA-G.R. SP No. 37692.

The factual antecedents of this case are as follows:

On November 16, 1988, public respondent Civil Service Commission (CSC) passed Resolution No. 88-830^[3] regarding the issue raised by its Provincial Extension Office, Naga City, on whether NEA officials and employees were allowed to collect additional compensation or allowances from private entities such as electric cooperatives, disposing as follows:

WHEREFORE, foregoing premises considered, the Commission resolved to rule, as it hereby rules that the practice of designating NEA officials and employees to positions other than Acting General Manager and/or Project Supervisor of electric cooperatives which are private entities under NEA control and supervision, for indefinite period of time is prejudicial to the public interest and, hence, they should be recalled.^[4]

On August 10, 1989, the General Manager of Benguet Electric Cooperative, Inc. (BENECO) requested a clarification, since the basic issue raised on whether the NEA officials and employees were allowed to collect additional compensation or allowance from private entities such as electric cooperatives was not squarely resolved in CSC Resolution No. 88-830.

In Resolution No. 89-911^[5] dated November 27, 1989, the public respondent CSC held:

WHEREFORE, foregoing premises considered, the Commission has thus clarified CSC Resolution No. 88-830. Further with Republic Act No. 6713 now in effect, it is hereby ruled that the practice of designating NEA officials and employees to positions in the electric cooperatives which are

private entities under NEA control and supervision, and allowing these personnel to receive allowances in addition to their regular compensation and allowances from their mother agency (NEA) is not only beyond the import of PD 1645, but also prejudicial to the public interest and violative of RA 6713 and therefore illegal. Accordingly, it is likewise directed that upon receipt of this Resolution, the National Electrification Administration should cease and desist from designating its own officers and employees to positions in the electric cooperatives and charge cooperatives with the allowances of these personnel. However, as to the actual services rendered by these designees prior to the enactment of RA 6713 and promulgation of this Resolution, the same should be paid accordingly. These officers and employees of NEA may now be recalled and their replacement be drawn from competent members of the private sector. However, in the interest of the service and to prevent unnecessary disruption of cooperative services, said NEA officers and employees should be given a chance to exercise an option, either to retain their positions in the cooperatives and relinquish their positions in NEA or vice versa.^[6]

On May 12, 1990, petitioner moved for reconsideration of Resolution No. 89-911 arguing that public respondent had no jurisdiction to determine whether petitioner's designation of its Acting General Manager and Project Supervisor in electric cooperatives was legal or not.

In Resolution No. 90-689^[7] dated July 31, 1990, public respondent denied petitioner's motion for reconsideration, thus:

WHEREFORE, foregoing premises considered, the Commission resolved to deny the motion for reconsideration of NEA Administrator. Accordingly, CSC Resolution No. 89-911 dated November 27, 1989 as thus further clarified stands. The case is considered closed and terminated.

Let copies of this resolution be furnished the COA-NEA Resident Auditor and parties to the case.^[8]

On February 22, 1991, private respondent Pedro Ramos, a retired employee of Batangas I Electric Cooperative, Inc. (BATELEC I) filed with public respondent a letter-complaint^[9] bringing to the latter's attention, in relation to Resolution No. 89-911, the case of two of petitioner's personnel, namely Moreno P. Vista and Regario R. Breta, who since December 1988, had been designated by petitioner to BATELEC I as Project Supervisor and Acting General Manager and Technical Assistant to the Project Supervisor, respectively, and were allegedly receiving allowances from the cooperative in addition to their regular compensation and allowances from petitioner, in violation of Republic Act (RA) No. 6713, or The Code of Conduct and Ethical Standards for Public Officials and Employees. Public respondent referred private respondent Ramos' letter complaint to petitioner for comment.^[10]

On August 1, 1991, petitioner then submitted a letter^[11] by way of Comment and

Motion to Set Aside CSC Resolution No. 89-911 asking the CSC to set aside Resolution Nos. 89-911 and 90-689 and to dismiss Ramos' complaint and consider the case closed.

In the assailed Order^[12] dated January 16, 1992, public respondent resolved petitioner's Comment and Motion to Set Aside, which the former considered as petitioner's second motion for reconsideration, and which was an offshoot of the letter-complaint of private respondent Ramos, as follows:

It is noted that Resolution No. 89-911 has long become final and executory, for failure of NEA to question the same before the Supreme Court on a petition for certiorari. Hence, at the outset, the motion is denied.

The designation therefore of Vista and Breta to private cooperatives is not in accordance with the decision of the Commission. There is, therefore, merit on the complaint of Ramos. Hence, NEA is directed to recall and desist from issuing designations in favor of its employees.

WHEREFORE, foregoing premises considered, the Commission resolves to deny the instant motion. Further, the Administration of NEA is hereby directed to recall all the designations of NEA employees to the electric cooperatives including that of Moreno Vista and Rogelio (sic) Breta, and to desist from issuing designations of such kind. Failure to comply with this Order shall constrain this Commission to file a contempt proceeding against those concerned.

Let copies of this resolution be furnished the NEA-COA Resident Auditor for appropriate action.^[13]

Petitioner then filed with us a petition for *certiorari* under Rule 65 with an urgent prayer for the issuance of a preliminary injunction, docketed as G.R. No. 104031. It alleged that the public respondent has no jurisdiction to review petitioner's decision of designating its own personnel to the electric cooperatives, and that public respondent's Order dated January 16, 1992 was issued not in accordance with law.

On July 23, 1992, the Court issued a temporary restraining order^[14] directing public respondent to cease and desist from enforcing its Order dated January 16, 1992.

Subsequently, public respondent filed its Comment and petitioner filed its Reply thereto.

On June 13, 1995, the Court issued a Resolution^[15] referring the case to the CA pursuant to Revised Administrative Circular No. 1-95 which took effect on June 1, 1995.

On May 11, 2000, after considering the parties' respective pleadings, the CA rendered its assailed Decision, which denied petitioner's petition for *certiorari*.

In so ruling, the CA cited Sections 2 (1) and 3, Article IX-B of the Constitution on

public respondent's scope of coverage; that with respect to personnel matters like the designation of a government employee to a private cooperative, the CSC has jurisdiction to review the decision of petitioner in designating its own personnel to electric cooperatives. It ruled that the right of petitioner to designate its employees to cooperatives should only be done if certain conditions were present, *i.e.*, in case of default, as provided in the loan contract clause between petitioner and the electric cooperative, when vacancies in said positions occurred and/or when the interest of the cooperative and the program so required as provided under Section 5 (a) of Presidential Decree (PD) No. 259; that there was no evidence on record to show that any of these conditions existed to require the designation of NEA employees. The CA then stated that assuming for the sake of argument that a condition existed that would warrant the designation of petitioner's employees to the cooperative pursuant to the NEA Charter, receiving of additional, double or indirect compensation was in violation of Section 8, Article IX-B of the Constitution.

Petitioner's motion for reconsideration was denied in a Resolution dated August 2, 2001.

Hence, petitioner filed the instant petition for review on *certiorari*.

In its Memorandum, petitioner raises the following issues, thus:

I

WHETHER OR NOT THE ASSAILED DECISION AND RESOLUTION WHICH UPHELD THE VALIDITY OF THE CSC ORDER DATED JANUARY 16, 1992 DIRECTING NEA TO RECALL ALL NEA EMPLOYEES DESIGNATED TO ELECTRIC COOPERATIVES CONTRAVENE THE LAW AND APPLICABLE DECISIONS OF THIS HONORABLE COURT.

II

WHETHER OR NOT THE SAID CSC ORDER DATED JANUARY 16, 1992 TRANSGRESSED UPON THE LAWFUL PREROGATIVES OF NEA TO DESIGNATE ITS OWN OFFICIALS/EMPLOYEES TO THE ELECTRIC COOPERATIVES AS IT ESSENTIALLY INVOLVES THE WISDOM OF THE APPOINTING AUTHORITY AND WHICH IS BEYOND THE CSC'S POWER TO REVIEW UNDER THE CONSTITUTION AND APPLICABLE LAWS.

III

WHETHER OR NOT THE GROUNDS RELIED UPON BY THE CSC IN THE RECALL ORDER ARE PROPER CONSIDERING THAT THE DESIGNATIONS/APPOINTMENTS OF NEA PERSONNEL TO ELECTRIC COOPERATIVES ARE NEITHER BARRED AS PROHIBITED ACTS NOR COVERED BY LEGAL PROSCRIPTIONS ON CONFLICT OF INTEREST.

IV

WHETHER OR NOT THE RECEIPT BY THE DESIGNEES /APPOINTEES OF ADDITIONAL ALLOWANCES FROM THE ELECTRIC COOPERATIVES

JUSTIFIED THE ISSUANCE OF THE RECALL ORDER.

V

WHETHER OR NOT THE CSC RECALL ORDER EFFECTIVELY INVALIDATED
AND NULLIFIED PROVISIONS OF SUBSISTING LAWS AND CONTRACTS.

[16]

Petitioner contends that the constitutional provisions cited by the CA refer only to the coverage of the civil service and the establishment of a career service but does not vest upon public respondent the power or authority on personnel actions; that the CSC failed to apply the NEA Charter, including the loan provisions of contracts between petitioner and electric cooperatives; that the CSC encroached upon the exclusive option of petitioner to choose whom to designate or appoint which is lodged with the NEA Administrator. It argues that the designation of NEA personnel is not a simple case of personnel transfer or movement, which must be submitted to the CSC for approval or confirmation, and that the matter of selecting a designee to supervise electric cooperatives falls within the exclusive jurisdiction of petitioner NEA; that under the loan contracts executed between petitioner and the electric cooperatives, petitioner is conferred upon the authority to assign or appoint a Project Manager in the event of default; and that it is not within public respondent's competence to inquire into the existence of the conditions that would warrant petitioner's designation of its employees to electric cooperatives in the exercise of petitioner's power of control and supervision over said cooperatives.

Petitioner claims that public respondent's recall of the NEA personnel as Acting General Manager and/or Project Supervisor was based upon Section 12 (a) of PD No. 269 and Section 7 (a) and (b) of RA No. 6713 which are not applicable as the provisions of these laws referred to the personal interest of the concerned public officer or employee independently of the government office where he is employed; and the designations of petitioner's employees as Acting General Manager and/or Project Supervisor to cooperatives is to resuscitate their financial viability and to protect its loan exposure, and not for the personal pecuniary or other interests of the designated NEA employees.

Petitioner contends that the issue of receipt of additional allowances is separate and independent of the issue of the validity or legality of the designations; thus, the former issue should not affect the later issue and that the CSC, notwithstanding its broad powers under the Constitution, cannot prohibit the designations in controversy, as these are authorized and permitted by law.

In its Memorandum, public respondent argues that being the central personnel agency of the government, it has authority on personnel matter such as designation since it involves the imposition of additional duties on the employee apart from their regular functions; that petitioner's practice of designating its personnel as Acting General Manager of electric cooperatives is definitely a personnel movement which is within the power and authority to determine its legality. Public respondent avers that when a person is both a NEA employee and an Acting General Manager and/or Project Supervisor of an electric cooperative, he is invariably directly or indirectly interested and/or involved in the operation of said cooperative, thus, violating Section 12 of PD 269; and that when NEA approves the loan of an electric