

EN BANC

[G.R. NO. 168267, February 16, 2006]

**HOUSE OF REPRESENTATIVES AS REPRESENTED BY ITS
SECRETARY GENERAL, ROBERTO P. NAZARENO, PETITIONER, VS.
ATTY. VICTORIA V. LOANZON, RESPONDENT.**

D E C I S I O N

CARPIO MORALES, J.:

On challenge is the Court of Appeals October 28, 2004 Decision and May 20, 2005 Resolution in CA-G.R. SP No. 75944, *"House of Representatives as Represented by its Secretary-General Roberto P. Nazareno v. Atty. Victoria V. Loanzon."*

Atty. Victoria V. Loanzon (respondent) was appointed on March 8, 1999 as Deputy Secretary General, Public Relations and Information Department (PRID) of the House of Representatives by then Speaker Manuel Villar of the Eleventh Congress. Her Civil Service Commission (CSC) appointment paper (KSS Porma Blg. 33)^[1] stated that her status was "PERMANENT," albeit with a caveat annotated thereon that "THE APPOINTEE DOES NOT HAVE SECURITY OF TENURE UNTIL [SHE] OBTAINS A C[AREER] E[XECUTIVE] S[ERVICE] ELIGIBILITY."

On July 3, 2001, as there was yet no House Speaker for the Twelfth Congress, House of Representatives Secretary General Roberto P. Nazareno (Nazareno) approved a request from Quezon City Mayor Feliciano Belmonte, Jr. (Mayor Belmonte) for respondent's part-time detail at the Office of the Quezon City Mayor from July 3 to 31, 2001.

After Jose de Venecia, Jr. assumed office as Speaker on July 23, 2001 or on July 25, 2001, he issued Special Order No. 35-01 (SPK) appointing Emmanuel A. Albano (Albano) as Deputy Secretary General, PRID on temporary status, effective the same day. On even date, Mayor Belmonte again requested for the detail of respondent to his office effective August 1, 2001.

Respondent was, however, advised on July 31, 2001 that since Albano had been appointed to her position, she should accomplish her accountability clearance.

On August 2, 2001, Albano assumed office as Deputy Secretary General, PRID of the House of Representatives.

Respondent thus sought clarification on August 3, 2001 from the CSC about the status of her appointment in light of Albano's appointment to her position.

In the meantime or on September 20, 2001, the CSC approved Albano's appointment.

Speaker de Venecia later approved on October 25, 2001 Mayor Belmonte's request for respondent's detail to the latter's office effective August 1, 2001.

By Resolution No. 02-0224 issued on February 14, 2002, the CSC declared the appointment of Albano in order.

x x x [T]his Commission finds . . . the subsequent appointment of Emmanuel A. Albano as Deputy Secretary General, Public Relations and Information Department (PRID), as per Special Order No. 35-01, in Loanzon's stead, in order. And the issuance thereof signals the expiration of the term of office of Loanzon. For this reason, the approval of her detail by Speaker De Venecia can no longer be implemented as she no longer holds the position of Deputy Secretary General.

WHEREFORE, the Commission rules that **with the appointment of Emmanuel A. Albano in Loanzon's stead, the latter's appointment as Deputy Secretary General expired.**^[2] (Emphasis and underscoring supplied)

Respondent moved to reconsider CSC Resolution No. 02-0224. By Resolution No. 021103^[3] dated August 20, 2002, the CSC partially granted respondent's Motion for Reconsideration by holding that she was a rightful holder of the position of Deputy Secretary General up to July 31, 2001.

The Commission agrees that when Speaker De Venecia appointed Emmanuel A. Albano as Deputy Secretary General, PRID, on July 25, 2001, Victoria V. Loanzon was still detailed at the Office of Mayor Belmonte. Thus, in deference to the approved detail, Speaker De Venecia should not have issued an appointment to Albano until after its expiration, that is July 31. In other words, Albano's appointment on July 25, 2001 is legally infirm because there was no vacancy yet at that time.

. .

x x x x

Viewed in the light of the foregoing, Victoria V. Loanzon should be rightfully holding her position as Deputy Secretary General until July 31, 2001 and she is entitled to the payment of her salaries and other benefits up to that period only.

As to Emmanuel A. Albano, he is considered a de facto officer from July 25 to July 31, 2000. For actual services rendered he is entitled to the salary covering said period under the principle of quantum meruit.

However, as to the request of Mayor Belmonte for the extension of her detail which was approved by Speaker De Venecia to take effect on [August 1, 2001], the same is no longer valid since after July 31, 2001, Loanzon was no longer Deputy Secretary General. said approval is not tantamount to a renewal of Loanzon's appointment as Deputy Secretary General, PRID.

Finally, Loanzon's allegation that since she was occupying a permanent

position, the Commission has no power to change the nature of her appointment, the same is devoid of merit. It must be stressed that the Commission did not change her appointment from permanent to temporary, because in **reality her appointment although proposed as permanent is with a colatilla that "the appointee does not have security of tenure unless he obtains CES eligibility."** This **colatilla makes the appointment temporary for lack of the appropriate eligibility required for the position**. Said annotation is a notice to the holder thereof that the appointment extended is merely temporary, hence without security of tenure. Since the nature of the appointment extended to Loanzon was merely temporary, the same cannot acquire permanence simply because the item occupied is a permanent position, for "*what characterizes an appointment is not the nature of the item filled but the nature of the appointment extended.*" (University of the Philippines v. Court of Industrial Relations, 107 Phil. 849)

x x x x^[4]

On September 12, 2002, petitioner House of Representatives filed a Manifestation and Urgent Motion for Reconsideration ^[5] of CSC Resolution No. 021103 which was denied by CSC Resolution No. 030065^[6] of January 20, 2003.

On Petition for Review^[7] before the Court of Appeals, petitioner raised the following issues:

I

WHETHER OR NOT THE RESPONDENT IS THE RIGHTFUL HOLDER OF THE POSITION OF DEPUTY SECRETARY GENERAL, PUBLIC RELATIONS AND INFORMATION DEPARTMENT UNTIL 31 JULY 2001.

II

WHETHER OR NOT THE APPOINTMENT OF EMMANUEL A. ALBANO, VICE THE RESPONDENT, ON 25 JULY 2001 IS NOT IN ORDER.^[8]

By Decision^[9] of October 28, 2004, ^[10] the appellate court found that the position of Deputy Secretary General, PRID pertains to the **non-career service**; respondent held a primarily confidential position and her tenure was thus coterminous with and subject to the pleasure of the appointing authority, and her termination could be justified only on the ground of loss of confidence; and respondent's removal was without cause, as petitioner itself made no pretense about the absence of said ground.

The appellate court thus affirmed CSC Resolution Nos. 021103 and 030065 with modification in that it declared the removal of Loanzon and the appointment of Emmanuel Albano in her place null and void.

Hence, the present petition submitting that the appellate court gravely erred in: