

## EN BANC

[ G.R. No. 127501, May 05, 2000 ]

**CONRADO C. SALVADOR, PETITIONER, VS. COURT OF APPEALS (SPECIAL SIXTH DIVISION), HON. FULGENCIO S. FACTORAN, AS THE SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, HON. GUILLERMO N. CARAGUE, AS THE SECRETARY OF DEPARTMENT OF BUDGET AND MANAGEMENT AND THE CIVIL SERVICE COMMISSION, RESPONDENTS.**

### DECISION

**YNARES-SANTIAGO, J.:**

The instant Petition for Review seeks to set aside the September 3, 1996 Resolution<sup>[1]</sup> of respondent Court of Appeals in CA-G.R. SP No. 37611 entitled "*Remedios T. Blaquera, et al. versus Hon. Fulgencio S. Factoran, Jr.*"

Petitioner Conrado C. Salvador had been a permanent employee of the Department of Environment and Natural Resources (hereinafter referred to as DENR) since 1964. Sometime in 1987, reorganization of the DENR under Executive Order No. 192, dated June 10, 1987, commenced. This resulted in the conversion of the positions of several DENR employees to coterminous, with their term of office ending December 31, 1991. With such threat of termination, several of petitioner's co-employees filed on December 19, 1991 a Petition for Prohibition and Mandamus<sup>[2]</sup> to stop the DENR from terminating their services. Their case, entitled "*Blaquera versus Civil Service Commission*," was docketed as G.R. No. 103121.

Meanwhile, during the reorganization of the DENR, petitioner, who prior to said reorganization had held the position of Forestry Supervisor II for almost eight (8) years, was constrained to accept reappointment on September 16, 1988 as Senior Executive Assistant I, R-66/SG-17, a coterminous position with a term not to exceed three (3) years. However, petitioner filed a protest with respondent Civil Service Commission. He was later "promoted", effective February 14, 1992, to the position of Forester III, SG-18, a position still lower in rank and salary than that of Forestry Supervisor II, which he previously held.

During the pendency of G.R. No. 103121, petitioner received a letter, dated January 16, 1992, from Director Cirilo B. Serna of the Forest Management Bureau of DENR, <sup>[3]</sup> informing him that he was deemed terminated from the service effective December 31, 1991, his position being a coterminous position.

Thus, on February 24, 1992, petitioner joined his co-employees as intervenor in G.R. No. 103121, believing that his removal from the service was illegal. This was followed by his Complaint-in-Intervention filed on July 20, 1993. On September 10, 1993, a Decision was rendered in G.R. No. 103121 in favor of the petitioners therein, to wit –

"WHEREFORE, the petition for certiorari is GRANTED. The removal of the petitioners and intervenors from office is declared null and void. The respondent Secretary of the Department of Environment and Natural Resources (DENR), or his successor in office, is ordered to reinstate the petitioners to their former or equivalent positions in the DENR without loss of seniority and other benefits, and to issue regular and permanent appointments to them for the positions in the new organization and staffing pattern corresponding to their positions in the 1986 plantilla. The respondent Secretary of the Department of Budget and Management, or his successor in office, is ordered to reinstate the appropriation for the salaries of the petitioners and intervenors. The temporary restraining order which the Court issued in this case is made permanent.

The petitioners' motion to cite the public respondents for contempt of court is DENIED for having become moot after the latter's resignation from office upon the change of administration on June 30, 1992. No costs.

SO ORDERED."<sup>[4]</sup>

The aforesaid Decision became final and executory on October 25, 1993.

Accordingly, on December 8, 1993, respondent Civil Service Commission issued Resolution No. 94-6623<sup>[5]</sup> directing the DENR to issue appointments to the petitioners and intervenors, petitioner Conrado C. Salvador included, in G.R. No. 103121, under the same terms and conditions as their employment before the 1987 reorganization.

However, despite the Decision in G.R. No. 103121 and the above-mentioned Resolution of respondent Civil Service Commission, the DENR still failed and refused to reinstate petitioner to his former position or to an equivalent thereof. Meanwhile when a Supervising Forest Management Specialist retired, petitioner applied for that position, since it was the only vacant one equivalent to his former position as Forestry Supervisor II under the 1986 plantilla. Petitioner's application was, however, ignored and instead the Selections and Promotions Board of the Forest Management Bureau of the DENR appointed one Sofio B. Quintana to the position.<sup>[6]</sup>

With the continued inaction on his appointment and the appointment of another to an equivalent position as his former one, petitioner filed on February 13, 1995 with this Court a Motion to Cite Certain Respondents in Contempt<sup>[7]</sup> against the chairman and members of the Selections and Promotions Board of the Forest Management Bureau of the DENR and Carlito L. Quiazon, Jr., a field officer of respondent Civil Service Commission. After respondents filed their Comment, the Motion was referred to respondent Court of Appeals where it was docketed as CA-G.R. SP No. 37611.

On September 3, 1996, respondent Court of Appeals issued the assailed Resolution which denied petitioner Conrado C. Salvador's Motion and ruled further that inasmuch as he was earlier given a permanent appointment in the DENR, he was no longer covered by the Decision in G.R. No. 103121. Respondent court also held that the appointing power of the DENR is discretionary and that petitioner was not

entitled to the position he applied for considering that he had no vested right thereto.

Hence, the instant Petition raising the following issues-

x x x whether or not the questioned resolution of the respondent Special Sixth Division of the Court of Appeals dated September 3, 1996 amounts to an amendment or modification by the respondent appellate court of the ruling of the Honorable Supreme Court *en banc* in *Blaquera v. Civil Service Commission*.

x x x whether or not the motion to cite the chairman and members of the Selections and Promotions Board of the Forest Management Bureau of the DENR as well as Civil Service Commission Field Officer Carlito L. Quiazon, Jr. in contempt of court filed by the petitioner should be granted.<sup>[8]</sup>

The ruling in G.R. No. 103121 called for nothing less than the reinstatement of petitioners therein (including petitioner Conrado C. Salvador as intervenor), "to their former or equivalent positions in the DENR without loss of seniority and other benefits, and to issue regular and permanent appointments to them for the positions in the new organization and staffing pattern corresponding to their positions in the 1986 plantilla."

In the assailed Resolution, respondent Court of Appeals ruled that petitioner falls outside the scope of said decision since he accepted a permanent position and thus became different from the petitioners therein who were in danger of losing their jobs. In so ruling, respondent Court of Appeals relied on a DENR Memorandum dated December 22, 1993, regarding the Decision in G.R. No. 103121. The said Memorandum provides in part, as follows-

New appointments have to be issued only to the petitioners and intervenors who are still holding their coterminous positions up to the present on the strength of the Temporary Restraining Order previously issued by the High Tribunal in this case which have been made permanent by the Decision. These appointments shall cover the change of their employment status from coterminous to permanent provided they meet the minimum qualifications for the said positions. However, the following petitioners are deemed no longer covered by the Decision:

1. Those who were separated from the service by resignation, retirement, dismissal, death or transfer to other government agencies;
2. Those who accepted appointments to regular/permanent positions either by promotion, demotion or change of item (i.e., lateral movement from a co-terminous position to a similar or equivalent regular/permanent position); and
3. Those who accepted casual or contractual positions."<sup>[9]</sup>