

FOURTH DIVISION

[CA-G.R. SP No. 132071, November 20, 2014]

ELEANOR G. GADON, PETITIONER, VS. MUNICIPAL MAYOR OF SAN ANDRES, ROMBLON AND THE CIVIL SERVICE COMMISSION, QUEZON CITY, RESPONDENTS.

D E C I S I O N

GONZALES-SISON, M., J.:

This is a Petition for Review filed by petitioner **Eleanor G. Gadon** which seeks to reverse and set aside the Civil Service Commission (CSC) Decision No. 12-0717^[1] promulgated on 16 October 2012, dismissing her petition for review of the CSC Decision No. 110030^[2] dated January 5, 2011, and CSC Resolution No. 1301970 dated 27 August 2013^[3], denying her motion for reconsideration and, consequently, affirming the said CSCRO-IV Decision No. 110030.

This petition stemmed from an "Urgent Petition To Nullify the Appointments of **Eleanor G. Gadon** (Adm. Assistant II, SG-8 [Bookkeeper]); Lynn G. Falible (Adm. Aide VI [Accounting Clerk II] SG-6); John Mark G. Fernandez (Adm. Aide I, SG-1); and Annielyn M. Carandang (Midwife, SG-6)" dated July 12, 2010^[4] filed with the Civil Service Commission, Manila, thru the Civil Service Field Office in San Agustin, Romblon by Atty. Geminiano G. Galicia, Jr. (Mayor Galicia), Municipal Mayor of San Andres, Romblon.

Mayor Galicia alleged in the said urgent petition that upon his assumption of office as the local chief executive of San Andres, Romblon, he discovered, verified and confirmed that the appointments of the above-named personnel to their respective positions were illegal, in violation of Sections 325^[5] and 327^[6] of R.A. 7160, the Local Government Code, and DBM Local Budget Circular No. 75.^[7] On January 5, 2011, the Civil Service Commission (Regional Office No. 4) promulgated its Decision, the dispositive portion of which reads as follows:

"WHEREFORE, premises considered, the request for the recall of the appointment of Eleanor G. Gadon as Administrative Assistant II (Bookkeeper) by Mayor Geminiano G. Galicia, Jr., is hereby **GRANTED**. Accordingly, the appointment of Eleanor G. Gadon as Administrative Assistant II (Bookkeeper) of the Municipal Government of San Andres, Romblon, is hereby **RECALLED/INVALIDATED** on the ground that the creation of said position is not allowed under Local Government Code and Local Budget Circular No. 75.

However, until the revocation/invalidation of the appointment of Eleanor G. Gadon becomes final and executory, she should be allowed to assume

the duties and responsibilities of her position as Administrative Assistant II (Bookkeeper) and receive all the salaries and benefits appurtenant thereto.

Let copies of this Decision be furnished Eleanor G. Gadon, Mayor Geminiano G. Galicia, Jr., the HRMO of Municipal Government of San Andres, and the CSCFO-Romblon, at their known addresses.

Quezon City.”

Aggrieved, Eleanor G. Gadon, in a letter^[8] dated January 27, 2011 requesting for reconsideration of the aforesaid Decision, claims as follows:

“Please be it known that my position as Municipal Bookkeeper is existing and vacant since June 1, 2004. It is stated in your letter that ***'it is a basic rule that appointment may only be issued to an existing and vacant position.'*** As the record shows, my appointment duly complied with the requirements which justified its approval, x x x.

Being an existing position and duly funded, my appointment is clothed with legality, hence, this reconsideration.”

However, on October 14, 2011, the Civil Service Commission (Regional Office No. 4) promulgated its Resolution (No. 11-00164) denying Eleanor G. Gadon's request/motion for reconsideration, for lack of merit.

Unsatisfied, Eleanor G. Gadon, through counsel, filed a Notice of Appeal^[9] dated November 23, 2011, which was treated by the Civil Service Commission (Central Office) as Petition for Review of the Decision dated January 5, 2011 and the Resolution dated October 14, 2011 of the Civil Service Commission Regional Office (CSCRO) No. IV, Quezon City.

On March 15, 2012, the CSC-Central Office, through the Office for Legal Affairs (OLA), directed Gadon's legal counsel to submit the appeal memorandum and certified true copies of the decision of CSCRO No. IV and evidence of his client. However, Gadon and her counsel failed to comply with the said directive of the Civil Service Commission-Central Office within the time allowed. Hence, on 16 October 2012, the CSC-Central Office promulgated its Decision^[10] dismissing Gadon's petition for review, pursuant to Section 114, Rule 23, Revised Rules on Administrative Cases in the Civil Service (RRACCS).^[11]

Undaunted, Gadon, through counsel, moved for the reconsideration of the CSC Decision (No. 12-0717) which was denied by the CSC-Central Office in its Resolution (No. 1301970) dated 27 August 2013.

Hence, the present petition, with the following assignment of errors:

I

THE HONORABLE CIVIL SERVICE COMMISSION – CENTRAL OFFICE – GRAVELY ERRED IN ITS FINDINGS OF FACTS WHEN IT DECLARED THAT THE PETITIONER FAILED TO SUBMIT THE REQUIRED DOCUMENTS/PLEADINGS AND SUBSEQUENTLY DISMISSED THE CASE, WHEN IN TRUTH AND IN FACT, PETITIONER HAD ALREADY SUBMITTED THE SAME DOCUMENTS BEFORE THE SAID OFFICE EXCEPT THOSE WHERE SHE WAS (SIC) NOT EXPRESSLY STATED IN THE LETTER-DIRECTIVE TO SUBMIT THE SAME.

II

THE HONORABLE CIVIL SERVICE COMMISSION – CENTRAL OFFICE – GRAVELY ERRED IN DENYING THE MOTION FOR RECONSIDERATION TO (SIC) THE ORDER OF DISMISSAL WITHOUT ANY JUST, VALID, AND JUSTIFIABLE GROUNDS.

III

THE HONORABLE CIVIL SERVICE COMMISSION – CENTRAL OFFICE – GRAVELY ERRED WHEN IT ORDERED THE DISMISSAL OF THE PETITIONER (SIC) BASED ON TECHNICALITIES INSTEAD OF DECIDING THE CASE ON THE MERITS.

At the heart of the controversy is the issue of whether the dismissal of petitioner's petition for review of the Decision of the Civil Service Commission-Regional Office No. 4 by the Civil Service Commission-Central Office is proper.

At the outset, it bears stressing that the right to appeal is a statutory right and one who seeks to avail of the right must comply with the statute or rules. The rules, particularly the manner for perfecting an appeal is outlined in Section 114, Rule 23 of the Revised Rules on Administrative Cases in Civil Service (CSC Resolution No. 11-01502 dated November 18, 2011), to wit:

"Section 114. *Perfection of an Appeal.* - To perfect an appeal, the appellant shall submit three (3) copies of the following documents:

- a. Appeal memorandum containing the grounds relied upon for the appeal, together with the certified true copy of the decision, resolution or order appealed from and certified copies of the documents or evidence. The appeal memorandum shall be filed with the appellate authority, copy furnished the appointing authority. The latter shall submit the records of the case, which shall be systematically and chronologically arranged, paged and securely bound to prevent loss, with its comment, within fifteen (15) days from receipt, to the appellate authority.