

THIRD DIVISION

[G.R. No. 199232, November 08, 2017]

**ROBERTO EMMANUEL T. FELICIANO, PETITIONER, VS.
DEPARTMENT OF NATIONAL DEFENSE, REPRESENTED BY SEC.
VOLTAIRE T. GAZMIN, RESPONDENT.**

[G.R. No. 201577]

**HORACIO S. GONZALEZ, PETITIONER, VS. DEPARTMENT OF
NATIONAL DEFENSE, REPRESENTED BY SEC. VOLTAIRE T.
GAZMIN, RESPONDENT.**

R E S O L U T I O N

BERSAMIN, J.:

This appeal seeks to undo the termination of the petitioners' service by the Department of National Defense (DND) on the basis that they did not enjoy security of tenure for not having completed the four stages of qualification for the Career Executive Service Eligibility (CESE).

The Case

Being assailed are the decisions separately promulgated by the Court of Appeals (CA). In G.R. No. 199232, the petitioner prays for the review and reversal of the decision promulgated on October 12, 2011 by Fourteenth Division of the CA in CA-G.R. SP No. 119738.^[1] In G.R. No. 201577, the petitioner assails the decision promulgated on October 3, 2011 by the Special Eleventh Division of the CA in CA-G.R. SP No. 119739.^[2] Under the decisions, the rulings of the Civil Service Commission (CSC) setting aside the termination of the petitioners from their respective positions as Assistant Secretary and Director III of the DND for having lacked the required CESE that would have given them security of tenure were reversed.

Antecedents

At the time material to this adjudication, petitioner Roberto Emmanuel T. Feliciano possessed a CSEE^[3] and served as Assistant Secretary of the DND;^[4] and petitioner Horacio S. Gonzalez, who also had a CSEE^[5] held the position of Chief of the Administrative Service Office of the DND.^[6]

On June 30, 2010, Executive Secretary Paquito N. Ochoa issued Memorandum Circular No. 1,^[7] providing as follows:

All non-career executive service officials (non-CESO) occupying career executive service (CES) positions in all agencies of the Executive Branch shall remain in office and continue to perform their duties and discharge their responsibilities until July 31, 2010 or until their resignations have been accepted and/or their respective replacements have been appointed or designated, whichever comes first.

Pursuant to Memorandum Circular No. 1, DND Sec. Voltaire T. Gazmin issued Department Order No. 154 to terminate 11 officials of the DND, including Gonzalez, on account of their lack of the CSEE; and to re-designate Feliciano as Assistant Secretary for Strategic Assessment of the DND.^[8] Subsequently, on July 13, 2010, Feliciano received Department Order No. 163 terminating his designation and services as Assistant Secretary for Strategic Assessment.^[9]

Aggrieved, the petitioners filed their respective appeals by letters-complaint in the CSC on the ground of illegal termination.^[10]

The DND, through Sec. Gazmin, countered the letters-complaint of the petitioners by citing Memorandum Circular No. 1, as amended by Memorandum Circular No. 2,^[11] to the effect that all non-CESO officials occupying CES positions in all agencies of the Executive Branch would remain in office until their respective replacements were appointed and qualified, whichever came first; and that the petitioners, not being CESOs for having failed to complete all the necessary requisites, did not enjoy security of tenure.^[12]

Ruling of the CSC

On January 18, 2011, the CSC rendered its decision in favor of Feliciano,^[13] to wit:

WHEREFORE, the illegal termination of Roberto Emmanuel T. Feliciano, former Assistant Secretary, Department of National Defense, is hereby declared **NOT VALID**. Accordingly, the Commission directs Department of National Defense (DND) Secretary Voltaire T. Gazmin to reinstate Feliciano to his previous position as Assistant Secretary with payment of back salaries and other benefits from the time he was illegally terminated until his actual reinstatement in the service.

The Civil Service Commission National Capital Region is directed to monitor the strict implementation of this Decision and submit a report thereon to the Commission.

Similarly, through its decision of January 18, 2011,^[14] the CSC ruled that the termination of Gonzalez was not valid, and directed his reinstatement, *viz.*:

WHEREFORE, the illegal termination of Horacio S. Gonzalez, former Director III, Department of National Defense (DND), is hereby declared **NOT VALID**. Accordingly, the Commission directs DND Secretary Voltaire T. Gazmin to reinstate Gonzalez to his previous position as Director III with payment of back salaries and other benefits from the time he was illegally terminated until his actual reinstatement in the service.

The Civil Service Commission National Capital Region (CSC-NCR) is

directed to monitor the strict implementation of this Decision and submit a report thereon to the Commission.

Ruling of the CA

On appeal, the CA Fourteenth Division declared the termination of Feliciano as valid because he lacked the required CSEE to secure his CES position at the DND at the time the assailed memorandum was issued; that he could not avail himself of the benefits granted by Career Executive Service Board (CESB) Resolution No. 637 if he had not completed the four-staged process for the CSEE; that he could not evade the requirements that he was subjected to in order to acquire the CESE; that only a full-fledged CESO was entitled to security of tenure because the mere fact that his position belonged to the Career Executive Service did not automatically confer security of tenure on him as the occupant if he did not possess all the qualifications; and that his termination should be upheld.^[15]

The CA Fourteenth Division held that the CSC had no jurisdiction over the case of Feliciano because the CESB was the governing body for the Career Executive Service pursuant to Presidential Decree No. 1^[16] issued by President Arroyo.^[17]

On its part, the CA Special Eleventh Division pronounced that the CSC did not err in taking cognizance of the case of Gonzalez considering that the CSC, by express provision of Executive Order No. 292, had the power to hear and decide administrative cases instituted before or brought to it directly or on appeal and to render opinions and rulings on all personnel and other Civil Service matters; and that as the sole central personnel agency of the Government vested with adjudicatory powers, the CSC had the power and function to render opinions and rulings on all personnel and other Civil Service matters.^[18]

However, CA Special Eleventh Division reversed the CSC relative to Gonzales, observing that although he had already been conferred the CSEE by the CSC and could be recommended by the CESB for appointment to the CESO ranks by the President, the fact that he still had to accomplish or complete the remaining two stages (i.e., the assessment center and the performance validation stage) to qualify him for appointment to the CESO rank despite his being already the holder of the CSEE militated against his argument of entitlement to security of tenure. Accordingly, the termination of Gonzalez was valid.

The petitioners separately appealed by petitions for review on *certiorari*.

Issue

The issues are, one, whether or not the CSC had jurisdiction over the appeals of the petitioners; and, two, whether or not the CA gravely erred in finding the petitioners' termination valid.

Ruling of the Court

The appeals are bereft of merit.

1.

The CSC has jurisdiction over the cases of the petitioners

The CSC is one of the three independent Constitutional Commissions invested with adjudicative powers to render final arbitration on disputes and personnel actions involving matters relating to the Civil Service. Section 3 of Article IX-B specifies the mandate of the CSC as an independent constitutional commission, to wit:

Section 3. The Civil Service Commission, as the **central personnel agency of the Government, shall establish a career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service. It shall strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability.** It shall submit to the President and the Congress an annual report on its personnel programs. (Bold emphases supplied)

Executive Order No 292 (*The Administrative Code of 1987*)^[19] enumerates the following powers and functions of the CSC, the ones relevant to the pending case of the petitioners being the following:

- 1) **Render opinion and rulings on all personnel and other Civil Service matters** which shall be binding on all head of departments, offices, and agencies which may be brought to the Supreme Court on *certiorari*; and
- 2) **Hear and decide administrative cases instituted by or brought before it directly or on appeal, including contested appointments, and review decisions and actions of its offices and agencies attached to it.** Officials and employees who fail to comply with such decisions, orders or rulings shall be liable for contempt of the Commission. Its decisions, orders, or rulings shall be final and executory. Such decisions, orders or rulings may be brought to Supreme Court on *certiorari* by the aggrieved party within thirty (30) days from receipt of the copy thereof. (bold underscoring for emphasis)

On the other hand, the CESB was established pursuant to the Integrated Reorganization Plan (IRP) to serve as the governing body of the CES. It was tasked to perform the following functions, namely: (a) to promulgate rules, standards and procedures for the selection, classification, compensation and career development of members of the CES; (b) to set up the organization and operation of the CES in accordance with the guidelines provided in the plan; (c) to prepare a program of training and career development for members of the CES; (d) to investigate and adjudicate administrative complaints against members of the CES.^[20]

In *Career Executive Service Board v. Civil Service Commission*,^[21] the Court has explained that the powers granted to the CESB, being specific and limited, must be narrowly interpreted as exceptions to the comprehensive authority granted to the CSC by the Constitution and relevant statutes, viz.:

It is a basic principle in statutory construction that statutes must be interpreted in harmony with the Constitution and other laws. In this case, the specific powers of the CESB over members of the CES must be interpreted in a manner that takes into account the comprehensive mandate of the CSC under the Constitution and other statutes.

The present case involves the classification of positions belonging to the CES and the qualifications for these posts. **These are matters clearly within the scope of the powers granted to the CESB under the Administrative Code and the Integrated Reorganization Plan. However, this fact alone does not push the matter beyond the reach of the CSC.**

As previously discussed, the CSC, as the central personnel agency of the government, is given the comprehensive mandate to administer the civil service under Article IX-B, Section 3 of the 1987 Constitution; and Section 12, Items (4), (5), and (14) of the Administrative Code. It has also been expressly granted the power to promulgate policies, standards, and guidelines for the civil service; and to render opinions and rulings on all personnel and other civil service matters.

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It must likewise be emphasized that the CSC has been granted the authority to review the decisions of agencies attached to it under Section 12 (11), Chapter 3, Subtitle A, Title I, Book V of the Administrative Code:

SECTION 12. Powers and Functions. - The Commission shall have the following powers and functions:

xxx xxx xxx

(11) Hear and decide administrative cases instituted by or brought before it directly or on appeal, including contested appointments, and review decisions and actions of its offices and of the agencies attached to it. Officials and employees who fail to comply with such decisions, orders, or rulings shall be liable for contempt of the Commission. Its decisions, orders, or rulings shall be final and executory. Such decisions, orders, or rulings may be brought to the Supreme Court on *certiorari* by the aggrieved party within thirty (30) days from receipt of a copy thereof;

Since the CESB is an attached agency of the CSC, the former's decisions are expressly subject to the CSC's review on appeal.

In fine, although the CESB is expressly empowered to promulgate rules, standards and procedures on the selection, classification, compensation and career development of the members of the CES,^[22] the power and function to hear and decide administrative cases on all personnel and civil service matters remained to be duty and function of the CSC as the central personnel agency of the Government.