

## EN BANC

[ G.R. No. 158737, August 31, 2004 ]

### **CIVIL SERVICE COMMISSION, PETITIONER, VS. SATURNINO DE LA CRUZ, RESPONDENT.**

### **D E C I S I O N**

#### **CORONA, J.:**

Before us is a petition for certiorari under Rule 45 of the Revised Rules of Court, seeking to review and set aside the May 14, 2003 decision<sup>[1]</sup> and June 17, 2003 resolution<sup>[2]</sup> of the Court of Appeals in CA-G.R. SP No. 54088, entitled *Saturnino de la Cruz vs. Civil Service Commission*. In that decision, the appellate court set aside CSC Resolution Nos. 98-2970 and 99-1451, consequently approving Saturnino de la Cruz' appointment as Chief of the Aviation Safety Regulation Office.

The pertinent facts,<sup>[3]</sup> as narrated by the Office of the Solicitor General, follow.

Respondent Saturnino de la Cruz is an employee of the Air Transportation Office, DOTC, presently holding the position of Chief Aviation Safety Regulation Officer of the Aviation Safety Division.

Respondent was promotionally appointed to the said position on November 28, 1994, duly attested by the Civil Service Commission (CSC). But prior thereto, he was a Check Pilot II in the Air Transportation Office (ATO).

In a letter dated February 9, 1995, Annabella A. Calamba of the Aviation Security Division of the ATO formally filed with the Department of Transportation and Communication (DOTC) her protest against the promotional appointment of respondent as Chief Aviation Safety Regulation Officer, claiming among others that respondent did not meet the four-year supervisory requirement for said position.

On July 20, 1995, then DOTC Secretary Jesus B. Garcia rendered a decision finding the protest without merit.

Apparently dissatisfied, Calamba appealed the decision of the DOTC Secretary to the CSC-NCR.

Under date of October 17, 1995, Director Nelson Acebedo of CSC-NCR requested ATO Executive Director Manuel Gilo to comment on the appeal and to submit to the CSC-NCR the documents pertinent thereto.

Since the CSC-NCR received no action on said request for comment, the CSC-NCR again wrote Director Gilo regarding the matter on May 5, 1997.

But to no avail.

On October 14, 1997, for the last time, the CSC-NCR reiterated to Director Gilo its request for comment.

On November 18, 1997, the CSC-NCR rendered its decision upholding the protest of Calamba and recalling the approval of respondent's appointment as Chief Aviation Safety Regulation Officer. Said the CSC-NCR:

"After an initial evaluation of the protest, we find that the only issue to be resolved is whether or not the protestee meets the minimum experience requirements as of the date of the protestee's appointment to the contested position. The contested position requires four years of work experience in position/s involving management per Qualification Standards Manual prescribed by MC No. 46, s. 1993 and/or four years of experience in planning, organizing, directing, coordinating and supervising the enforcement of air safety laws, rules and regulations pertaining to licensing, rating and checking of all airmen and mechanics and regulation of the activities of flying schools per ATO Qualification Standards xxx.

xxx xxx xxx

Taking into account his previous positions, Mr. dela Cruz could not have exercised managerial or supervisory functions for the required number of years. x x x. Moreover, vis-à-vis the experience requirements of the approved ATO Qualification Standards, Mr. dela Cruz' work experience prior to his appointment to the contested position did not concur therewith.

We are of the view therefore, that experience-wise, Mr. dela Cruz did not meet the requirements of the contested position as of the date of his appointment thereto.

xxx xxx xxx."

Under date of December 11, 1997, ATO Director Gilo wrote the CSC-NCR asking for the suspension of the order recalling respondent's appointment, citing several reasons in support thereof.

Subsequently, a Manifestation with Motion to Admit Addendum dated December 22, 1997 was filed by Director Gilo with the CSC-NCR. Director Gilo argued that Calamba had no legal personality to file a protest because she is not a qualified next-in-rank and that the protest was filed out of time. He likewise asserted that respondent had fully met the qualifications required of the position.

On January 5, 1998, CSC-NCR Director Acebedo ruled that there is no cogent reason to disturb earlier rulings on the matter. He also denied ATO

Director Gilo's request, for lack of merit.

Strangely, in a letter dated January 13, 1998, CSC-NCR Director Acebedo granted Director Gilo's request and affirmed the approval of respondent's appointment as Chief Aviation Safety Regulation Officer. He said:

"xxx xxx xxx.

We reviewed again the documents including the Office Orders designating protestant dela Cruz to supervisory position which were obviously issued during the latter part of 1993. A liberal consideration thereof would come up with a little over one year of supervisory and managerial experience. Certainly, he was short of the required number of years of work experience for the contested position as of the date of the issue of his appointment. Nevertheless, considering that Mr. dela Cruz has already in his favor at least four years of continuous supervisory/managerial experience from his designation as Acting Chief of the Aviation Safety Regulation Division, supervised by his permanent appointment thereto as Chief thereof in November 28, 1994, up to present, he has substantially satisfied the four years experience required for appointment to the contested position.

xxx xxx xxx."

In a letter dated January 26, 1998, Calamba requested the CSC to implement the January 5, 1998 ruling of the CSC-NCR.

When asked by the CSC to clarify the conflicting rulings, CSC-NCR Director Acebedo explained that the January 5, 1998 ruling is unofficial and inexistent.

The CSC treated Calamba's request as an appeal. On November 13, 1998, the CSC rendered its Resolution No. 98-2970, the decretal portion of which reads:

"WHEREFORE, the appeal of Annabella A. Calamba is hereby granted. The appointment of Saturnino De la Cruz as Chief Aviation Regulation Officer is disapproved. De la Cruz is hereby reverted to his former position.

xxx xxx xxx."

Acting on the request for reconsideration filed by respondent, the CSC rendered its Resolution No. 99-1451 on July 6, 1999, the dispositive portion of which reads:

"WHEREFORE, the instant motion for reconsideration of Saturnino dela Cruz is hereby denied. Accordingly, CSC Resolution No. 98-2970 dated November 13, 1998 stands."

On August 11, 1999, respondent filed a petition for review with the Court of Appeals, docketed as CA-G.R. SP No. 54088, seeking to nullify CSC Resolution Nos. 98-2970 and 99-1451.

In a decision<sup>[4]</sup> dated March 14, 2003, the Court of Appeals granted the petition by setting aside CSC Resolution Nos. 98-2970 and 99-1451 and approving respondent's appointment as Chief of the Aviation Safety Regulation Office.

Petitioner's motion for reconsideration was subsequently denied in a resolution issued on June 17, 2003.

Hence, the instant petition for review.

Petitioner contends that the appellate court erred in approving respondent's appointment as Chief Aviation Safety Regulation Officer despite his failure to meet the minimum four-year managerial and supervisory qualification for the position. It further contends that respondent's completion of the required experience *during the pendency of the present case* cannot be counted in his favor because compliance with the prescribed mandatory requirements should be as of the date of issuance of the appointment and not the date of approval by the CSC or the resolution of the protest against the appointment.

The petition lacks merit.

Contrary to petitioner's contention, respondent has sufficiently complied with the required experience standards.

First, upon the issuance of respondent's appointment on November 28, 1994, the qualification standards of the DOTC for the position of Chief Aviation Safety Regulation Officer were as follows:

EDUCATION: BACHELOR'S DEGREE RELATED TO AVIATION

EXPERIENCE: 4 YEARS OF EXPERIENCE IN PLANNING, ORGANIZING, DIRECTING, COORDINATING, AND SUPERVISING THE ENFORCEMENT OF AIR SAFETY LAWS, RULES, AND REGULATIONS PERTAINING TO LICENSING, RATING AND CHECKING OF ALL AIRMEN AND MECHANICS AND THE REGULATION OF THE ACTIVITIES OF FLYING SCHOOLS.

LICENSE REQUIRED: AIRLINE TRANSPORT RATING / FLIGHT OPERATIONS OFFICER / AIRCRAFT MAINTENANCE ENGINEER (A&P) LICENSE / FLIGHT ENGINEER LICENSE

TRAINING: IN-SERVICE TRAINING IN MANAGEMENT; SPECIALIZED COURSE IN AIRCRAFT MAINTENANCE / AIR

CARRIER OPERATIONS/ FLIGHT  
DISPATCHING/ AIRCRAFT ACCIDENT  
INVESTIGATION/ EQUIPMENT  
QUALIFICATION COURSE / FLIGHT  
TRAINING (LOCAL & ABROAD)

ELIGIBILITY: RELEVANT RA 1080 CAREER SERVICE  
PROF. 1<sup>ST</sup> GRADE  
RELEVANT ELIGIBILITY FOR SECOND  
LEVEL POSITION<sup>[5]</sup>

As noted by the CSC-NCR,<sup>[6]</sup> the contested position required four years of work experience in managerial position(s) per the Qualification Standards Manual prescribed by MC No. 46, s. 1993 **and/or** four years of experience in planning, organizing, directing, coordinating and supervising the enforcement of air safety laws, rules and regulations pertaining to licensing, rating and checking of all airmen and mechanics and regulation of the activities of flying schools per the above-stated ATO-DOTC Qualification Standards.

Petitioner's insistence that respondent failed to meet the four-year managerial *and* supervisory experience requirement is misplaced. It is a well-settled rule in statutory construction that the use of the term "and/or" means that the word "and" and the word "or" are to be used interchangeably.<sup>[7]</sup> The word "or" is a disjunctive term signifying dissociation and independence of one thing from another.<sup>[8]</sup> Thus, the use of the disjunctive term "or" in this controversy connotes that either the standard in the first clause or that in the second clause may be applied in determining whether a prospective applicant for the position under question may qualify.

Respondent would indeed lack the required years of work experience to qualify for the contested position if the managerial standards in the first clause above were to be strictly followed. At the time of his permanent appointment on November 28, 1994 as Chief Aviation Safety Regulation Officer, respondent had a little over one year of managerial experience from his designation as Acting Chief of the Aviation Safety Division during the latter part of 1993. However, the work already rendered by respondent in the ATO at the time of his appointment was well within the supervisory standard in the second clause. Planning, organizing, directing, coordinating and supervising the enforcement of air safety laws, rules and regulations pertaining to licensing, rating and checking of all airmen and mechanics and regulation of the activities of flying schools were part of the work performed by respondent for more than 13 years prior to his appointment.

Before respondent was appointed to the contested position, he had held several other positions in the ATO, namely:

March 6, 1981 to July 15, 1981	Supply Checker
July 16, 1981 to February 5, 1983	Junior Aeronautical Engineer
February 6, 1983 to February 29, 1984	Air Carrier Safety Inspector
March 1, 1984 to February 28, 1987	Check Pilot I
March 1, 1987 to November 27, 1987	Check Pilot II