



Republic of the Philippines
**CIVIL SERVICE
COMMISSION**

Para sa taum **BAYAN**

MONTEGRANDE, Fiel M.
Re: Invalidated Appointment
(Petition for Review)
(NDC-2015-03009)

Number: 150684

Promulgated: 18 SEP 2015

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DECISION

Fiel M. Montegrando, Municipal Civil Registrar, Municipal Government of Tabogon, Cebu, through counsel, files a motion for reconsideration, treated as a Petition for Review, from the Decision No. 14-0089 dated December 4, 2014 of the Civil Service Commission Regional Office (CSCRO) No. VII, Cebu City, invalidating his temporary appointment as Municipal Civil Registrar, same municipal government for lack of experience.

The pertinent portions of the Decision No. 14-0089 dated December 4, 2014 of the CSCRO No. VII read, as follows:

xxx

"It is patent from the foregoing that appellant failed to meet the experience requirements in civil registry work as well as in management and supervision.

"Moreover, under Sec. 2 (b), Rule III of the Revised Omnibus Rules on Appointment, a temporary appointment can only be issued if the deficiency, is eligibility, xxx.

"Apparently, appellant meets the education, training and eligibility requirements for the position except for the experience requirement. Consequently, xxx, this Office is inclined to affirm the invalidation of Montegrando's temporary appointment.

*"WHEREFORE, the instant appeal is hereby **DISMISSED** for lack of merit. The action of CSC Cebu North Field Office (CNFO) invalidating the appointment of Fiel M. Montegrando to Municipal Government Department Head I (Local Civil Registrar) position in the Municipality of Tabogon, Cebu, is hereby **AFFIRMED.**"*

In his appeal, Montegrando represents, thus:

xxx

"BASIS FOR APPOINTMENT INVALIDATION WAS ON ACCOUNT OF (1) LACK OF ELIGIBILITY IN THE PRC WEBSITE AND (2) NO CERTIFICATE OF NO QUALIFIED ELIGIBLE.

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Commission Secretariat & Liaison Office

"Appellant most respectfully invites the attention of this Honorable Commission to the fact that the aforesaid requirements were already complied with albeit belatedly. These are the primordial requirements that the resolution of CSC-CNFO stated. There was no mention about the lack of appropriate experience requirement as a ground for the said invalidation. It was obviously done only as an afterthought in their comment to the Order of this Honorable Commission. We submit that the invalidation does not cover the lack of experience.

"SPIRIT OF THE LAW

"Appellant most respectfully submits that the three (3) year experience in civil registry work requirement ranked 6th only or at the lowest rank in the order or hierarchy of requirements in Section 479 of the Local Government Code, hence we can surmise that being the last requirement, it can be remedied by a temporary appointment to the applicant provided the first five (5) basic requirement i.e., are meet.

**"NO LAW PROHIBITING
TEMPORARY APPOINTMENTS**

"We submit that the spirit and intent of the Local Government Code gives the Local Chief Executive ample- leverage and authority to fill up a vacant Local Civil Registrar position which is a very critical position in the Local Government Unit and hereto appoint eligible and highly qualified people whom he can repose his utmost trust and confidence. Moreover, appellant further submits that the law does not explicitly prohibits such temporary appointment.

"EXIGENCIES OF THE POSITION

"In view of the urgent exigencies of the job wherein numerous Petitions were piling up and complaints from taxpayers are rising, and considering that there was no available first grade civil (sic) available in the office to be promoted, the local Chief Executive thereby invoked the provisions of Section 16 or General Welfare Clause of the Local Government Code in order to hire a temporary appointee pending compliance [with] the last requirement. The numerous pending petitions were accordingly acted upon by the temporary appointee, and the Local Civil Registrars Office is now functioning and serving the public smoothly, efficiently and effectively.

"SUBSTANTIAL WORK EXPERIENCE EARNED

"The temporary appointee has now earned about a year on-the-job of civil registry work experience which he has very satisfactorily serviced and its only a matter of time that the three year Requirement will soon be complied if allowed to do so."

Record shows that on February 16, 2014, Montegrande was appointed by Mayor Zigfred P. Duterte, Municipal Government of Tabogon, Cebu, to the position of Municipal Government Department Head I (Local Civil Registrar) under temporary status and in the nature of reemployment. The Municipal Government of Tabogon is authorized to take final

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Chief Personnel Specialist

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action on appointments. Thus, on March 27, 2014, said agency submitted its Report on Appointments Issued (RAI) containing the appointment of Montegrande, among others, to the Civil Service Commission Field Office (CSCFO)—Cebu North. In a Letter dated April 21, 2014, the CSCFO-Cebu North invalidated said appointment for failure of the agency to present a certification that there is no qualified eligible actually available.

Dissatisfied, Mayor Duterte raised the matter before the CSCRO No. VII, and on December 4, 2014, said office issued the afore-quoted Decision sought to be reviewed. In said decision, the CSCRO No. VII found that Montegrande cannot be appointed under temporary status because his deficiency is experience requirement, and that temporary status of appointment could only be issued if the appointee is deficient of the eligibility requirement of the position, subject to the condition that there is no qualified eligible actually available. Mayor Duterte moved for the reconsideration thereof which, as a facilitative action¹, was forwarded to the Commission by the CSCRO No. VII.

The sole issue for resolution is whether the herein petition for review is meritorious.

Relevant to the case is **Section 27 (2) of Chapter V, Book V of Executive Order No. 292²** which provides that:

x x x

*“(2) **Temporary Appointment.** – In the absence of appropriate eligibles and it becomes necessary in the public interest to fill a vacancy, a temporary appointment shall be issued to a person who meets all the requirements for the position to which he is being appointed except the appropriate eligibility; Provided, That such temporary appointment shall not exceed twelve months, but the appointee may be replaced sooner if a qualified civil service eligible becomes available.”* (Underscoring supplied)

x x x

Corollarily, **Section 2 (b), Rule III, Revised Omnibus Rules on Appointment and Other Personnel Actions³** reads, as follows:


x x x

¹ “Section 78. *Where and When to File.* – Appointments invalidated or disapproved by the CSCFO may be appealed to the CSCRO while those invalidated or disapproved by the CSCRO may be appealed to the Commission within the fifteen (15) day reglementary period.

“To facilitate prompt actions on invalidated or disapproved appointments, motions for reconsideration filed with the CSCFO shall be treated as an appeal to the CSCRO and a Motion for Reconsideration at the CSCRO will be treated as an appeal to the Commission and all the records thereof including the comments of the CSCFO or CSCRO shall, within ten (10) days from receipt of the latter, be forwarded to the CSCRO or the Commission as the case may be.” (Section 78, Revised Rules on Administrative Cases in the Civil Service)

² The Administrative Code of 1987

³ CSC Memorandum Circular No. 40, s. 1998, as amended


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Chief Personnel Specialist
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“b. *Temporary - issued to a person who meets the education, experience and training requirements for the position to which he is being appointed except for the appropriate eligibility but only in the absence of a qualified eligible actually available, as certified by the Civil Service Regional Director or Field Officer. The appointment shall not exceed twelve months, reckoned from the date it was issued but the appointee may be replaced sooner if a qualified eligible who is willing to accept the appointment becomes actually available.” (Underscoring supplied)*

The afore-quoted rules underscore that an appointment under temporary status is issued to a person who meets all the qualification requirements of the position except eligibility.

As it is undisputed that Montegrando was appointed and also performing the duties and functions of the position of Municipal Civil Registrar. As such, the qualification standards for the position of Municipal Civil Registrar, as prescribed under **Republic Act No. 7160**⁴, and not the parenthetical title of Municipal Government Department Head I, will be used in the evaluation of his appointment. It may be stated that the Commission even adopted the qualification standards of a Civil Registrar under RA No. 7160 in the Revised Qualification Standards Manual⁵. Thus, the qualification standards for the Municipal Civil Registrar position under RA No. 7160 should be applied to this case.

The Commission noted that Local Government Units (LGUs) interchangeably used the parenthetical position titles of Provincial/City/Municipal Government Department Head in lieu of department head position (*i.e.* Secretary to the Sanggunian, Treasurer, Assessor, Accountant, Budget Officer, Planning and Development Coordinator, Engineer, Health Officer, Civil Registrar, Administrator, Legal Officer, Agriculturist, Social Welfare and Development Officer, Environment and Natural Resource Officer, Architect, Information Officer, Cooperative Officer, Population Officer, Veterinarian, General Services Officer, etc.). It must be emphasized that said positions have different qualification standards. In view of the foregoing, and for purposes of consistency and proper implementation of law, LGUs are directed to use the position titles prescribed under R. A. No. 7160 for purposes of appointment to department head positions.

Section 479, RA No. 7160 provides that:

**“ARTICLE IX
“The Civil Registrar**

“Section 479. Qualifications, Powers and Duties.

“(a) *No person shall be appointed civil registrar unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, a*

⁴ Local Government Code of 1991

⁵ CSC Memorandum Circular No. 1 series 1997

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Chief Personnel Specialist
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holder of a college degree from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in civil registry work for at least five (5) years in the case of the city civil registrar and three (3) years in the case of the municipal civil registrar.

"The appointment of a civil registrar shall be mandatory for city and municipal governments."

The qualification standards for the position of Municipal Civil Registrar as prescribed in Section 479 of RA No. 7160 and 1997 Revised Qualification Standards Manual⁶ vis-à-vis the qualifications of Montegrando as indicated in his undated Personal Data Sheet on record are, as follows:

Factors	Qualifications for the position of Municipal Civil Registrar pursuant to Section 479 of RA No. 7160	Qualifications of Montegrando based on his undated PDS
Education	Bachelor's Degree	Bachelor of Science in Industrial Education Major in Industrial Arts (BSIE-IA) Master of Arts in Education, Major in Administration and Supervision (36 units)
Experience	Three (3) years experience in civil registry work	Teacher I (1993 to 2009) (16 years)
Training	None	K-12 Training (May 20 to 24, 2013) Giftedness Identification, Babag National High School (August 7 to 21, 2000)
Eligibility	First grade or its equivalent (now second level)	RA No. 1080 (Teacher)
Others	Citizenship	Filipino
	Resident of LGU Concerned	Resident of the Municipal Government of Tabogon
	Good Moral Character	No derogatory information found on record

It can be deduced from the foregoing that Montegrando meets the qualification requirements of the position except the experience requirement. Inasmuch as a temporary appointment can be issued only to a person who only fails to meet the eligibility requirement, said status, therefore, can not be extended to Montegrando as his deficiency is on experience.

Montegrando's averments that the experience requirement being the last in the enumeration of qualification requirements could be remedied by the issuance of a temporary appointment cannot be sustained. The law did not specify which among the afore-mentioned requirement is/are preferred to the other. It simply states that all of said requirements must be met by the appointee.

⁶ CSC Memorandum Circular No. 1, series 1997



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Chief Personnel Specialist
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At this juncture, it bears stating that “[A]ll matters pertinent to human resources and development in local government units shall be governed by the civil service law and such rules and regulations and other issuances promulgated pursuant thereto”⁷. Thus, if a person will be appointed Municipal Civil Registrar under temporary status, the same must conform with the above-quoted Civil Service Law, rules and regulation pertaining to the issuance of temporary appointment.

In fine, the Commission finds the herein appeal unmeritorious.

WHEREFORE, the petition for review of Fiel M. Montegrande, Municipal Civil Registrar, Municipal Government of Tabogon, Cebu, is **DISMISSED**. Accordingly, the Decision No. 14-0089 dated December 4, 2014 of the Civil Service Commission Regional Office (CSCRO) No. VII, Cebu City, is **AFFIRMED**. The appointment of Montegrande as Municipal Civil Registrar under temporary status is **INVALIDATED**.

Montegrande is considered as a *de facto* officer from February 16, 2014 up to February 15, 2015, the expiration of his temporary appointment. He is entitled to salaries and benefits appurtenant to his position during the period of his temporary appointment.

Copies of this Decision shall be furnished the Commission on Audit-Municipal Government of Tabogon, Cebu and the Government Service Insurance System (GSIS), for their reference and appropriate action.

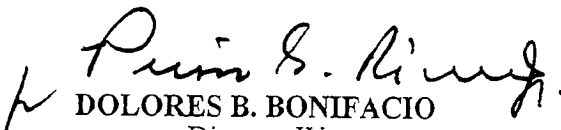
Quezon City.


ROBERT S. MARTINEZ
Commissioner

VACANT
Chairman

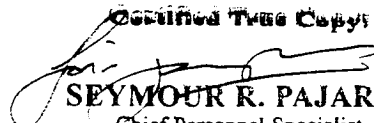

NIEVES L. OSORIO
Commissioner

Attested by:


DOLORES B. BONIFACIO
Director IV
Commission Secretariat and Liaison Office

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⁷ Section 78 of RA No. 7160

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Chief Personnel Specialist
Commission Secretariat & Liaison Office



MINUTES OF COMMISSION MEETING NO. 23
CENTENNIAL ROOM
JUNE 15, 2015, MONDAY

PRESENT:

A. THE COMMISSION

Commissioner **ROBERT S. MARTINEZ**
Commissioner **NIEVES L. OSORIO**

B. Assistant Commissioners

Assistant Commissioner **ARIEL G. RONQUILLO**
Executive Director IV **ARTHUR LUIS P. FLORENTIN** (*Policy Matters only*)

C. Commission Secretariat and Liaison Office (CSLO)

Director **DOLORES B. BONIFACIO**
Ms. **SEYMOUR R. PAJARES**
Ms. **MA. FERLY P. ENRIQUEZ**
Ms. **TINA KATHARINE L. SISON**
Ms. **MARIA TERESA B. CAUSING**
Mr. **BERNARD R. DE LUMEN**
Ms. **RHODORA C. ORTAZON**

D. Executive Offices

Director **REGIDOR B. PABLO** (*Office of Commissioner Martinez*)
Director **BERNARD G. JIMENEZ** (*Office of Commissioner Osorio*)

E. Office for Legal Affairs (OLA) (Cases only)

Director **ARIEL V. VILLANUEVA** (*OLA*)
Atty. **ANGELINA FARAL**
Atty. **JAHMALIN LACANDAZO-ESCALONA**
Atty. **RAMONA BUCATCAT**
Atty. **LESLIE PICIO**
Mr. **VALERIANO MOZO**
Ms. **NOURHALMA C. SORIANO**
Ms. **ANALIZA MUÑOZ**
Mr. **CESAR GARDUQUE, JR.**
Mr. **WERNER ANTHONY R. FLORENTINO**
Ms. **JASMIN A. DEKIT**
Ms. **ARLENE ANTONIO**
Mr. **LAURENCE JOSEPH REYES**
Mr. **EDWIN PAJARES**

Copies of the Decision shall be furnished the Commission on Audit-PLM and the Government Service Insurance System (GSIS), for their reference and appropriate action.

COMMENTS:

On page 3, line 94, provide a statement of issue.

Is there any pertinent provision in the charter of the PLM which can be referred to in deciding the case of Salazar?

The AO stated that the Charter of the PLM contains a provision on the Board of Regents and the Board Secretary, but not on the University Vice Presidents. She added that, in the University Code of 2005, the Vice President positions are not stated as primarily confidential positions. It merely states that there shall be such numbers of Vice Presidents as may be required for the efficient operation of the University. Their powers, functions and terms of office shall be fixed by the President and the Board of Regents, pursuant to Section 12 of the RA No. 4196.

The OLA submitted an alternate draft on the case of Salazar.

11. **MONTEGRANDE, Fiel M.** **RSM**
Re: Invalidated Appointment
(Petition for Review)
(NDC-2015-03009)

DECISION: The Commission **DISMISSED** the petition for review of Fiel M. Montegrando, Municipal Civil Registrar, Municipal Government of Tabogon, Cebu. Accordingly, the Decision No. 14-0089 dated December 4, 2014 of the Civil Service Commission Regional Office (CSCRO) No. VII, Cebu City, is **AFFIRMED**. The appointment of Montegrando as Municipal Civil Registrar under temporary status, is **INVALIDATED**.

Montegrando is considered as a *de facto* officer from February 16, 2014 up to the finality of the Decision. She is entitled to salaries and benefits appurtenant to her position.

Copies of the Decision shall be furnished the Commission on Audit-Municipal Government of Tabogon, Cebu and the Government Service Insurance System (GSIS), for their reference and appropriate action.

COMMENTS:

Commissioner Osorio asked about the "special and the general law" that was cited on page 4, line 155 of the draft?

The AO explained that the principle "a special law prevails over a general law" was cited merely to emphasize that the position title (e.g. Municipal Treasurer, Provincial Assessor, etc.) that is prescribed under the Local Government Code should be used in the appointment instead of the generic title of "Department Head." There had been cases in the past (OLBES, Renato and CARLOS, Raymundo) where some LGUs interchangeably used the position title "Department Head" with that of the position titles specifically stated under the local government code.

The Commission instructed that if the position title is based on law, said title should be used.

The decision on Montegrande is a Must-Read Decision.

12. **BELLEZA, Julio C.T.**

Re: Dishonesty; Grave Misconduct

NLO

(Appeal)

(D-2014-02038)

DECISION: The Commission **GRANTED** the appeal of Julio C.T. Belleza, Engineer II, City Engineer's Office, City Government of Bacolod. Accordingly, the Decisions dated July 25, 2006 and May 30, 2011 of then Mayor Evelio R. Leonardia, same city government, finding him guilty of Dishonesty and Grave Misconduct and imposing upon him the penalty of dismissal from the service, are **SET ASIDE**. Belleza is hereby **EXONERATED** of the charges against him. The City Government of Bacolod is directed to reinstate Belleza and pay him back salaries and benefits due him from the time he was actually separated but not to exceed to five (5) years equivalent of salaries and benefits.

COMMENTS:

Commissioner Martinez stated that the following information should be established:

- a. the date the City Government of Bacolod received the records of the case from the Commission since the three (3)-month period to decide the case should be reckoned from that date;
- b. the date Belleza filed his answer. Any delays in the filing of answer should not be taken against the City of Bacolod; and