



Republic of the Philippines
Supreme Court
Manila

EN BANC

HAMBRE J. MOHAMMAD,
Petitioner,

G. R. No. 193584

Present:

- versus -

SERENO, *CJ*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PEREZ,
MENDOZA,*
REYES,**
PERLAS-BERNABE,
LEONEN,
JARDELEZA, and
CAGUIOA, *JJ*.

**GRACE BELGADO-SAQUETON, in
her capacity as Director IV, Civil
Service Commission, Regional Office
No. XVI,**
Respondent.

Promulgated:

July 12, 2016

X ----- X

DECISION

SERENO, *CJ*:

We resolve the Petition for Review filed by Hambre J. Mohammad (petitioner) assailing the Court of Appeals (CA) Decision¹ dated 27 January 2010 and Resolution² dated 16 August 2010 in CA-G.R. SP No. 02392-MIN. The CA reversed the Orders³ dated 26 July 2006 and 7 August 2006 issued by the Regional Trial Court Branch 14 in Cotabato City (RTC) in Special Civil Action No. 2006-096.

* On Sabbatical Leave.

** On Wellness Leave.

¹ Penned by Associate Justice Angelita A. Gacutan and concurred in by Associate Justices Romulo V. Borja and Edgardo T. Lloren; *rollo*, pp. 33-48.

² *Id.* at 52-53.

³ RTC Records pp. 57-60, 71.

The issue before this Court is whether the filing of a petition for *mandamus* with the RTC was proper despite the availability of an administrative remedy against the unfavorable Decision of Civil Service Commission Regional Office No. XVI (CSCRO No. XVI).

We affirm the CA Decision. The failure of petitioner to exhaust available administrative remedies was fatal to his cause.

THE FACTS OF THE CASE

On 8 September 2004, petitioner was appointed as Provincial Agrarian Reform Officer II (PARO II) of the Department of Agrarian Reform in the Autonomous Region in Muslim Mindanao (DAR-ARMM) with Salary Grade 26.⁴ His appointment was temporary as he had no Career Service Executive Eligibility (CSEE) or eligibility in the Career Executive Service (CES).⁵ On 8 September 2005, his temporary appointment was renewed.⁶

On 24 October 2005, petitioner requested the regional secretary of DAR-ARMM to change his appointment status from temporary to permanent. His request was pursuant to an RTC decision in Special Civil Action No. 2005-085⁷ concerning the change in status of division superintendents.⁸ He opined that his position was the same as that of petitioners therein, whose petition for *mandamus* had been granted by the trial court.⁹ His request was endorsed¹⁰ to the regional governor, who then submitted the matter for favorable consideration of CSCRO No. XVI.¹¹

Respondent Grace Belgado-Saqueton (respondent), Director IV of CSCRO No. XVI, denied the request on the ground of the inapplicability of the RTC Decision, which was binding only on the parties to that case.¹² Moreover, she informed petitioner that the trial court's decision had been submitted by the CSC to the courts for review.¹³

Petitioner did not elevate the case to the Civil Service Commission proper. Instead, he filed a special civil action for *mandamus* before the RTC. He invoked an exception to the doctrine of exhaustion of administrative remedies: when the question is purely legal. He argued that because the PARO II position did not require CES eligibility and was not declared to be a CES position, respondent can be compelled through *mandamus* to change his status from temporary to permanent.¹⁴ Respondent filed a Motion to Dismiss on the ground of failure to exhaust administrative remedies.

⁴ See Appointment; RTC Records, p. 7.

⁵ Id.

⁶ See Appointment; RTC Records, p. 8.

⁷ A special civil action for *mandamus* filed by Division Superintendent Mona A. Macatanong and Assistant Division Superintendent Pharida L. Sansarona against CSCRO No. XVI Director IV Atty. Anacleto B. Buena, Jr.

⁸ See Letter; RTC Records, p. 9.

⁹ Id.

¹⁰ See 1st Indorsement dated 15 November 2005; RTC Records, p. 10.

¹¹ See letter to Atty. Macybel Alfaro-Sahi; RTC Records, pp. 11-12.

¹² See letter dated 24 March 2006; RTC Records, p. 13.

¹³ Id.

¹⁴ RTC Records, p. 2.

On 22 June 2006, during the pendency of the case, the Office of the Regional Governor appointed petitioner to the same position with a permanent status.¹⁵

THE RTC RULING

On 26 July 2006, the RTC ordered respondent to approve and attest to the appointment status of petitioner as permanent.¹⁶ It ruled that he was able to establish that respondent had unlawfully neglected or refused to approve his appointment even if the law, the facts, and the evidence mandated her to approve the request.¹⁷

As regards the Motion to Dismiss, the RTC maintained that it had jurisdiction over the case which presented a pure question of law. The court further held that had petitioner taken the route of appealing to the CSC proper, it would have been an exercise in futility, since issues of law cannot be decided with finality by the commission.¹⁸

Respondent moved for reconsideration, calling the attention of the court to CSC Resolution No. 02-1011,¹⁹ which states:

2. Permanent appointment issued after the effectivity of [this Resolution] to appointees who do not possess the required CSEE or CES eligibility shall be disapproved. This is without prejudice to their appointments under temporary status provided there are no qualified eligibles who are willing to assume the position.²⁰

Respondent also argued that the approval or disapproval of an appointment is not a ministerial but a discretionary duty; hence, *mandamus* does not lie.²¹

On 7 August 2006, the RTC denied the Motion for Reconsideration for being a mere rehash of arguments already raised.²² After respondent filed a Notice of Appeal on 15 August 2006, the trial court, on 30 August 2006, granted petitioner's motion for execution pending appeal.²³

THE CA RULING

On intermediate appellate review, the CA reversed the RTC Orders dated 26 July 2006 and 7 August 2006. It agreed with respondent that petitioner had prematurely brought the case to the RTC without exhausting all the remedies available to him.²⁴

¹⁵ See *Porma Blg.* 33; RTC Records, p. 43.

¹⁶ RTC Records, p. 60.

¹⁷ *Id.*

¹⁸ *Id.* at 59.

¹⁹ Policy Guidelines on Appointments to Third Level Positions in the ARMM issued on 1 August 2002.

²⁰ RTC Records, pp. 62-63.

²¹ *Id.* at 64.

²² *Id.* at 71.

²³ *Id.* at 72, 80.

²⁴ *Rollo*, p. 38.

The CA traced the jurisdiction of the CSC proper over decisions of CSCROs to Sections 4²⁵ and 5²⁶ of the Revised Uniform Rules on Administrative Cases in the Civil Service. These rules were promulgated pursuant to the Constitution²⁷ and the CSC Law.²⁸ Also cited were other administrative issuances categorically providing remedies for disapproved appointments, such as CSC Memorandum Circular No. 40, series of 1998,²⁹ and CSC Memorandum Circular No. 15, series of 2002.³⁰

The CA denied the Motion for Reconsideration of petitioner for being a mere rehash of arguments already passed upon. He then elevated the case to this Court for review.

²⁵ SECTION 4. *Jurisdiction of the Civil Service Commission.* — The Civil Service Commission shall hear and decide administrative cases instituted by, or brought before it, directly or on appeal, including contested appointments, and shall review decisions and actions of its offices and of the agencies attached to it.

Except as otherwise provided by the Constitution or by law, the Civil Service Commission shall have the final authority to pass upon the removal, separation and suspension of all officers and employees in the civil service and upon all matters relating to the conduct, discipline and efficiency of such officers and employees.

²⁶ SECTION 5. *Jurisdiction of the Civil Service Commission Proper.* — The Civil Service Commission Proper shall have jurisdiction over the following cases:

x x x x

B. *Non-Disciplinary*

1. Decisions of Civil Service Commission Regional Offices brought before it; xxxx

²⁷ Art. IX-B, Sections 2(1) and 3 state:

SECTION 2. (1) The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.

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.

²⁸ Section 9(h), PD 807 states:

SECTION 9. *Powers and Functions of the Commission.* — The Commission shall administer the Civil Service and shall have the following powers and functions:

x x x x

(h) Approve all appointments, whether original or promotional, to positions in the civil service, except those of presidential appointees, members of the Armed Forces of the Philippines, police forces, firemen, and jailguards, and disapprove those where the appointees do not possess the appropriate eligibility or required qualifications. x x x x

²⁹ Or the "Revised Omnibus Rules on Appointments and Other Personnel Actions," Sections 2 and 3, Rule VI of which state:

SECTION 2. Request for reconsideration of, or appeal from, the disapproval of an appointment may be made by the appointing authority and submitted to the Commission within fifteen (15) calendar days from receipt of the disapproved appointment.

SECTION 3. When an appointment is disapproved, the services of the appointee shall be immediately terminated, unless a motion for reconsideration or appeal is seasonably filed.

Services rendered by a person for the duration of his disapproved appointment shall not be credited as government service for whatever purpose.

If the appointment was disapproved on grounds which do not constitute a violation of civil service law, such as failure of the appointee to meet the Qualification Standards (QS) prescribed for the position, the same is considered effective until disapproved by the Commission or any of its regional or field offices. The appointee is meanwhile entitled to payment of salaries from the government.

If a motion for reconsideration or an appeal from the disapproval is seasonably filed with the proper office, the appointment is still considered to be effective. The disapproval becomes final only after the same is affirmed by the Commission.

³⁰ Or the "Policies on Facilitative Actions on Appointments and Motions for Reconsideration/Appeals," Item 1 of which states:

1. 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 Proper within the fifteen (15) day reglementary period.



OUR RULING

We deny the Petition.

Before parties are allowed to seek the intervention of the court, it is a precondition that they must have availed themselves of all the means of administrative processes afforded to them.³¹ Where the enabling statute indicates a procedure for administrative review and provides a system of administrative appeal or reconsideration, the courts – for reasons of law, comity, and convenience – will not entertain a case unless the available administrative remedies have been resorted to and the appropriate authorities have been given an opportunity to act and correct the errors committed in the administrative forum.³²

Petitioner admits that while administrative remedies were available to him, he had invoked an exception to the doctrine of exhaustion of administrative remedies.³³ On the contrary, We find that the dismissal of the petition for *mandamus* was warranted by the doctrine because the issue raised by petitioner is not a purely legal question.

The Court has laid down tests to distinguish questions of fact from questions of law: when doubt arises as to the truth or falsity of the alleged facts, or when it becomes clear that the issue invites a review of the evidence presented, the question is one of fact.³⁴

It was grave error for the trial court to have ignored the red flags raised by both parties. Respondent has repeatedly asserted that the PARO II position is a third-level position requiring CES or CSEE.³⁵ Petitioner himself raised an issue of fact when he posited that there was no position in the ARMM that had been declared to be a CES position.³⁶ To disprove this allegation, respondent presented the Qualification Standards prescribed for the position which shows that it is a third-level position requiring CES or CSEE.³⁷ Since doubt has risen as to the truth or falsity of the alleged fact, it cannot be said that the case presents a purely legal question.

We are aware of our pronouncement in *Buena, Jr. v. Benito*³⁸ that the issue of whether the position for which the respondent therein was appointed required career service eligibility was a purely legal question. In that case, We held that the direct recourse to the courts from the Decision of the CSCRO fell under an exception to the doctrine. Nevertheless, We set aside the RTC order, because we found that the Assistant Schools Division Superintendent is a position in the CES.

³¹ *Paat v. Court of Appeals*, 334 Phil. 146 (1997).

³² *University of the Phil. v. Catungal, Jr.*, 338 Phil. 728 (1997).

³³ *Rollo*, p. 26.

³⁴ *Piedras Negras Construction & Development Corp. v. Fil-Estate Properties, Inc.*, G.R. No. 211568 (Notice), 28 January 2015.

³⁵ Motion to Dismiss dated 5 May 2006, RTC Records p. 20; Comment dated 24 July 2006, RTC Records p. 53; Motion for Reconsideration dated 2 August 2006, RTC Records, pp. 61-62.

³⁶ RTC Records, pp. 2, 33.

³⁷ See RTC Records, p. 23.

³⁸ G.R. No. 181760, 14 October 2014, 738 SCRA 278.

There are at least three material differences between this case and *Buena*.

First, in *Buena*, the question was whether the position is in the CES. In this case, the question is whether petitioner was eligible for a permanent appointment to the PARO II position, which had *already* been classified as a third-level position requiring CSEE or CES.³⁹ The issue is therefore not one of law, but of the merit and fitness of the appointee, which is a question of fact.

Second, in *Buena*, no evidence was presented to the trial court that could have created doubt as to the truth or falsity of the allegation. In this case, the qualification standards for the position were presented, but were unacknowledged as a matter of fact by the trial court.

Third, in *Buena*, the petition for *mandamus* was filed *after* the appointment had been issued by the regional governor. The element of a clear legal right was met in *Buena* because Section 19, Art. VII of Republic Act No. 9054 (Organic Act for the ARMM) designated the regional governor as the appointing authority in the ARMM. In this case, petitioner had no clear legal right to compel respondent to attest to his appointment, because at the time of filing, he had no appointment to a permanent position. Hence, the Petition should have been dismissed outright.

We have recognized the CSC as the sole arbiter of controversies relating to the civil service.⁴⁰ The doctrine of exhaustion of administrative remedies, which is “a cornerstone of our judicial system,”⁴¹ impels Us to allow administrative agencies to carry out their functions and discharge their responsibilities within the specialized areas of their respective competencies.⁴² We refrain from the overarching use of judicial power in matters of policy infused with administrative character.⁴³ Hence, the doctrine has been set aside only for exceptional circumstances.

Petitioner pleads for a liberal construction of the rules owing to the nature of the case as one of first impression involving a position in the ARMM vis-à-vis the application of CSC rules.⁴⁴ His plea has been mooted, however, by the promulgation of *Buena*, in which We highlighted Section 4, Art. XVI of the Organic Act for the ARMM which states that “until the Regional Assembly shall have enacted a civil service law, the civil service eligibilities required by the central government or national government for appointments to public positions shall likewise be required for appointments to government positions in the Regional Government.”

WHEREFORE, the Petition for Review is **DENIED**. The Court of Appeals Decision dated 27 January 2010 in CA-G.R. SP No. 02392-MIN is hereby **AFFIRMED**.

³⁹ See RTC Records, p. 23.

⁴⁰ *Corsiga v. Defensor*, 439 Phil. 875 (2002).

⁴¹ *Universal Robina Corp. v. Laguna Lake Development Authority*, 664 Phil. 754 (2011).

⁴² *Presidential Commission on Good Government v. Peña*, 243 Phil. 93 (1988).

⁴³ *Ejera v. Merto*, 725 Phil. 180, 204 (2014).

⁴⁴ *Rollo*, p. 28.



SO ORDERED.

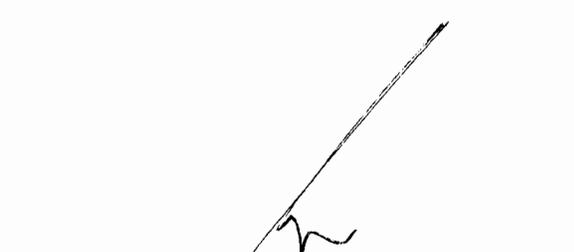


MARIA LOURDES P. A. SERENO
Chief Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice



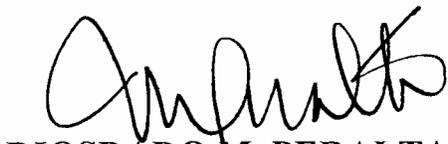
PRESBITERO J. VELASCO, JR.
Associate Justice



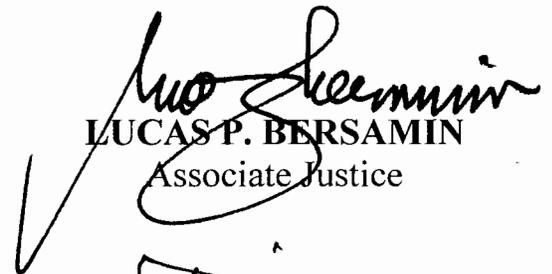
TERESITA J. LEONARDO-DE CASTRO
Associate Justice



ARTURO D. BRION
Associate Justice



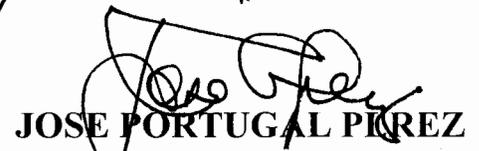
DIOSDADO M. PERALTA
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice

(On Sabbatical Leave)
JOSE CATRAL MENDOZA
Associate Justice

(On Wellness Leave)
BIENVENIDO L. REYES
Associate Justice



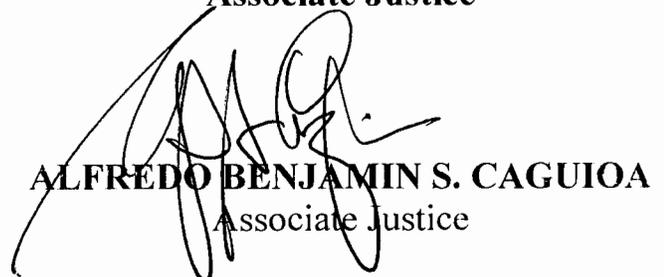
ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

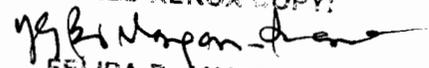
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I hereby certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED XEROX COPY:



FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT