



FORSUELO, Kristine Jean E.
Re: Invalidated Appointment;
Three-Salary Grade Limitation;
Lack of Experience
(Petition for Review)

Number: 131033
Promulgated: 07 NOV 2013

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DECISION

Atty. Rene K. Burdeos, Regional Director, Department of the Interior and Local Government (DILG) Region 13, Butuan City, appeals (treated as Petition for Review) the Decision dated May 4, 2011 of the Civil Service Commission Regional Office (CSCRO) No. XIII, Butuan City, which invalidated the appointment of Kristine Jean E. Forsuelo as Administrative Officer IV (SG 15) issued on December 15, 2010 due to lack of experience.

Pertinent portions of the assailed Decision dated May 4, 2011 read, as follows:

“Initial evaluation by the CSCFO Agusan del Norte showed that the subject appointment of Forsuelo is beyond the 3-salary grade limitation on promotion pursuant to CSC Memorandum Circular No. 3, s . 2001. Said CSC Field Office forwarded the subject appointment to this Office in consonance with the provision stipulated under CSC Resolution No. 03-0106 dated January 24, 2003 which provides that ‘xxx, the CSC Regional Director concerned will be the one who will approve and grant any exception in accordance with the above guidelines.’

x x x

“Evaluation of the qualifications and supporting documentary requirements submitted by Forsuelo revealed that she failed to meet the experience requirements of the position proposed.

x x x

“We have duly noted the justification submitted by OIC Chief Administrative Officer Primadonna M. Lincuna as to the existing duties and functions rendered by Forsuelo. However, we noted that such functions from the start have already violated the very purpose of the rule as cited in Executive Order No. 292 where Forsuelo have been performing the duties and functions of a clerk.

x x x

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“As such, the experience of which Forsuelo supposedly gained/acquired from the start as utility worker performing clerical works shall not be counted and therefore not considered in complying with the 1 year required experience.

“All told, this office is inclined to invalidate the appointment of Forsuelo for failure to meet the experience requirements pursuant to Rule XVIII, Section 4 of the Omnibus Rules Implementing Book V of Executive Order No. 292. To disregard such would defy the principle of uniformity and equality of treatment and application of laws and rules.”

x x x

The petition of Forsuelo reads, in part, as follows:

x x x

“Please be informed that based on the newly-discovered evidence, before Ms. Forsuelo became an employee of DILG 13, she was appointed and served as casual Clerk II at the Office of the Comptrollership and Finance Section, DPWH, Surigao del Norte 1st Engineering District since January 1, 2002 to August 31, 2004 (copies of the Certifications, Service Record and plantilla of casual positions are hereto attached as Annexes ‘B’, ‘B-1’, ‘C’, ‘D’, ‘D-1’, ‘D-2’, ‘D-3’, ‘D-4’ and ‘D-5’). As Clerk II, she performed the following duties and responsibilities:

x x x

“For her two (2) years and eight (8) months stint as clerk in DPWH, Ms. Forsuelo already meets the minimum period of experience for appointment as Administrative Officer IV.”

x x x

Records show that prior to her permanent appointment as Administrative Officer IV (SG 15) effective February 16, 2011, Forsuelo was holding the position of Administrative Aide I (Utility Worker I) (SG 1). Her other experience includes the Clerk II (SG 4) position she held at the DPWH Regional Office No. XIII from January 1, 2002 to August 31, 2004 for an aggregate total of two (2) years and 7 months. Despite such experiences, the Civil Service Commission Field Office (CSCFO)—Agusan del Norte ruled to invalidate Forsuelo’s appointment for failure to meet the required experience. The Commission notes that although the issue on three–salary grade limitation was mentioned in the CSCRO Decision dated May 4, 2011, it was not discussed extensively in the assailed Decision. Nevertheless, the Commission will resolve this issue. On appeal to the CSCRO No. XIII, the aforesaid invalidation was affirmed.

Thus, the instant petition where the following issues are to be resolved:

1. Whether Forsuelo’s experience as Clerk II is relevant to her appointment as Administrative Officer IV;



2. Whether there is a violation of the policy on three-salary grade limitation; and
3. Whether the policy on three-salary grade limitation applies to appointment made pursuant to the approved rationalization plan under E.O. No. 366.

As may be culled from the assailed Decision and from the records of the case, the following table shows a comparative evaluation of Forsuelo's qualifications *vis-à-vis* the qualification requirements of the position of Administrative Officer IV (Budget Officer II) under the **1997 Revised Qualification Standards as amended by CSC MC No. 10, s. 2005**, thus:

Factors	Qualification Standards for Administrative Officer IV (MC 10, s. 2005)	Qualifications of Forsuelo
Education	Bachelor's Degree relevant to the job	BSC – Management
Experience	1 year of relevant experience	Utility Worker (07/01/2005 – 02/15/2011); Clerk II (01/01/2002 – 08/31/2004)
Training	4 hours of relevant training	Various trainings attended
Eligibility	Career Professional/Second Service Level Eligibility	CS Professional Eligibility

From the foregoing, it is apparent that indeed Forsuelo met all the qualification requirements for the position of Administrative Officer IV (Budget Officer II).

As culled from the records, the Commission rules and so holds that Forsuelo gained relevant experience as Clerk II at the DPWH. Relevant experience is defined under **Items 1 and 2, Part III, On Experience,**¹ thus:

"1. Relevant experience refers to previous employment or jobs or volunteer work on a full time basis in either the government or private sector, whose duties, as certified by the Human Resource Management Officer or authorized officials of the previous employer, are functionally related to the duties in the Position Description Form of the position to be filled.

"2. Experience in first level positions may be considered for meeting the experience requirement of second level positions when acquired in the same occupational group or functionally related positions."

¹ Revised Policies on Qualification Standards



The Commission notes that Forsuelo's experience as Clerk II at the DPWH involves performance of duties and functions relative to budget and finances as she was assigned at the Office of the Comptrollership and Finance Section. Such duties and functions as Clerk II are within the same occupational group – Administrative Service Group. Thus, the positions of Clerk II and Administrative Officer IV (Budget Officer II) are functionally-related as provided in the Index of Occupational Services (IOS) as approved by the Department of Budget and Management.

Item 4.1, Budget Circular No. 2004-3 dated March 6, 2004² states that "Administrative Service Group includes positions which are responsible for planning, coordination, supervision and performance of functions relating to human resource management, budgeting, fiscal examination and control, financial and management analysis, cashiering, information technology, management and audit analysis, supply and records management, information dissemination and public relations."

Pointedly, any experience that Forsuelo gained while holding the position of Clerk II at DPWH may be considered as relevant to her promotional appointment as Administrative Officer IV (Budget Officer II). Thus, Forsuelo meets the experience requirement for the aforesaid position.

Anent the issues on whether the appointment of Forsuelo is in violation of the policy on three-salary grade limitation and whether such policy will apply to appointments issued pursuant to approved rationalization plan, the Commission will resolve the issues jointly considering that the same are intertwined.

A review of Executive Order No. 366³ and Republic Act No. 6656 will show that no limitation as regards salary grade is imposed in the appointment of personnel pursuant to a valid reorganization of the agency.

Relevant to the instant case is **Section 13 (c), Executive Order No. 366 and Section 4, Republic Act No. 6656**, thus:

"1. Executive Order No. 366

"Section 13. Personnel Actions. The following guidelines on personnel actions shall be adopted:

x x x

"c. The order of separation and preference established under Sections 3 and 4 of RA 6656 (An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization) shall be followed in identifying personnel within the smallest operating unit who would be retained in the mother agency in the

² Conversion of Positions Performing Staff/Non Technical Functions

³ Directing a Strategic Review of the Operations and Organizations of the Executive Branch of the Executive Branch and Providing Options and Incentives for Government Employees Who may be Affected by the Rationalization of the Functions and Agencies of the Executive Branch

event that the number of personnel exceeds the number of retained positions. x x x."

"2. Republic Act No. 6656

"Section 4. Officers and employees holding permanent appointments shall be given preference for appointment to the new positions in the approved staffing pattern comparable to their former position or in case there are not enough comparable positions, to positions next lower in rank.

"No new employees shall be taken in until all permanent officers and employees have been appointed, including temporary and casual employees who possess the necessary qualification requirements, among which is the appropriate civil service eligibility, for permanent appointment to positions in the approved staffing pattern, in case there are still positions to be filled, unless such positions are policy-determining, primarily confidential or highly technical in nature." (Underlining supplied)

It is evidently implied in the aforesaid law and executive issuance that permanent and even casual and temporary employees are to be given due preference in the appointment to newly-created positions in the approved staffing pattern of the agency. The appointments issued in view of a reorganization or rationalization are categorized as reemployment⁴ and not as promotion even if it involves an appointment to a higher position.

It could also be deduced from the foregoing that the preference given by law necessitates the non-application of the policy on three (3) salary-grade limitation on promotion as enunciated in Item 15 of CSC MC No. 3, s. 2001. To the mind of the Commission, it is for this reason that the CSCRO No. XIII merely mentioned the said policy and did not cite categorically as reason for disapproval.

It is earlier noted that Forsuelo meets the one (1) year experience requirement for the position of Administrative Officer IV (Budget Officer II) while she was connected or employed as Clerk II at the Department of Public Works and Highways Regional Office XIII prior to her employment as Utility Worker I at the Department of the Interior and Local Government Regional Office No. XIII.

Pointedly, CSCRO No. XIII and CSCFO-Agusan del Norte erred in invalidating Forsuelo's appointment for alleged failure to meet the experience requirement for the position. The Commission notes that CSCRO No. XIII failed to appreciate Forsuelo's gained experience as Clerk II at the DPWH Regional Office No. XIII from January 1, 2002 to August 31, 2004.

⁴ Section 7, Rule VII of IRR of Executive Order No. 292



WHEREFORE, premises considered, the petition for review of Atty. Rene K. Burdeos, Regional Director, Department of the Interior and Local Government Regional Office No. XIII, Butuan City, is hereby **GRANTED**. Accordingly, the Decision dated May 4, 2011 of the Civil Service Commission Regional Office (CSCRO) No. XIII, Butuan City, is **REVERSED and SET ASIDE**, hence, the promotional appointment of Kristine Jean E. Forsuelo as Administrative Officer IV, is hereby **VALIDATED**.

Copies of this Decision shall be furnished the CSCRO No. XIII and CSCFO-Agusan del Norte which are directed to reflect this Decision in the service card, appointment and other documents of Forsuelo.

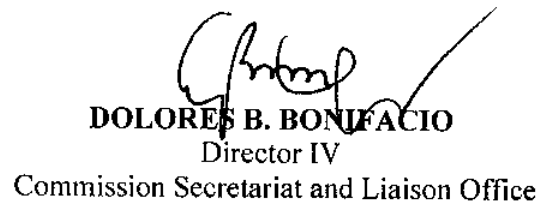
Quezon City.


FRANCISCO T. DUQUE III
Chairman


ROBERT S. MARTINEZ
Commissioner


NIEVES L. OSORIO
Commissioner

Attested by:


DOLORES B. BONIFACIO
Director IV
Commission Secretariat and Liaison Office