



Republic of the Philippines
CIVIL SERVICE COMMISSION

GOMEZ, Archimedes C.

Request for Interpretation of
the Admission Requirements
to the Foreign Trade Service Corp

RESOLUTION NO. 991381

Archimedes C. Gomez, Bank Executive Officer, Land Bank of the Philippines, requests an interpretation of the provisions of Section 2, Rule VI of the Letter of Instructions (LOI) No. 1183 (Foreign Trade Service Rules and Regulations To Implement Executive Order No. 540, As Amended, Professionalizing the Foreign Trade Service Corps).

Specifically, his questions are as follows:

"Does the phrase nor more that 35 years of age means that the person should be less than or exactly 35 years of age at the time of his/her appointment to the corps? or Does it mean that he/she can be appointed to the Corps as long as he is 35 years of age but not 36 years of age?"

"May I also seek an official interpretation on the reckoning point or period of admission to the Corps. Does it start when the Secretary of the Department of Trade and Industry (DTI) informs the applicant that he/she will be recommended for appointment to Trade Service Officer (TSO) IV by the President or upon appointment by the President of the Philippines?"

"Moreover, what are the exceptions under existing Civil Service rules and regulations, as stated in Section 2.a above, that will qualify an individual for admission to the Foreign Trade Service Corps even if he is above 35 years of age prior to his/her appointment. Are his/her years of service and experience in government service be considered as among those exceptional criteria on the age limit provision? For if so, I have been with Land Bank of the Philippines for the past ten (10) years and I have been occupying the position of Bank Executive Officer for the past five (5) years."

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Further, Gomez represented as follows:

"As a background, I applied for the Foreign Trade Service Officer Examination announced by the Department of Trade and Industry on 07 November 1997. I passed the three (3) sets of examinations and a panel interview given by DTI on the following dates (please refer to Annexes C to F):

- CSC Qualifying Test 23 November 1997
- DTI Technical Examination via Group Activity 03 December 1997
- Psychological Appraisal 09 December 1997
- Panel Interview 15 January 1998

"At the time my application, I was already 33 years and 10 months old having been born on 17 January 1964. I was notified that I have passed the panel interview and consequently, to be recommended for appointment to TSO IV to the President of the Philippines by then Hon. Cesar Bautista, Secretary of DTI, on 27 January 1998, ten (10) days after celebrating my 34th birthday (please refer to Annex G). However, the recommendation for appointment was not signed by then President Fidel Ramos because of the election ban according to Mr. Deo Reyes of the Foreign Trade Service Corps.

"On October 1998, several months upon the assumption of His Excellency, President Joseph Estrada, DTI's previous recommendation for my appointment together with the other three (3) who qualified for the position of TSO IV signed by then Secretary Cesar Bautista was returned to DTI for reconfirmation. Two (2) DTI Undersecretaries, Usecs Salazar and Ordoñez, have signed our papers and forwarded it to the office of Usec Nely Villafuerte for her signature. Signatures of the three (3) Undersecretaries are required before our papers can be forwarded to the Office of the Secretary, Hon. Jose Pardo, but same was stalled because Usec Villafuerte have (sic) not yet signed the recommendation letters.

"Last 11 February 1999, when I made a personal follow-up on the status of my application with Usec Nelly Villafuerte of the Trade Group of DTI, I was informed by Mr. Reyes in front of Usec Villafuerte that I am no longer eligible for appointment because I am a month older of the 35 years cut-off age.

"To verify DTI's consistency in their interpretation of the age limit provision, I examined DTI's Examination Announcement (please refer to Annex H) and noted that item 3 under Admission Requirements in page 2 of the Announcement states that "Applicant must, at least, be 25 years old, or not more than 33 years old on the date of the CSC Qualifying Test...". Should DTI have strictly observed their interpretation on age limit requirement, I should have been disqualified to take the SC Qualifying Test because I was already 33 years and 10 months old at the time of my admission for the test.

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"I Have also referred to the Revised Administrative Code of 1987 for the definition of legal period. To quote: Section 31 of Chapter 8 of the Code defines that "Year" shall be understood to be twelve calendar months (Underscoring provided); "month" of thirty days, unless it refers to a specific calendar month in which case it shall be computed according to the number of day the specific month contains; "day," to a day of twenty-four hours; and "night," from sunset to sunrise (please refer to Annex 1). Allowing me to interpret said provision of the law, then I am still legally 35 years of age until 16 January 2000. As such, I am still qualified for appointment to TSO IV for the Foreign Trade Service Corps by the President of the Republic of the Philippines."

Section 2, Rule VI of Letter of Instructions No. 1183 reads as follows:

"SECTION 2. Qualifications for Admission to the Corps. - Any person possessing the following qualifications is eligible for admission to the Foreign Trade Service Corps:

- "(a) A citizen of the Philippines of good moral character who is not less than 25 nor more than 35 year of age for Trade Service Officer and not less than 21 not more than 30 years of age for Trade Service Staff Officer, except those who may otherwise qualify under existing Civil Service rules and regulations;"*

Anent your first question, the phrase "nor more than 35 years of age" provided under Section 2 as the maximum allowable age for admission to the foreign trade service corp should be taken to mean that the applicant must not be 36 years of age at the time of the appointment, that is, before he celebrates his 36th birthday. Apart from the provisions of the Revised Administrative Code of 1987 just cited this is also pursuant to Article 13 of the New Civil Code which provides as follows:

"Art. 13. When the law speaks of years x x x, it shall be understood that years are three hundred sixty five days x x x"

Thus, after Gomez celebrated his 35th birthday on January 17, 1999, by virtue of the aforementioned provisions of Article 13 of the New Civil Code in relation with Section 2, Rule VI of LOI No. 1183, he is still 35 years old. It is only after the lapse of three hundred sixty five (365) days from such date that Gomez will turn 36 years old.

On the matter of the reckoning period or period of admission to the foreign trade service corps, the same refers to the time of the issuance of appointment to any position in the corp. Until such appointment, there is no admission to speak of.

When you were advised of the DTI Secretary's recommendation for your appointment to the President, such is merely an act preparatory to admission and should not be considered as admission to the corps.

Finally, the third question is an inquiry to any existing Civil Service law and regulations providing exceptions to the maximum age of 35 for eligibility for admission to the corp. It is worthwhile to note that the Commission has not provided for any exempting regulation to such admission requirement.

In general, the maximum age for appointment in the government service is 64 years of age or before one reaches the compulsory retirement age of 65 (Item VII, Memorandum Circular No. 38, s. 1993). As an exception, the Commission allows agencies to fix admission age requirements lower than that provided for by the law. This is in keeping with the policy of the Commission to allow the agencies concerned to provide qualifications standards in addition to those prescribed by the Commission for a particular position whenever necessitated by circumstances obtaining in such agency. Thus, Section 1, Rule X of Memorandum Circular No. 40, s. 1998 provides as follows:

"(a) The position involved in the appointment, if unique in the agency, should have an approved qualification standards or has been included in the approved Qualification Standards Manual of the agency concerned."

WHEREFORE, the Commission rules that Archimedes C. Gomez is deemed still thirty-five (35) years old after January 17, 1999 and thus, qualified for appointment to the position of Trade Service Officer IV in the Department of Trade and Industry, until January 17, 2000 subject to the discretion of the appointing authority and provided he meets the qualifications required by law.

Quezon City, JUL 01 1999


CORAZON ALMA G. DE LEON
Chairman


THELMA P. GAMINDE
Commissioner

DID NOT PARTICIPATE
JOSE F. ERESTAIN, JR.
Commissioner

Attested by:

ARIEL G. RONQUILLO
Director III