

ABAYA, Pacifico B.

Re: Appeal; Appointment (Bilas)

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RESOLUTION NO. 992063

Ramon V. Purugganan, Municipal Mayor, Bangued, Abra appeals from the disapproval by the Civil Service Commission - Cordillera Administrative Region (CSC-CAR), Baguio City, of the appointment of Pacifico B. Abaya as Municipal Agriculturist I at the Municipality of Bangued, Abra on the ground that it was issued in violation of Section 4 (c) of Republic Act No. 6713 (appointment of a bilas).

Purugganan, in his appeal, avers that:

"It is respectfully submitted that Pacifico B. Abaya was (originally)

appointed on April 1, 1993 as Municipal Agricultural Technician (DEVOLVED), Bangued, Abra and since then Abaya was in public service with exemplary records.

"On September 1, 1996 Abaya was designated as OFFICER IN CHARGE (OIC) of the Municipal Agricultural Office (MAO), Bangued, Abra.

"Believing in good faith that Pacifico B. Abaya deserved permanent status, (permanent appointment) undersigned then appointed Abaya as MUNICIPAL AGRICULTURIST I, Bangued, Abra on July 1, 1998 within the intents and purposes of Sec. 49 PD 807 Civil Service Decree and Sec. 59 (1) EO 292 - Administrative Code.

"This permanent appointment of Abaya cannot prejudice - impair Abaya's original appointment on April 1, 1993 for in fact this permanent appointment is an act of justness, fairness, justice under Sec. 4c RA 6713.

"WHEREOF (sic), undersigned respectfully prays of the Honorable Commissioner to set

aside the sweeping invalidation order of Director Macatangay and in lieu thereof confirm Abaya's permanent status-appointment."

Abaya, meanwhile, also filed an appeal and alleged that:

"The parents of Mayor Purugganan are Dr. Jose Purugganan and Consolacion Valera. The parents of PACIFICO ABAYA are Dr. PATROCINIO ABAYA and ESTHER BERSAMIN. ABSOLUTELY there is no blood relationship between Purugganan and Abaya.

"The wife of Mayor Purugganan is Victoria Bobila; The wife of Pacifico Abaya is Dr. Maribel Bobila. Victoria and Maribel are sisters. Thus by affinity Ramon Purugganan is the brother-in-law of Maribel Abaya; Maribel is related (being sister-in-law) by affinity (sic) Purugganan. But definitely PACIFICO ABAYA , husband of Maribel Bobila Abaya, is not related by affinity to Purugganan. In GAYON and GUERRERO (sic), supra, as sister-in-law or a brother-in-law is not considered a relative "FAMILY MEMBER" moreso is BILAS, which is further or beyond the degree of consanguinity and affinity.

"Mayor Purugganan is not liable of (sic) discrimination (on ground of Abaya's wife) because in the first instance Abaya falls no rival contender, next-in-rank applicant ²⁹/₃₁ verily his appointment traverses no party no interest no prejudice no public service. ON THE CONTRARY, Abaya's appointment is a fulfillment of one of the very aims of RA 6713 x x x GRANT incentives and AWARDS for EXEMPLARY SERVICE !!! How can this incentives be realized if the DESERVING OF PROMOTIONS not on their seats by reason of an ADDENDUM on the meaning of relative by consanguinity or affinity? x x x"

The appeal is impressed with merit.

Section 4 (c) of RA 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees) provides:

"(c) Justness and sincerity. - Public officials and employees shall remain true to the people at all times. They must act with justness and sincerity and shall not discriminate against anyone, especially the poor and the underprivileged. They shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest. They shall not dispense or extend undue favors on account of their office to their relatives whether by consanguinity or affinity except with respect to appointments of such relatives to positions considered strictly confidential or as members of their personal staff whose terms are coterminous with theirs." (emphasis ours)

Likewise, Section 3 (k) of the same law defines relatives as referring to *"any and all persons related to a public official or employee within the fourth civil degree of consanguinity or affinity, including bilas, inso and balae."*

Worthy of emphasis is that the disapproval of Abaya's appointment was made on the ground that the appointment was violative of Section 4c of RA 6713 (appointment of a bilas).

For the proper determination of the herein case, it becomes imperative at this juncture, to re-examine the rules relative to nepotism, both under the Civil Service Law and Rules and RA 6713.

The rule on nepotism is found in Section 59, Chapter 7, Subtitle A, Title I of the Administrative Code of 1987, which provides:

"SEC. 59. - (a) All appointments in the national, provincial, city and municipal governments or in any branch or instrumentality thereof, including government owned or controlled corporations, made in favor of a relative of the appointing or recommending authority, or of the chief of the bureau or office, or of the person exercising immediate supervision over the him, are hereby prohibited.

"As used in this Section, the word 'relative' and members of the family referred to are those

related within the third degree either of consanguinity or of affinity.

"(2) The following are exempted from the operation of the rules on nepotism: (a) persons employed in a confidential capacity, (b) teachers, (c) physicians, and (d) members of the Armed Forces of the Philippines: Provided, however, That in each particular instance full report of such appointment shall be made to the Commission. xxx"

Thus, the abovequoted provision speaks of nepotism in express and unequivocal terms. It undoubtedly prohibits the issuance of an appointment to a relative either of consanguinity or affinity within the third degree. In the case of local government units, the prohibition extends up to the fourth degree.

Meanwhile, RA 6713 does not speak of a nepotic situation nor of a nepotic appointment. What RA 6713 deals with the norms of conduct that a government official or employee should observe. Among other things, it prescribes the dispensing or extending of undue favors to relatives by consanguinity or affinity on account of one's office except appointments specifically mentioned in the aforequoted law.

Worthy to stress at this point is that during the deliberations of the Joint Bicameral Committee Conference on August 11, 1998, regarding Section 4 of RA 6713, it was made clear that:

"Hon. Escudero: Ang defense ni Raul na 'bilas' is not in the English  Oo. Sinabi ni Ding Tanjuatco, and I agree with him although there is no similar term in the English language on jurisprudence, but in the Philippines when you say 'bilas' that's quite a close 

"Voice. It is not covered.

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"Hon. Escudero : Pag-aralan natin.

"Hon. Saguisag : What we intend really is to cover that. Dahil ang philosophy namin diyan sa atin, merong unity ang mag-asawa na parang iisa yung personality. Kaya it may come

up but I would have thought na dapat yun ipasok.

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"Hon. Saguisag : Sa kultura natin, ano yan. Definitely, nasa spirit yan dahil, you know, I'm concerned doon sa penal aspect. Kung hindi malinaw dapat [21] (interrupted) But we are talking about ethical standards, kaya dapat mahigpit, eh. If it were left to me, gusto ko kasama yun. Dahil ang dami naming pinag-uusapan blood relationships that never came up.

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"Hon. Escudero : Mr. Chairman, letter D, anong ano mo? Ano ba ito? Under punishable ito?"

"Hon. Saguisag : Hindi yata. Exhortation 'to a. Wala don sa penal. Section ano yah eh. Section 4. Para lang ano yan, Ten Commandments yan.

"Hon. Escudero : Kasi kung punishable, it is difficult to [21] This can even be abused [21]"

Hence, there is no basis in disapproving Abaya's appointment considering that Sec. 4c of RA 6713 does not provide that appointments issued not in accordance with the norms of conduct should be disapproved.

Likewise, granting that the herein appointment falls squarely with the contemplation of RA 6713, it must be emphasized that there was no showing that there was undue favor extended to the appointee Abaya. Be it noted that the concept of undue favor should be taken in relation to the qualifications of the proposed appointee, such that if the only reason why he was appointed is her relationship with the appointing authority, as contemplated in RA 6713, and not his qualifications, then there is clearly undue favor extended to the appointee. Such is not true in the case at bar.

The qualification standards for the position of Municipal Agriculturist I are the following:

Education : Bachelor's Degree in Agriculture or related field

Experience : 3 years acquired experience in agriculture or related field

Training : None

Eligibility : 1st grade or its equivalent

Meanwhile, records show that Abaya has the following qualifications:

Education : Doctor of Veterinary Medicine

Experience : 1989 - present

Training : more than 200 hours

Eligibility : CS Professional

By reason of said qualifications, he was issued a permanent appointment to the position of Municipal Agriculturist I. Said appointment was, however, disapproved not because he has not met the qualifications required for the position but rather on the perceived notion that the appointment was issued in violation of RA 6713. Hence, the issue of whether Abaya is qualified for the position is answered in the affirmative.

WHEREFORE, the instant approval of Mayor Ramon Purugganan is hereby granted. Accordingly, Pacifico Abaya's appointment as Municipal Agriculturist I, Municipality of Bangued is hereby approved.

Quezon City, September 16, 1999

(Sgd.) CORAZON ALMA G. DE LEON
Chairman

(Sgd.) THELMA P. GAMINDE
Commissioner

DID NOT PARTICIPATE
JOSE F. ERESTAIN, JR
Commissioner

Attested by:

(Sgd.) ARIEL G. RONQUILLO
Director III