

LAO, Rolando C.

Re: Disapproved Appointment;

Appeal

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RESOLUTION No. 041075

Mayor Leonardo R. De Leon, Angat, Bulacan, appeals from the Order of the Civil Service Commission Regional Office No. III (CSCRO No. III), Capitol Compound, San Fernando City, Pampanga, dated March 1, 2004, affirming the disapproval of the appointment of Rolando C. Lao as Municipal Budget Officer, Municipality of Angat, Bulacan, by the Civil Service Commission-Field Office, Bulacan for violation of the residency requirement prescribed under the Local Government Code of 1991.

The dispositive portion of the CSCRO No. III Order dated March 1, 2004, reads, as follows:

"WHEREFORE, the motion for reconsideration of Mayor Leonardo R. de Leon is hereby

denied. The disapproval of the appointment of Rolando C. Lao as Municipal Budget Officer by the CSCFO-Bulacan is hereby affirmed".

Mayor de Leon, in his Appeal-Memorandum dated April 16, 2004, averred, as follows:

"It is most respectfully submitted that the denial of the motion for reconsideration by this Honorable Office, committed serious error, thereby amounting to grave abuse of discretion and/or lack of jurisdiction in disapproving the appointment of Rolando C. Lao as Municipal Budget Officer of Angat, Bulacan because it totally disregarded the Resolution No. 2003-104(A) of the Sangguniang Bayan ng (sic) Angat, Bulacan. Confirming the appointment of Rolando C. Lao as Municipal Budget Officer of Angat, Bulacan stating therein that after ascertaining that he has all the qualification appurtenant to the position of Budget Officer.

"Disregarding the Municipal Ordinance 2003-1004(A) passed by the Sangguniang Bayan of Angat, Bulacan, confirming the appointment of Rolando C. Lao as Municipal Budget Officer contradict the wisdom of the doctrine of devolution and/or decentralization as provided in the Local Government Code of 1991, as it deprived the Mandate of the Sangguniang Bayan of its basic function to determined (sic) who should be their Municipal employees as in the case of the Budget Officer, which however this office has strictly scrutinized the Voter's Registration and the certification issued by Barangay Captain Benigno R. de Guzman of Barangay Niugan, Angat, Bulacan despite showing that Rolando C. Lao, prior to his residency at No. 479 Salvador St., Sta. Cruz, Angat, Bulacan, he formally resides (sic) at de Leon Compound, Niugan, Angat, Bulacan since January, 2003, thereby establishing his residency in the Municipality of Angat, Bulacan, moer (sic) than six (6) months before his appointment."

On July 8, 2004, CSCRO No. III forwarded the records of the case to the Commission along with its comment to the Appeal Pertinent portions thereof read, as follows:

"The present appointment of Lao show(sic) that same was issued by Mayor De Leon only on August 5, 2003. Therefore, at the time when the appointment of Lao was issued by Mayor De Leon, the former has only resided for three (3) months in Angat, Bulacan, which clearly does not meet the prescribed six (6) months residency requirement. This Office was thus correct when it disapproved the appointment of Lao.

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"This Office maintains that at the time the appointment of Lao was submitted to the CSCFO-Bulacan for the required attestation, his Voter's Registration was not yet approved by the Election Registration Board of the Municipality of Angat, Bulacan. The fact that they have been subscribed and sworn to by one Maria B. Bautista, Acting Election Officer is not conclusive proof that the same was already approved by the Election Registration Board when the portion indicating the action of the said board remains unfilled and unapproved."

The antecedent facts of the instant case as borne out by the records are, as follows:

On August 5, 2003, Mayor Leonardo R. De Leon appointed Rolando C. Lao as Municipal Budget Officer of the Municipality of Angat, Bulacan. Prior to the issuance of the appointment of Lao, the proposal to appoint him was presented to the members of the Sangguniang Bayan of Angat, Bulacan, on August 4, 2003 for their concurrence. On the same date, the members of the Sangguniang Bayan of Angat, Bulacan, signified their concurrence to Lao's appointment through Resolution No. 2003-104 (A). Thereafter, the appointment of Lao was submitted for attestation

to the Civil Service Commission-Field Office (CSCFO), Bulacan. On September 23, 2003, the appointment of Lao was disapproved by CSCFO-Bulacan on the ground of failure to meet the residency requirement under Republic Act No. 7160 (The Local Government Code of 1991).

On October 1, 2003, Mayor De Leon sought reconsideration of the disapproval by the CSCFO-Bulacan of Lao's appointment and asserted that Lao correctly stated in his Personal Data Sheet (PDS) that he is a resident of No. 479 Salvador St., Sta. Cruz, Angat, Bulacan. He further claimed that Lao has been residing in Angat, Bulacan, as early as April 2002. In support of his claim, Mayor De Leon submitted several certifications executed by Barangay Captains Benigno R. De Guzman of Niugan, Angat, Bulacan, and Oscar C. Suarez of Sta. Cruz, Angat, Bulacan. Mayor De Leon also presented a copy of the application of Lao for transfer of registration with the Commission on Elections, Angat, Bulacan.

Not convinced with the documentary evidence submitted by Mayor De Leon, the CSCRO No. III denied the motion for reconsideration and affirmed the disapproval of the appointment of Rolando C. Lao as Municipal Budget Officer of Angat, Bulacan.

Hence, this appeal.

At the outset, it is must be pointed out that contrary to the assertion of Mayor De Leon, the Commission, pursuant to **Section 12 (14), Chapter 3, Book V of the Administrative Code of 1987**, has the power to take appropriate action on all appointments. It reads:

"(14) Take appropriate action on all appointments and other personnel matters in the Civil Service including extension of Service beyond retirement age;"

It is explicit from the aforequoted provision of law that the Commission is empowered to review and, thereafter, approve an appointment, if the appointee meets the minimum qualifications required of the position or disapprove it, if otherwise. Hence, the Commission is not in any way encroaching on the appointing power of Mayor De Leon and on the concurrence of the members of the Sangguniang Bayan of Angat, Bulacan, when it disapproved the appointment of Lao. It is merely performing its constitutional mandate to ensure that the appointment of Lao, or of any other appointive public official for that matter, is in order and in accord with the Civil Service Law and rules.

We now go to the main issue obtaining in the instant case which is whether the disapproval of the appointment of Rolando C. Lao as Municipal Budget Officer by the CSCRO No. III for failure to meet the residency requirement is proper and in order.

Relevant to the instant case is **Section 475, Article V, Title V of Republic Act No. 7160 (The Local Government Code of 1991)**, which reads, as follows:

"SEC. 475. Qualifications, Powers and Duties. - (a) No person shall be appointed budget officer unless he is a citizen of the Philippines, A RESIDENT OF THE LOCAL GOVERNMENT UNIT CONCERNED, of good moral character, a holder of a college degree preferably in accounting, economics, public administration or any related course from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in government budgeting or in any related field for at least five (5) years in the case of

provincial or city budget officer, and at least three (3) years in the case of the municipal budget officer." (Emphasis supplied)

Corollarily, **Article 121 of the Implementing Rules and Regulations of the Local Government Code of 1991** states, as follows:

"Art. 121. Residency Requirement. - The requirement for an appointive local official to be resident of the Local Government Unit concerned shall be construed to mean as actual residence in the locality for at least six (6) months immediately preceding his appointment."

The above-quoted provision of law and Implementing Rules and Regulations require actual residency of the appointive official in the local government unit where he is to be appointed for at least six (6) months.

In the present case, Mayor De Leon presented three (3) different Certifications dated November 2, 2002, January 6, 2003 and August 6, 2003, signed by Barangay Captain Benigno R. De Guzman of Niugan, Angat, Bulacan, and Barangay Captain Oscar C. Suarez of Sta. Cruz, Angat, Bulacan, respectively. All of the said Certifications attest to the fact that Lao, from April, 2002 up to the present, resided in their respective barangays.

The Certification dated November 2, 2002 reads, as follows:

"Pinatutunayan ng kasulatang ito na si G. Rolando C. Lao ay naninirahan dito sa Barangay

Niugan sa Rest House ng Kgg. Na Punong Bayan Leonardo R. De Leon simula pa nuong unang arawng Abril ng taong kasalukuyan.

"Ang pagpapatunay na ito ginawa sa kahilingan na rin ni G. Rolando C. Lao upang gamitin sa ano mang legal na kaparaanan."

On the other hand, the Certification dated January 6, 2003 provides, as follows:

"This is to certify that Mr. Rolando C. Lao is presently residing at De Leon's Compound, of this Barangay and a registered voter of this community.

"This certification is issued upon request of above subject person for whatever purpose it may serve."

And, the Certification dated August 6, 2003 reads, as follows:

"This is to certify that MR. ROLANDO C. LAO is presently residing at 479 Salvador St., Sta. Cruz, Angat, Bulacan since May 2003 on a rented house owned by Mr. and Mrs. Restituto Origenes.

"This certification is issued upon the request of the above subject person for whatever legal purpose it may serve."

As clearly shown in the aforequoted Certifications, Lao has been actually residing in Angat, Bulacan, since April 2002 up to the present. As such, he has already complied with the required actual residency. This finds confirmation in the pronouncement of the Commission in **CSC Resolution No. 98-2968 dated November 13, 1998**, where it ruled, as follows:

"It is a generally accepted principle in statutory construction that 'words and phrases having technical meaning are construed according to their technical sense, unless it is apparent that a different meaning was intended by the legislature (82 C.J.S. Statutes 330).

"It must be noted that what is required under the aforequoted provision is actual residence. The meaning of the term 'residence' in its technical sense is 'personal presence at some place of abode with no present intention of definite and early removal and with purpose to remain for undetermined period, not infrequently, but not necessarily combined with design to stay permanently.

"At this juncture, it must be pointed out that 'residence' is not synonymous with 'domicile' though the two terms are closely related, a person may have one legal domicile at one time, but may have more than one residence. Residence means living in a particular locality but domicile means living in that locality with intent to make it a fixed and permanent house.

"In the absence of any showing by the legislature giving the term 'residence' synonymous meaning with 'domicile' in the aforequoted provision, the term 'residence' should be taken in its technical sense."

A perusal of the provisions of the Local Government Code of 1991 and its Implementing Rules and Regulations clearly shows that there is nothing in it which says that the term 'residence' used therein must be given its strict meaning and/or is synonymous with domicile. Therefore, the term residence must be given its technical construction.

Clearly, the Certifications issued by Barangay Captains Benigno R. De Guzman and Oscar C. Suarez

established the fact that Lao started residing in Angat, in April 2002 up to the present. While it is true that Lao, in the PDS that he accomplished sometime in 2002 stated therein that he is a resident of Baliwag, Bulacan, and in the more recent PDS that he had accomplished in 2003, he represented therein that he is a resident of 479 Salvador St., Sta.Cruz, Angat, Bulacan, this must be construed to mean that Baliwag, Bulacan, is his "domicile" while Angat is his actual "residence".

The law requires only actual residence of Lao in Angat, Bulacan, for him to qualify for the position of Municipal Budget Officer. Hence, taking into account the declaration of the two (2) Barangay Captains of the barangays where Lao resided, it is clearly shown that he actually resided in Angat, Bulacan, for more or less fifteen (15) months from April 2002 to August 5, 2003, which is the actual date of issuance of his appointment. Thus, the six (6) months residency requirement prior to the issuance of appointment as provided for under Article 121 of the Implementing Rules and Regulations of the Local Government Code of 1991 is deemed complied with.

WHEREFORE, the appeal of Mayor Leonardo R. De Leon is hereby **GRANTED**. Accordingly, the Order of CSCRO No. III dated March 1, 2004, upholding the disapproval by the CSCFO-Bulacan of the appointment issued to Rolando C. Lao on August 5, 2003 as Municipal Budget Officer of Angat, Bulacan, is **REVERSED**.

The CSCFO-Bulacan is directed to approve the appointment of Rolando C. Lao as Municipal Budget Officer pursuant to this Resolution.

Quezon City, September 28, 2004

(SGD)

J. WALDEMAR V. VALMORES

Commissioner

(SGD)

KARINA CONSTANTINO-DAVID

Chairman

(SGD)

CESAR D. BUENAFLORES

Commissioner

Attested by:

(SGD)

REBECCA A. FERNANDEZ

Director IV

Commission Secretariat and Liaison Office

