

SILVA, Adoracion T., et al.

Re: Appointment

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RESOLUTION NO. 991071

Administrator Eduardo U. Escueta of the Philippine Coconut Authority (PCA), Quezon City, appeals the disapproval by the Civil Service Commission-National Capital Region (CSC-NCR) of the respective appointments of thirty one (31) of its employees. The CSC-NCR disapproved said appointments on the ground that they were issued by a mere Officer-in-Charge who is not authorized to issue appointments. The names, positions and status of appointments of these 31 employees are as follows:

<u>NAME</u>	<u>POSITION</u>	<u>STATUS OF APPOINTMENT</u>
1. Adoracion T. Silva	Bookkeeper	Renewal
2. Zenaida T. Pasajol	Bookkeeper	Renewal
3. Remedios C. Quevada	Bookkeeper	Renewal
4. Marie Eilyn M. Oliver	Bookkeeper	Renewal
5. Cherry Pie M. Garay	Bookkeeper	Renewal
6. Zosimo P. Carmona	Bookkeeper	Renewal
7. Cecilia G. Gadon	Bookkeeper	Renewal
8. Aline I. Babista	Cash Clerk III	Renewal
9. Sonia L. Taleon	Admin. Officer II	Renewal
10. Mary Antonette A. Cruz	Admin. Officer II	Renewal
11. Simeon F. Maano	Driver II	Renewal
12. Rodolfo C. Teodoro	Driver II	Renewal
13. Ronaldo A. Solar	Driver II	Renewal
14. Cesar V. Reginaldo	Driver II	Renewal
15. Rolando E. Pagdanganan	Driver II	Renewal
16. Artemio D. Idea	Driver II	Renewal

17.Cornelio L. Sajo	Driver II	Renewal
18.Claver C. Collante	Driver II	Original
19.Mercedita R. Quiminiano	Agriculturist I	Renewal
20.Yolanda E. Aversu	Agriculturist I	Renewal
21.Rolando S. Paril	Agriculturist I	Renewal
22.Jezreel F. Atienza	Agriculturist I	Renewal
23.Lilian V. Alejandro	Agriculturist I	Renewal
24.Teodolfo A. Ilao	Agriculturist I	Renewal
25.Noel R. Edan	Agriculturist I	Renewal
26.Leah C. Licas	Clerk II	Renewal
27.Catalina R. Glorioso	Clerk II	Renewal
28.Merly A. Tarrega	Clerk II	Renewal
29.Roselle M. Rosales	Clerk II	Renewal
30.Felino C. Jaron	Security Guard II	Renewal
31.Edwin O. Balagwis	Agriculturist I	Renewal

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The said decision reads, in part, as follows:

"You represent that you assumed office as Administrator on July 10, 1998 and that the Memorandum of the Executive Secretary dated June 30, 1998 deemed the then incumbent Administrator to have vacated his position effective July 1, 1998 thus leaving no responsible officer except the OIC to issue the appointment in question.

"In support to the request, you attached a certification you issued on September 03, 1998 'confirming the authority of Mr. Natalio M. Bondad Jr., OIC of PCA-Region IV-A, Lucena City to issue co-terminous, casual and contractual appointments effective July 1, 1998 and said authority of Mr. Bondad under Sec. 4 of Corporate Order No. 05, s. 1998 shall be valid only for appointments issued prior to July 10, 1996.'

"Relevant thereto is CSC Resolution No, 93-5026 (Patricio Realce), where the Commission ruled as follows:

The power to appoint resides exclusively in the appointing authority and is not deemed delegated to one who is merely an Officer-in-Charge.

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The OIC has no power to appoint unless the designation issued by the power authority includes expressly, the power to issue appointments.'

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"Considering that you assumed office only on July 10, 1998, the certification you issued confirming the authority of Mr. Bondad to act as Officer-in-Charge in the issuance of the coterminous and casual appointments prior to July 10, 1998 has no legal basis.

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"In sum, the casual appointments (original and renewal) of Ms. Adoracion T. Silva and thirty (30) others effective July 01, 1998 are not considered valid, hence void and initio."

The material allegations of Administrator Escueta in his appeal are as follows:

"We would like to apprise the Commission on the circumstances attendant to the issuance of the questioned appointments by the OIC of the PCA Regional Officer IV-A which are as follows:

"1. The said appointments involved in the Regional Office responsible for the implementation of the Small Coconut Farms Development Project (SCFDP) of the Authority funded by the World Bank and which were issued by NATALIO C. BONDAD, JR., Assistant Regional Manager in his capacity as Officer-in-Charge of PCA Region IV-A in the absence of the Regional Manager who was detailed to the Central Office in the exigency of the service . . . The designation of OIC Bondad was necessary as the incumbent Regional Manager could no longer discharge the duties and functions of the office and who later died of leukemia on July 27, 1998 or barely a month after his detail to the Central Office to undergo medical treatment . . . Included among the duties and functions of Mr. Bondad as OIC is to issue appointments of rank and file personnel in the Regional Office as provided for by PCA Corporate Order No. 5 s. 1996 under which the OIC is considered, for all intents and purposes, to be the appointing authority in that particular region . . .

"2. The expiration and renewal dates of the appointments on June 30, 1998 and July 1, 1998, respectively, coincided with the change in administration upon the assumption to office by the newly elected President of the Republic of the Philippines for which it deemed all Presidential appointees of the former President to have vacated their positions as of July 1, 1998 . . . Considering the political situation prevailing at the time, the PCA was left without an Administration/Head of Agency to take care of the day to day

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functions of the Office such that it was unavoidable that the issuance of appointments in the regional office concerned were made by an OIC earlier designated by the former Administrator and who is the recognized appointing authority for the region.

"3. Upon assumption of office on July 10, 1998 of the

(sic) newly appointed PCA Administrator, it issued a certification affirming that actions previously taken by the OIC of the Regional Office concerned on the appointments it issued on July 1, 1998. It is submitted that any

want of authority or infirmity arising from said appointments by the OIC was deemed cured when the same was later ratified by the newly appointed Head of Agency. Furthermore, the ten day period of time prior to the assumption of the new Administrator is too short a gap to render the subsequent ratification ineffective.

"4. In implementing the project as of closing date, the

World Bank deemed it necessary that there be continuity in the service of project personnel and that there be no further interruptions nor delays in the delivery of services. Hence, upon the expiration of the appointments on June 30, 1998, it was imperative that the same be renewed to prevent a gap in the service of said personnel who were diligently attending to their duties and functions in good faith. Further, said personnel action was necessary to ensure the unhampered delivery of extension services and farm inputs (e.g. seednuts, fertilizers, intercrops and other farm inputs) to farmer beneficiaries as well as in ensuring the continued operation of nurseries deemed critical to the project which, at the time, were in danger of being abandoned. If no appointments were issued, this may be considered a violation of the commitment of the Government of the Philippines (GOP) that services will be rendered continuously until full termination of the project.

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"5. Finally, with the above commitments to the World Bank, the

non-compliance on the part of the Philippine Government would have seriously jeopardized an earlier request for a fourth and final extension of the project until December 1999. (Attached as Annex E is a copy of Project Profile of the SCFDP and as Annex E-1 which is a copy of the WB approval of the project's fourth and final extension until December 1999 for reference). Needless to say, a non-extension would have adversely prejudiced the financial viability of the project which might have resulted in a default which could have cost the government some THIRTY MILLION US DOLLARS (US \$30.0 M) in wasted project funds.

The records disclose that about a month prior to July 27, 1998, then incumbent Regional Manager Enrico B. Paloma of the PCA Regional Office No. IV-A, Lucena City, was detailed at the PCA Central Office in Quezon City as he was then undergoing medical treatment for an illness he was then suffering. As a consequence of this detail, Assistant Regional Manager Natalio C. Bondad, Jr., was designated as Officer-in-Charge of the PCA Regional Office No. IV-A, on June 15, 1998 by then PCA Administrator Virgilio M. David. Said designation reads as follows:

"In the exigency of the service, ENGR. ENRICO B. PALOMA, Regional Manager III, PCA Region IV-A is hereby detailed at the Office of the Deputy Administrator for Field Operations Branch.

"Consequently, Mr. NATALIO C. BONDAD, JR., Assistant Regional Manager for

Region IV-A is hereby designated as Officer-in-Charge in the region.

"As Officer-in-Charge, Mr. Bondad shall perform the duties and responsibilities appurtenant to the position and shall be entitled to the necessary allowance as authorized. (Underscoring supplied).

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"This Order takes effect immediately and shall be in force unless sooner revoked by the undersigned."

On June 30, 1998, Executive Secretary Ronaldo B. Zamora, by authority of the President, issued a Memorandum to all Heads of Departments, Agencies and Offices providing, among other things, that all officials /personnel "occupying political positions are deemed co-terminous with the outgoing Administration" and that they shall vacate their positions effective July 1, 1998. Consequently, the then incumbent PCA Administrator vacated his office.

On July 10, 1998, newly appointed PCA Administrator Escuete assumed office. As such, from July 1, 1998 to July 9, 1998, the PCA did not have any Administrator.

In the meantime, the respective appointments of the earlier named PCA personnel, except only for one, expired on June 30, 1998. Hence, to avoid disruption of services in PCA Region 4-A, OIC Regional Manager Natalio C. Bonda, Jr. renewed the appointments of the said PCA

employees effective July 1, 1998.

On September 3, 1998, Administrator Escuete subsequently affirmed the authority of OIC Bondad to issue the said appointments, to wit:

"This is to confirm the authority of Mr. Natalio M. Bondad, Jr., OIC of PCA-Region IV-A, Lucena City to issue co-terminous, casual and contractual appointments effective July 1, 1998 and said authority of Mr. Bondad under Sec. 4 of Corporate Order No. 05, s. 1996 shall be valid only for appointments issued prior to July 10, 1998.

"This certification is being issued in connection with the appointments of SCFDP coterminous, contractual and casual personnel pending action before the Civil Service Commission, CSC-DA Field Office."

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The CSC-NCR, however, disapproved all of the 31 appointments. Hence, this appeal.

It is true as a general rule, an OIC is not authorized to issue an appointment. As an exception to this rule, however, an OIC may issue an appointment provided he is expressly vested with

such an authority. This is explicit from CSC Resolution No. 93-5026 dated November 4, 1993 which states that:

"... An officer-in-Charge does not exercise powers involving discretion of the regular incumbent . . . The rights and privileges of the latter do not normally descend upon the former unless specifically indicated or stated in the designation." (underscoring supplied)

As already stated, Bondad was already designated as OIC by then PCA Administrator Virgilio M. David on June 15, 1998. Among the powers delegated to Bondad is to perform the duties and responsibilities appurtenant to the position of a regular Regional Manager. And in PCA Corporate Order No. 05 series of 1996, among the powers vested upon a Regional Manager is to issue appointments to rank and file employees. Said Corporate Order provides as follows:

"Corporate Order No. 03 series of 1994 issued pursuant to Board Resolution No. 007-95 is hereby amended to include those authorization not included in the said Corporate Order and to further enhance strong internal control. The following are the amended/additional guidelines on the delegation of function and the corresponding approving/signing authority.:

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"Signing/Approving Authority

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**"4. APPOINTMENTS REGULAR/CASUAL/
CONTRACTUALS)**

4.1 Original/Promotional/Renewal/Extension

"4.1.1 Officers Administrator

**"4.1.2 Rank and File Administrator
Central Office**

**"4.1.3 Rank and File RMs/CMs
(Regional and concerned"
center offices)**

It is thus explicit from the foregoing that OIC Regional Manager Bondad was duly conferred with the authority to appoint the PCA employees whose appointments are now the subject of this appeal.

Moreover, the Commission takes cognizance of the fact that these 31 employees whose appointments are under coterminous status were specifically hired by the PCA to pursue and implement that Small Coconut Farms Development Program (SCFDP) financed by the World Bank. And one of the terms and conditions of the agreement between the Philippine Government and the World Bank is for the former to provide promptly as needed, facilities,

services and other resources required for the said project. Excerpts of the said agreement reads as follows:

"ARTICLE III

"Execution of the Project

"Section 3.01. (a) The Borrower (Government of the Philippines) declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end, shall carry out the Project through PCA with due diligence and efficiency and in conformity with appropriate administrative, financial and agricultural practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project.

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"(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Borrower shall carry out the Project in accordance with the Implementation Program set forth in Schedule #5 to this Agreement.

"Section 3.02. (a) In order to enable PCA to carry out its obligations under the Project, the Borrower shall take all necessary action to make available to PCA a sufficient number of competent extensionists in accordance with the Memorandum of Agreement." (Underscoring supplied)

With all of the foregoing facts and circumstances duly established by the evidence on record, the Commission finds the instant appeal meritorious.

WHEREFORE, the appeal of PCA Administrator Eduardo U. Escueta is hereby granted. Accordingly, the appealed decision is reversed and set aside. The respective appointments of the earlier named 31 PCA employees are approved. The CSC-NCR is directed to reflect this Resolution in the records of the employees concerned.

Quezon City. MAY 21, 1999.

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JOSE F. ERESTAIN, JR
Commissioner

CORAZON ALMA G. DE LEON
Chairman

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O.B.

THELMA P. GAMINDE
Commissioner

Attested by:

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ARIEL RONQUILLO

Director III

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NLA/S13/VOG/3

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