



MC No. 01, s. 2014

MEMORANDUM CIRCULAR

TO : ALL HEADS OF CONSTITUTIONAL OFFICES, DEPARTMENTS, BUREAUS, AND AGENCIES OF THE NATIONAL AND LOCAL GOVERNMENTS, STATE COLLEGES AND UNIVERSITIES, INCLUDING GOVERNMENT OWNED AND/OR CONTROLLED CORPORATIONS WITH ORIGINAL CHARTERS

SUBJECT : Clarificatory Guidelines on the Effects of the Supreme Court Ruling on the Case of CSC vs. Pililla Water District (G.R. No. 190147, March 5, 2013) Relative to the General Manager Position in Local Water Districts.

Presidential Decree (PD) No. 198, also known as the Provincial Water Utilities Act of 1973, as amended, created the General Manager (GM) position in local water districts, whose incumbent shall serve at the pleasure of the Board of Directors.

In 2004, Republic Act (RA) No. 9286 or "An Act Amending PD No. 198, Otherwise Known as the Provincial Water Utilities Act of 1973, as Amended," was enacted. Section 2 thereof, among others, states that a GM appointee shall not be removed from office, except for cause and after due process. Pursuant to this amendment, the Commission issued CSC Resolution No. 06-1052 dated June 20, 2006, which was circularized in CSC Memorandum Circular (MC) No. 13, s. 2006, declaring the GM position as belonging to the career service, and setting out the corresponding qualification standards for appointment thereto.

The Supreme Court, however, in the case of CSC vs. Pililla Water District (G.R. No. 190147, March 5, 2013), declared that the GM position in local water districts remains to be primarily confidential in character, and that what the amendment in Section 2 of RA No. 9286 mandates is that notice and hearing shall first be observed before a GM appointee is removed from office. In its Resolution dated April 11, 2013, which this Commission received on June 5, 2013, the Supreme Court denied with finality the motion for reconsideration filed by the former on the same case.

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The foregoing development made it imperative to clarify the effects of the latest jurisprudence. Hence, the Commission has deemed it fit to adopt the following guidelines, thus:


1. **GM Position in Local Water Districts; Nature.**—In consonance with the decision in *CSC vs. Pililla Water District, supra.*, the GM position in local water districts shall be considered as primarily confidential, which is under the non-career service. Henceforth, an appointee to a GM position is exempted from the qualification standards prescribed under the existing Qualification Standards Manual, namely, education, experience, eligibility and training, unless the water district opts to continue to adopt qualification standards previously set in 2006 or establish their own, subject to CSC approval and in line with Item 7, Part I of CSC MC No. 12, s. 2003.

2. **Vested Right; GM Appointees.**—Pursuant to the doctrine of operative facts and in the higher interest of equity, justice and fairness, the permanent appointments issued to GM incumbents on the basis of CSC Resolution No. 06-01052 dated June 20, 2006, and CSC MC No. 12, s. 2006, shall be respected. However, upon separation from the service of these GM appointees, the succeeding appointments shall be deemed coterminous with the appointing authority in line with the primarily confidential character of the GM position.

Nevertheless, all permanent appointments issued to GM positions on or after June 5, 2013, which have already been approved, shall be recalled by the concerned regional or field offices with the advice that these be re-submitted under coterminous status. Those appointments issued on the same period that are still pending attestation shall be disapproved. This is also true with respect to temporary appointments. However, the local water districts may consider issuing new appointments under coterminous status to GM appointees with said disapproved appointments.

Meanwhile, permanent appointments issued before the cut-off date on June 5, 2013 but which have yet to be attested shall be approved, provided the appointees are able to meet the requisite qualification standards under which the appointments were issued. With regard to temporary appointments issued under similar circumstances, they shall likewise be approved provided the pertinent requirements are satisfied. However, the local water districts may consider issuing new appointments under coterminous status to the temporary GM appointees.

3. **Requirements of Notice and Hearing; Removal.**—Aside from other causes provided for by law, a GM appointee may be removed from office for loss of trust and confidence of the Board of Directors, provided that prior notice and hearing are observed. In this regard, the hearing shall be undertaken with the end in view of proving or establishing the existence of the ground/s upon which the loss of trust and confidence is founded. It must be clarified that “hearing” as contemplated herein shall not be limited to a trial-type proceeding but can take the form of submission of position papers, memoranda and the like.
4. **Abrogation of Existing Civil Service Policies.**—By necessary implication, the decision in the CSC vs. Pililla Water District case has effectively abrogated CSC Resolution No. 06-1052 dated June 20, 2006, CSC MC No. 12, s. 2006, and all other related issuances of the Commission not consistent therewith.
5. **Other Issues and Concerns.**—Other issues and concerns regarding the instant subject matter not otherwise governed by this issuance shall be brought to the Commission for appropriate disposition.


FRANCISCO T. DUQUE III, MD, MSc
Chairman

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