

**DIPUTADO, Mike Y.**

Re: Disapproved Appointment; Nepotism;  
Local Government Unit; Appeal

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### **RESOLUTION NO. 002475**

Mayor Vicente Y. Emano, City Government of Cagayan de Oro, appeals the disapproval by the Civil Service Commission Regional Office (CSCRO) No. X, Cagayan de Oro City, of the promotional appointment of Mike Y. Diputado as Registration Officer IV, same province. The pertinent portions of the decision dated May 7, 1999 of CSCRO No. X read, as follows:

*"After a thorough evaluation of the documents submitted and with due consideration of your stand on the matter, we see no reversible error in the action of the CSFO. We note that Mr. Diputado is under the immediate supervision of his wife, Norma Diputado who is the Assistant Civil Registrar. While we likewise note that RA 7160 does not make mention of persons exercising immediate supervision, we cannot subscribe to the view that it does not likewise cover the persons mentioned in Section 59, Book V of EO 292 for the simple reason that there is no conflict in its harmonization. What RA 7160 did was merely expand the coverage up to the fourth civil degree..."*

*"Lastly, your concern for the career advancement of Mr. Diputado is noted and we, as stated in Debulgado, adhere to the view 'that the prohibition applies without regard to the actual merits of the proposed appointee and to the good intentions of the appointing or recommending authority..."*

In his appeal dated May 28, 1999, Mayor Emano averred, as follows:

*"The Regional Office failed to appreciate the contention that the provisions of Section 79 of Republic Act No. 7160 should apply to the case of Diputado, and not those found in Executive Order No. 292.*

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*"A special law prevails over a general law regardless of their dates of passage and the special is to be considered as remaining exception to the general.*

*"The Assistant City Civil Registrar does not exercise immediate supervision over the Registration Officer IV. . . The above provision [Section (b) and (c)] is clear that the Civil Registrar exercises immediate supervision over employees of the City Civil Registrar's Office.*

*"Nowhere can one find a provision in the Local Government Code or other pertinent law, rules and regulations that authorizes or allows the Assistant Civil Registrar to exercise supervision over employees in the Civil Registrar's Office. This authority should emanate from an express provision of law or a necessary implication of a provision..."*

In its comment to the appeal, the CSCRO No. X reiterated its original ruling by stating that the arguments raised by appellant had already been disposed of in the appealed decision.

Records show that on February 16, 1999, Mayor Vicente Y. Emano issued a promotional appointment with permanent status to Mike Y. Diputado as Registration Officer IV. Diputado's wife is the Assistant Civil Registrar. When it was submitted to the Civil Service Commission Field Office – Misamis Oriental for attestation, it was disapproved for violation of **Section 59 (Nepotism), Title I (A), Book V of Executive Order No. 292**. On April 5, 1999, Mayor Emano appealed to the Civil Service Commission Regional Office (CSCRO) No. X. On May 7, 1999, CSCRO No. X issued the assailed decision.

Hence, this appeal.

**Section 79, Title III, Book I of the Republic Act No. 7160 (The Local Government Code of 1991)** provides that:

*"SEC. 79. Limitation on Appointments. – No person shall be appointed in the career service of the local government if he is related within the fourth civil degree of consanguinity or affinity to the appointing or recommending authority."*

Under the aforequoted provision, an appointment in the career service of the local government is prohibited if the appointee is related within the fourth civil degree of consanguinity or affinity to the appointing or recommending authority.

Consanguinity has been defined as relationship by blood from the same stock or common ancestor while affinity refers to the relationship of a husband to the blood relatives of his wife, or a wife to the blood relatives of her husband (**Sibal, Philippine Legal Encyclopedia, 1986 Edition, page 65 and page 30, respectively**).

Since the appointee, Diputado, is neither related by consanguinity nor affinity within the fourth civil degree to the appointing authority, Mayor Emano, nor is there any showing of this same relationship with the recommending authority, his promotional appointment as Registration Officer IV should be approved.

The Commission is not unmindful of **Section 59, Title I (A), Book V of the Administrative Code of 1987 (Executive Order No. 292)** which provides, as follows:

*"SEC. 59. Nepotism – (1) **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 persons exercising immediate supervision over 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."*

However, the prohibition under **Section 79 of the LGC of 1991** specifically applies to appointments in the career service of local government units. Between the LGC of 1991 and the Administrative Code of 1987, the former should prevail, being a special legislation and a later act.

The LGC of 1991, unlike the Administrative Code of 1987, did not include in the prohibition against nepotism the phrase *"chief of the bureau or office"* and *"persons exercising immediate supervision"* over the appointee. The LGC of 1991 also expanded the degree of relationship up to the fourth degree, compared with the Administrative Code of 1987 which provides only up to the third degree. Thus, the clear intent of the LGC of 1991 is to extend the scope of the relationship up to the fourth degree of consanguinity or affinity but to limit it between the appointing or recommending authority only and the appointee. This conclusion is in accord with the rule of statutory construction that:

*"As a rule, the amendment by deletion of certain words or phrases in a statute indicates that the legislature intended to change the meaning of the statute, for the presumption is that the legislature would not have made the deletion had the intention been not to effect a change in its meaning. The amended statute should accordingly be given a construction different from that previous to its amendment." (Gloria vs. Court of Appeals, 306 SCRA 287 [1999])*

**WHEREFORE**, the appeal of Mayor Vicente Y. Emano is granted. The promotional appointment of Mike Y. Diputado as Registration Officer IV in the City Civil Registry Office, Cagayan de Oro City, is approved, effective upon the date of its issuance on February 16, 1999.

The Civil Service Commission Regional Office No. X is directed to reflect in the service record of Diputado the approval of his appointment pursuant to this resolution.

Quezon City, **OCT 27 2000**

(SGD.)  
**CORAZON ALMA G. DE LEON**  
Chairman

O.B.  
**JOSE F. ERESTAIN, JR.**  
Commissioner

(SGD.)  
**J. WALDEMAR V. VALMORES**  
Commissioner

Attested by:

(SGD.)  
**ARIEL G. RONQUILLO**  
Director III

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/diputado'r