

TAN, Allan A.

Re: Query; (CSC Resolution
Nos. 01-0233 and 01-0502)

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RESOLUTION NO. 011409

Assistant Secretary Allan A. Tan, Department of Transportation and Communications (DOTC), Mandaluyong City, requests the Commission for clarification regarding the implications of **CSC Resolution Nos. 01-0233 dated January 23, 2001** and **01-0502 dated February 22, 2001**, on the status of incumbents to positions declared by the Commission as Career (Permanent).

In the instant query, DOTC Assistant Secretary Tan represents, as follows:

“Upon a verbal query made by Director Carina S. Valera, Chairman De Leon advised her that the incumbents to the then coterminous positions have no vested right to occupy the DLLS positions, and that they are not automatically appointed thereto. She further told Dir. Valera that the positions made permanent can be filled up only by following the processes and requirements under existing CSC rules and regulations, and DOTC policies and guidelines on appointment of personnel.

x x x

“On the same date, we sent notices of termination to said incumbents.

x x x

“The ruling in CSC Resolution No. 01-0502 is obviously inconsistent with the position that then Chairman De Leon relayed to Director Valera. It also apparently did not consider the misrepresentation we have pointed out in our letter to Commissioner Erestain dated 22 February 2001.

“The DOTC DLLS positions are coterminous with the tenure of the appointing authority. The

appointing authority of the said incumbents was Secretary Rivera. The latter was separated from the service upon the

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assumption of Secretary Pantaleon D. Alvarez on 29 January 2001. Consequently, the incumbents were considered automatically terminated.

“If there was in fact a misrepresentation – as the evidence shows there was – there is compelling cause to revisit CSC Resolution No. 01-0233 dated January 23, 2001.

“At any rate, even if granting arguendo that the subject DLLS positions were properly declared permanent, we respectfully submit that said positions can only be filled up in accordance with the usual selection process provided for under CSC rules and regulations and the Guidelines in Filling Up Vacant Positions in the Department of Transportation and Communications, dated 03 October 1994.

“We respectfully submit further that there is nothing in the law or existing jurisprudence that can reasonably serve as basis for declaring the incumbents of the coterminous positions automatically appointed to the positions that were declared permanent.”

It may be recalled that in **CSC Resolution No. 01-0233 dated January 23, 2001**, the Commission granted the request of then DOTC Secretary Vicente C. Rivera, Jr. to declare two (2) of the four (4) Department Legislative Liaison Specialist (DLLS) positions as Career (Permanent). The pertinent portions of said Resolution read, as follows:

“Taking into consideration the nature of the foregoing functions of a Department Legislative Liaison Specialist, it is beyond doubt that the appointee therein cannot be considered a primarily confidential employee. The relationship that exists between the appointing authority and the appointee does not require

close intimacy and personal trust on confidential matters of state. The fact that he may sometimes handle documents, papers or other matters which are somewhat confidential in nature does not suffice to characterize this position as primarily confidential. (Tria v. Sto. Tomas, 199 SCRA 833). Consequently, there exists sufficient basis for the Commission to declare the position of Department Legislative Liaison Specialist a career position.

“WHEREFORE, the request of DOTC Secretary Vicente C. Rivera, Jr. to declare the two (2) positions of Department Legislative Liaison Specialist under Item Nos. OSEC-DOTCB-DLLS-3-1998 and A1-2, respectively, as Career (Permanent) positions, is hereby GRANTED.”

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Subsequently, upon request for clarification by DOTC Assistant Secretary Wilfredo M. Trinidad, the Commission ruled in **CSC Resolution No. 01-0502 on February 22, 2001**, that the incumbents of the two DLLS positions previously declared by the Commission as permanent in CSC Resolution No. 01-0233 dated January 23, 2001, are *ipso facto* appointed in such positions under permanent status. The pertinent portions of said Resolution read, as follows:

“After a careful evaluation of the records, the Commission is of the opinion that the occupants of the two DLLS positions are ipso facto appointed to such positions under permanent status if they meet the minimum requirements of the said positions. It must be pointed out that mere stamped change of status would be reflected on the face of their appointments on the basis of the declaration by the Commission, as contained in its Resolution No. 01-0233.

x x x

“WHEREFORE, the Commission hereby rules that the previous incumbents of the two Department Legislative Liaison Specialist positions, declared by the Commission in CSC Resolution No. 01-0233 dated January 23, 2001 as Career (Permanent), are ipso facto appointed to said positions on permanent status. The Civil Service Commission – National Capital Region, is hereby directed to reflect the change of status on the face of their appointments based on the above-mentioned Resolution.”

Assistant Secretary Tan now brings the matter back to the Commission for further clarification. He submits that the coterminous positions now declared career by the Commission can only be filled up in accordance with the usual selection process provided for under CSC Rules and Regulations, and the Guidelines In Filling Up Vacant Positions in the DOTC.

The instant matter prompts the Commission to look back into the records to determine whether the previous incumbents of the two (2) DLLS positions may be considered as existing employees as of January 23, 2001, the date the two (2) positions were declared by the Commission as career in CSC Resolution No. 01-0233.

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Upon re-evaluation of the records, the Commission is of the view that the occupants of the two DLLS positions can no longer benefit from the effects of CSC Resolution No. 01-0233, considering that at the time of the promulgation of said Resolution on January 23, 2001, they were already technically out of the service.

It is of public knowledge that President Gloria Macapagal-Arroyo took her oath of office at noon on January 20, 2001. Immediately as of that time, she effectively succeeded President Joseph Ejercito Estrada as the 14th President of the Philippine Republic. Consequently, all presidential appointees whose respective terms of office were coterminous with that of the former president were terminated. Among these was then DOTC Secretary Vicente C. Rivera, Jr., whose term of office expired on that

date.

As a necessary implication of Secretary Rivera's cessation from office as Cabinet Secretary, the respective terms of office of employees in the DOTC whose appointments were coterminous with Secretary Rivera likewise expired. Among them were the occupants of the non-career DLLS positions. On the face of their appointments is stated that their status of appointment is "*coterminous with Secretary Vicente C. Rivera, Jr.*".

It becomes clear, therefore, that when the Commission declared on January 23, 2001 the two DLLS positions as career, to reiterate, said positions were already vacant. The occupants of the non-career/coterminous positions ceased to be incumbents of their positions as of noon of January 20, 2001. Logically, CSC Resolution No. 01-0233 cannot be made to apply to them, considering that they were already out of the service as of such time.

Finally, considering that the subject positions now belong to the career service, appointments thereto shall accordingly be subject to the regular screening and selection process prescribed under civil service law and rules. Hence, qualifications of those to be appointed thereto must be determined and evaluated in accordance with the merit and fitness rule in the civil service.

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WHEREFORE, the Commission hereby rules that the previous incumbents of the two Department Legislative Liaison Specialist (DLLS) positions were no longer existing employees as of the date said positions were declared by the Commission as career in CSC Resolution No. 01-0233 dated January 23, 2001. DOTC Secretary Pantaleon D. Alvarez may now appoint who will occupy these newly created career DLLS positions, in accordance with existing Civil Service Law and Rules. Accordingly, CSC Resolution No. 01-0502 dated February 22, 2001 is modified.

Quezon City, **AUG 20 2001**

(SIGNED)
JOSE F. ERESTAIN, JR.
Commissioner

(SIGNED)
KARINA CONSTANTINO-DAVID
Chairman

(SIGNED)
J. WALDEMAR V. VALMORES
Commissioner

Attested by:

(SIGNED)
ARIEL G. RONQUILLO
Director III

FPG/KPZ/X2/X13
Tan/NDC-01-0034