

CAMPIL, Danilo N.

Re: Designation of Municipal Administrator
as Personnel Officer and Ex-officio Member
of the Personnel Selection Board

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RESOLUTION NO. 01-1478

Danilo N. Campil, Local Legislative Staff Officer I, Office of the Sangguniang Bayan, Calabanga, Camarines Sur, seeks the opinion of the Commission relative to the designation of the Municipal Administrator as Personnel Officer and Ex-Officio Member of the Personnel Selection Board. In his letter, he represents, as follows:

“Sometime in 1998, the Municipal Mayor had appointed an employee without the required Civil Service eligibility, to the position of Municipal Administrator and subsequently designated as Personnel Officer and thereafter constituted the Personnel Selection Board making him as an Ex-Officio member.

“ISSUES:

“1. Whether or not the appointment of that employee as Municipal Administrator concurrently acting as Personnel Officer-designated is valid?

“2. Whether or not his action in appointments of casuals or permanent employees, leave of absence and other personnel actions are lawful? In case in the negative, what are the status of said appointments?

“3. The Personnel Selection Board is composed of the Mayor, as Chairman, Vice Mayor and Municipal Councilors as members, and the Municipal Administrator Personnel (sic) Designate (sic) as Ex-Officio, (sic) Is this the lawful composition prescribed by the Commission, (sic) if not what should be the composition and what will be the status of applications (sic) to fill up the vacancy deliberated upon by said selection board?”

Relevant to the query is **Section 480 of the Local Government Code of 1991** which provides, as follows:

“Section 480. Qualification, Terms, Powers and Duties. – (a) No person shall be appointed administrator 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 public administration, law, or any other related course from a recognized college or university, and a first grade civil service eligible or its equivalent. He must have acquired experience in management and administration work for at least five (5) years in the case of the provincial or city administrator, and three (3) years in the case of municipal administrator.

“The term of administrator is coterminous with that of his appointing authority.

“The appointment of an administrator shall be mandatory for the provincial and city governments, and optional for the municipal government.

“(b) The administrator shall take charge of the office of the administrator and shall:

‘(1) Develop plans and strategies and upon approval thereof by the governor or mayor, as the case may be, implement the same particularly those which have to do with the management and administration-related programs and projects which the governor or mayor is empowered to implement and which the sanggunian is empowered to provide for under this Code;

‘(2) In addition to the foregoing duties and functions, the administration shall:

‘(i) Assist in the coordination of the work of all the officials of the local government unit, under the supervision, direction, and control of the governor or mayor, and for this purpose, he may convene the chiefs of offices and other officials of the local government unit;

‘(ii) Establish and maintain a sound personnel program for the local government unit designed to promote career development and uphold the merit principle in the local government service;

‘(iii) Conduct a continuing organizational development of the local government unit with the end in view of instituting effective administrative reforms.’

(3) *Be in the frontline of the delivery of administrative support services, particularly those related to the situations during and in the aftermath of man-made and natural disasters and calamities;*

(4) *Recommend to the sanggunian and advise the governor and mayor, as the case may be, on all matters relative to the management and administration of the local government unit; and*

(5) *Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.*” (Underscoring supplied)

The powers of the Municipal Administrator are so broad in scope as they encompass anything which has to do with the management and administration of local affairs. He is tasked to establish and maintain a sound personnel program for the local government unit. To be able to do this, he may need to exercise supervision and authority over the Local Government Personnel Officer and other members of the Local Personnel Selection Board. Hence, the designation of the Municipal Administrator as Personnel Officer and member of the Local Personnel Selection Board by the appointing authority who is the Municipal Mayor, is not violative of any civil service law, rules and regulations.

Furthermore, the **Revised Policies on Merit Promotion Plan, CSC Memorandum Circular No. 3, s. 2001**, particularly **Item 6** thereof, provides, as follows:

“Item 6. A Personnel Selection Board (PSB) for first and second level positions shall be established in every agency, preferably with the following composition:

a. As Chairperson

x x x

`a.2 *Local Chief Executive for LGUs or the authorized representative;*

x x x”

Based on the aforequoted guidelines, a Municipal Administrator or any person authorized by the local chief executive may be designated by the Mayor as Chairman of the Local Personnel Selection Board. The guidelines do not distinguish who should be designated to act in behalf of the Mayor as Chairman of the Personnel Selection Board, much less a member thereof. *Ubi lex non distinguit nec nos distinguere debemos* (Where the law does not distinguish, we should not distinguish).

While it is true that Section 15, Rule XIII of CSC Memorandum Circular No. 40, s. 1998 prohibits a non-career employee to be designated to a position exercising control or supervision over regular or career personnel, the same does not extend to an authorized representative such as the Municipal Administrator designated as ex-officio member of the Local Personnel Selection Board by the Mayor to act in his behalf. The prohibition addressed to non-career employees as contemplated under the abovestated rule should not be construed to include all kinds of non-career employees in the service of the government. In the case of **Paula G. Mejia, et al.**, **CSC Resolution No. 01-1305** dated **August 2, 2001**, the Commission ruled, as follows:

“The better interpretation therefore, is to limit the meaning of ‘non-career employee’ to the class or category of employees on the same level or status with that of contractual personnel and consultants. On this score, the Commission sees no plausible reason to depart or deviate from the questioned opinion, and therefore quotes its ratio with approval:

‘As will be noted from the abovequoted provision, what is prohibited is the designation of consultants, contractuels and non-career employees to positions exercising control or supervision over regular or career employees. However, in interpreting said provision, rules on statutory construction must be taken into consideration, particularly, the principle of ejusdem generis. Under this principle, when a general word follows an enumeration of particular words of the same class, the general word is to be construed to be restricted to persons or things resembling or of the same kind or class as those specially mentioned.

(Agpalo; Statutory Construction, Third Edition, 1995). Hence, the general term ‘non-career’ in the quoted provision must be read together with the enumeration preceding the same. The term ‘non-career’ therein must be construed to mean other non-career employees within the same level of contractuales or consultants.’

“The foregoing disquisition already renders it unnecessary to pass upon the validity of CHED Commissioner Punzal’s designation as OIC of the CHED-HEDFS. Ultimately, designation is a managerial prerogative addressed to the sound discretion of the head of an agency. Barring any showing of grave abuse of discretion in the exercise thereof, and having complied with the controlling civil service law and rules, the Commission refrains from interfering therewith.”

It is to be made clear in the aforequoted ruling that what is prohibited is the designation of consultants, contractuales and non-career employees to positions exercising control or supervision over regular or career employees. The term ‘non-career employees’ in Section 15, Rule XIII of CSC Memorandum Circular No. 40, s. 1998 refers to non-career employees within the same category as contractuales or consultants. Since the position of Administrator is not within the same level and/or category as contractuales or consultants, the said prohibition is not applicable.

Thus, the designation by the Mayor of his Municipal Administrator as Personnel Officer is not only sanctioned by the Local Government Code of 1991 but is also in accord with the laws, rules and regulations and rulings of the Commission. It follows that all actions of the Municipal Administrator designated as such including the power to recommend persons to be appointed by the appointing authority are sanctioned by civil service laws, rules and regulations. Hence, his duty to sit as ex-officio member of the personnel selection board and concurrently O-I-C Personnel Officer is in order.

WHEREFORE, the Commission hereby rules, as follows:

1. The designation of Municipal Administrator as concurrent Personnel Officer and member of the Personnel Selection Board is valid; and,
2. The constitution of the Personnel Selection Board with the Municipal Administrator designated as a member

thereof, is likewise valid.

Quezon City, **September 5, 2001**

(SIGNED)

KARINA CONSTANTINO-DAVID

Chairman

(SIGNED)

JOSE F. ERESTAIN, JR.

Commissioner

(SIGNED)

J. WALDEMAR V. VALMORES

Commissioner

Attested by:

(SIGNED)

ARIEL G. RONQUILLO

Director III

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