RESOLUTION NO. 02-0309

Ildebrando F. Ibañez, an employee of the Government Service Insurance System (GSIS), appeals from the decision of the Civil Service Commission - National Capital Region (CSC-NCR) denying his request for reconsideration of the opinion rendered by the CSC-GSIS Field Office, which denied his claim for the payment of salaries corresponding to the position to which he was earlier designated.

In the assailed decision, the CSC-NCR sustained the adverse position taken by the CSC-GSIS Field Office respecting the entitlement of Ibañez to the salaries of Executive Assistant IV, the position to which he was designated, saying that:

“Your reference to the provision of Section 17, Chapter 5, Title I, Book III, 1987 Administrative Code, is misplaced, such provision being inapplicable in your case. It may be noted that the cited provision specifically refers to the power of the President to ‘appoint such officials as provided for in the Constitution and laws.’ The corollary power to issue designations and enable the designees to receive additional compensation corresponding to the difference between the salaries of two (2) positions is likewise exclusive to the President alone. Thus, the nature of the designations issued by the Office of the President as contained in the samples you submitted is based on this provision of law, and not as a matter of practice. There is no similar provision that grants the same exact power to heads of offices or
department secretaries. On the contrary, the applicable provision as regards the rest of the civil service system is found in Section 6 (e), Rule III, Omnibus Rules on Appointments and Other Personnel Actions (CSC Memorandum Circular No. 40, s. 1998, as amended by CSC MC No. 15, s. 1999), which states that:

‘e. Designation.-- is merely an imposition of additional duties to be performed by a public official which is temporary in nature and can be terminated anytime at the pleasure of the appointing authority.’

‘Thus, although heads of offices are empowered to issue temporary designations, the employees so designated are not allowed by law to receive the compensation attached to the higher position. We quote with approval the opinion of our CSC-GSIS Field Office stated as follows:

‘x x x the designation of Mr. Ildebrando F. Ibañez as Executive Assistant IV is merely (sic) temporary imposition of duties and responsibilities to an employee x x x. Mr. Ibañez is not being promoted to the position of Executive Assistant IV but merely reassigned and given a different set of duties and responsibilities. In government, to be entitled to salary, there must be a corresponding appointment issued x x x.’

‘As regards the argument that a temporary designation ‘is preferable as it would mean savings for the agency,’ this is an incorrect and misguided appreciation of the concept of designation. Please note that the imposition of additional duties or the performance of duties outside the regular functions of an employee is a measure intended to address either the requirements of the service or the development needs of the employee concerned. Thus, designations are premised on circumstances pertaining to the ‘exigency of the service,’ that is, necessities brought about by functional, financial or manpower requirements. It is often
resorted to due to lack of funds, and not as a means to save on personal services.”

Ibañez disputes the foregoing decision on the following grounds:

“I would maintain that my reference to Section 16, Chapter 5, Title I, Book III, Administrative Code of 1987, is applicable to my case, considering that a government official with power to appoint and designate is an alter-ego or extension of the President for the smooth and effective operation of the government. Under the alter-ego principle, a power conferred by law on one official may be exercised by other official, especially if the latter is considered an extension of the power of the original source.

“This power as cited is not exclusive to the President alone as shown by the fact that it was the Executive Secretary (Head of the Executive Office, who is considered a department head or even his assistants) who signed the samples submitted. Moreover, I know for a fact that even before the effectivity of the 1987 Administrative Code, this kind of designation was already a practice in the Office of the President.

“If an Executive Secretary can do it and issue properly such designation, the other alter-ego or extension of the President like-agency can do the same.

“The applicable provision cited by the CSC-NCR in Section 6 (e), Rule III, Omnibus Rules on the Appointments and Other Personnel Actions (no similar provision in the Civil Service Law), only provides that designation is temporary in nature and can be terminated anytime but does not rule out payment of salary differential to a person who is made to assume temporarily a higher position.
“My designation is not intended to address the requirements of the service or my development needs, but rather for me to assume a higher responsible job in the staff of a GSIS Board member for which I have to be compensated accordingly. Appointing a new employee would require full disbursement of the allocation for the position. Designation involving payment of mere salary differential definitely results in savings.

“It is not always necessary to have an appointment to entitle a person to a salary. If the assignment is dual and only temporary in nature, a mere designation will serve the purpose. Unless disapproved by higher ranking authority, there is always a presumption of regularity on the act of an official.

“If, however, the Commission will still maintain the position taken by the heads of the CSC-GSIS branch and the NCR, may I request the Commission to authorize GSIS to issue an appointment to cover the period I served. At least I should be paid for actual service I rendered under the principle of ‘quantum meruit’ which is allowable by the CSC.”

The records of the case bear out that on October 30, 1998, Executive Vice-President Reynaldo P. Palmiery issued GSIS Office Order No. 101-98 designating Ibañez, who was with the GSIS Legal Services, as Acting Executive Assistant IV in the Office of Trustee Florino O. Ibañez, with the express stipulation that he was to receive the payment of “salary including such benefits, privileges and other emoluments” corresponding to the position.

Unsure of the legality of the said clause, Romeo Pagalan, State Auditor III of the Commission on Audit (COA) assigned at the GSIS, sought clarification from the CSC-GSIS Field Office. In reply, the latter opined
that the designee has no basis to assert legal right over the salary attached to the position of Executive Assistant IV in the absence of an appointment thereto. Dissatisfied, Ibañez moved to reconsider before the CSC-NCR, but the latter denied the same.

Hence, the present appeal.

As previously noted, Ibañez anchors his salary entitlement on Section 17 (although he erroneously cited 16), Chapter 5, Title I, Book II of the Administrative Code of 1987, whose material portions are excerpted hereunder for their important bearing on the case:

“Sec. 17. Power to Issue Temporary Designation.-- (1) The President may temporarily designate an officer already in the government service or any other competent person to perform the functions of an office in the executive branch, appointment to which is vested in him by law, when: (a) the officer regularly appointed to the office is unable to perform his duties by reason of illness, absence or any other cause; or (b) there exists a vacancy.

“(2) The person designated shall receive the compensation attached to the position, unless he is already in the government service in which case he shall receive only such additional compensation as, with his existing salary, shall not exceed the salary authorized by law for the position filled. The compensation hereby authorized shall be paid out of the funds appropriated for the office or agency concerned.” (underscoring supplied)

He posits the view that just as the President is empowered by the aforequoted provision of law to designate an employee to a vacant office with the corollary right to receive the compensation ascribed to the position, then so it is with the GSIS Executive Vice-President, he being an alter-ego of the President. He avers that “(u)nder the alter-ego principle, a power conferred by law on one official may be exercised by other official, especially if the latter is considered an extension of the power of the original source.” He draws similarity from a couple of instances where the Executive Secretary, acting on behalf of the President,
designated certain officials, conferring them as well the right to enjoy the salary incident to their temporary positions. He maintains, “(i)f the Executive Secretary can do it and issue properly such designation, the other alter-ego or extension of the President like-agency can do the same”.

He, moreover, contends that contrary to the opinion of the CSC-NCR, Section 6 (e), Rule III of the Revised Omnibus Rules on Appointments and Other Personnel Actions merely defined the term “designation” and did “not rule out payment of salary differential to a person who is made to assume temporarily a higher position”.

In addition, he submits that his designation was impelled not by the needs of the service but to allow him “to assume a higher responsible job” for which he was to be accordingly compensated. It is likewise his contention that an appointment is not always necessary to give rise to the payment of salary, for “(i)f the assignment is dual and only temporary in nature, a mere designation” suffices.

Finally, in the event that the decision of the office a quo is sustained, Ibañez alternatively prays that the Commission authorize the GSIS to issue an appointment to cover the period of his designation so that, at the very least, he may be paid the equivalent of actual services he rendered in line with the principle of “quantum meruit”.

The Commission noted that Ibañez relies heavily on the so-called doctrine of qualified political agency to make out his case. The doctrine, as espoused in an unbroken stream of jurisprudence, to borrow the words of the Supreme Court, states essentially that heads of the various executive departments are extension of the legal personality of the President, and their acts in the regular performance of duty are deemed to be his, unless he abjures or disavows them. As succinctly put by the eminent Filipino jurist, Justice Laurel, in the landmark case of Villena vs. Secretary of Interior (67 Phil. 451):

“x x x (A)ll executive and administrative organizations are adjuncts of the Executive Department, the heads of various executive departments are assistants and agents of the
Chief Executive, and except in cases where the Chief Executive is required by the Constitution or the law to act in person or the exigencies of the situation demand that he act personally, the multifarious executive and administrative functions of the Chief Executive are performed by and through the executive departments, and the acts of the secretaries of such departments, performed and promulgated in the regular course of business, are, unless disapproved of reprobated by the Chief Executive, presumptively the acts of the Chief Executive.”

Going by the doctrine of qualified political agency, the law indulges in the fiction that when department heads act within the scope and extent of their legal fiat or mandate, and save when he repudiates them, their actions are generally presumed to be that of the President. To this sacramental rule, however, are excepted those cases where by express constitutional or statutory injunctions or where the exigencies of the service so dictate, the Chief Executive is under legal obligation to act directly in person.

In the case at bar, it is noted that the provision of the Administrative Code of 1987 being invoked by Ibañez plainly and categorically speaks of the power of the President to issue temporary designation. Noteworthy, too, is the fact that the provision delimits the exercise of such prerogative only to offices where the President himself is the appointing authority. These circumstances, construed and taken together, readily evince the conclusion that the power to designate contemplated by the subject provision devolves solely and exclusively to the President and none other, not even the GSIS.

Nowhere in the records is it shown that the position to which Ibañez was designated, is one of those the President is authorized to fill up. This is of material implication owing to the fact that the above-quoted Section 17, to reiterate, strictly demarcates and confines its application to positions or offices, “appointment to which is vested in the President by law.” Considering that the incumbent to the position of Executive Assistant IV is presumably not the President to appoint, then he is bereft of authority to designate a person therein, and at the same time, warrant the corresponding payment of the salary attached thereto. In turn, the GSIS cannot plausibly rely on the alter ego principle, in designating Ibañez as Acting Executive Assistant IV,
and ordaining his right to compensation thereto, since, as an adjunct or an agent, it cannot wield a power its principal, the President, does not even possess, in the first place. Consequently, the GSIS cannot arrogate unto itself the said power, for, going by the enumerated exceptions above-described, the doctrine of qualified political agency does not properly lie.

It is true in the couple of illustrative examples adverted to by Ibañez that the Executive Secretary has discharged, in a number of occasions, this power to designate temporarily. Yet, it does not escape the attention of the Commission that such acts of the Executive Secretary were prefaced "(b)y authority of the President," so that the same are presumed to be the President’s. Apropos to this point was the disquisition by the High Court in the case of **Lacson-Magallanes Co., Inc. vs. Pano (21 SCRA 895)**, to wit:

"3. But plaintiff underscores the fact that the Executive Secretary is equal in rank to the other department heads, no higher than anyone of them. From this, plaintiff carves the argument that one department head on the pretext that he is an alter ego of the President, cannot intrude into the zone of action allocated to another department secretary. This argument betrays lack of appreciation of the fact that where, as in this case, the Executive Secretary acts "(b)y authority of the President,’ his decision is that of the President’s. Such decision is to be given full faith and credit by our courts. The assumed authority of the Executive Secretary is to accepted. For, only the President may rightfully say that the Executive Secretary is not authorized to do so.” (underscoring supplied)

More decisively, the issue of whether designation warrants the attendant payment of salary has squarely been passed upon by the High Tribunal in the recent case of **Dimaandal vs. Commission on Audit (291 SCRA 322)**. Therein, it was held that:

"Moreover, what was extended to petitioner by Governor Mayo was merely a designation not an appointment. The respondent Commission clearly pointed out the difference between an appointment and designation, thus:
‘There is a great difference between an appointment and designation. While an appointment is the selection by the proper authority of an individual who is to exercise the powers and functions of a given office, designation merely connotes an imposition of additional duties, usually by law, upon a person already in the public service by virtue of an earlier appointment (Santiago vs. COA, 199 SCRA 125)

‘Designation is simply the mere imposition of new and additional duties on the officer or employee to be performed by him in a special manner. It does not entail payment of additional benefits or grant upon the person so designated the right to claim the salary attached to the position (COA Decision No. 95-087 dated February 2, 1995). As such, there being no appointment issued, designation does not entitle the officer designated to receive the salary of the position. For the legal basis of an employee’s right to claim the salary attached thereto is a duly issued and approved appointment to the position (Opinion dated January 25, 1994 of the Office for Legal Affairs, Civil Service Commission, Re: Evora, Carlos A., Jr., Designation).’

“This Court has time and again ruled that:

‘Although technically not binding and controlling on the courts, the construction given by the agency or entity charged with the enforcement of a statute should be given weight and respect (In Re Allen, 2 Phil. 630, 640), particularly so if such construction, as in the case at bar, has been uniform, and consistent, and has been observed and acted on for a long period of time (Molina vs. Rafferty, 38 Phil. 167); Madrigal vs. Rafferty, 38 Phil. 414; Philippine Sugar Central vs. Collector of Customs, 51 Phil. 143).” (underscoring supplied)
Interestingly, the Court, in the above decision, lent its imprimatur to the administrative pronouncements by both the COA and the Commission to the effect that employees are foreclosed from receiving the salaries of the positions to which they are designated.

As to the alternative prayer interpolated by Ibañez, suffice it to say that the Commission is powerless to grant the same. Time and again, the Court has unequivocally declared, and the Commission cannot but pay heed unreservedly, that:

“In Luego vs. Civil Service Commission, 143 SCRA 327 (1986), the Court ruled that CSC has the power to approve or disapprove an appointment set before it. It does not have the power to make an appointment or to direct the appointing authority to change the employment status of an employee. The CSC can only inquire into the eligibility of the person chosen to fill a position and if it finds the person qualified it must so attest. If not, the appointment must be disapproved. The duty of the CSC is to attest appointments (Villanueva vs. Balallo, 9 SCRA 407 [1963]) and after that function is discharged, its participation in the appointment process ceases (Villegas vs. Subido, 30 SCRA 498 [1969]). (Province of Camarines Sur vs. Court of Appeals, 246 SCRA 281)” (underscoring supplied)

Public service is fraught with pains and sacrifices. Not infrequently, reward or compensation comes not in the form of tangible or monetary returns, but in the thought that one, no matter how lowly his station or modest his works, has done and contributed something positive to the public good. When a government employee therefore takes his oath of office, and affirms it every so often before the flag, he does so, not so much to pursue a life dedicated to abject poverty, but to consecrate himself to the service of his fellowmen, above all else, including his own. In so saying, the Commission does not lose sight of the harsh economic realities that make life now in the country difficult, if not insuperable. Yet, an officer or employee of the government is, first and foremost, a public servant, in the truest sense of the word.
While the Commission, indeed, appreciates Ibañez’s plight, it is beyond its authority to grant the relief being implored. If only for a consolation, he can rest on the thought that his designation is just one of the countless sacrifices the government exacts of its men and women. But surely his efforts do not go unrequited, for ultimately, his reward is on his having been able to share and impart his skills, talents and expertise for the greater good.

**WHEREFORE,** the appeal of Ildebrando F. Ibañez is hereby **DISMISSED.** The decision of the Civil Service Commission-National Capital Region is affirmed in all respects.

Quezon City, February 28, 2002

(Signed)

J. WALDEMAR V. VALMORES
Commissioner

(Signed)

KARINA CONSTANTINO-DAVID
Chairman

(Signed)

JOSE F. ERESTAIN, JR.
Commissioner

Attested by:
(Signed)
ARIEL G. RONQUILLO
Director III