



Republic of the Philippines
Supreme Court
 Manila

EN BANC

CAREER EXECUTIVE SERVICE BOARD represented by **CHAIRPERSON BERNARDO P. ABESAMIS, EXECUTIVE DIRECTOR MA. ANTHONETTE VELASCO-ALLONES, and DEPUTY EXECUTIVE DIRECTOR ARTURO M. LACHICA,**

G.R. No. 197762

Petitioner,

- versus -

CIVIL SERVICE COMMISSION represented by **CHAIRMAN FRANCISCO T. DUQUE III AND PUBLIC ATTORNEY'S OFFICE, CHIEF PUBLIC ATTORNEY PERSIDA V. RUEDA-ACOSTA, DEPUTY CHIEF PUBLIC ATTORNEYS MACAPANGCAT A. MAMA, SYLVESTRE A. MOSING, REGIONAL PUBLIC ATTORNEYS CYNTHIA M. VARGAS, FRISCO F. DOMALSIN, TOMAS B. PADILLA, RENATO T. CABRIDO, SALVADOR S. HIPOLITO, ELPIDIO C. BACUYAG, DIOSDADO S. SAVELLANO, RAMON N. GOMEZ, MARIE G-REE R. CALINAWAN, FLORENCIO M. DILOY, EDGARDO D. GONZALEZ, NUNILA P. GARCIA, FRANCIS A. CALATRAVA, DATUMANONG A. DUMAMBA, EDGAR Q. BALANSAG, PUBLIC ATTORNEY IV MARVIN R. OSIAS, PUBLIC ATTORNEY IV HOWARD B. AREZA, PUBLIC ATTORNEY IV IMELDA C. ALFORTE-GANANCIAL,**

Present:

SERENO, *CJ*,
 CARPIO,
 VELASCO, JR.,
 LEONARDO-DE CASTRO,
 PERALTA,
 BERSAMIN,
 DEL CASTILLO,
 MENDOZA,
 REYES,
 PERLAS-BERNABE,
 LEONEN,
 JARDELEZA,
 CAGUIOA, *JJ*.

Promulgated:

March 7, 2017

Respondents.

X ----- X

* No part.

Amor L. Papa-Grobal

[Handwritten signature]

DECISION

SERENO, *CJ*:

The dispute in this case concerns the classification of certain positions in the Public Attorney's Office (PAO). The Court is asked to determine, in particular, whether these positions are properly included in the Career Executive Service (CES); and whether the occupants of these positions must obtain third-level eligibility to qualify for permanent appointment. To resolve these questions, the Court must also delineate the respective jurisdictions granted by law to the competing authorities involved in this case – the Civil Service Commission (CSC) and the Career Executive Service Board (CESB).

FACTUAL ANTECEDENTS

In this Petition for Certiorari and Prohibition,¹ the CESB² seeks the reversal of the Decision³ and Resolution⁴ of the CSC declaring that (a) it had the jurisdiction to resolve an appeal from a CESB Resolution⁵ refusing to declassify certain positions in PAO; and (b) the PAO positions involved in the appeal do not require third-level eligibility.

The facts leading to the controversy are not in dispute.

On 24 September 2010, the PAO received a copy of the CESB Report on the CES Occupancy of the Department of Justice (DOJ).⁶ This document stated, among others, that out of 35 filled positions in the PAO, 33 were occupied by persons without the required CES eligibility.

In response to the report, PAO Deputy Chief Public Attorney Silvestre A. Mosing (Deputy Chief Mosing) sent a letter⁷ to CESB Executive Director Maria Anthonette V. Allones. He informed her that the positions of Chief Public Attorney, Deputy Chief Public Attorneys, and Regional Public Attorneys (subject positions) were already permanent in nature pursuant to Section 6⁸ of Republic Act No. (R.A.) 9406, which accorded security of tenure to the occupants thereof.

¹ Petition for Certiorari and Prohibition filed on 9 August 2011, *rollo*, pp. 6-52.

² Represented by former CSC Chairperson Bernardo P. Abesamis, Executive Director Ma. Anthonette Velasco-Allones, and Deputy Executive Director Arturo M. Lachica.

³ *Rollo*, pp. 53-70; Decision No. 110067 dated 15 February 2011 penned by Commissioner Mary Ann Z. Fernandez-Mendoza and concurred in by Commissioner Francisco T. Duque III.

⁴ *Id.* at 71-75; Resolution No. 1100719 dated 1 June 2011 penned by Commissioner Mary Ann Z. Fernandez-Mendoza and concurred in by Commissioners Francisco T. Duque III and Rasol L. Mitmug.

⁵ *Id.* at 76-80; Resolution No. 918 dated 12 January 2011.

⁶ *Id.* at 451-452; Memorandum dated 13 September 2010 and attachment.

⁷ *Id.* at 84-85; Letter dated 29 September 2010 sent by PAO Deputy Chief Public Attorney Silvestre A. Mosing to CESB Executive Director Maria Anthonette V. Allones.

⁸ Section 6 of R.A. 9406 states in relevant part:

SEC. 6. New sections are hereby inserted in Chapter 5, Title III, Book IV of Executive Order No. 292, to read as follows:

"SEC. 16-A. Appointment. - The Chief Public Attorney and the Deputy Chief Public Attorneys shall be appointed by the President. The Deputy Chief Public Attorneys and

A second letter dated 9 November 2010⁹ was sent to the CESB by Deputy Chief Mosing to reiterate its earlier communication. The letter also contained supplementary arguments in support of the assertion that the subject positions were permanent posts; hence, their occupants may only be removed for cause provided by law. Based on the foregoing premises, the PAO requested the deletion of its office from the Data on CES Occupancy for the Department of Justice (DOJ).

On 18 November 2010, the PAO received the reply sent to Deputy Chief Mosing by the CESB, through Deputy Executive Director Arturo M. Lachica.¹⁰ The latter informed Deputy Chief Mosing that the CESB would conduct a position classification study on the specified PAO positions to determine whether they may still be considered CES positions in the DOJ.

The DOJ Legal Opinion

While the matter was pending, PAO Deputy Chief Mosing wrote a letter to then DOJ Secretary Leila M. de Lima to inform her about the communications sent by the PAO to the CESB.¹¹ He also reiterated the PAO's opinion that the subject positions must be considered permanent in nature, and not subject to CES requirements.¹²

In a letter¹³ sent to Chief Public Attorney Persida V. Rueda-Acosta on 3 January 2011, Chief State Counsel Ricardo V. Paras III elucidated the legal opinion of the DOJ on the matter:

Based on the foregoing, your claim that the appointments of the top-level officials of the PAO are permanent is without merit. For one, the positions of the Chief Public Attorney, Deputy Chief Public Attorney and Regional Public Attorneys are part of the CES. xxx

x x x x

cont.

Regional Public Attorneys shall be appointed by the President upon the recommendation of the Chief Public Attorney. The Chief Public Attorney, Deputy Chief Public Attorneys and Regional Public Attorneys shall not be removed or suspended, except for cause provided by law; *Provided*, That the Deputy Chief Public Attorneys, the Regional Public Attorneys and The Assistant Regional Public Attorneys, the Provincial Public Attorneys, the City Public Attorneys and Municipal District Public Attorney shall preferably have served as Public Attorneys for at least five (5) years immediately prior to their appointment as such. The administrative and support personnel and other lawyers in the Public Attorney's Office shall be appointed by the Chief Public Attorney, in accordance with civil service laws, rules, and regulations."

⁹ *Rollo*, pp. 87-88; Letter dated 9 November 2010 sent by PAO Deputy Chief Public Attorney Silvestre A. Mosing to CESB Executive Director Maria Anthonette V. Allones.

¹⁰ *Id.* at 86; Letter dated 10 November 2010 sent by CESB Deputy Executive Director Arturo M. Lachica to PAO Deputy Chief Public Attorney Silvestre A. Mosing.

¹¹ *Id.* at 90-92; Letter dated 9 November 2010 sent by PAO Deputy Chief Public Attorney Silvestre A. Mosing to DOJ Secretary Leila M. de Lima.

¹² *Id.* at 91.

¹³ *Id.* at 93-105; Letter dated 3 January 2011.

Secondly, since the Chief Public Attorney, Deputy Chief Public Attorneys and Regional Public Attorneys are occupying CES positions, it is required by law that they should be CES eligibles to become permanent appointees to the said position. x x x.

x x x x

This leads to the inevitable conclusion that the appointments of the Chief Public Attorney, Deputy Chief Public Attorneys and Regional Public Attorneys are not permanent, despite your claims to the contrary, considering that they do not possess the required CES eligibility for the said positions. As such, they cannot invoke their right to security of tenure even if it was expressly guaranteed to them by the PAO Law.

x x x x

Considering that the appointments of the Chief Public Attorney, Deputy Chief Public Attorneys and Regional Public Attorneys are temporary, they are required to subsequently take the CES examination. In the absence of any evidence that would show compliance with the said condition, it is presumed that the top-level officials of the PAO are non-CES eligibles; therefore they may be removed from office by the appointing authority without violating their constitutional and statutory rights to security of tenure.¹⁴

The DOJ also noted that the permanent nature of an appointment does not automatically translate to an exemption from CES coverage, as it is only the CESB that has the authority to exempt certain positions from CES requirements.¹⁵ The DOJ further rejected the claim that the occupants of the subject positions were exercising quasi-judicial functions. It explained that while the lawyers of the PAO regularly conduct mediation, conciliation or arbitration of disputes, their functions do not entail the rendition of judgments or decisions – an essential element of the exercise of quasi-judicial functions.¹⁶

The CSC Legal Opinion

It appears that while waiting for the CESB to respond to its letters, the PAO wrote to the CSC to request a legal opinion on the same matter.¹⁷ The PAO thereafter informed the CESB of the former's decision to seek the opinion and requested the latter to issue no further opinion or statement, oral or written, relative to the qualifications of the PAO officials.¹⁸

¹⁴ Id. at 96-101.

¹⁵ Id. at 101-102.

¹⁶ Id. at 103-105.

¹⁷ Id. at 109-112; See letter dated 7 January 2011 re: Appropriate Eligibility for Key Positions in PA (Legal Opinion).

¹⁸ Id. at 106-107; Letter dated 10 January 2011 sent by PAO Deputy Chief Public Attorney Silvestre A. Mosing to CESB Executive Director Maria Anthonette V. Allones.



On 7 January 2011, the CSC issued the requested legal opinion.¹⁹ Citing its mandate as an independent constitutional commission and its authority under the Administrative Code to “render opinions and rulings on all personnel and other civil service matters,” the CSC declared that third-level eligibility is not required for the subject positions in the PAO:

The law is explicit that the positions [of] Chief Public Attorney, Deputy Chief Public Attorney and Regional Public Attorney in PAO shall have the same qualifications for appointment, among other things, as those of the Chief State Prosecutor, Assistant Chief State Prosecutor and Regional State Prosecutor, respectively. These, of course include, the eligibility requirement for these positions. x x x.

x x x x

The Prosecution Service Act of 2010 explicitly provides that the Prosecutor General (the retitled position of Chief State Prosecutor) has the same qualifications for appointment, among other things, as those of the Presiding Justice of the Court of Appeals (CA). Further, the Senior Deputy State Prosecutor and the Regional Prosecutor have the same qualifications as those of an associate justice of the CA. x x x.

x x x x

No less than the Constitution provides that justices and judges in the judiciary are required, among other things, practice of law as requirement for appointment thereto. Pointedly, the Presiding Justice and the Associate Justice of the Court of Appeals (CA) have the same qualifications as those provided for in the Constitution for Justices of the Supreme Court[,] which includes, among other requirements, practice of law. This means that the Constitution and the Civil Service Law prescribe RA 1080 (BAR) as the appropriate civil service eligibility therefor. Accordingly, any imposition of a third-level eligibility (e.g. CESE, CSEE) is not proper, if not, illegal under the circumstances. In fact, even in the 1997 Qualification Standards Manual of the Commission, all of these positions require RA 1080 BAR eligibility for purposes of appointment.

x x x x

Thus, it is the Commission’s opinion that for purposes of permanent appointment to the positions of Chief Public Attorney, Deputy Chief Public Attorney and Regional Public Attorney, no third-level eligibility is required but only RA 1080 (BAR) civil service eligibility.²⁰

CESB Resolution No. 918

On 12 January 2011, the CESB issued Resolution No. 918²¹ (CESB Resolution No, 918) denying the PAO’s request to declassify the subject

¹⁹ Supra note 17.

²⁰ Id. at 110-112.

²¹ Resolution No. 918, supra note 5.

positions. Citing the Position Classification Study²² submitted by its secretariat, the CESB noted that the positions in question “require leadership and managerial competence”²³ and were thus part of the CES. Hence, the appointment of persons without third-level eligibility for these posts cannot be considered permanent. The CESB explained:

WHEREAS, pursuant to its mandate to identify positions of equivalent rank as CES positions, the Secretariat revisited its previous classification as part of the CES [of] the above positions of PAO and conducted a position classification of the above positions and arrived at the following findings:

1. The positions of Chief Public Attorney, Deputy Chief Public Attorneys, Regional Public Attorneys and Assistant Regional Public Attorneys who are all presidential appointees fall within the criteria set under CESB Resolution No. 299, s. 2009, namely:
 - a. The position is a career position;
 - b. The position is above division chief level;
 - c. The duties and responsibilities of the position require the performance of executive or managerial functions.
2. While Section 3 of Republic Act 9406 which provides that:

SEC. 3. A new Section 14-A, is hereby inserted in Chapter 5, Title III, Book IV of Executive Order No. 292, otherwise known as the "Administrative Code of 1987", to read as follows:

“SEC. 14-A *Powers and Functions.* - The PAO shall independently discharge its mandate to render, free of charge, legal representation, assistance, and counselling to indigent persons in criminal, civil, labor, administrative and other quasi-judicial cases. In the exigency of the service, the PAO may be called upon by proper government authorities to render such service to other persons, subject to existing laws, rules and regulations.”

The aforecited provision does not limit the mandate of PAO to perform only non-executive functions. All that the aforecited provision states is that the PAO is mandated to render legal representation, assistance and counseling to indigent persons in criminal, civil, labor, administrative and other quasi-judicial cases, free of charge. Notably, the positions of Chief Public Attorney, Deputy Chief Public Attorney, Regional Public Attorneys and Assistant Regional Public Attorneys evidently require leadership and managerial competence.

X X X X

²² Agenda Item No. IV-8; *rollo*, pp. 113-116.

²³ *Id.* at 114.

WHEREAS, it is undisputed that the subject positions are CES in nature and as such, the eligibility requirement for appointment thereto is CES eligibility.

With regard to the question of its jurisdiction over the matter as against that of the CSC, the CESB stated:

WHEREAS, under Section 8, Chapter 2, Book V of EO 292, it is the Board which has the mandate over Third-level positions in the Career Service and not the CSC. Section 8, Chapter 2, Book V of EO 292 provides:

Section 8. Classes of Positions in the Civil Service. – (1) Classes of positions in the career service, appointment to which requires examinations shall be grouped into three major levels as follows:

x x x x

(c) The third-level shall cover positions in the Career Executive Service.

(2) x x x Entrance to the third-level shall be prescribed by the Career Executive Service Board.

WHEREAS, in the case of *De Jesus v. People*, G.R. No. 61998, February 22, 1983, 120 SCRA 760, the Supreme Court ruled that “where there are two acts, one of which is special and particular and the other general which, if standing alone, would include the same matter and thus conflict with the special act, the special must prevail since it evinces the legislative intent more clearly than that of a general statute and must be taken as intended to constitute an exception to the general act.”

WHEREAS, following the above-cited rule, it is clear that Section 8, Chapter 2, Book V of EO 292 is the exception to [the] general act pertaining to the authority of the CSC;

x x x x

WHEREAS, it is clear that the mandate of the Board is in accordance with existing laws and pertinent jurisprudence on matters pertaining to the CES[.]²⁴

Aggrieved by the CESB Resolution, the PAO filed a Verified Notice of Appeal²⁵ and an Urgent Notice of Appeal²⁶ with the CSC.

PROCEEDINGS BEFORE THE CSC

Before the CSC, the PAO assailed CESB Resolution No. 918 on the following grounds: (a) the resolution was rendered contrary to R.A. 9406 in relation to R.A. 10071,²⁷ the 1987 Constitution and the CSC letter-

²⁴ *Supra* note 5, at 77-79.

²⁵ *Rollo*, pp. 386-387; Urgent Notice of Appeal dated 14 January 2011.

²⁶ *Id.* at 389-412; Urgent Memorandum on Appeal dated 14 January 2011.

²⁷ An Act Strengthening and Rationalizing the National Prosecution Service (2010).

opinion; and (b) the CESB usurped the legislative function of Congress when the former required additional qualifications for appointment to certain PAO positions. The PAO likewise asserted that its appeal had been brought to the CSC, because the latter had the power to review decisions and actions of one of its attached agencies – the CESB.

In an Order²⁸ dated 17 January 2011, the CSC directed the CESB to comment on the appeal.

Instead of submitting a comment, however, the CESB filed a Motion for Clarification²⁹ to assail the authority of the CSC to review its Decision. It asserted that the CSC had no jurisdiction to decide the appeal given that (a) the appeal involved a controversy between two government entities regarding questions of law,³⁰ and (b) the CESB was an autonomous agency whose actions were appealable to the Office of the President.³¹ In addition, the CESB emphasized the inability of the CSC to render an unbiased ruling on the case, considering the latter's previous legal opinion on the appropriate eligibility for key positions in the PAO.³²

In a Decision³³ dated 15 February 2011, the CSC granted the appeal and reversed CESB Resolution No. 918.

As a preliminary matter, the CSC ruled that it could assume jurisdiction over the appeal, which involved the employment status and qualification standards of employees belonging to the civil service. It was supposedly a matter falling within its broad and plenary authority under the Constitution and the Administrative Code. The CSC also declared that the authority of the CESB over third-level employees was limited to the imposition of entry requirements and "should not be interpreted as cutting off the reach of the Commission over this particular class of positions."³⁴ Moreover, the CESB was declared subject to the revisory power of the CSC, given that an attached office is not entirely and totally insulated from its mother agency.³⁵ With respect to the provision in the Integrated Reorganization Plan³⁶ on appeals from the CESB to the Office of the President, the CSC construed this requirement as pertaining only to disciplinary proceedings.³⁷

On the merits, the CSC ruled in favor of the PAO officials. It declared that the CESB would be in violation of R.A. 9406 if the latter would require an additional qualification – in this case, third-level

²⁸ *Rollo*, p. 117; Order dated 17 January 2011.

²⁹ *Id.* at 118-131; Motion for Clarification dated 25 January 2011.

³⁰ *Id.* at 118-120.

³¹ *Id.* at 120-122.

³² *Id.* at 126-128.

³³ Decision No. 110067, *supra* note 3.

³⁴ *Id.* at 65.

³⁵ *Id.* at 66.

³⁶ Implementing Presidential Decree No. 1,

³⁷ *Supra* note 3, at 66.

eligibility – for purposes of permanent appointments to certain PAO positions:

The foregoing elaboration shows the qualifications of the subject PAO positions under the existing laws. It is gleaned that nowhere in these laws is there a reference to third-level eligibility and CESO rank as qualification requirements for attaining tenurial security. All that the laws uniformly prescribe for the positions in question is practice of law for certain period of time, which presupposes a bar license. This being the case, the CESB cannot, in the guise of enforcing and administering the policies of the third-level, validly impose qualifications in addition to what the laws prescribe. It cannot add another layer of qualification requirement which is not otherwise specified in the statutes. As an administrative agency, the CESB can only promulgate rules and regulations which must be consistent with and in harmony with the provisions of the laws, and it cannot add or subtract thereto. Most evidently, therefore, in promulgating the assailed resolution, which sets out additional qualifications for the subject positions in the PAO, the CESB has overstepped the bounds of its authority. x x x.

In so saying, the Commission does not lose sight of the power of the CESB to identify other positions equivalent to those enumerated in the Administrative Code of 1987 as being part of the third-level or CES for as long as they come within the ambit of the appointing prerogative of the President. Yet, such grant of authority is derived from a general law (the Administrative Code) and hence, it must be deemed circumscribed or qualified by the special law governing the PAO. Reiteratively, the PAO Law, in conjunction with other laws, merely fixes practice of law as the principal qualification requirement for the positions of Acosta, et al.

WHEREFORE, foregoing premises considered, the instant appeal is hereby GRANTED. Accordingly, the CESB Resolution No. 918 dated Jnauy 12, 2011 is REVERSED and SET ASIDE for not being in conformity with law and jurisprudence. It is declared that the following key positions in the Public Attorney's Office do not require third-level eligibility and CESO rank for purposes of tenurial security:

1. Chief Public Attorney;
2. Deputy Chief Public Attorneys;
3. Regional Public Attorneys; and
4. Assistant Regional Public Attorneys.³⁸

The CESB sought reconsideration of the Decision, but its motion was denied.³⁹

PROCEEDINGS BEFORE THIS COURT

On 9 August 2011, the CESB filed the instant Petition⁴⁰ imputing grave abuse of discretion to respondent CSC. It asserts that (a) the CSC has no jurisdiction to review the Resolution of the CESB, given the latter's

³⁸ Supra note 3 at 68-70.

³⁹ Resolution No. 11-00719, supra note 4.

⁴⁰ Petition for Certiorari dated 8 August 2011, supra note 1.

autonomy as an attached agency; (b) CESB Resolution No. 918 should have been appealed to the Office of the President, and not to the CSC, in accordance with Article IV, Part III of the Integrated Reorganization Plan. The subject PAO positions are supposedly part of the CES, based on criteria established by the CESB.⁴¹ These criteria were set pursuant to the latter's power to identify positions belonging to the third-level of the civil service and to prescribe the requirements for entry thereto. The Petition further reiterates the alleged inability of the CSC to decide the case with impartiality.

In its Comment,⁴² the CSC contends that the Petition filed by the CESB before this Court should be dismissed outright for being an improper remedy and for violating the hierarchy of courts. The CSC further asserts its jurisdiction over the PAO's appeal from the CESB Resolution in this case. Citing its mandate as the central personnel agency of the government based on the 1987 Constitution and the Administrative Code, the CSC insists that it has broad authority to administer and enforce the constitutional and statutory provisions on the merit system for all levels and ranks of the civil service. This authority allegedly encompasses the power to review and revise the decisions and actions of offices attached to it, such as the CESB. It also claims that the present dispute involves a personnel action that is within its jurisdiction.

Respondents PAO and its officials have also filed their own Comment⁴³ on the Petition. They assert that (a) the Petition should be dismissed outright as it is tainted with serious procedural and jurisdictional flaws; (b) the CSC properly exercised its jurisdiction when it resolved the appeal in this case; and (c) CESB Resolution No. 918 contravened R.A. 9406 in relation to the 1987 Constitution, R.A. 10071 and the CSC letter-opinion dated 7 January 2011.

Because the instant case involves the contradictory views of two government offices, the Court likewise required the Office of the Solicitor General (OSG) to comment on the matter as the lawyer of the government tasked to uphold the best interest of the latter.

On 28 February 2012, the OSG filed the required Comment.⁴⁴ On the issue of jurisdiction, it supports the view of the CSC and the PAO. It cites the Constitution and the Administrative Code as the sources of the authority of the CSC to review rulings of the CESB, particularly with regard to personnel matters such as the reclassification of positions.

As to the merits of the case, the OSG asserts that the subject positions in the PAO should be declassified from the CES. It points out that the

⁴¹ See CESB Resolution No. 799, *Omnibus Policy on the Coverage of the Career Executive Service*, 18 May 2009.

⁴² *Rollo*, pp. 572-588; Comment filed on 14 December 2011.

⁴³ *Id.* at 256-341; Comment on the Petition for Certiorari dated 22 November 2011.

⁴⁴ *Id.* at 626-680; Comment dated 13 February 2012.

primary function of these PAO officials – the provision of legal assistance to the indigent – is specialized in nature; in contrast, their managerial functions are merely incidental to their role. The OSG further contends that the manifest intent of the law is to require PAO officials to have the same qualifications as their counterparts in the National Prosecution Service (NPS). Consequently, the OSG argued that the decision of the CESB to declassify certain posts in the NPS should have likewise resulted in the declassification of the corresponding positions in the PAO.

In its Reply to the Comment of the OSG,⁴⁵ the CESB urges the Court to adhere to the alleged limitations on the general authority of the CSC over all matters concerning the civil service. In particular, the CESB asserts its specific and exclusive mandate to administer all matters pertaining to the third-level of the career service. Included in these matters is the power to promulgate rules, standards and procedures for the selection, classification, compensation and career development of its members. Moreover, the CESB insists that it is an agency within the Executive Department under the Integrated Reorganization Plan; hence, its decisions are appealable only to the Office of the President. Lastly, the CESB maintains that the subject positions properly belong to the CES, considering that executive and managerial functions must be exercised by the occupants thereof.

ISSUES

The following issues are presented for resolution:

- (1) Whether a petition for certiorari and prohibition was the proper remedy to question the assailed CSC Decision and Resolution
- (2) Whether the CSC had the jurisdiction to resolve the appeal filed by the PAO and to reverse CESB Resolution No. 918
- (3) Whether the CSC acted in accordance with law when it reversed the CESB and declared that third-level eligibility is not required for occupants of the subject PAO positions

OUR RULING

We **DENY** the Petition.

At the outset, we note that the CESB availed itself of an improper remedy to challenge the ruling of the CSC. In any event, after a judicious consideration of the case, we find that the CSC acted within its jurisdiction when it resolved the PAO's appeal and reversed CESB Resolution No. 918. The CSC also correctly ruled that third-level eligibility is not required for the subject positions.

⁴⁵ Id. at Reply to the Comment of the Office of the Solicitor filed on 29 May 2012; *rollo*, pp. 688-748.

A petition for certiorari and prohibition is not the appropriate remedy to challenge the ruling of the CSC.

As a preliminary matter, this Court must address the objections of respondents to the remedy availed of by the CESB to question the ruling of the CSC.

Respondents contend that the Petition for Certiorari and Prohibition filed by the CESB before this Court was improper, because the remedy of appeal was available via a petition for review under Rule 43. On the other hand, the CESB insists that a Rule 65 petition is proper, because it is disputing the authority and jurisdiction of the CSC.

We find in favor of respondents.

It is settled that a resort to the extraordinary remedies of *certiorari* and prohibition is proper only in cases where (a) a tribunal, a board or an officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (b) there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law. Rule 65 of the Rules of Civil Procedure requires the concurrence of both these requisites:

Section 1. *Petition for certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.

Section 2. *Petition for prohibition.* — When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein,

or otherwise granting such incidental reliefs as law and justice may require.

The petition shall likewise be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46. (Emphasis supplied)

In this case, the second requirement is plainly absent. As respondents correctly observed, there was an appeal available to the CESB in the form of a petition for review under Rule 43 of the Rules of Civil Procedure. Section 1 of Rule 43 specifically provides for appeals from decisions of the CSC:

Section 1. Scope. — **This Rule shall apply to appeals** from judgments or final orders of the Court of Tax Appeals and **from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions.** Among these agencies are the **Civil Service Commission**, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Invention Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law.

x x x x

Section 5. How appeal taken. — Appeal shall be taken by filing a verified petition for review in seven (7) legible copies with the Court of Appeals, with proof of service of a copy thereof on the adverse party and on the court or agency *a quo*. The original copy of the petition intended for the Court of Appeals shall be indicated as such by the petitioner.

Upon the filing of the petition, the petitioner shall pay to the clerk of court of the Court of Appeals the docketing and other lawful fees and deposit the sum of P500.00 for costs. Exemption from payment of docketing and other lawful fees and the deposit for costs may be granted by the Court of Appeals upon a verified motion setting forth valid grounds therefor. If the Court of Appeals denies the motion, the petitioner shall pay the docketing and other lawful fees and deposit for costs within fifteen (15) days from notice of the denial. (Emphasis supplied)

In an attempt to justify its resort to *certiorari* and prohibition under Rule 65, the CESB asserts that the allegations in its Petition – the patent illegality of the assailed Decision and Resolution of the CSC, as well as the lack of jurisdiction and the grave abuse of discretion attending the

latter's ruling – are not suitable for an appeal under Rule 43. It argues that since these grounds properly pertain to a petition for certiorari and prohibition, this remedy is more appropriate.

We find the CESB's contention untenable. As previously stated, *certiorari* and prohibition are proper only if both requirements are present, that is, if the appropriate grounds are invoked; **and** an appeal or any plain, speedy, and adequate remedy is unavailable. Mere reference to a ground under Rule 65 is not sufficient. This Court has, in fact, dismissed a Petition for Certiorari assailing another CSC Resolution precisely on this ground. In *Mahinay v. Court of Appeals*,⁴⁶ the Court ruled:

As provided by Rule 43 of the Rules of Court, the proper mode of appeal from the decision of a quasi-judicial agency, like the CSC, is a petition for review filed with the CA.

The special civil action of *certiorari* under Rule 65 of the Rules of Court may be resorted to only when any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its/his jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction, **and** there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law.

In this case, petitioner clearly had the remedy of appeal provided by Rule 43 of the Rules of Court. *Madrigal Transport, Inc. v. Lapanday Holdings Corporation* held:

Where appeal is available to the aggrieved party, the action for *certiorari* will not be entertained. Remedies of appeal (including petitions for review) and *certiorari* are mutually exclusive, not alternative or successive. Hence, *certiorari* is not and cannot be a substitute for an appeal, especially if one's own negligence or error in one's choice of remedy occasioned such loss or lapse. **One of the requisites of *certiorari* is that there be no available appeal or any plain, speedy and adequate remedy. Where an appeal is available, *certiorari* will not prosper, even if the ground therefor is grave abuse of discretion.** (Emphasis and underscoring supplied)

Here, the CESB could have appealed the CSC Decision and Resolution to the CA via a petition for review under Rule 43. Hence, the filing of the instant Petition for Certiorari and Prohibition is improper regardless of the grounds invoked therein.

Moreover, we find no reason to allow the CESB to avail itself of the extraordinary remedies of certiorari and prohibition. Indeed, the petition itself cites no exceptional circumstance⁴⁷ other than the supposed

⁴⁶ 576 Phil. 170, 177-178 (2008).

⁴⁷ In *Artistica Ceramica v. Ciudad del Carmen Homeowner's Association, Inc.*, 635 Phil. 21, 33 (2010) citing *Jan-Dec Construction Corp. v. Court of Appeals*, 517 Phil. 96 (2006), the Court enumerated the instances when certiorari may be resorted to despite the availability of an appeal:

While there are instances where the extraordinary remedy of certiorari may be resorted to despite the availability of an appeal, the long line of decisions denying the special civil

transcendental importance of the issues raised, “as the assailed CSC Decision is gravely prejudicial to the mandate of the Petitioner.” Even when confronted by respondents with regard to the availability of an appeal, the CESB still failed to cite any special justification for its refusal to avail itself of an appeal. Instead, it opted to focus on the nature of the grounds asserted in its Petition. For the reasons stated above, a mere reference to grave abuse of discretion cannot justify a resort to a petition under Rule 65.

Considering the failure of the CESB to offer a compelling explanation for its insistence upon the special remedies of *certiorari* and prohibition, the Court finds no justification for a liberal application of the rules.

In any event, the contentions of the CESB are without merit. As will be further explained, we find no grave abuse of discretion on the part of the CSC. In resolving the appeal filed by the PAO, the CSC merely exercised the authority granted to it by the Constitution as the central personnel agency of the government.

The CSC acted within its jurisdiction when it resolved the PAO’s appeal and reversed CESB Resolution No. 918.

At its core, this case requires the Court to delineate the respective authorities granted by law to two agencies involved in the management of government personnel – the CSC and the CESB. This particular dispute involves not only the jurisdiction of each office over personnel belonging to the third-level of the civil service, but also the relationship between the two offices.

On the one hand, the CESB asserts its jurisdiction over members of the CES. Specifically, it refers to the identification and classification of positions belonging to the third-level, as well as the establishment of the qualifications for appointment to those posts. The CESB further emphasizes its autonomy from the CSC on the basis of this Court’s ruling that its status as an attached agency only pertains to policy and program coordination.

The CSC, on the other hand, defends its authority to review actions and decisions of its attached agencies, including the CESB. The CSC further claims original and appellate jurisdiction over administrative cases

cont.

action for certiorari, either before appeal was availed of or in instances where the appeal period had lapsed, far outnumbers the instances where certiorari was given due course. The few significant exceptions are: (a) when public welfare and the advancement of public policy dictate; (b) when the broader interests of justice so require; (c) when the writs issued are null; and (d) when the questioned order amounts to an oppressive exercise of judicial authority.

involving contested appointments, pursuant to its constitutional mandate as the central personnel agency of the government.

In the interest of the effective and efficient organization of the civil service, this Court must ensure that the respective powers and functions of the CSC and the CESB are well-defined. After analyzing and harmonizing the legal provisions pertaining to each of these two agencies, the Court concludes that the CSC has the authority to review CESB Resolution No. 918. We have arrived at this conclusion after a consideration of (a) the broad mandate of the CSC under the Constitution and the Administrative Code; and (b) the specific and narrowly tailored powers granted to the CESB in the Integrated Reorganization Plan and the Administrative Code.

As the central personnel agency of the government, the CSC has broad authority to pass upon all civil service matters.

Article IX-B of the 1987 Constitution entrusts to the CSC⁴⁸ the administration of the civil service, which is comprised of “all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.”⁴⁹ In particular, Section 3 of Article IX-B provides for the mandate of this independent constitutional commission:

SECTION 3. The Civil Service Commission, as the central personnel agency of the Government, shall establish a career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service. It shall strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability. It shall submit to the President and the Congress an annual report on its personnel programs. (Emphases supplied)

The proceedings of the 1986 Constitutional Commission reveal the intention to emphasize the status of the CSC as the “central personnel agency of the Government with all powers and functions inherent in and incidental to human resources management.”⁵⁰ As a matter of fact, the original proposed provision on the functions of the CSC reads:

Sec. 3. The Civil Service Commission, as the central personnel agency of the government, shall establish a career service, promulgate and enforce policies on personnel actions, classif[y] positions, prescribe conditions of employment except as to compensation and other monetary benefits which shall be provided by law, and exercise all powers and functions inherent in and

⁴⁸ Id., Section 1(1).

⁴⁹ 1987 CONSTITUTION, Article IX-B, Section 2(1).

⁵⁰ I RECORD, CONSTITUTIONAL COMMISSION 525 (14 July 1986).

incidental to human resources management, to promote morale, efficiency, and integrity in the Civil Service. It shall submit to the President and the Congress an annual report on its personnel programs, and perform such other functions as may be provided by law.⁵¹ (Emphases supplied)

Although the specific powers of the CSC are not enumerated in the final version of 1987 Constitution,⁵² it is evident from the deliberations of the framers that the concept of a “central personnel agency” was considered all-encompassing. The concept was understood to be sufficiently broad as to include the authority to promulgate and enforce policies on personnel actions, to classify positions, and to exercise all powers and functions inherent in and incidental to human resources management:

MR. FOZ. Will the amendment reduce the powers and functions of the Civil Service as embodied in our original draft?

MS. AQUINO: No, it will not. **The proposed deletion of lines 35 to 40 of page 2 until line 1 of page 3 would not in any way minimize the powers of the Civil Service [Commission] because they are deemed implicitly included in the all-embracing definition and concept of “central personnel agency of the government.”** I believe that the lines we have mentioned are but redundant articulation of that same concept, unnecessary surplusage.

MR. FOZ. For instance, will the power or function to promulgate policies on personnel actions be encompassed by the Commissioner’s amendment?

MS. AQUINO. It is not an amendment because I am retaining lines 33 to 35. I proposed an amendment after the words “career service.” I am only doing away with unnecessary redundancy.

MR. FOZ. **Can we say that all of the powers enumerated in the original provision are still being granted by the Civil Service Commission despite the elimination of the listing of these powers and functions?**

MS. AQUINO. **Yes, Mr. Presiding Officer, in the nature of a central personnel agency, it would have to necessarily execute all of these functions.**

MR. FOZ. And will the elimination of all these specific functions be a source of ambiguity and controversies later on as to the extent of the powers and functions of the commission?

⁵¹ Proposed Resolution No. 468, I RECORD, CONSTITUTIONAL COMMISSION 524 (14 July 1986).

⁵² Article IX-B, Section 3 of the 1987 Constitution states:

SECTION 3. The Civil Service Commission, as the central personnel agency of the Government, shall establish a career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service. It shall strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability. It shall submit to the President and the Congress an annual report on its personnel programs.



MS. AQUINO. I submit that this would not be susceptible of ambiguity because the concept of a central personnel agency is a generally accepted concept and as experience would bear out, this function is actually being carried out already by the Civil Service Commission, except that we are integrating this concept. I do not think that it would be susceptible of any ambiguity.

MR. REGALADO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas). Yes, Commissioner Regalado is recognized.

MR. REGALADO. This is more for clarification.

The original Section 3 states, among others, the functions of the Civil Service Commission – to promulgate and enforce policies on personnel actions. Will Commissioner Aquino kindly indicate to us the corresponding provisions and her proposed amendment which would encompass the powers to promulgate and enforce policies on personnel actions?

MS. AQUINO. It is my submission that the same functions are already subsumed under the concept of a central personnel agency.

MR. REGALADO. In other words, **all those functions enumerated from line 35 on page 2 to line 1 of page 3 inclusive, are understood to be encompassed in the phrase “central personnel agency of the government.”**

MS. AQUINO. Yes, Mr. Presiding Officer, except that on line 40 of page 2 and line 1 of the subsequent page, it was only subjected to a little modification.

MR. REGALADO. May we, therefore, make it of record that the phrase “... **promulgate and enforce policies on personnel actions, classify positions, prescribe conditions of employment except as to compensation and other monetary benefits which shall be provided by law**” is **understood to be subsumed under and included in the concept of a central personnel agency.**

MS. AQUINO. I would have no objection to that.⁵³ (Emphases and underscoring supplied)

In accordance with the foregoing deliberations, the mandate of the CSC should therefore be read as the comprehensive authority to perform all functions necessary to ensure the efficient administration of the *entire* civil service, including the CES.

The Administrative Code of 1987 further reinforces this view. Book V, Title I, Subtitle A, Chapter 3, Section 12 thereof enumerates the

⁵³ I RECORD, CONSTITUTIONAL COMMISSION 592-593 (July 15, 1986).

specific powers and functions of the CSC while recognizing its comprehensive authority over all civil service matters. Section 12, Items (1) to (5), (11), (14), and (19), are of particular relevance to this dispute:

SECTION 12. Powers and Functions.—The Commission shall have the following powers and functions:

(1) Administer and enforce the constitutional and statutory provisions on the merit system for all levels and ranks in the Civil Service;

(2) Prescribe, amend and enforce rules and regulations for carrying into effect the provisions of the Civil Service Law and other pertinent laws;

(3) Promulgate policies, standards and guidelines for the Civil Service and adopt plans and programs to promote economical, efficient and effective personnel administration in the government;

(4) Formulate policies and regulations for the administration, maintenance and implementation of position classification and compensation and set standards for the establishment, allocation and reallocation of pay scales, classes and positions;

(5) Render opinion and rulings on all personnel and other Civil Service matters which shall be binding on all heads of departments, offices and agencies and which may be brought to the Supreme Court on certiorari;

x x x x

(11) Hear and decide administrative cases instituted by or brought before it directly or on appeal, including contested appointments, and review decisions and actions of its offices and of the agencies attached to it. Officials and employees who fail to comply with such decisions, orders, or rulings shall be liable for contempt of the Commission. Its decisions, orders, or rulings shall be final and executory. Such decisions, orders, or rulings may be brought to the Supreme Court on certiorari by the aggrieved party within thirty (30) days from receipt of a copy thereof;

x x x x

(14) Take appropriate action on all appointments and other personnel matters in the Civil Service including extension of Service beyond retirement age;

x x x x

(19) Perform all functions properly belonging to a central personnel agency and such other functions as may be provided by law.

It is evident from the foregoing constitutional and statutory provisions that the CSC, as the central personnel agency of the



government, has been granted the broad authority and the specific powers to pass upon all civil service matters. The question before the Court today is whether this broad authority encompasses matters pertaining to the CES and are, as such, recognized to be within the jurisdiction of the CESB.

To allow us to understand the legal framework governing the two agencies and to harmonize the provisions of law, it is now necessary for the Court to examine the history and the mandate of the CESB. It may thereby determine the proper relation between the CSC and the CESB.

The CESB has been granted specific and limited powers under the law.

On 9 September 1968, Congress enacted R.A. 5435 authorizing the President to reorganize different executive departments, bureaus, offices, agencies, and instrumentalities of the government. The statute also created a Commission on Reorganization with the mandate to study and investigate the status of all offices in the executive branch. This commission was also tasked to submit an integrated reorganization plan to the President, and later on to Congress, for approval. The Commission was given until 31 December 1970 to present its plan to the President.⁵⁴

After the conduct of hearings and intensive studies, a proposed Integrated Reorganization Plan⁵⁵ was submitted to then President Ferdinand E. Marcos on 31 December 1970. The plan included a proposal to develop a professionalized and competent civil service through the establishment of the CES – a group of senior administrators carefully selected for managerial posts in the higher levels.⁵⁶ To promulgate standards for the CES, the Commission on Reorganization recommended the creation of the CESB:

To promulgate standards, rules and procedures regarding the selection, classification, compensation and career development of members of the Career Executive Service, a Board is proposed to be established. The Board shall be composed of high-level officials to provide a government-wide view and to ensure effective support for the establishment and development of a corps of highly competent, professional administrators.⁵⁷

The plan was referred to a presidential commission for review, but Martial Law was declared before the proposal could be acted upon. Four days after the declaration of Martial Law, however, the Integrated Reorganization Plan was approved by former President Marcos through

⁵⁴ See Section 4 of R.A. 5435 as amended by R.A. 6076 and 6172.

⁵⁵ Integrated Reorganization Plan (1972).

⁵⁶ Reorganization of the Executive Branch of the National Government: Summary Justifications and Supporting Tables (1972), p. III-3.

⁵⁷ Reorganization of the Executive Branch of the National Government: Summary Justifications and Supporting Tables (1972), p. III-4

Presidential Decree No. 1.⁵⁸ This approved plan included the creation of the CES and the CESB.

The CES was created to “form a continuing pool of well-selected and development-oriented career administrators who shall provide competent and faithful service.”⁵⁹ The CESB was likewise established to serve as the governing body of the CES⁶⁰ with the following functions: (a) to promulgate rules, standards and procedures for the selection, classification, compensation and career development of members of the CES;⁶¹ (b) to set up the organization and operation of the civil service in accordance with the guidelines provided in the plan;⁶² (c) to prepare a program of training and career development for members of the CES;⁶³ (d) to investigate and adjudicate administrative complaints against members of the CES.⁶⁴

When the Administrative Code was enacted in 1987, the CESB was given the additional authority to (a) identify other officers belonging to the CES in keeping with the conditions imposed by law;⁶⁵ and (b) prescribe requirements for entrance to the third-level.⁶⁶

Based on the foregoing provisions, it is clear that the powers granted to the CESB are specific and limited. This Court must now determine whether it is possible to interpret these powers in harmony with the broad constitutional mandate of the CSC.

⁵⁸ Presidential Decree No. 1, Reorganizing the Executive Branch of the National Government (24 September 1972).

⁵⁹ Integrated Reorganization Plan, Part III, Chapter I, Article IV (1).

⁶⁰ Id., Article IV(2).

⁶¹ Id., Article IV(5).

⁶² Id.

⁶³ Id., Article IV 5(g).

⁶⁴ Id., Article IV 5(h)

⁶⁵ Administrative Code of 1987, Book V, Title I, Subtitle A, Chapter 2, Section 7, states in relevant part:

SECTION 7. Career Service. — The Career Service shall be characterized by (1) entrance based on merit and fitness to be determined as far as practicable by competitive examination, or based on highly technical qualifications; (2) opportunity for advancement to higher career positions; and (3) security of tenure.

The Career Service shall include:

x x x x

(3) Positions in the Career Executive Service; namely, Undersecretary, Assistant Secretary, Bureau Director, Assistant Bureau Director, Regional Director, Assistant Regional Director, Chief of Department Service and other officers of equivalent rank as may be identified by the Career Executive Service Board, all of whom are appointed by the President;

⁶⁶Id., Section 8, states:

SECTION 8. Classes of Positions in the Career Service. — (1) Classes of positions in the career service appointment to which requires examinations shall be grouped into three major levels as follows:

x x x x

(c) The third-level shall cover positions in the Career Executive Service.

(2) Except as herein otherwise provided, entrance to the first two levels shall be through competitive examinations, which shall be open to those inside and outside the service who meet the minimum qualification requirements. Entrance to a higher level does not require previous qualification in the lower level. Entrance to the third-level shall be prescribed by the Career Executive Service Board.

The specific powers of the CESB must be narrowly interpreted as exceptions to the comprehensive authority granted to the CSC by the Constitution and relevant statutes.

As we have earlier observed, the interplay between the broad mandate of the CSC and the specific authority granted to the CESB is at the root of this controversy. The question we must resolve, in particular, is whether the CSC had the authority to review and ultimately reverse CESB Resolution No. 918, upon the appeal of the PAO.

For its part, the CESB contends that the Integrated Reorganization Plan and the Administrative Code have granted it the exclusive authority to identify the positions belonging to the third-level of the civil service and to prescribe the eligibility requirements for appointments thereto.⁶⁷ It thus asserts that the foregoing matters are beyond the revisory jurisdiction of the CSC, and must instead be appealed to the Office of the President in accordance with the specific provisions of the aforementioned laws. This special mandate must allegedly prevail over the general authority granted to the CSC.

As to its status as an attached agency, the CESB cites this Court's pronouncement in *Eugenio v. CSC*⁶⁸ on its autonomy from its mother agency. The CESB contends that its attachment to the CSC is only for the purpose of "policy and program coordination."⁶⁹ Allegedly, this attachment does not mean that the former's decisions, particularly CESB Resolution No. 918, are subject to the CSC's review.

On the other hand, the CSC asserts its jurisdiction to act upon the appeal from CESB Resolution No. 918 by virtue of its status as the central personnel agency of the government. It contends that the CESB's authority to prescribe entrance requirements for the third-level of the civil service does not mean that the CSC no longer has jurisdiction over that class of positions. It also points out that the case involves a personnel action that is within the jurisdiction conferred upon it by law.

We uphold the position of the CSC.

It is a basic principle in statutory construction that statutes must be interpreted in harmony with the Constitution and other laws.⁷⁰ In this case, the specific powers of the CESB over members of the CES must be

⁶⁷ Petition, supra note 1, at 27-28, 34-35.

⁶⁸ 312 Phil. 1145 (1995).

⁶⁹ Petition, supra note 1, at 21.

⁷⁰ See *Resident Marine Mammals of the Protected Seascape Tañon Strait v. Reyes*, G.R. Nos. 180771 & 181527, 21 April 2015, 756 SCRA 513, citing *Pangandaman v. Commission on Elections*, 377 Phil. 297 (1999).

interpreted in a manner that takes into account the comprehensive mandate of the CSC under the Constitution and other statutes.

The present case involves the classification of positions belonging to the CES and the qualifications for these posts. These are matters clearly within the scope of the powers granted to the CESB under the Administrative Code and the Integrated Reorganization Plan. However, this fact alone does not push the matter beyond the reach of the CSC.

As previously discussed, the CSC, as the central personnel agency of the government, is given the comprehensive mandate to administer the civil service under Article IX-B, Section 3 of the 1987 Constitution; and Section 12, Items (4), (5), and (14) of the Administrative Code. It has also been expressly granted the power to promulgate policies, standards, and guidelines for the civil service; and to render opinions and rulings on all personnel and other civil service matters.⁷¹

Here, the question of whether the subject PAO positions belong to the CES is clearly a civil service matter falling within the comprehensive jurisdiction of the CSC. Further, considering the repercussions of the issue concerning the appointments of those occupying the posts in question, the jurisdiction of the CSC over personnel actions is implicated.

It must likewise be emphasized that the CSC has been granted the authority to review the decisions of agencies attached to it under Section 12(11), Chapter 3, Subtitle A, Title I, Book V of the Administrative Code:

SECTION 12. Powers and Functions.--The Commission shall have the following powers and functions:

(11) Hear and decide administrative cases instituted by or brought before it directly or on appeal, including contested appointments, and review decisions and actions of its offices and of the agencies attached to it. Officials and employees who fail to comply with such decisions, orders, or rulings shall be liable for contempt of the Commission. Its decisions, orders, or rulings shall be final and executory. Such decisions, orders, or rulings may be brought to the Supreme Court on certiorari by the aggrieved party within thirty (30) days from receipt of a copy thereof;

Since the CESB is an attached agency of the CSC,⁷² the former's decisions are *expressly* subject to the CSC's review on appeal.

Against the express mandate given to the CSC in the foregoing provision, the contention of the CESB that its decisions may only be appealed to the Office of the President must fail. We note that the

⁷¹ Administrative Code of 1987, Book V, Title I, Subtitle A, Chapter 3, Section 12(3), (5).

⁷² See *Eugenio v. Civil Service Commission*, supra note 68.

supporting provision⁷³ cited by the CESB in support of its argument refers only to administrative cases involving the *discipline* of members of the CES:

5. The Board shall promulgate rules, standards and procedures on the selection, classification, compensation and career development of members of the Career Executive Service. The Board shall set up the organization and operation of the Service in accordance with the following guidelines:

x x x x

- h. ***Discipline.*** Investigation and adjudication of administrative complaints against members of the Career Executive Service shall be governed by Article VI, Chapter II and Paragraph 1 (d) of Article II, Chapter III of this Part; provided that appeals shall be made to the Career Executive Service Board instead of the Civil Service Commission. **Administrative cases involving members of the Service on assignment with the Board shall be investigated and adjudicated by the Board with the right to appeal to the Office of the President.** (Emphasis supplied)

In our view, the foregoing rule on appeals to the Office of the President only covers *disciplinary cases* involving members of the CES. It is evident that this special rule was created for that particular type of case, because members of the CES are all presidential appointees. Given that the power to appoint generally carries with it the power to discipline,⁷⁴ it is only reasonable for the president to be given the ultimate authority to discipline presidential appointees. But this special rule cannot apply to the matter at hand, because CESB Resolution No. 918 did not involve a disciplinary case. Since it was clearly outside the scope of the foregoing provision, the Resolution did not come within the jurisdiction of the Office of the President. It was therefore correctly appealed to the CSC.

From the above discussion, it is evident that the CSC acted within its jurisdiction when it resolved the PAO's appeal. The arguments of the CESB on this point must perforce be rejected.

The CSC correctly ruled that third level eligibility is not required for the subject positions.

The Court now comes to the final issue for resolution – whether the CSC ruled in accordance with law when the latter declared that it was not necessary for occupants of the subject PAO posts to possess third-level eligibility.

⁷³ Integrated Reorganization Plan, Article IV(5).

⁷⁴ *Aguirre, Jr. v. De Castro*, 378 Phil. 714 (1999).

On this point, the CESB argues that third-level eligibility is required for the positions pursuant to R.A. 9406 in relation to R.A. 10071. It avers that R.A. 9406 requires the Chief Public Attorney, Deputy Chief Public Attorneys, Regional Public Attorneys and Assistant Regional Public Attorneys to have the same qualifications for appointment, rank, salaries, allowances and retirement privileges as the Chief State Prosecutor, Assistant Chief State Prosecutor, Regional State Prosecutor and Assistant Regional State Prosecutor of the NPS under P.D. 1275. The latter law is the old one that governs the NPS and requires third-level eligibility for senior prosecutorial posts. According to the CESB, R.A. 10071 cannot apply, because R.A. 9406 could not have referred to a law that had not yet been enacted at the time. It also asserts that the subsequent declassification of prosecutors cannot benefit members of the PAO, because the prosecutors exercise quasi-judicial functions while the PAO members do not.

On the other hand, the CSC argues that nowhere in R.A. 9406, P.D. 1275, R.A. 10071 or *Batas Pambansa Blg. (B.P.) 129* is there a reference to third-level eligibility and CESO rank as qualification requirements. It emphasizes that the CESB cannot add to the provisions of these laws, which only require the practice of law for a certain period of time and presuppose a bar license. The PAO, for its part, maintains that the posts concerned are highly technical in nature because they primarily involve legal practice, and any managerial functions performed are merely incidental to their principal roles. It also claims that the legislature could never have intended to require third-level eligibility for occupants of the subject posts when it enacted R.A. 9406.

After a careful consideration of the relevant statutes and rules, this Court agrees with the conclusion of the CSC. To require the occupants of the subject PAO positions to possess third-level eligibility would be to amend the law and defeat its spirit and intent.

The CESB effectively amended the law when it required the occupants of the subject PAO positions to obtain third-level eligibility.

The authority to prescribe qualifications for positions in the government is lodged in Congress⁷⁵ as part of its plenary legislative power to create, abolish and modify public offices to meet societal demands.⁷⁶ From this authority emanates the right to change the qualifications for existing statutory offices.⁷⁷

⁷⁵ See *Flores v. Drilon*, G.R. No. 104732, 22 June 1993, 223 SCRA 568; *Manalang v. Quitoriano*, 94 Phil. 903 (1954).

⁷⁶ *Government of Camarines Norte v. Gonzales*, 714 Phil. 468 (2013).

⁷⁷ *Id.*



It was in the exercise of this power that the legislature enacted Section 5 of R.A. 9406, which provides for the qualifications for the Chief Public Attorney, Deputy Chief Public Attorneys, Regional Public Attorneys and Assistant Regional Public Attorneys:

SEC. 5. Section 16, Chapter 5, Title III, Book IV of Executive Order No. 292, as amended, is hereby further amended to read as follows:

SEC. 16. The Chief Public Attorney and Other PAO Officials. - The PAO shall be headed by a Chief Public Attorney and shall be assisted by two (2) Deputy Chief Public Attorneys. Each PAO Regional Office established in each of the administrative regions of the country shall be headed by a Regional Public Attorney who shall be assisted by an Assistant Regional Public Attorney. The authority and responsibility for the exercise of the mandate of the PAO and for the discharge of its powers and functions shall be vested in the Chief Public Attorney.

x x x x

The **Chief Public Attorney** shall have the **same qualifications for appointment**, rank, salaries, allowances, and retirement privileges as those of the **Chief State Prosecutor of the National Prosecution Service**. The **Deputy Chief Public Attorneys** shall have the **same qualifications for appointment**, rank, salaries, allowances, and retirement privileges as those of the **Assistant Chief State Prosecutor of the National Prosecution Service**.

x x x x

The **Regional Public Attorney and the Assistant Regional Public Attorney** shall have the same qualifications for appointment, rank, salaries, allowances, and retirement privileges as those of a **Regional State Prosecutor and the Assistant Regional State Prosecutor** of the National Prosecution Service respectively.

At the time of the enactment of R.A. 9406, the qualifications of officials of the NPS, to which the foregoing provision referred, were provided by Section 3 of P.D. 1275:

Section 3. Prosecution Staff; Organization, Qualifications, Appointment. The Prosecution Staff shall be composed of prosecuting officers in such number as hereinbelow determined. It shall be headed by a Chief State Prosecutor who shall be assisted by three Assistants Chief State Prosecutors.

The **Chief State Prosecutor, the three Assistants Chief State Prosecutors**; and the members of the Prosecution Staff shall be selected from among qualified and professionally trained members of the legal profession who are of proven integrity and competence and have been in the **actual practice of the legal profession for at least five (5) years prior to their appointment or have held during like**

period, any position requiring the qualifications of a lawyer.
(Emphases supplied)

Soon after, R.A. 10071 or the Prosecution Service Act of 2010⁷⁸ was passed. In updating the qualifications for senior positions in the NPS, Congress again opted to refer to another set of positions, this time in the judiciary:

SECTION 14. *Qualifications, Rank and Appointment of the Prosecutor General.* — The Prosecutor General shall have the same qualifications for appointment, rank, category, prerogatives, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefits as those of the Presiding Justice of the Court of Appeals and shall be appointed by the President.

SECTION 15. *Ranks of Prosecutors.* — The Prosecutors in the National Prosecution Service shall have the following ranks:

<i>Rank</i>	<i>Position/Title</i>
Prosecutor V	(1) Senior Deputy State Prosecutors; (2) Regional Prosecutors; and (3) Provincial Prosecutors or City Prosecutors of provinces or cities with at least twenty-five (25) prosecutors and City Prosecutors of cities within a metropolitan area established by law
Prosecutor IV	(1) Deputy State Prosecutors; (2) Deputy Regional Prosecutors (3) Provincial Prosecutors or City Prosecutors of provinces or cities with less than twenty-five (25) prosecutors; and (4) Deputy Provincial Prosecutors or Deputy City Prosecutors of provinces or cities with at least twenty- five (25) prosecutors; and Deputy City Prosecutors of cities within a metropolitan area established by law.

x x x x

SECTION 16. *Qualifications, Ranks and Appointments of Prosecutors and Other Prosecution Officers.* — Prosecutors with the rank of Prosecutor V shall have the same qualifications for appointment, rank, category, prerogatives, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefits as those of an **Associate Justice of the Court of Appeals.**

Prosecutors with the rank of Prosecutor IV shall have the same qualifications for appointment, rank, category, prerogatives, salary grade and salaries, allowances, emoluments and other privileges, shall

⁷⁸Republic Act No. 10071, An Act Strengthening and Rationalizing the National Prosecution Service (2010).

be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefits as those of a Judge of the Regional Trial Court.

A reading of B.P. 129 reveals, in turn, that the Presiding Justice and the Associate Justices of the Court of Appeals⁷⁹ are required to have the same qualifications as the members of this Court.⁸⁰ On the other hand, judges of the regional trial courts are governed by a separate provision.⁸¹

Based on the foregoing, it is clear that occupants of the subject PAO positions are only mandated to comply with requirements as to age, citizenship, education, and experience. Since third-level eligibility is not at all mentioned in the law, it would be improper for the CESB to impose this additional qualification as a prerequisite to permanent appointments.⁸² To do so would be to amend the law and to overrule Congress.

While the CESB has been granted the power to prescribe entrance requirements for the third-level of the civil service, this power cannot be construed as the authority to modify the qualifications specifically set by law for certain positions. Hence, even granting that the occupants of the subject positions indeed exercise managerial and executive functions as incidents of their primary roles, the CESB has no power to impose additional qualifications for them. It cannot use the authority granted to it by Congress itself to defeat the express provisions of statutes enacted by the latter.

It is also beyond the power of the CESB to question or overrule the specific qualifications imposed by Congress for the subject positions. The legislature must be deemed to have considered the entirety of the

⁷⁹ Section 7 of B.P. 129 states:

Section 7. Qualifications. – The Presiding Justice and the Associate Justice shall have the same qualifications as those provided in Constitution for Justice of the Supreme Court.

⁸⁰ Article VIII, Section 7 of the 1987 Constitution, provides:

SECTION 7. (1) No person shall be appointed Member of the Supreme Court or any lower collegiate court unless he is a natural-born citizen of the Philippines. A Member of the Supreme Court must be at least forty years of age, and must have been for fifteen years or more a judge of a lower court or engaged in the practice of law in the Philippines.

(2) The Congress shall prescribe the qualifications of judges of lower courts, but no person may be appointed judge thereof unless he is a citizen of the Philippines and a member of the Philippine Bar.

(3) A Member of the Judiciary must be a person of proven competence, integrity, probity, and independence.

⁸¹ Section 15 of B.P. 129 states:

Section 15. Qualifications. – No persons shall be appointed Regional Trial Judge unless he is a natural-born citizen of the Philippines, at least thirty-five years of age, and for at least ten years, has been engaged in the practice of law in the Philippines or has held a public office in the Philippines requiring admission to the practice of law as an indispensable requisite.

⁸² In *Juliano v. Subido*, (159 Phil. 534 [1975]), the Court explained:

As was pointed out by petitioners, in the absence of a statute enabling respondent Commissioner of Civil Service to require as a condition for eligibility to such position at least four years of trial work at a court of first instance level, then his actuation calls for nullification. It is undoubted that respondent Commissioner of Civil Service could not locate the source of such authority in the Constitution. In its absence, he must look to an enactment of the Congress of the Philippines. There is none. x x x.

functions attendant to these posts when it enacted R.A. 9406 and prescribed the relevant qualifications for each position. The choice **not** to require third level eligibility in this instance must be respected – not only by the CESB but also by this Court – as a matter that goes into the wisdom and the policy of a statute.⁸³

The intent of R.A. 9406 to establish and maintain the parity in qualifications between the senior officials of the PAO and the NPS must be respected.

This Court must likewise reject the CESB's contention that the declassification of positions in the NPS (as a result of the enactment of R.A. 10071) cannot benefit the PAO because of a supposed difference in their functions. This argument goes against the express terms and the clear intent of R.A. 9406 and is therefore untenable.

As stated previously, Section 5 of R.A. 9406 amended the Administrative Code of 1987. The amendment was done to provide for "the same qualifications for appointment, rank, salaries, allowances, and retirement privileges" of senior officials of both the PAO and the NPS. The deliberations of Congress on R.A. 9406 reveal its intention to establish parity between the two offices. The lawmakers clearly viewed these officers as counterparts in the administration of justice:

Senator Enrile. Well, I agree with the gentleman. **As I said, we should equalize the prosecution and the defense. The PAO Office is actually an arm of the same government to protect those who need protection.**

Senator Pimentel. That is right.

Senator Enrile. **At the same time, the Prosecution Service is the arm of the government to punish those who would need punishment. So, these two perform the same class of service for the nation and they should be equalized.**

Senator Pimentel. Yes, I totally agree with that, that is why precisely I made this observation that talking alone of starting pay, the level of starting pay of a PAO lawyer should not be lower than the starting pay of a prosecutor.

Now maybe at the proper time we can insert that amendment.

Senator Enrile. I will be glad to receive the proposed amendment.⁸⁴
(Emphases supplied)

⁸³ See *Gonzales III v. Office of the President of the Philippines*, 725 Phil. 380 (2014).

⁸⁴ II RECORD, SENATE 13TH CONGRESS 3RD SESSION, 386 (13 November 2006).

During the bicameral conference on the proposed bill, Senator Franklin M. Drilon explained that equal treatment of the two offices was essential:

SEN. DRILON. Yes, this is our amendment that the PAO chief should have the same salary as the Chief State Prosecutor and down the line, the Assistant Chief State Prosecutor, etcetera. And I want to put this on record because there are PAO lawyers here. There are PAO lawyers here before us and we want to explain why we have placed this.

x x x x

SEN. DRILON. All right. As I said – you know, I want to put on record why we had tried to streamline the salary structure and place it at the same level as the Chief State Prosecutor. Because we do not want a salary distortion in the Department of Justice where you have the PAO higher than the prosecutors. That’s why we want to put them on equal footing rather than mag – you know, there’ll be whipsawing. You place the prosecutors below the PAO. I can assure you that tomorrow the PAO will come to us – the prosecutors will come to us and say, “Put us higher than the PAO lawyers.” So you will have whipsawing here.⁸⁵

Although these statements were made to address the specific issue of salary, this Court considers them as manifestations of the intent to create and maintain parity between prosecutors and public attorneys. In *Re: Vicente S.E. Veloso*,⁸⁶ this Court considered similar provisions in other laws as confirmations of the legislative intent to grant equal treatment to certain classes of public officers:

Nonetheless, there are existing laws which expressly require the qualifications for appointment, confer the rank, and grant the salaries, privileges, and benefits of members of the Judiciary on other public officers in the Executive Department, such as the following:

- (a) the Solicitor General and Assistant Solicitor Generals of the Office of the Solicitor General (OSG); and
- (b) the Chief Legal Counsel and the Assistant Chief Legal Counsel, the Chief State Prosecutor, and the members of the National Prosecution Service (NPS) in the Department of Justice.

The intention of the above laws is to establish a parity in qualifications required, the rank conferred, and the salaries and benefits given to members of the Judiciary and the public officers covered by the said laws. The said laws seek to give equal treatment to the specific public officers in the executive department and the Judges and Justices who are covered by Batas Pambansa Blg. 129, as amended, and other relevant laws. In effect, these laws recognize that public officers who are expressly identified in the laws by the special nature of their official functions render services which are as important as the services

⁸⁵ Bicameral Conference Committee on the Disagreeing Provisions of Senate Bill No. 2171 and House Bill No. 5921 (Re: Reorganizing and Strengthening the Public Attorney’s Office), pp. 53-54.

⁸⁶ A.M. Nos. 12-8-07-CA, 12-9-5-SC & 13-02-07-SC (Resolution), 26 July 2016.



rendered by the Judges and Justices. They acknowledge the respective roles of those public officers and of the members of the Judiciary in the promotion of justice and the proper functioning of our legal and judicial systems.

To fulfill the legislative intent to accord equal treatment to senior officials of the PAO and the NPS, parity in their qualifications for appointment must be maintained. Accordingly, the revised qualifications of those in the NPS must also be considered applicable to those in the PAO. The declassification of positions in the NPS should thus benefit their counterpart positions in the PAO. There is no justification for treating the two offices differently, given the plain provisions and the rationale of the law.

This Court would render nugatory both the terms and the intent of the law if it sustains the view of the CESB. We cannot construe R.A. 9046 in relation to P.D. 1275 only, while disregarding the amendments brought about by R.A. 10071. To do so would defeat the legislature's very purpose, which is to equalize the qualifications of the NPS and the PAO.

Based on the foregoing discussion, it is evident that the CSC acted within its jurisdiction and authority as the central personnel agency of the government when it passed upon the appeal filed by the PAO from CESB Resolution No. 918. Further, there was no grave abuse of discretion on the part of the CSC when it reversed the said resolution, which refused to declassify the subject PAO positions. As the CSC noted, the third-level eligibility required by the CESB as an additional qualification for these posts contravened not only the express terms, but also the clear intent of R.A. 9406.

For the reasons stated above, and as a consequence of the improper remedy the CESB has resorted to, this Court must dismiss the instant petition.

WHEREFORE, the Petition for Certiorari and Prohibition is **DISMISSED** for lack of merit. CSC Decision No. 110067 and Resolution No. 1100719 dated 15 February 2011 and 1 June 2011, respectively, are hereby **AFFIRMED**.

SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice

WE CONCUR:

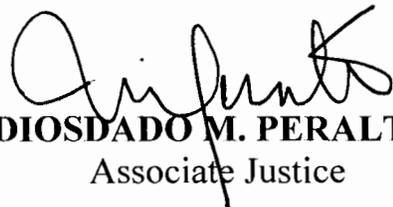


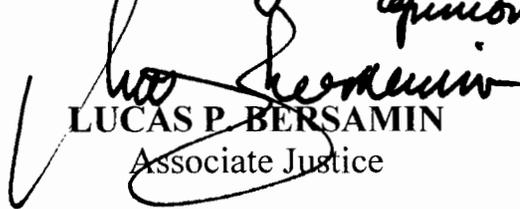
ANTONIO T. CARPIO
Associate Justice

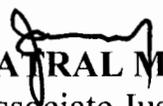


PRESBITERO J. VELASCO, JR.
Associate Justice

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice


DIOSDADO M. PERALTA
Associate Justice

With concurring and dissenting opinion
No concurred

LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice
JOSE CATRAL MENDOZA
Associate Justice
BIENVENIDO L. REYES
Associate Justice

Mf. Kent
ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


(No part)
FRANCIS H. JARDELEZA
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



MARIA LOURDES P. A. SERENO
Chief Justice