



The Scope of the Third Level

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RESOLUTION NO. 100623

WHEREAS, Section 3, Article IX-B of the 1987 Constitution provides that:
“*[T]he 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. x x x.*”;

WHEREAS, the CSC is empowered under Section 12 (1), Chapter 3, Book V of the Administrative Code of 1987 (Executive Order No. 292) to administer and enforce the constitutional and statutory provisions on the merit system for all levels and ranks in the civil service;

WHEREAS, the CSC is likewise mandated by law to prescribe, amend and enforce rules and regulations for carrying into effect the provisions of the civil service and other pertinent laws as well as to promulgate policies, standards and guidelines to promote economical, efficient and effective public personnel administration in the government;

WHEREAS, Section 8, Chapter 2, Book V of the Administrative Code of 1987 expressly provides that:

“SEC. 8. Classes of Position in the Career Service. - (1) Classes of position in the career service appointment to which requires examinations shall be grouped into three major levels as follows:

“(a) The first level shall include clerical, trades, crafts and custodial service positions which involve non-professional or subprofessional work in a non-supervisory or supervisory capacity requiring less than four years of collegiate studies;

“(b) The second level shall include professional, technical and scientific positions which involve professional, technical or scientific work in a non-supervisory or supervisory capacity requiring at least four years of college work up to Division Chief level; and

“(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.” (Underscoring Supplied)

WHEREAS, in relation to the foregoing legal provisions, Section 7 (1) (3), Chapter 2, Book V of the Administrative Code of 1987 expressly stipulates as follows:

Sec. 7. Career Service. – x x x.

“The Career Service shall include:

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. (Underscoring Supplied)*

WHEREAS, the Supreme Court interpreted the foregoing legal provisions in the case of Home Insurance and Guaranty Corporation vs. CSC (G.R. No. 95450, March 19, 1993), as follows:

x x x

“Respondent Cruz has not satisfactorily shown that his former position as Vice President in the HIGC belongs to the third level in the career service as prescribed by law. His former position as Vice President is not among those enumerated by law as falling under the third level, nor has he established that it is one of those identified by the Career Executive Service Board as of equivalent rank to those listed by law. Neither is it claimed that he was appointed by the President.

“We agree then with petitioner HIGC that the position of Vice President to which Cruz was formerly appointed belongs to the second level position which under the law includes professional, technical and scientific positions involving professional, technical or scientific work in a non-supervisory or supervisory capacity requiring at least four years of college works up to Division Chief level.” (Underscoring Supplied)

WHEREAS, the Supreme Court in the cases of Office of the Ombudsman vs. CSC (G.R. No. 159940, February 16, 2005) and Office of the Ombudsman vs. CSC (G.R. No. 162215, July 30, 2007), had also the occasion to rule that the Third Level or the CES consists only of the positions of 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 CESB, all of whom are appointed by the President;

WHEREAS, in the most recent case of National Transmission Corporation vs. Venusto Hamoy (G.R. No. 179255, April 2, 2009), the High Court also made it clear that only presidential appointees belong to the CES or the Third Level;

WHEREAS, the CSC is cognizant that past policies and issuances have caused confusion as to the exact delimitation or coverage of the Third Level, and that clarificatory action is urgent and imperative on the matter;

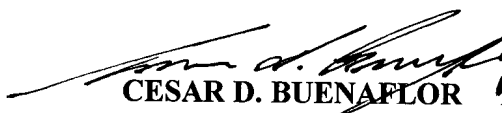


WHEREFORE, in the light of the foregoing legal provisions and jurisprudence and pursuant to its rule-making power, the Commission hereby **RESOLVES** to issue this clarificatory resolution, where it **DECLARES** as follows:

1. The Third Level or the CES shall only cover the positions of 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 CESB, all of whom are appointed by the President of the Republic of the Philippines;
2. Executive and managerial positions in the career service other than the foregoing shall belong to the Second Level; and
3. All policies and issuances of the CSC which are not in conformity with this resolution are superseded, repealed, amended or modified accordingly.

Quezon City, 29 MAR 2010


FRANCISCO T. DUQUE III
Chairman


CESAR D. BUENAFLOR
Commissioner


MAR ANN L. FERNANDEZ-MENDOZA
Commissioner

Attested by:


DOLORES B. BONIFACIO
Director IV

Commission Secretariat and Liaison Office