

**AIDA D. EUGENIO, PETITIONER, VS. CIVIL SERVICE COMMISSION,
HON. TEOFISTO T. GUINGONA, JR. & HON. SALVADOR
ENRIQUEZ, JR., RESPONDENTS.**

G.R. No. 115863. March 31, 1995

Ponente: PUNO, J.

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PUNO, J.:

The power of the Civil Service Commission to abolish the Career Executive Service Board is challenged in this petition for certiorari and prohibition.

First the facts. Petitioner is the Deputy Director of the Philippine Nuclear Research Institute. She applied for a Career Executive Service (CES) Eligibility and a CESO rank. On August 2, 1993, she was given a CES eligibility. On September 15, 1993, she was recommended to the President for a CESO rank by the Career Executive Service Board.[1]

All was not to turn well for petitioner. On October 1, 1993, respondent Civil Service Commission[2] passed Resolution No. 93-4359, viz:

"RESOLUTION NO. 93-4359

"WHEREAS, Section 1(1) of Article IX-B provides that the Civil Service shall be administered by the Civil Service Commission, x x x";

"WHEREAS, Section 3, Article IX-B of the 1987 Philippine Constitution provides that 'The Civil Service Commission, as the central personnel agency of the government, is mandated to establish a career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness and courtesy in the civil service, x x x';

"WHEREAS, Section 12 (1), Title I, Subtitle A, Book V of the Administrative Code of 1987 grants the Commission the power, among others, to administer and enforce the constitutional and statutory provisions on the merit system for all levels and ranks in the Civil Service;

"WHEREAS, Section 7, Title I, Subtitle A, Book V of the Administrative Code of 1987 provides, among others, that '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;

"WHEREAS, Section 8 (c), Title I, Subtitle A, Book V of the Administrative Code of 1987 provides that 'The third level shall cover positions in the Career Executive Service';

"WHEREAS, the Commission recognizes the imperative need to consolidate, integrate and unify the administration of all levels of positions in the career service;

"WHEREAS, the provisions of Section 17, Title I, Subtitle A, Book V of the Administrative Code of 1987

confers on the Commission the power and authority to effect changes in its organization as the need arises;

"WHEREAS, Section 5, Article IX-A of the Constitution provides that the Civil Service Commission shall enjoy fiscal autonomy and the necessary implications thereof;

"NOW THEREFORE, foregoing premises considered, the Civil Service Commission hereby resolves to streamline, reorganize and effect changes in its organizational structure. Pursuant thereto, the Career Executive Service Board, shall now be known as the Office for Career Executive Service of the Civil Service Commission. Accordingly, the existing personnel, budget, properties and equipment of the Career Executive Service Board shall now form part of the Office for Career Executive Service."

The above resolution became an impediment to the appointment of petitioner as Civil Service Officer, Rank IV. In a letter to petitioner, dated June 7, 1994, the Honorable Antonio T. Carpio, Chief Presidential Legal Counsel, stated:

"X X X X X X X X X X

"On 1 October 1993, the Civil Service Commission issued CSC Resolution No. 93-4359 which abolished the Career Executive Service Board.

"Several legal issues have arisen as a result of the issuance of CSC Resolution No. 93-4359, including whether the Civil Service Commission has authority to abolish the Career Executive Service Board. Because these issues remain unresolved, the Office of the President has refrained from considering appointments of career service eligibles to career executive ranks.

"X X X X X X X X X X

"You may, however, bring a case before the appropriate court to settle the legal issues arising from the issuance by the Civil Service Commission of CSC Resolution No. 93-4359, for guidance of all concerned.

"Thank you."

Finding herself bereft of further administrative relief as the Career Executive Service Board which recommended her CESO Rank IV has been abolished, petitioner filed the petition at bench to annul, among others, resolution No. 93-4359. The petition is anchored on the following arguments:

"A.

IN VIOLATION OF THE CONSTITUTION, RESPONDENT COMMISSION USURPED THE LEGISLATIVE FUNCTIONS OF CONGRESS WHEN IT ABOLISHED THE CESB, AN OFFICE CREATED BY LAW, THROUGH THE ISSUANCE OF CSC RESOLUTION NO. 93-4359;

"B.

ALSO IN VIOLATION OF THE CONSTITUTION, RESPONDENT CSC USURPED THE LEGISLATIVE FUNCTIONS OF CONGRESS WHEN IT ILLEGALLY AUTHORIZED THE TRANSFER OF PUBLIC MONEY, THROUGH THE ISSUANCE OF CSC RESOLUTION NO. 93-4359."

Required to file its Comment, the Solicitor General agreed with the contentions of petitioner. Respondent Commission, however, chose to defend its ground. It posited the following position:

"ARGUMENTS FOR PUBLIC RESPONDENT-CSC

"I.

THE INSTANT PETITION STATES NO CAUSE OF ACTION AGAINST THE PUBLIC RESPONDENT-CSC.

“II.

THE RECOMMENDATION SUBMITTED TO THE PRESIDENT FOR APPOINTMENT TO A CESO RANK OF PETITIONER EUGENIO WAS A VALID ACT OF THE CAREER EXECUTIVE SERVICE BOARD OF THE CIVIL SERVICE COMMISSION AND IT DOES NOT HAVE ANY DEFECT.

“III.

THE OFFICE OF THE PRESIDENT IS ESTOPPED FROM QUESTIONING THE VALIDITY OF THE RECOMMENDATION OF THE CESB IN FAVOR OF PETITIONER EUGENIO SINCE THE PRESIDENT HAS PREVIOUSLY APPOINTED TO CESO RANK FOUR (4) OFFICIALS SIMILARLY SITUATED AS SAID PETITIONER. FURTHERMORE, LACK OF MEMBERS TO CONSTITUTE A QUORUM, ASSUMING THERE WAS NO QUORUM, IS NOT THE FAULT OF PUBLIC RESPONDENT CIVIL SERVICE COMMISSION BUT OF THE PRESIDENT WHO HAS THE POWER TO APPOINT THE OTHER MEMBERS OF THE CESB.

"IV.

THE INTEGRATION OF THE CESB INTO THE COMMISSION IS AUTHORIZED BY LAW (Sec. 12(1), Title I, Subtitle A, Book V of the Administrative Code of 1987). THIS PARTICULAR ISSUE HAD ALREADY BEEN SETTLED WHEN THE HONORABLE COURT DISMISSED THE PETITION FILED BY THE HONORABLE MEMBERS OF THE HOUSE OF REPRESENTATIVES, NAMELY: SIMEON A. DATUMANONG, FELICIANO R. BELMONTE, JR., RENATO V. DIAZ, AND MANUEL M. GARCIA IN G.R. NO. 114380. THE AFOREMENTIONED PETITIONERS ALSO QUESTIONED THE INTEGRATION OF THE CESB WITH THE COMMISSION."

We find merit in the petition.[3]

The controlling fact is that the Career Executive Service Board (CESB) was created by Presidential Decree (P.D.) No. 1 on September 1, 1974[4] which adopted the Integrated Reorganization Plan. Article IV, Chapter I, Part III of the said Plan provides:

"Article IV - Career Executive Service

“1. A Career Executive Service is created to form a continuing pool of well-selected and development-oriented career administrators who shall provide competent and faithful service.

“2. A Career Executive Service Board, hereinafter referred to in this Chapter as the Board, is created to serve as the governing body of the Career Executive Service. The Board shall consist of the Chairman of the Civil Service Commission as presiding officer, the Executive Secretary and the Commissioner of the Budget as ex-officio members and two other members from the private sector and/or the academic community who are familiar with the principles and methods of personnel administration.

“x x x x x x x x

“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." (Italics supplied)

It cannot be disputed, therefore, that as the CESB was created by law, it can only be abolished by the legislature. This follows an unbroken stream of rulings that the creation and abolition of public offices is primarily a legislative function. As aptly summed up in AM JUR 2d on Public Officers and Employees,[5] viz:

"Except for such offices as are created by the Constitution, the creation of public offices is primarily a legislative function. In so far as the legislative power in this respect is not restricted by constitutional provisions, it is supreme, and the legislature may decide for itself what offices are suitable, necessary, or convenient. When in the exigencies of government it is necessary to create and define duties, the legislative department has the discretion to determine whether additional offices shall be created, or whether these duties shall be attached to and become ex-officio duties of existing offices. An office created by the legislature is wholly within the power of that body, and it may prescribe the mode of filling the office and the powers and duties of the incumbent, and, if it sees fit, abolish the office."

In the petition at bench, the legislature has not enacted any law authorizing the abolition of the CESB. On the contrary, in all the General Appropriations Acts from 1975 to 1993, the legislature has set aside funds for the operation of CESB. Respondent Commission, however, invokes Section 17, Chapter 3, Subtitle A, Title I, Book V of the Administrative Code of 1987 as the source of its power to abolish the CESB. Section 17 provides:

"Section 17. Organizational Structure - Each office of the Commission shall be headed by a Director with at least one Assistant Director, and may have such divisions as are necessary to carry out their respective functions. As an independent constitutional body, the Commission may effect changes in the organization as the need arises."

But, as well pointed out by petitioner and the Solicitor General, Section 17 must be read together with Section 16 of the said Code which enumerates the offices under the respondent Commission, viz:

"SEC. 16. Offices in the commission. - The Commission shall have the following offices:

"(1) The Office of the Executive Director headed by an Executive Director, with a Deputy Executive Director shall implement policies, standards, rules and regulations promulgated by the Commission; coordinate the programs of the offices of the Commission and render periodic reports on their operations, and perform such other functions as may be assigned by the Commission.

"(2) The Merit System Protection Board composed of a Chairman and two (2) members shall have the following functions:

"x x x x x x x x

"(3) The Office of Legal Affairs shall provide the Chairman with legal advice and assistance; render counselling services; undertake legal studies and researches; prepare opinions and ruling in the interpretation and application of the Civil Service law, rules and regulations; prosecute violations of such law, rules and regulations; and represent the Commission before any court or tribunal.

"(4) The Office of Planning and Management shall formulate development plans, programs and projects; undertake research and studies on the different aspects of public personnel management; administer management improvement programs; and provide fiscal and budgetary services.

"(5) The Central Administrative Office shall provide the Commission with personnel, financial, logistics and other basic support services.

"(6) The Office of Central Personnel Records shall formulate and implement policies, standards, rules and regulations pertaining to personnel records maintenance, security, control and disposal; provide storage and extension services; and provide and maintain library services.

"(7) The Office of Position Classification and Compensation shall formulate and implement policies, standards, rules and regulations relative to the administration of position classification and compensation.

"(8) The Office of Recruitment, Examination and Placement shall provide leadership and assistance in

developing and implementing the overall Commission programs relating to recruitment, execution and placement, and formulate policies, standards, rules and regulations for the proper implementation of the Commission's examination and placement programs.

“(9) The Office of Career Systems and Standards shall provide leadership and assistance in the formulation and evaluation of personnel systems and standards relative to performance appraisal, merit promotion, and employee incentive benefits and awards.

“(10) The Office of Human Resource Development shall provide leadership and assistance in the development and retention of qualified and efficient work force in the Civil Service; formulate standards for training and staff development; administer service-wide scholarship programs; develop training literature and materials; coordinate and integrate all training activities and evaluate training programs.

“(11) The Office of Personnel Inspection and Audit shall develop policies, standards, rules and regulations for the effective conduct or inspection and audit personnel and personnel management programs and the exercise of delegated authority; provide technical and advisory services to Civil Service Regional Offices and government agencies in the implementation of their personnel programs and evaluation systems.

“(12) The Office of Personnel Relations shall provide leadership and assistance in the development and implementation of policies, standards, rules and regulations in the accreditation of employee associations or organizations and in the adjustment and settlement of employee grievances and management of employee disputes.

“(13) The Office of Corporate Affairs shall formulate and implement policies, standards, rules and regulations governing corporate officials and employees in the areas of recruitment, examination, placement, career development, merit and awards systems, position classification and compensation, performing appraisal, employee welfare and benefit, discipline and other aspects of personnel management on the basis of comparable industry practices.

“(14) The Office of Retirement Administration shall be responsible for the enforcement of the constitutional and statutory provisions, relative to retirement and the regulation for the effective implementation of the retirement of government officials and employees.

“(15) The Regional and Field Offices. - The Commission shall have not less than thirteen (13) Regional offices each to be headed by a Director, and such field offices as may be needed, each to be headed by an official with at least the rank of an Assistant Director.”

As read together, the inescapable conclusion is that respondent Commission's power to reorganize is limited to offices under its control as enumerated in Section 16, *supra*. From its inception, the CESB was intended to be an autonomous entity, albeit administratively attached to respondent Commission. As conceptualized by the Reorganization Committee "the CESB shall be autonomous. It is expected to view the problem of building up executive manpower in the government with a broad and positive outlook." [6] The essential autonomous character of the CESB is not negated by its attachment to respondent Commission. By said attachment, CESB was not made to fall within the control of respondent Commission. Under the Administrative Code of 1987, the purpose of attaching one functionally inter-related government agency to another is to attain "policy and program coordination." This is clearly etched out in Section 38(3), Chapter 7, Book IV of the *aforecited* Code, to wit:

"(3) Attachment. — (a) This refers to the lateral relationship between the department or its equivalent and the attached agency or corporation for purposes of policy and program coordination. The coordination may be accomplished by having the department represented in the governing board of the attached agency or corporation, either as chairman or as a member, with or without voting rights, if this is permitted by the charter; having the attached corporation or agency comply with a system of periodic reporting which shall reflect the progress of programs and projects; and having the department or its equivalent provide general

policies through its representative in the board, which shall serve as the framework for the internal policies of the attached corporation or agency."

Respondent Commission also relies on the case of *Datumanong, et al., vs. Civil Service Commission*, G.R. No. 114380 where the petition assailing the abolition of the CESB was dismissed for lack of cause of action. Suffice to state that the reliance is misplaced considering that the cited case was dismissed for lack of standing of the petitioner, hence, the lack of cause of action.

IN VIEW WHEREOF, the petition is granted and Resolution No. 93-4359 of the respondent Commission is hereby annulled and set aside. No costs.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quason, Vitug, Kapunan, Mendoza, and Francisco, JJ., concur.

[1] Together with twenty-six (26) others.

[2] Patricia A. Sto Tomas (Chairman), Ramon P. Ereneta, Jr., (member) and Thelma P. Gaminde (member).

[3] On February 13, 1995, respondent, CSC manifested that the President appointed petitioner to a CESO rank on January 9, 1995. Her appointment, however, has not rendered moot the broader issue of whether or not the abolition of Career Executive Service Board is valid.

[4] P.D. No. 1 was later amended by P.D. No. 336 and P.D. No. 367 on the composition of the CESB; P.D. No. 807 and E.O. No. 292 (Administrative Code of 1987) reiterated the functions of the CESB. The General Appropriations Acts from 1975 to 1993 also uniformly appropriated funds for the CESB.

[5] 63 AM JUR 2d section 30.

[6] Reorganization Panel Reports, Vol. II, pp. 16 to 49 as cited in Petition, p. 17.

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