THE PUBLIC SCHOOLS DISTRICT SUPERVISORS ASSOCIATION (PSDSA), ITS OFFICERS, TO WIT: DR. ANILLA A. CALAMBA, PRESIDENT; DR. CARMELITA L. PALABAY, GEN. VICE-PRESIDENT; MS. ESTELITA ...

G.R. NO. 157286. June 16, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a Petition for Prohibition with prayer for temporary restraining order and/or preliminary injunction filed by the Public Schools District Supervisor Association (PSDSA) seeking to declare as unconstitutional Rule IV, Section 4.3; Rule V, Sections 5.1 and the second paragraph of Section 5.2; and Rule VI, Section 6.2, paragraph 11 of Department of Education Order No. 1, Series of 2003. The petition likewise seeks to compel, by way of a writ of mandamus, the Department of Education, Culture, and Sports (DECS) and the Department of Budget and Management (DBM) to upgrade the salary grade level of the district supervisors from Salary Grade (SG) 19 to SG 24.

The Antecedents

Ever since the Department of Education (DepEd)[1] was founded decades ago, its management had been so centralized in the Manila office. Schools in the national, regional, and division levels merely followed and implemented the orders and memoranda issued by the Education Secretary. Due to the evolution of the learning process and the onset of information technology, there was a need for a radical change in the governance of the DepEd. Thus, a study on how to improve the management of the Department was conducted, and one of the proposals was the abolition of the office of the district supervisor.

Then Senator Tessie Aquino-Oreta, the Chairman of the Committee on Education, authored Senate Bill No. 2191, the thrust of which was to change the existing management style and focus on the schools where the teaching-learning process occurs. The bill was intended to highlight shared governance in the different levels in the DECS hierarchy and establish authority, accountability, and responsibility for achieving higher learning outcomes. While the governance of basic education would begin at the national level, the field offices (regions, divisions, schools, and learning centers) would translate the policy into programs, projects, and services to fit local needs.[2] The national level was likewise to be tasked to define the roles and responsibilities of, and provide resources to the field offices which would implement educational programs, projects, and services in communities they serve.[3] At the forefront would be the DepEd Secretary, vested with the overall authority and supervision over the operations of the department on the national, regional, division, and schools district level.[4]

Republic Act No. 9155, otherwise known as the "Governance of Basic Education Act 2001," became a law on August 11, 2001, in accordance with Section 27(1), Article VI of the Constitution. Under the law, each regional office shall have a director, an assistant director, and an office staff for program promotion and support, planning, administrative and fiscal services.[5] The regional director was given the authority to hire, place and evaluate all

employees in the regional office except for the position of assistant director,[6] as well as the authority, accountability, and responsibility to determine the organization component of the divisions and districts, and approve the staffing pattern of all employees therein;[7] evaluate all division superintendents and assistant division superintendents in the region;[8] and other functions as may be assigned by the proper authorities.[9]

A division, on the other hand, is headed by a schools division superintendent with the following responsibilities, among others: to supervise the operations of all public and private elementary, secondary, and integrated schools, and learning centers;[10] to hire, place and evaluate all division supervisors and schools district supervisors as well as all employees in the divisions, both teaching and non-teaching personnel, including school heads, except for the assistant division superintendent;[11] and perform other functions as may be assigned by proper authorities.[12]

The office of the schools district supervisor has been retained under the law. Each district is headed by a school district supervisor and an office staff for program promotion. However, the responsibilities of the schools district supervisor are limited to the following: (1) providing professional and instructional advice and support to the school heads and teachers/facilitators of schools and learning centers in the district or cluster thereof; (2) curricula supervision; and (3) performing such other functions as may be assigned by proper authorities. The schools district supervisors have no administrative, management, control or supervisory functions over the schools and learning centers within their respective districts.[13]

On the school level, an Elementary School Principal (ESP) was designated as school head for all public elementary schools; and a Secondary School Principal (SSP) for high schools or a cluster thereof.[14] The ESP and the SSP serve as both instructional leaders and administrative managers with the following authority, accountability and responsibility:

> (7) Administering and managing all personnel, physical, and fiscal resources of the school;
>
> (8) Recommending the staffing complement of the school based on its needs;
>
> (9) Encouraging staff development;
>
> x x x x
>
> (11) Accepting donations, gifts, bequests, and grants for the purpose of upgrading teachers'/learning facilitators' competencies, improving and expanding school facilities, and providing instructional materials and equipment. Such donations or grants must be reported to the appropriate district supervisors and division superintendents; and
>
> (12) Performing such other functions as may be assigned by proper authorities.[15]

Under Section 14 of the law, the DepEd Secretary is mandated to "promulgate the implementing rules and regulations within ninety (90) days after the approval of the Act, provided that the principle of shared governance shall be fully implemented within two (2) years" after such approval.

Before the DepEd could issue the appropriate implementing rules and regulations, petitioner sought the legal assistance of the Integrated Bar of the Philippines (IBP) National Committee on Legal Aid to make representations for the resolution of the following administrative issues:

> - Restoration of the functions, duties, responsibilities, benefits, prerogatives, and position level of Public Schools District Supervisors.
>
> - Upgrading of Salary Grade level of Public Schools District Supervisors from Salary Grade Level 19 to Salary Grade Level 24 under DBM Circular No. 36, otherwise known as the Compensation and Position

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Classification Rules and Regulation.

[16]

In a Letter dated March 1, 2002 addressed to then DepEd Secretary Raul Roco, the IBP stated that, per its review of the documents submitted by the PSDSA, it found the latter's position valid and legal, to wit:

> First: The basis for the abolition of the position of District Supervisors under the Attrition Law and DECS Department Order No. 110, Series of 1991 is no longer valid and rendered moot and academic due to issuance of DECS Department Order No. 22, Series of 1996 and the passage by Congress of the Philippines of Republic Act No. 9155, otherwise known as the Basic Education Governance Act of 2000. Under R.A. 9155, school districts are mandated to be maintained and responsibilities of Public Schoolï¿½s Districts Supervisors have been clearly defined.
>
> Second: There is a clear case of discrimination of grant of salaries and benefits to District Supervisors compared to salaries and benefits received by the School Principals - which position is lower in the hierarchy of positions as prepared by the Department of Education and the Department of Budget and Management. School Principals and District Supervisors enjoy the same level of Salary Grade even if the latter position is considered as a promotion and enjoys a higher level of position than that of the position of School Principals.[17]

The PSDSA thus requested the DepEd Secretary to call an immediate consultation with the district supervisors nationwide through a convention, and their valid inputs be considered in formulating the rules and regulations to be urged by the DepEd. However, the Secretary failed to reply. Thus, the IBP reiterated the concerns raised by the PSDSA in a Letter[18] to the DepEd dated April 15, 2002.

On January 6, 2003, DepEd Secretary Edilberto C. De Jesus issued DECS Office Order No. 1, which constitutes the Implementing Rules and Regulations (IRR) of R.A. No. 9155. Sections 4.1 to 4.3, Rule IV of the IRR provide:

> SECTION 4.1. The Schools Division Superintendent. - A division shall consist of a province or city which shall have a schools division superintendent. There shall be at least one assistant schools division superintendent and office staff for programs promotion, planning, administrative, fiscal, legal, ancillary, and other support services.
>
> SECTION 4.2. Authority, Accountability, and Responsibility of the Schools Division Superintendent. - Consistent with the national educational policies, plans, and standards, the schools division superintendents shall have authority, accountability, and responsibility for the following:
>
> 1) Developing and implementing division education development plans;
>
> 2) Planning and managing the effective and efficient performance of all personnel, physical, and fiscal resources of the division, including professional staff development;
>
> 3) Hiring, placing, and evaluating all division supervisors and schools district supervisors as well as all employees in the division, both teaching and non-teaching personnel, including school heads, except for the assistant division superintendents;
>
> 4) Monitoring the utilization of funds provided by the national government and the local government units to the schools and learning centers;
>
> 5) Ensuring compliance of quality standards for basic education programs and for this purpose strengthening the role of division supervisors as subject area specialists;
>
> 6) Promoting awareness of, and adherence by, all schools and learning centers to accreditation standards prescribed by the Secretary of Education;

> 7) Supervising the operations of all public and private elementary, secondary, and integrated schools, and learning centers; and
>
> 8) Performing such other functions as may be assigned by the Secretary and/or Regional Director.

SECTION 4.3. Appointing and Disciplinary Authority of the Schools Division Superintendent. - The schools district superintendent shall appoint the division supervisors and school district supervisors as well as all employees in the division, both teaching and non-teaching personnel, including school heads, except for the assistant schools division superintendent, subject to the civil service laws, rules and regulations, and the policies and guidelines to be issued by the Secretary of Education for the purpose.

The schools division superintendent shall have disciplinary authority only over the non-teaching personnel under his jurisdiction.

Such exercise of disciplinary authority by the schools division superintendent over the non-teaching personnel shall be subject to the civil service laws, rules and regulations, and procedures and guidelines to be issued by the Secretary of Education relative to this matter.

The Regional Director shall continue exercising disciplinary authority over the teaching personnel insofar as the latter are covered by specific and exclusive disciplinary provisions under the Magna Carta for Public School Teachers (R.A. No. 4670).[19]

Sections 5.1 and 5.2, Rule V of the IRR, in turn, provide:

> SECTION 5.1. The Schools District Supervisor. - A school district shall have a school district supervisor and office staff for program promotion.
>
> The schools district supervisor shall primarily perform staff functions and shall not exercise administrative supervision over school principals, unless specifically authorized by the proper authorities. The main focus of his/her functions shall be instructional and curricula supervision aimed at raising academic standards at the school level.
>
> The schools district supervisor shall be specifically responsible for:1) Providing professional and instructional advice and support to the school heads and teachers/facilitators of schools and learning centers in the district or cluster thereof;
> 2) Curricula supervision; and
> 3) Performing such other functions as may be assigned by the Secretary, Regional Directors, and Schools Division Superintendents where they belong.

The schools district supervisor being mentioned in this section shall refer to a public schools district supervisor.

SECTION 5.2. The School District. - A school district already existing at the time of the passage of this Act shall be maintained. However, an additional school district may be established by the regional director based on criteria set by the Secretary and on the recommendation of the schools division superintendent. For this purpose, the Secretary of Education shall set standards and formulate criteria as basis of the Regional Directors of the establishment of an additional school district.[20]

On March 13, 2003, the PSDSA, the national organization of about 1,800 public school district supervisors of the DepEd, in behalf of its officers and members, filed the instant petition for prohibition and mandamus, alleging that:

> - THE ACT OF THE DEPARTMENT OF EDUCATION IN REMOVING PETITIONERS' ADMINISTRATIVE SUPERVISION OVER ELEMENTARY SCHOOLS AND ITS PRINCIPALS

(SCHOOL HEADS) WITHIN HIS/HER DISTRICT AND CONVERTING HIS/HER ADMINISTRATIVE FUNCTION TO THAT OF PERFORMING STAFF FUNCTION FOR THE DIVISION OFFICE PER SECTION 5.1 RULE V OF THE IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT 9155 (DEPED ORDER NO. 1, SERIES OF 2003) IS A GROSS VIOLATION OF REPUBLIC ACT 9155 - THE GOVERNANCE OF BASIC EDUCATION ACT OF 2001.

- THE IMPLEMENTING RULES AND REGULATION OF REPUBLIC ACT 9155 AS PROMULGATED UNDER DEPED ORDER NO. 1, SERIES OF 2003 EXPANDED THE LAW AND INCLUDED PROVISIONS WHICH ARE DIAMETRICALLY OPPOSED TO THE LETTER AND SPIRIT OF THE SUBJECT LAW.

- THE DOWNGRADING OF SALARY GRADE LEVEL OF THE PUBLIC SCHOOLS DISTRICT SUPERVISOR OR THE NEGLECT OR REFUSAL OF THE DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF BUDGET AND MANAGEMENT TO UPGRADE THE SALARY GRADE LEVEL OF PUBLIC SCHOOLS DISTRICT TO A RESPECTABLE LEVEL OF SALARY GRADE HIGHER THAN THAT OF THE PRINCIPALS - DESPITE CLEAR INTENTION OF R.A. 9155 TO RETAIN THE POSITION OF PSDS IN THE HIERARCHY OF ADMINISTRATIVE MANAGERS AND OFFICERS OF THE DEPARTMENT OF EDUCATION - IS UNCONSTITUTIONAL AND ILLEGAL.[21]

Petitioners maintain that the questioned provisions of the IRR are invalid because they "extended or expanded and modified" the provisions of R.A. No. 9155. They argue that the said law should be read in harmony with other "existing educational laws" which it did not specifically repeal, such as Batas Pambansa Blg. 232, otherwise known as "The Education Act of 1982," as amended by R.A. No. 7798; R.A. No. 4670, otherwise known as the "Magna Charta for Public School Teachers"; and R.A. No. 7784 captioned "An Act to Strengthen Teacher Education in the Philippines by Establishing Centers of Excellence, Creating a Teacher Education Council for the Purpose, Appropriating Funds Therefore, and for Other Purposes."

Petitioners assert that under Section 7(D) of R.A. No. 9155, the district offices of the DepEd are intended as field offices where the district supervisors can assist the ESPs and teachers/learning facilitators within their district as experienced educational managers. Thus, the district supervisors were not divested of the inherent administrative functions to manage and oversee the schools within their respective districts, including their subordinates. They emphasize that the law provides an "office staff for program promotion" in the school districts, which would be of no use if the office has no administrative supervision over schools within its respective districts.

Petitioners assert that under the IRR, the schools district supervisors primarily perform staff functions and shall not exercise administrative supervision over school principals, unless specifically authorized by the proper authorities. Thus, under the IRR, the exercise of administrative supervision over school principals was made discretionary and subject to the whims and caprices of "the proper authorities." The logical inference of this provision, petitioners aver, is that the administrative supervisory powers can be withdrawn from a district supervisor without any reason at all, a provision which has no basis in the enabling law.

Petitioners further contend that the DepEd has no authority to incorporate its plan of downgrading the position of district supervisor, that is, from being an administrator of a particular district office to a position performing a staff function, to exercise administrative supervision over the school principals only when specifically authorized by proper authorities. Petitioners insist that respondent Education Secretary was focused on removing the level of management in the district office, such that the IRR empower school heads (principals) to have administrative and instructional supervision of school or cluster of schools, while supervision of all public and private elementary, secondary, and integrated schools and learning centers was given to the division office.

Petitioners further insist that respondent Education Secretary failed to consider the fact that R.A. No. 9155

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strengthened the district office as a mid-level administrative field office of the DepEd. The law even mandates to allow the district supervisor to have an office staff for program promotion in the district office. Apart from the current administrative functions inherent in the district office, DECS Service Manual 2000 vested additional specific functions to the district offices, to provide professional and instructional advice and support to the school heads and teachers/facilitators of schools and learning centers in the district, as well as curricula supervision.

Petitioners posit that R.A. No. 9155 did not, in anyway, allow or authorize the reorganization of the entire DepEd; it never reduced the position, rank, classification, and salary grade level of district supervisors, nor abolished the district offices which are responsible for the administration and management of elementary schools within its jurisdiction. It did not remove from the district supervisors the function of administrative supervision over schools within their respective areas. In fact, petitioners insist, what the law did was to give the district supervisor additional responsibility of providing professional and instructional advice and support to the school heads and teachers/facilitators of schools and learning centers in the district or cluster thereof.

Petitioners point out that under Section 4.3, paragraph (b), Rule IV of the IRR, the schools division superintendent was given the power to appoint the division supervisors and schools district supervisor and other employees subject to civil service laws, rules, and regulations, and the policies and guidelines to be issued by the Secretary of Education for the purpose. On the other hand, the school division superintendent shall have disciplinary authority only over the non-teaching personnel under his jurisdiction. Such exercise of disciplinary authority by the schools division superintendent over the non-teaching personnel shall be subject to civil service laws, rules, and regulations, and procedures and guidelines to be issued by the Secretary of Education relative to this matter. The regional director shall continue exercising disciplinary authority over the teaching personnel in so far as the latter are covered by specific and exclusive disciplinary provisions under the Magna Carta for Public School Teachers (R.A. 4670).

Petitioners posit that this grant of disciplining authority to the regional director for teaching personnel who commit violations of laws, rules, and regulations is definitely not provided for in R.A. No. 9155. The division superintendent was given the power not only to hire and appoint the division supervisors, district supervisors, school heads, or principals as well as employees in the division, both teaching and non-teaching positions. However, when it comes to disciplining officers and teaching personnel who commit infractions or violations of law, rules, and regulations of the DepEd, the exercise of such disciplining authority is lodged in the hands of the regional director. Petitioners point out that the power to hire teachers is in the hands of the division superintendent; principles of administrative rules and procedure provide that the authority to hire and appoint carries with it the authority to discipline and fire the hired and appointed personnel particularly if the law is silent thereon. Since the division superintendent has the authority to hire teaching personnel within its division, he/she should also take the responsibility of disciplining erring teachers and employees. If the set-up of placing the power of hiring and power to discipline or fire an errant personnel is separated or divided between two offices of the DepEd, the proliferation of "palakasan" or "bata-bata" system will flourish, to the detriment of the public education system and public service.

Petitioners also point out that under Section 7(E)(11) of R.A. No. 9155, school heads are authorized to accept gifts, donations, bequests, and grants for the purpose of upgrading teacher's/learning facilitator's competencies, improving and expanding school facilities and providing instructional materials and equipment, which, in turn, shall be reported to the appropriate district supervisors and division superintendents. However, under Section 6.2(11), Rule VI of the IRR, on the authority, accountability, and responsibility of school heads, district supervisors were deleted as one of the administrative officers to whom such reporting is to be made. Petitioners conclude that to the extent that the division superintendents are not mandated to report donations and grants to

district supervisors, the IRR is void.

On their plea for mandamus, petitioners pray that the Court compel the DepEd and the DBM to upgrade their present salary grade. They claim that the position of an ESP is already classified as SG 21, which is higher by two grades than that of district supervisors, SG 19. Considering their higher position in the department's pecking order, vis-à-vis that of the ESPs, petitioners opine that to rectify the present grade-level distortion, their salary grade should be upgraded to SG 24.[22]

For its part, the Office of the Solicitor General (OSG) avers that a perusal of Section 7(D) of R.A. No. 9155 shows that the district supervisor has limited responsibilities, and that the power to exercise administrative supervision over the ESPs is not covered by any of those responsibilities. The Education Secretary is the disciplining authority in the DepEd, with the regional directors acting as the disciplining authority in their respective regions.

As to petitioners' gripe that the IRR deleted district supervisors from among those school heads who should report when "[a]ccepting donations, gifts, bequests, and grants for the purpose of upgrading teachers'/learning facilitators' competencies, improving and expanding school facilities, and providing instructional materials and equipment," the OSG avers that this reportorial function is "directory" and merely for "convenience."

Anent petitioners' grievance on their alleged stagnant salary grade level, the OSG points out that the same is "already provided for under FY 2003 GAA, [thus], petitioners' complaint against the non-increase of their SG level is already moot and academic." The OSG also emphasizes that the upgrading of the ESP's salary grade over the petitioners is not violative of petitioners' right to equal protection of the law, since "district supervisors and ESPs are not similarly situated."

In reply, petitioners contend that the upgrading of the salary grade level of district supervisors to SG 21 is an admission by the DepEd and by the DBM of the validity of their demand to increase their salary grade to a respectable SG 24.

The petition is partially granted.

It must be stressed that the power of administrative officials to promulgate rules in the implementation of a statute is necessarily limited to what is provided for in the legislative enactment.[23] The implementing rules and regulations of a law cannot extend the law or expand its coverage, as the power to amend or repeal a statute is vested in the legislature.[24] It bears stressing, however, that administrative bodies are allowed under their power of subordinate legislation to implement the broad policies laid down in a statute by "filling in" the details. All that is required is that the regulation be germane to the objectives and purposes of the law; that the regulation does not contradict but conforms with the standards prescribed by law.[25] Moreover, as a matter of policy, this Court accords great respect to the decisions and/or actions of administrative authorities not only because of the doctrine of separation of powers but also for their presumed knowledgeability and expertise in the enforcement of laws and regulations entrusted to their jurisdiction.[26] The rationale for this rule relates not only to the emergence of the multifarious needs of a modern or modernizing society and the establishment of diverse administrative agencies for addressing and satisfying those needs; it also relates to the accumulation of experience and growth of specialized capabilities by the administrative agency charged with implementing a particular statute.[27]

We have reviewed the IRR and find that Section 4.3 of Rule IV, and Sections 5.1 and 5.2 of Rule V are valid. The provisions merely reiterate and implement the related provisions of R.A. No. 9155. Under the law, a division superintendent has the authority and responsibility to hire, place, and evaluate all division supervisors and district supervisors as well as all employees in the division, both teaching and non-teaching personnel, including school

heads.[28] A school head is a person responsible for the administrative and instructional supervision of the schools or cluster of schools.[29] The division superintendent, on the other hand, supervises the operation of all public and private elementary, secondary, and integrated schools and learning centers.[30]

Administrative supervision means "overseeing or the power or authority of an officer to see that their subordinate officers perform their duties. If the latter fails or neglects to fulfill them, the former may take such action or steps as prescribed by law to make them perform their duties."[31]

A plain reading of the law will show that the schools district supervisors have no administrative supervision over the school heads; their responsibility is limited to those enumerated in Section 7(D) of R.A. No. 9155, to wit:

> (1) Providing professional and instructional advice and support to the school heads and teachers/facilitators of schools and learning centers in the district or cluster thereof;
>
> (2) Curricula supervision; and
>
> (3) Performing such other functions as may be assigned by proper authorities.

As gleaned from the Senate deliberations on Senate Bill No. 2191, the district supervisors were divested of any administrative supervision over elementary and public high schools. The Senate resolved to vest the same in the division superintendents, and the Lower House concurred. Senator Rene Cayetano proposed that the traditional function of the school supervisors of exercising administrative supervision over the elementary and public high schools be maintained. However, Senator Tessie Aquino-Oreta, the Chairperson of the Senate Committee on Education and the Sponsor of the Bill, objected to such proposal:

> The President:Why do we not say AND SHALL NOT BE INCLUDED?
>
> Senator Cayetano:Yes, better yet, Mr. President. I thank the Chair for that amendment.
>
> The President:All right. Can we approve that? The sponsor accepts the amendment, I assume.
>
> Senator Aquino-Oreta:Yes, Mr. President.
>
> The President:Is there any objection from the floor? (Silence) There being none, the amendment is approved.
>
> Senator Cayetano:Thank you, Mr. President.
>
> In line 17, it ends with the conjunction "and." I would like to propose an amendment by inserting a new paragraph (b). This is, of course, the duties and responsibilities of schools district supervisors. It is to SUPERVISE SCHOOL PRINCIPALS IN THE DISTRICT, because right now, this is exactly their job.
>
> Again, the reality is, there are efforts to minimize, if not remove, the principal function of school supervisors, which is to supervise school principals in the district. I just want it to be there to ensure that their primary functions remain as such.
>
> Therefore, what appears as paragraph (b) in line 18 will now be subparagraph (c).
>
> The President:What does the sponsor say?
>
> Senator Aquino-Oreta:Mr. President, may I just explain. There are two school supervisors. One is for the academic function and the other is for the administrative function. As such, if these two supervisors will dictate to the principals, then our thrust in reducing the level of bureaucracy might not be met. Also, the thrust of this governance bill really is to flesh out the importance of the school as the heart of education here. In that heart, we have the teacher, the student, and the school head.
>
> What we are trying to do here is to bring to the forefront the school itself. In fact, right now, there is a move in

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the DECS to do away with the school supervisor in charge of administrative and leave that function to the principal. If the principal, the school head will be dictated upon by these two school supervisors, we might not be able to achieve what we want to do here - putting to the forefront the school itself. Meaning, putting to the forefront the school head, the teacher, and the student.

Senator Cayetano:Mr. President, I would like to thank the sponsor for that enlightenment. That is precisely my point.

Not too long ago, I was a speaker before the school supervisors all over the land. One of the points that they complained about was, in most cases, their job to supervise school principals is now being removed or have been removed simply because - and I may be inaccurate here - the Japanese government - I know it is a foreign government that funded a study of the organizational setup of the DECS - has recommended the abolition of school supervisors.

This is the reason this representation would like to ensure that the traditional function of the school supervisors, among which is to supervise school principals, remain as such. What is good for the Japanese education is not necessarily good for the Philippines. This representation knows that this is precisely one of the complaints of the school supervisors.

The lady sponsor admitted that, indeed, there is an effort to phase out the school supervisors. That is precisely my point, Mr. President. I do not want the school supervisors to be phased out simply because a foreign government which funded the study of our education has suggested it.

The President:What does the sponsor say?

Senator Aquino-Oreta:Mr. President, actually, it is not Japanese. It is an ADB proposal to the DECS. The DECS had a study made on how to improve the management order of the DECS. That was one of the proposals. They gave three proposals. One of them was to take out the school supervisors.

But precisely, Mr. President, we are not doing that, we are not taking them out. What we are saying is for the school supervisor to focus on the curriculum because in the administration of the affairs of the school, we are saying that the principal knows best how to administer or how to run the school better. And so, we are saying here that school supervisors will be there contrary to the view of that ADB study. We will maintain them, but the focus of the school supervisors will be on the curriculum of the schools.

Senator Cayetano:Mr. President, again I thank the lady senator. But again let us look at who supervisors of schools are. Supervisors of schools once upon a time were all school principals. They rose from the ranks, that is why they are fully aware of the administrative as well as the instructional capability of the principals now who are under them. To remove their right to supervise, - now it is the ADB, I am correct, the lady senator is correct because as I said I was not sure - to remove this traditional function would really render the supervisors practically without anything to do. That is why they are now being justified that henceforth there will be no principals that will be promoted as school supervisors because when the school supervisors reach the age of retirement and retire, no principals shall be promoted to that level. But these school supervisors now, Mr. President, were once upon a time in their professional lives principals, and they know best how the schools should be run - administratively and instructionally. That is the reason for that, Mr. President.

The President:What does the sponsor say?

Senator Cayetano:So, may I ask the sponsor to accept this, Mr. President.

Senator Aquino-Oreta:Mr. President, what was the amendment?

Senator Cayetano:To insert a new paragraph, paragraph (b) in line 18, which states: SUPERVISE SCHOOL PRINCIPALS IN THE DISTRICT.

The President:May I suggest, THE SUPERVISION OF SCHOOL PRINCIPALS IN THE DISTRICT, because -

Senator Cayetano:Yes, Mr. President.

The President:- the antecedent for that is, "The schools district supervisor shall be responsible for."

Senator Cayetano:That is right, Mr. President. Supervision, yes.

The President:What does the sponsor say?

Senator Aquino-Oreta:Mr. President, may I have one minute?

SUSPENSION OF SESSION

Senator Tatad:Mr. President, I move that we suspend the session for one minute.

The President:Is there any objection? (Silence) There being none, the session is suspended for one minute.

It was 5:33 p.m.

RESUMPTION OF SESSION

At 5:43 p.m., the session was resumed.

The President:The session is resumed.

SUSPENSION OF CONSIDERATION OF S. NO. 2191

Senator Tatad:Mr. President, we are still trying to find a way out of these conflicting points of view on the role of the supervisor. To allow the parties to have a little more time to work on this, I move that we suspend consideration of Senate Bill No. 2191. (Underscoring supplied)[32]

When the session resumed, Senator Cayetano no longer pursued his proposed amendment, and moved instead that the same be amended to read "Curricula Supervision." The Senate approved the proposal of the Senator:

The President:The session is resumed. Senator Cayetano is recognized.

CAYETANO AMENDMENT

Senator Cayetano:Thank you, Mr. President.

With the permission of the lady senator, after consulting her and the Majority Leader, I would like to propose an amendment by rewording the original amendment I was proposing last night. The reworded proposed amendment would be like this: CURRICULA SUPERVISION.

The President:That would be on what page?

Senator Cayetano:That would be on page 10, line 17, as a new paragraph (b).

The President:And how will it read?

Senator Cayetano:CURRICULA SUPERVISION.

The President:Just that?

Senator Cayetano:Just that, Mr. President.

Senator Tatad:Put a semicolon (;).

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> Senator Cayetano:And because of that, line 18 which is paragraph (b), should now be paragraph (c).
>
> The President:What does the sponsor say?
>
> Senator Aquino-Oreta:The amendment is accepted, Mr. President. (Underscoring supplied)[33]

Thus, under R.A. No. 9155, administrative supervision over school heads is not one of those responsibilities conferred on district supervisors.

It is a settled rule of statutory construction that the express mention of one person, thing, act, or consequence excludes all others. This rule is expressed in the familiar maxim expressio unius est exclusio alterius. Where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to others. The rule proceeds from the premise that the legislature would not have made specified enumerations in a statute had the intention been not to restrict its meaning and to confine its terms to those expressly mentioned.[34]

It is not surprising that Senator Aquino-Oreta maintained her position that district supervisors should not have administrative control or even supervision over ESPs and SSPs. As early as 1990, the DECS had adopted the policy that, effective January 1, 1991, the positions of district supervisors and division supervisors would be gradually phased out by not filling-up these positions as they become vacant.[35] On September 17, 1991, then DECS Secretary Isidro Cariño issued DECS Order No. 110, Series of 1991, declaring that, to foster better considerations and articulation of progress in the elementary level, all elementary school principals shall report directly to the school division superintendents. In his Order dated June 22, 1994, then DECS Secretary Armand V. Fabella declared that DECS Order No. 110 shall remain in effect, with the recommendation that, in order to facilitate the phase-out of district supervisor positions, incumbent district supervisors were encouraged to transfer to vacant division supervisor positions, provided they meet the qualification standards for such positions.[36] For his part, in his DECS Order No. 22, Series of 1996, DECS Secretary Ricardo T. Gloria restored the district supervisor positions but only on a selective basis and subject to the following guidelines:

> a) Schools superintendents, with the concurrence/approval of their regional directors, may have the option to restore the position in selected districts after a careful evaluation of need. For this purpose, the number of schools and their geographical location and distance for effective monitoring, the availability of regular transportation, urban-rural setting, etc., should be considered in the decision.
>
> b) The role of the district supervisor as an instructional leader and resource for teachers, rather than merely as an administrative supervisor, should be emphasized in their functions and duties.
>
> c) In the event of restoration and appointment of the position in a particular district, the school superintendent shall ensure that the system of field supervision previous to the issuance of DECS Orders No. 110, s. 1991 and No. 41, s. 1994 shall, likewise, be restored. Correspondingly, the designation of coordinating principals in affected districts shall be withdrawn.
>
> d) Should a division office opt not to restore some or all district supervisor positions, the funds for such positions may be used to create new positions or upgrade existing positions, subject to the approval of the Department of Budget and Management.
>
> e) Considering that a number of vacated district supervisor positions in some divisions may have been converted to other positions and/or otherwise phased out since 1991, appointments of district supervisors shall be issued by regional directors only upon verification from the Department of Budget and Management that the said position may be filled.
>
> It is enjoined that regional directors and schools superintendents shall exert special effort to ensure that the

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> implementation of this Order shall be harmonious and conducive to field supervision.[37]

Under DECS Order No. 36, Series of 1998 issued by DECS Secretary Erlinda C. Pefianco, the positions of district supervisors were restored to their original status as a supervisory level in the DECS administrative hierarchy subject to the following guidelines:

> 1.1 The positions of Education and District Supervisors are hereby restored to their original status as a supervisory level in the DECS administrative hierarchy, subject to the following guidelines:
>
> 1.1.1 The functions of a district supervisor as an instructional leader and resource person for teachers should be emphasized.

In the event of restoration and appointment of public schools district supervisor, the designation of the coordinating principal shall be withdrawn.

Appointment of district supervisors shall be issued by regional directors only upon verification from the Department of Budget and Management that the positions still exist since a number of vacated district supervisor positions in some divisions may have been converted to other positions and/or otherwise phased out since 1991.[38]

However, as already stated, the Senate resolved to maintain the positions of district supervisors but limited their responsibilities only to those enumerated in Section 7(D) of R.A. No. 9155 to conform to the basic thrust and objectives of the law. Far from strengthening the office of the district supervisors as a mid-head field office of the DepEd, the law limited the authority and responsibility attached to such position.

While it is true that the district supervisor is given a support staff for program promotion, it cannot thereby be implied that he/she likewise has administrative supervision over ESPs and SSPs. Such a construction has no basis in law and in fact. Indeed, such a construction of the statute defeats the very purpose of the law.

It is a basic precept that the intent of the legislature is the controlling factor in the interpretation of the statute. The particular words, clauses, and phrases should not be studied as detached and isolated expression, but the whole and every part of the statute must be considered in fixing the meaning of any of its parts and in order to produce a harmonious whole.[39]

Besides, Congress enumerated the duties and responsibilities of a district supervisor. Congress would not have made specific enumerations in a statute if it had the intention not to restrict or limit its meaning and confine its terms only to those expressly enumerated. Courts may not, in the guise of interpretation, enlarge the scope of a statute and include situations not provided nor intended by Congress.[40]

The submission of the OSG, that the schools district supervisors have the administrative supervision over school heads, is more in accord with the law, to wit:

> Section 7 of RA 9155, on School District Level, pertinently provides that "a school district shall have a school district supervisor and an office staff for program promotion," and that the schools district supervisor shall be responsible for: (1) "(p)roviding professional and instructional advice and support to the school heads and teachers/facilitators of schools and learning centers in the district [or] cluster thereof;" (2) "(c)urricula supervision;" and, (3) "(p)erforming such other functions as may be assigned by the proper authorities."
>
> A perusal of Section 7 shows that the District Supervisor has limited responsibilities, and that the power to exercise administrative supervision over the ESPs is not covered by responsibility nos. 1 and 2. Neither is that power covered by the directive that the District Supervisor shall have an office staff for program promotion. The only logical conclusion, therefore, that can be derived from the aforesaid enumeration of responsibilities is that the District Supervisor may only exercise administrative supervision over ESPs when such function is

> assigned by proper authorities. And, since the DepEd Secretary specifically declared through the IRR of RA 9155, that the District Supervisor shall not exercise administrative supervision over the ESPs, unless otherwise authorized, petitioners cannot complain against the said declaration. On this score, it is settled that the intent of the statute is the law (Philippine National Bank v. Office of the President, 252 SCRA 5 [1996]). In the absence of legislative intent to the contrary, words and phrases used in a statute should be given their plain, ordinary and common usage meaning (Mustang Lumber, Inc. v. Court of Appeals, 257 SCRA 430 [1996]).
>
> Needless to say, Section 7, on Division Level, further provides that the School Division Superintendent shall have authority, accountability and responsibility for, among others, "(s)upervising the operation of all public and private elementary, secondary and integrated schools, and learning centers." To claim, therefore, that the District Supervisor has administrative supervision over the ESPs would also violate the above-quoted provision.[41]

The Court likewise declares that the last paragraph of Section 4.3 of the IRR, stating that the regional director shall continue exercising disciplinary authority over the teaching personnel insofar as the latter are covered by specific and exclusive disciplinary provisions under R.A. No. 4670 ("Magna Carta for Public School Teachers") does not contravene R.A. No. 9155. Indeed, the IRR merely reiterates the DECS Rules of Procedure, DECS Order No. 33, issued on March 30, 1999 by the DepEd Secretary, and R.A. No. 4670 which was approved on June 18, 1966, and pursuant to Section 7, Chapter II, Book IV of the 1987 Administrative Code, which provides that the DepEd Secretary is empowered to

> - Promulgate rules and regulations necessary to carry out department objectives, policies, functions, plans, programs, and projects; and
>
> - Promulgate administrative issuances necessary for the efficient administration of the offices under the Secretary and for execution of the laws relative thereto.

Additionally, the IRR was issued by the DepEd Secretary pursuant to Section 7(A)(1) of R.A. No. 9155, which mandates that the Secretary formulate national educational policies and enhance the employment status, professional competence, welfare, and working conditions of all the DepEd personnel.[42]

We agree that R.A. No. 9155 does not provide who has disciplinary authority over the teaching personnel of the DepEd. However, under Section 3, Chapter III of DECS Order No. 33, Series of 1999, otherwise known as the 1999 DECS Rules of Procedure, the disciplining authority in the DECS is the DepEd Secretary, with the regional directors acting as such in their respective regions except those appointed by the President.[43]

The officers and employees referred to in the Rules of Procedure include teachers who, under R.A. No. 4670, shall mean:

> x x x all persons engaged in classroom teaching, in any level of instruction, on full-time basis, including guidance counselors, school librarians, industrial arts, or vocational instructors, and all other persons performing supervisory and/or administrative functions in all schools, colleges and universities operated by the Government or its political subdivisions; but shall not include school nurses, school physicians, school dentists, and other school employees.

A division superintendent of schools is not a disciplining authority over teachers, whether under R.A. No. 4670 or under the DECS Rules of Procedure. In fact, under Section 2, Chapter VII of such Rules of Procedure, a division superintendent is a chairperson of the investigating committee over formal complaints filed against such teachers:

> a) When the respondent is an elementary or secondary school teacher, head teacher, principal, district supervisor/chair/coordinator or Education Supervisor I -
>
> (1) The schools division superintendent or his or her duly authorized representative, as chairperson;

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> (2) The duly authorized representative of the school, district, or division teacher's organization, as member; and
>
> (3) The division supervisor for elementary or secondary education where the respondent belongs, as member.

The foregoing rule is based on Section 9 of R.A. No. 4670 which reads:

> Sec. 9. Administrative Charges. Administrative charges against a teacher shall be heard initially by a committee composed of the corresponding School Superintendent of the Division or a duly authorized representative who should, at least, have the rank of a division supervisor, where the teacher belongs, as chairman, a representative of the local or, in its absence, any existing provincial or national teacher's organization and a supervisor of the Division, the last two to be designated by the Director of Public Schools. The committee shall submit its findings and recommendations to the Director of Public Schools within thirty days from the termination of the hearings: Provided, however, That where the school superintendent is the complainant or an interested party, all the members of the committee shall be appointed by the Secretary of Education.

Anent the issue on reporting of acceptance of donations, Section 7(E)(11) of R.A. No. 9155 provides:

> (11) Accepting donations, gifts, bequests, and grants for the purpose of upgrading teachers'/learning facilitators' competencies, improving and expanding school facilities, and providing instructional materials and equipment. Such donations or grants must be reported to the appropriate district supervisors and division superintendents. (emphasis supplied)

However, Section 6.2(11), Rule VI of the IRR provides that:

> (11) Accepting donations, gifts, bequests, and grants in accordance with existing laws and policy of the Department for the purpose of upgrading teachers'/learning facilitators' competencies, improving and expanding school facilities, and providing instructional materials and equipment. Such donations or grants must be reported to the division superintendents. (emphasis supplied)

We agree with petitioners' contention that, under the law, donations and grants must be reported to the appropriate district supervisors and not only to the division superintendents. The use in the law of the word "must" is an expression of the mandatory nature of the reporting of donations and grants to district supervisors. The reason for the provision is that such grants and donations which are intended to upgrade teachings/learning facilitators' competencies, improve and expand school facilities, and provide instructional materials and equipment will assist the school district supervisors in the performance of their duties and responsibilities under Section 7(D) of R.A. No. 9155, and submit appropriate recommendations to the proper administrative officers.

On petitioner's plaint of the failure of respondents to upgrade their salary grade level to at most SG 21, and for the issuance of the writ of mandamus mandating respondents to increase their salary grade from SG 19 to 24, the same is premature.

There is no showing in the petition that, before filing their petition, petitioners sought an adjustment of level of their salary grade from SG 19 to SG 21 before respondents or the Civil Service Commission. Section 17 of Presidential Decree No. 985, as amended by Section 14 of R.A. No. 6758, otherwise known as the Salary Standardization Law, provides:

> Sec. 17. Powers and Functions. - The Budget Commission (now Department of Budget and Management), principally through the OCPC (now CPCB, Compensation and Position Classification Board) shall, in addition to those provided under other Sections of this Decree, have the following powers and functions:
>
> a. Administer the compensation and position classification system established herein and revise it as necessary;
>
> x x x x

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> f. Certify classification actions and changes in class or grade of positions whenever the facts warrant, such certification to be binding on administrative, certifying, payroll, disbursing, accounting and auditing officers of the national government and government-owned or controlled corporations and financial institutions.

Sections 10 and 11 of R.A. No. 9155 provide:

> SEC. 10. The Secretary of Education and the Secretary of Budget and Management shall, within ninety (90) days from the approval of this Act, jointly promulgate the guidelines on the allocation, distribution, and utilization of resources provided by the national government for the field offices, taking into consideration the uniqueness of the working conditions of the teaching service.
>
> The Secretary of the Department of Education shall ensure that resources appropriated for the field offices are adequate and that resources for school personnel, school desks, and textbooks and other instructional materials intended are allocated directly and released immediately by the Department of Budget and Management to said offices.
>
> SEC. 11. The Secretary of the Department of Education, subject to civil service laws and regulations, shall issue appropriate personnel policy rules and regulations that will best meet the requirements of the teaching profession taking into consideration the uniqueness of the working conditions of the teaching service.

And insofar as the salary system for teaching positions is concerned, Section 14 provides:

> SEC. 14. The Salary System for Teaching Position. - The salary grade of a teacher shall be determined in accordance with the following:
>
> a. The Teachers' Preparation Pay Schedule shall be prepared by the Commission in consultation with the Department of Education and Culture. Under this system, the teacher's academic or educational preparation, teaching experience in both private and public schools, and extra-curricular activities for professional growth, shall be considered in pursuance of the principle of 'equal pay for equal training and experience.'
>
> x x x x
>
> d. The Budget Commission, in coordination and consultation with the Department of Education and Culture and the Civil Service Commission may, when future needs require, modify, change or otherwise improve on the salary system herein established for the teaching and closely related occupations, any change that may be made as provided herein shall become part of the implementing rules of this Decree to be issued by the Budget Commission upon prior approval by the President.

Moreover, the issue of whether or not respondents should be compelled to adjust upwards the salary grade of petitioners to SG 21 has become moot and academic, because, on November 3, 2003, the DepEd and the DBM issued Joint Circular No. 1, Series of 2003 containing the guidelines in the implementation of the Salary Upgrading for District and Education Supervisors, to wit:

> 4.0 GUIDELINES
>
> 4.1 To maintain the previous salary grade relationships under RA No. 6758 among the PSDS and ES I, on the one hand, and Elementary School Principal (ESP) IV and Secondary School Principal (SSP) II, on the other hand, and to preserve the consistency in the salary grade relationships of said positions, the following are hereby authorized:
>
> 4.1.1 Upgrading of the PSDS and ES I positions from SG-19 to SG-20 in July 2003 and to SG-21 in July 2004;
>
> 4.1.2 Upgrading of the ES II positions by two (2) salary grades from SG-20 to SG-21 in July 2003 and to SG-22 in July 2004;

4.1.3 A one-step salary adjustment to incumbents of ES III positions starting July 2003 and another one-step salary adjustment starting July 2004;

4.1.4 A one-step salary adjustment to incumbents of CES positions starting July 2003 and another one-step salary adjustment starting July 2004.

4.2 Attached herewith is Annex A containing the summary of the guidelines for the salary upgrading of positions authorized herein.

5.0 SALARY RULES

5.1 For purposes of the salary upgrading herein authorized, the basic salary of the employee concerned shall be adjusted as follows:

5.1.1 Effective July 1, 2003 - at the same salary step of his assigned salary grade as of June 30, 2003 (Illustrative Example A) adopting the Salary Schedule prescribed under National Budget Circular (NBC) No. 474 (Annex B);

5.1.2 Effective July 1, 2004 - at the same salary step of his assigned salary grade as of June 30, 2004 (Illustrative Example A) adopting the Salary Schedule prescribed under National Budget Circular (NBC) No. 474 (Annex B).

5.2 The transition allowance as defined in 3.2 being received by the PSDS and ES, if any, shall be considered as advance entitlement of the salary increase herein authorized. (Illustrative Examples B and C)

5.3 No step adjustment shall be granted to incumbents of positions whose salary already falls at or exceeds the maximum step (eighth step) of the salary grade allocation of their positions. (Illustrative Example D)

5.4 The herein salary increases shall be effected through the issuance of a Notice of Salary Adjustment (NOSA) by the duly authorized official. (Annex C)

6.0 FUNDING SOURCE

The amounts necessary to implement the salary adjustments authorized herein shall be charged against the Nationwide lump sum appropriation for the purpose amounting to fifty million pesos (P50,000,000) in the DepEd's budget in RA 9206, the CY 2003 General Appropriations Act. For CY 2004, the same shall be charged against the lump sum appropriation for the purpose that may be included in the 2004 budget.

7.0 POST-AUDIT

Any salary adjustment paid under this Circular shall be subject to post-audit by the DBM - ROs concerned. Any payments thereof which are not in accordance herewith shall be adjusted accordingly.

8.0 CONTRIBUTIONS

The salary adjustments authorized herein are subject to the mandatory requirements for life and retirement premiums, and health insurance premiums.

9.0 SAVING CLAUSE

Conflicts arising from the implementation of the provisions of this Circular shall be resolved by the Department of Education, upon prior consultation with the Department of Budget and Management.

10.0 EFFECTIVITY

This Circular Letter shall take effect on July 1, 2003.

IN VIEW OF ALL THE FOREGOING, the petition for prohibition is PARTIALLY GRANTED. Joint Circular No. 1, Series of 2003 is declared valid, except Section 6.2(11), Rule VI thereof which provides that "donations or grants shall be reported only to the division superintendents." Such donations or grants must also be reported to the appropriate school district supervisors, as mandated by Republic Act No. 9155. Petitioners' prayer for the issuance of a writ of mandamus is DENIED for lack of merit. No costs.

SO ORDERED.

Panganiban, C.J., Puno, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Garcia, and Velasco, Jr., JJ., concur.
Ynares-Santiago, J., on leave.

[1] Formerly the Department of Education, Culture and Sports (DECS).[2] Sec. 2, Republic Act (R.A.) No. 9155 entitled "An Act Instituting a Framework of Governance for Basic Education, Establishing Authority and Accountability, Renaming the Department of Education, Culture and Sports as the Department of Education, and for Other Purposes."[3] Sec. 3, R.A. No. 9155.[4] Sec. 7, R.A. No. 9155.[5] Sec. 7(B), par. 1, R.A. No. 9155.[6] Sec. 7(B)(9), R.A. No. 9155.[7] Sec. 7 (B)(8), R.A. No. 9155.[8] Sec. 7 (B)(10), R.A. No. 9155.[9] Sec. 7 (B)(14), R.A. No. 9155.[10] Sec. 7(c)(7), R.A. No. 9155.[11] Sec. 7(c)(3), R.A. No. 9155.[12] Sec. 7(C), R.A. No. 9155[13] Sec. 7(D), R.A. No. 9155.[14] Sec. 7(E), R.A. No. 9155.[15] Sec. 7(E), R.A. No 9155.[16] Rollo, p. 109.[17] Id. at 110-111.[18] Id. at 109.[19] Id. at 77-79.[20] Id. at 79-80.[21] Id. at 30.[22] Id. at 50.[23] Blaquera v. Alcala, G.R. Nos. 109406, 110642, 111494, 112056, and 119597, September 11, 1998, 295 SCRA 366, 436, citing Teoxon v. Member of the Board of Administrators, 33 SCRA 585 (1970).[24] National Tobacco Administration v. Commission on Audit, 370 Phil. 793, 809 (1999).[25] Sigre v. Court of Appeals, 435 Phil. 711, 719 (2002).[26] Santiago v. Deputy Executive Secretary, G.R. No. 78163, December 10, 1990, 192 SCRA 199, 206, citing Cuerdo v. Commission on Audit, 166 SCRA 657 (1988).[27] Nestle Philippines, Inc. v. Court of Appeals, G.R. No. 86738, November 13, 1991, 203 SCRA 504, 511 citing Abejo v. De la Cruz, 149 SCRA 654 (1987).[28] Sec. 7(C)(3), R.A. No. 9155.[29] Sec. 4(M), R.A. No. 9155.[30] Sec. 7(C)(7), R.A. No. 9155.[31] Philippine Gamefowl Commission v. Intermediate Appellate Court, 230 Phil. 379, 385 (1986).[32] TSN, Special Session No. 6, May 29, 2001, pp. 448-450.[33] Id. at 452-453.[34] Lung Center of the Philippines v. Quezon City, G.R. No. 144104, June 29, 2004.[35] Rollo, p. 93.[36] Id. at 94.[37] Id. at 96-97.[38] Id. at 98.[39] National Tobacco Administration v. Commission on Audit, supra note 24, at 808 (1999).[40] Canet v. Decena, G.R. No. 155344, January 20, 2004, 420 SCRA 388, 394.[41] Rollo, pp. 136-138.[42] Section 7(A)(7), R.A. No. 9155.[43] Section 3. Disciplining Authority. - The Disciplining Authority in the DECS shall be the Secretary. Regional Directors shall also act as the Disciplining Authority in their respective regions.

The President is the disciplining authority for presidential appointees. The Secretary is duly authorized to discipline Presidential appointees subject to the President's confirmation.

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