

TERESITA L. ARAOS, CORAZON L. BALAGBIS, ROBERTO B. BAUTISTA, MARITA S. BELTRAN, RAUL A. CASIANO, HIDELZA B. CASTILLO, ELEONORA CINCO, MAY CATHERINE C. CIRIACO, ERLINDA G. DEL RO...

G.R. No. 174237. February 18, 2010

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-174237/>

CARPIO MORALES, J.:

On December 16, 1975, Presidential Decree No. 847, "ADOPTING A COMPENSATION SCHEME FOR THE CAREER EXECUTIVE SERVICE AND RELATED MATTERS," was issued, its provision pertinent to the case at bar reads:

SECTION 3. As a general rule, the salaries of Career Executive Service Officers shall start at Grade 2 of the corresponding rank in this Compensation Scheme and those of incumbents of and new appointees to Career Executive Service positions who are not Career Executive Service Officers shall start at Grade 1 of the corresponding rank: Provided, That in the case of said incumbents who are not members of the Career Executive Service, subsequent salary increases and/or rank promotions may be granted only after satisfactory completion of the Career Executive Service Development Program and compliance with such requirements as the Board shall set: Provided, further, That nothing herein stated shall reduce any salary received by any incumbent of any Career Executive Service position as a consequence of the implementation of the herein Compensation Scheme, except that the salary of his successor shall be in conformity with this Scheme. (emphasis and underscoring supplied)

On July 3, 1991, the Office of the President issued Memorandum Order No. 372, "MODIFYING THE RANKING STRUCTURE AND SALARY SCHEDULE IN THE CAREER EXECUTIVE SERVICE (CES)," the relevant sections of which provide:

SECTION 1. The ranking structure and salary schedule in the Career Executive Service (CES) are hereby modified to read as follows:

CES Rank

Salary Grade

CESO I

SG 30

CESO II

SG 29

CESO III

SG 28

CESO IV

SG 27

CESO V

SG 26

CESO VI

SG 25

SECTION 2. The Career Executive Service Board shall establish the mechanics for the classification of members of the CES in accordance with the above ranking structure and shall issue the corresponding rules and regulations.

SECTION 3. All issuances, rules and regulations or parts thereof inconsistent with the provisions of this Memorandum Order are hereby repealed. (underscoring supplied)

On October 21, 1994, the Civil Service Commission (CSC) issued Resolution No. 94-5840 providing that a Career Executive Service Officer (CESO) is entitled to the second step of the salary grade of his rank.[1]

The Career Executive Service Board (CESB) later issued, on April 12, 1996, Resolution No. 129 stating that:

x x x Career Executive Service Officers (CESOs), who were already receiving at least the second step of the salary grades of their ranks due to merit or longevity prior to the issuance of CSC Resolution No. 5840, otherwise known as "Rules on Compensation in the CES including those of Graduates of NDCP and CESDP", are entitled to a one-step adjustment as provided for in the Paragraph 3.1.4 of subject Resolution, the spirit of which is to set apart the CESOs and non-CESOs;

x x x [E]ntitlement is made retroactive to November 1994, the effectivity date of Resolution No. 5840.[2] (emphasis and underscoring supplied)

Still later, the CESB issued, on May 29, 1996, Circular No. 12 laying down guidelines on the grant of a one-step adjustment in the salary of CESOs. The applicable provisions of the Circular state:

x x x [A] CESO whose salary at the time of the issuance of CSC Resolution No. 94-5840 is already on the second or higher step of the salary grade of his rank by virtue of step increments earlier granted based either on merit or length of service, shall be entitled to a one-step adjustment in the salary grade of his rank effective 26 November 1994; provided that where the rank of a CESO has a salary grade lower than that of the CES position to which he is assigned/appointed to, the one-step salary adjustment shall be based on the salary grade of the higher position; provided, finally, that where the salary of the CESO is already at the eighth step of the salary grade of his rank or position, this one-step entitlement shall no longer apply;

This benefit shall likewise apply to those appointed to the CES ranks after the issuance of the said CSC resolution who are already receiving the second or higher step of the salary grades of their ranks subject to the conditions set forth herein;

Career Executive Service Officers (CESOs) are officials who have CES eligibility and have been duly appointed by the president to ranks in the CES;

This Circular shall take effect immediately.[3] (italics and underscoring supplied)

Republic Act (RA) No. 8282, otherwise known as the Social Security Act of 1997, was then enacted, Section

3(c)[4] of which exempted respondent Social Security System (SSS) from the application of RA No. 6758, "The Compensation and Position Classification Act of 1989" or the Salary Standardization Law. The Social Security Commission (SSC) thus issued, on July 24, 1997, Resolution No. 523 prescribing the new SSS Salary Structure and Benefits Package.

In 1999, petitioners-SSS employees were appointed and/or promoted to CESO ranks.

On June 20, 2001, the SSC approved Resolution No. 483 appropriating funds for the grant of a one-step salary increment to nine SSS CESOs. Shortly thereafter, however, on June 25, 2001, the Office of the President issued Memorandum Order No. 20, which reads in relevant part:

x x x I, Gloria Macapagal-Arroyo, President of the Republic of the Philippines xxx do hereby order and direct all heads of GOCCs, GFIs and subsidiaries exempt from or not following the SSL to

SECTION 1. Immediately suspend the grant of any salary increases and new or increased benefits such as, but not limited to, allowances; incentives; reimbursement of expenses; intelligence, confidential or discretionary funds; extraordinary expenses, and such other benefits not in accordance with those granted under SSL. This suspension shall cover senior officer level positions, including Members of the Board of Directors or Trustees.

x x x x

SECTION 3. Any increase in salary or compensation of GOCCs/GFIs that are not in accordance with the SSL shall be subject to the approval of the President. (emphasis and underscoring supplied)

The corporate auditor of the Commission on Audit thus advised the President of the SSS, by Memorandum dated June 29, 2001, against the implementation of a one-step salary increment for SSS CESOs in view of Memorandum Order No. 20 of the President. The Office of the Government Corporate Counsel (OGCC) likewise issued, on August 13, 2001, an opinion, that unless approved by the Office of the President, a one-step salary increment for SSS CESOs may not be implemented.[5]

Acting under the OGCC's advice, the SSS recommended, on April 9, 2002, to the Office of the President the approval of a one-step salary adjustment for SSS CESOs. On even date, the Department of Budget and Management, to which the Office of the President referred the SSS recommendation, declared:

The CES Charter under Presidential Decree No. 1 provides the grant of attractive and better compensation and benefits to CESOs to reward and motivate them in their pursuit of personal and career excellence. Along this line, CSC Resolution No. 94-5840 provides higher salary through an automatic step adjustment as reward and to set them apart from other government executives through pay.

x x x x

. . . [T]he CES pay under CSC Resolution No. 94-5840 is based on SSL. The S[alary] G[rade] equivalence for each CESO rank and the automatic 2[nd] step adjustment are all based on the salary schedule and position classification and compensation system prescribed under SSL. Since SSS is exempt from the SSL, we believe that CSC Resolution No. 94-5840 does not apply to SSS and other SSL-exempt agencies, but only to agencies following the SSL.[6] (emphasis, italics and underscoring supplied)

Petitioners, however, made repeated requests to the SSS management for the release of the one-step salary adjustment, but to no avail, drawing them to file, on January 9, 2004, a petition[7] for mandamus before the Regional Trial Court (RTC) of Quezon City, praying that the SSS be ordered to implement the one-step salary increment due them by virtue of their CESO rank.

By Decision of August 30, 2004,[8] Branch 226 of the Quezon City RTC dismissed the petition. The Court of

Appeals, by Decision of December 29, 2005,[9] affirmed the dismissal, hence, the present Petition for Review on Certiorari.[10]

The petition is bereft of merit.

For mandamus to issue, it is essential that the person petitioning for it has a clear legal right to the claim sought.[11] It will not issue to enforce a right, or to compel compliance with a duty, which is questionable or over which a substantial doubt exists.[12] Thus, unless the right to the relief sought is unclouded, it will be denied.

The Court gathers that the intention of the law is to maintain, under the Modified Ranking Structure and Salary Schedule in the CES, the distinction between CESOs and non-CESOs established by Section 3 of Presidential Decree No. 847.

The maintenance of the distinct status given to CESOs who, prior to the issuance of CSC Resolution No. 94-5840 on October 21, 1994, were already receiving at least the second step of the salary grade of their rank due to longevity or merit is the rationale behind the one-step salary increment granted by Resolution No. 129.[13]

Without the increment, a CESO who, due to longevity or merit, is already receiving the second step of the salary grade of his rank as of the effectivity of CSC Resolution No. 94-5840, would be no different from a similarly situated non-CESO within the same salary grade. Thus, even if the one-step salary increment granted by CESB Circular No. 12 were not covered by the suspension of the grant in Memorandum Order No. 20, petitioners must nevertheless satisfy the conditions established by CESB Circular No. 12 to entitle them to the one-step salary increment.

Petitioners must thus establish that when they were appointed or promoted to CESO ranks in 1999, they were already receiving the second step of the salary grade of their ranks. Petitioners failed to do so, however.

Besides, as the SSS points out,[14] CESB Circular No. 12 is unenforceable. Per the certification issued by the Office of the National Register (ONAR) of the University of the Philippines Law Center dated March 30, 2004,[15] the CESB failed to file three copies of CESB Circular No. 12 with the ONAR. Sections 3 and 4 of Chapter 2, Book VII of Executive Order No. 292, otherwise known as the Administrative Code of 1987, provide:

Sec. 3. Filing. - (1) Every agency shall file with the University of the Philippines Law Center three (3) certified copies of every rule adopted by it. Rules in force on the date of effectivity of this Code which are not filed within three (3) months from that date shall not thereafter be the basis of sanction against any party or persons.

x x x x

Sec. 4. Effectivity. - In addition to other rule-making requirements provided by law not inconsistent with this Book, each rule shall become effective fifteen (15) days from the date of filing as above provided unless a different date is fixed by law, or specified in the rule in cases of imminent danger to public health, safety and welfare, the existence of which must be expressed in a statement accompanying the rule. The agency shall take appropriate measures to make emergency rules known to persons who may be affected by them. (underscoring supplied)

As CESB Circular No. 12 has not been filed with the ONAR, it has yet to take effect. It is, therefore, unenforceable.[16]

WHEREFORE, the petition is DENIED.

SO ORDERED.

Puno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarrama, Jr., JJ., concur.

[1] Records, p. 412.

[2] Id. at 420.

[3] Id. at 421-422.

[4] It reads:

(c) The Commission, upon the recommendation of the SSS President, shall appoint an actuary, and such other personnel as may be deemed necessary, fix their reasonable compensation, allowances and other benefits, prescribe their duties and establish such methods and procedures as may be necessary to insure the efficient, honest and economical administration of the provisions and purposes of this Act: Provided, however, That the personnel of the SSS below the rank of Vice-President shall be appointed by the SSS President: Provided, further, That the personnel appointed by the SSS President, except those below the rank of assistant manager, shall be subject to confirmation by the Commission: Provided, further, That the personnel of the SSS shall be selected only from civil service eligibles and be subject to civil service rules and regulations: Provided, finally, That the SSS shall be exempt from the provisions of Republic Act No. 6758 and Republic Act No. 7430.

[5] Vide rollo, pp. 199-201.

[6] Rollo, pp. 205-206.

[7] Records, pp. 1-10.

[8] Id. at 560-581.

[9] Decision penned by then Court of Appeals Associate Justice Ruben T. Reyes, with the concurrence of Associate Justices Rebecca de Guia-Salvador and Aurora Santiago-Lagman. CA rollo, pp. 115-127.

[10] Rollo, pp. 10-27.

[11] BPI Family Savings Bank, Inc. v. Manikan, G.R. No. 148789, January 16, 2003, 395 SCRA, 373, 275.

[12] Ibid.

[13] Vide records, p. 420.

[14] Rollo, pp. 170-173.

[15] Records, p. 197.

[16] Vide GMA Network, Inc. v. Movie Television Review and Classification Board, G.R. No. 148579, February 5, 2007, 514 SCRA 191, 196.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.