



MC No. 2, s. 2011

MEMORANDUM CIRCULAR

- TO :** ALL HEADS OF DEPARTMENTS, BUREAUS AND AGENCIES OF THE NATIONAL AND LOCAL GOVERNMENTS, STATE COLLEGES AND UNIVERSITIES, INCLUDING GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS WITH ORIGINAL CHARTERS
- SUBJECT :** Supreme Court Decision on CSC vs. Court of Appeals and Philippine Charity Sweepstakes Office, G.R. No. 185766 dated November 23, 2010 (Third Level Eligibility)

In the recent *En Banc* Decision promulgated by the **Supreme Court in CSC vs. Court of Appeals and Philippine Charity Sweepstakes Office (PCSO), G.R. No. 185766 dated November 23, 2010**, the Supreme Court finally put to rest the issue on the coverage of the Career Executive Service (CES), when it categorically pronounced and interpreted Section 7 (3), Title I-Subsection A, Chapter 2, Book V of the Revised Administrative Code of 1987 (Executive Order No. 292) to mean that the CES covers presidential appointees only.

In the aforementioned Decision, the High Court cited the jurisprudence on **Home Insurance Guarantee Corporation vs. CSC (G.R. No. 95450, March 19, 1993)**, stating that the position of HIGC Vice President is not covered by the CES; **Office of the Ombudsman vs. CSC (G.R. No. 159940, February 16, 2005)**, stating that the position of Graft Investigation Officer III is not a CES position; **Office of the Ombudsman vs. CSC (G.R. No. 162215, July 30, 2007)**, stating that the Director II positions in the Central Administrative Service and Finance and Management Service of the Office of the Ombudsman are not embraced in the CES and appointees thereto do not need to possess CES eligibility; and **National Transmission Corporation vs. Hamoy (G.R. No. 179255, April 2, 2009)**, similarly stating that the CES covers presidential appointees only and the position of Vice President for Visayas-Mindanao Operations and Maintenance is appointed by the Transco President and Chief Executive Officer, and not by the President of the Philippines, and therefore not considered part of CES.

The High Court likewise recognized and cited the recent issuance of the Commission in **CSC Resolution No. 10-0623 dated March 29, 2010** and **CSC Memorandum Circular No. 7, s. 2010 (The Scope of the Third Level)**, providing for clarificatory guidelines on the scope of the third level in the civil service.

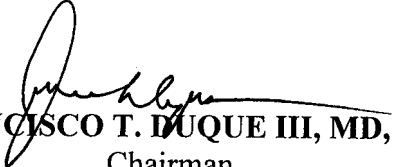
In view thereof, all government agencies are advised to take note of the recent Supreme Court decision on the third level/CES issue. It clarified that to be covered by the CES, two (2) elements must concur: 1) the position must either be enumerated under Book V, Title I, Subsection A, Chapter 2, Section 7(3) of the Administrative Code of 1987, or a position of equal rank as those enumerated and identified by the CESB; and 2) the holder of the position must be a presidential appointee.

Further, the Commission hereby reiterates the guidelines stated in **CSC Resolution No.10-0623 and MC No. 7, s. 2010**, as follows:

- "1. *The third level or Career Executive service (CES) shall only cover the positions of Undersecretary, Assistant Secretary, Bureau Director, Assistant Bureau Director, Regional Director, Assistant Regional Director, Chief of Department Service and other officers of equivalent rank as may be identified by the Career Executive Service Board, all of whom are appointed by the President;*
- "2. *Executive and managerial positions in the career service other than the foregoing shall belong to the second level; and*
- "3. *All policies and issuances of the Commission which are not in conformity with these guidelines are superseded, repealed, amended or modified accordingly."*

This Memorandum Circular shall take effect immediately.

Please be guided accordingly.


FRANCISCO T. DUQUE III, MD, MSc
Chairman

20 JAN 2011