

**TAGAPAN, Bobby V.**  
**Re: Disapproved Appointment; Suspension of**  
**Hiring of New Personnel**

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**RESOLUTION NO. 002398**

Corazon C. Davis, Regional Executive Director and Officer-In-Charge, Department of Environment and Natural Resources, National Capital Region (DENR-NCR), appeals the disapproval of Civil Service Commission- National Capital Region (CSC-NCR), Quezon City, of the original appointment of Bobby V. Tagapan as Property Custodian (SG-8) of DENR-NCR.

The appealed decision of CSC-NCR reads, as follows:

"This pertains to your letter dated January 18, 2000 addressed to the Director, Civil Service Field Office-Department of Environment and Natural Resources relative to the permanent (original) appointment Mr. Bobby V. Tagapan as Property Custodian (SG 8) issued on December 17, 1999. The appointment was disapproved by the CSC-DENR Field Office because the issuance of said appointment was in violation of Budget Circular No. 466 dated December 17, 1999 which provides for the Guidelines on the Implementation of Administrative Order No. 100 Re: Directing Suspension of the Hiring of New Personnel For Purposes of Generating The Additional Funds for the Implementation of 10% Across-The-Board Salary Increase for Fiscal year 2000.

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"We regret to inform you that there is no legal basis to support the contention that the affectivity of AO 100 is the date you received a copy thereof. Neither is there a legal basis to allow exemption because the date of deliberation on said appointment came much earlier. Since AO 100 provides a definite date as to its effectivity, the same should be followed unless ruled otherwise."

Regional Executive Director Davis alleges in her appeal, the following:

"With all due respect thereof, it is the considered view of the undersigned that the appointment of Mr. Bobby V. Tagapan did not violate AO No. 100. While it is true that AO 100 was issued on December 1, 1999, the same did not take effect immediately because it is not self-executing, Section 4, AO 100 directs the Department of Budget and Management (DBM) to issue the necessary rules and regulations for its implememntation.

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"In compliance with the aforementioned directive, the DBM issued National Budget Circular (NBC) No. 466 Re: Guidelines on the Implementation of Administrative Order No. 100 only on December 17, 1999 x x x it is our view that AO 100 was made effective only on December 17, 1999, the date when DBM issued NBC No. 466. In fact, our Office was able to secure a query made by other government agency from the DBM confirming that the effective date of the prohibition of the hiring of personnel as provided under AO No. 100 is December 17, 1999 (Photocopy of the letter of Secretary Benjamin Diokno is attached hereto as Annex "D")

"Anchored on the foregoing, our Office respectfully submits the appointment of Mr. Bobby V. Tagapan is not covered by AO 100, because the same was approved on December 15, 1999 ( Although on its face the appointment was 'Pinagtibay', however, there was annotation at its back that the appointment was in violation of AO 100). It is also worthy to mention that the said position was deliberated upon as early as November 1999 (Photocopy of the appointment of Mr. Tagapan as well as the certificate of erasure are attached hereto as Annexes "E" and "F")."

The records show that on December 15, 1999, Executive Director Davis extended an original appointment to Tagapan to the position of Property Custodian under permanent capacity. When submitted for attestation, CSC-DENR Field Office, approved the same as shown by the stampmark "Pinagtibay" , however, with notation that said appointment was issued in violation of Administrative Order No. 100. It appears that Executive Director Davis considered the action of CSC-DENR Field Office on the appointment of Tagapan as disapproved. Thus, when she appealed to the CSC-NCR, it upheld the action of CSC-DENR Field Office. Hence, this appeal.

The Commission takes notice of Administrative Order No. 100 issued on December 1, 1999 by President Joseph E. Estrada re: "Directing The Suspension of New Personnel For Purposes of Generating the Additional Funds For the Implementation of the 10% Across-The-Board Salary Increase For Fiscal Year 2000."

Relevant portions of the Administrative Order state, as follows:

"Section 2. Prohibition. The hiring of new personnel whether on a permanent, temporary, substitute, co-terminous, contractual or casual status, is hereby suspended, except for key positions, teaching, and uniformed personnel in the Philippine National Police, Bureau of Fire Protection and Bureau of Jail Management and Penology.

"Section 4. Rules and Regulations. The Department of Budget and Management shall issue the necessary rules and regulations fro the effective implementation of this Administrative Order.

"Section 7. Effectivity. This Order shall take effect immediately.

In line with its mandate to issue the necessary implementing rules and regulations, the Department of Budget and Management issued on December 17, 1999, Budget Circular No. 466, the relevant portions of which read:

## "1.0. PURPOSE

"To provide guidelines for the effective implementation of Administrative Order (AO) No. 100 entitled Directing the Suspension of the Hiring Funds of New Personnel for Purpose of Generating the Additional Funds for the Implementation of the 10% Across-the-Board Salary Increase for Fiscal Year 2000 dated 01 December 1999.

## "2.0. COVERAGE

"2.1. These guidelines shall apply to all position in all department and agencies of the Executive Branch, including government-owned and/or controlled corporation (GOCCs) and state universities and colleges (SUCs).

"2.2. The legislative and Judicial Branches of Govrnment, including Local Government Units, are encouraged to adopt these guidelines at their discretion.

## "3.0. PROHIBITION AND EXEMPTIONS

"3.1 General Prohibition. The hiring of new personnel whether on a permanent, temporary, substitute, co-terminous, contractual or casual status, is hereby suspended. (Underscoring supplied).

## "7.0. Effectivity

"This Circular shall take effect immediately."

The sole issue to be resoled in this case is whether or not issuance of the appointment in favor of Tagapan by Executive Director Davis as Property Custodian is violative of the abovequoted AO 100 and National Budget Circular No.466.

After a careful evaluation of the records, the Commission finds merit in the appeal.

The Commission notes at the outset, the opinion of DBM Secretary Benjamin E. Diokno in reply to the query posed by Assistance Commissioner Neny M. Arguna, Human Resources Development Service. Bureau of Internal Revenue (BIR), relative to the date of effectivity of the prohibition on the hiring of new personnel in the government service pursuant to AO 100 and NBC No. 466. In a letter dated March 2, 2000, Secretary Diokno stated the following:

"As requested, we are formally confirming that effectivity date of the prohibition is December 17,1999, the date National Budget Circular (NBC) 466 was issued. NBC 466 is the implementing guidelines of AO 100."

Following the principal of qualified political agency, the opinion of the DBM Secretary is deemed the action of the Chief Executive, hence, should be accorded persuasive effect.

An examination of the appointment of Tagapan clearly shows that it was issued by Executive Director Davis on December 15, 1999, as shown below the appointing authority's signature. The National Budget Circular No. 466 suspending the hiring of new personnel in the civil service took effect on December 17, 1999. Therefore, considering that Tagapan's appointment was issued two (2) days earlier prior to the effectivity of DBM Budget Circular No. 466 which prescribes the hiring of new civil servants, the disapproval by CSC-NCR is reversible error.

An appointment issued in accordance with pertinent civil service law and rules takes effect immediately upon its issuance by the appointing authority, and if the appointee has assumed office immediately, he is entitled to the payment of his salaries. This finds support in Section 1, Rule IV (effectivity of Appointment) of Civil Service Commission Memorandum Circular No. 40. S. 1998, (Revised Omnibus Rules on Appointments and Other Personnel Actions) which provides that:

"Sec. 1. An appointment issued in accordance with pertinent laws and rules shall take effect immediately upon its issuance by the appointing authority, and if the appointee has assumed the duties of the position, he shall be entitled to receive his salary at once without awaiting the approval of his appointment by the Commission. The appointment shall remain effective until disapproval by the Commission. In no case shall an appointment take effect earlier than the date of its issuance.

WHEREFORE, the appeal of DENR-NCR Regional Executive Director Corazon C. David is hereby GRANTED. Accordingly, the appointment of Bobby V. Tagapan as Property Custodian of DENR-NCR is approved.

CSC-NCR is directed to reflect this approval in the service card of Tagapan on file with said office.

Quezon City, OCT 18 2000

**(SGD)CORAZON ALMA G. DE LEON**

Chairman

On Official Business

**JOSE F. ERESTAIN, JR.**

Commissioner

**(SGD.) WALDEMAR V. VALMORES**

Commissioner

Attested by:

**(SGD.) ARIEL G. RONQUILLO**

Director III