

CSC-OLA Opinion No. 190 s. 2014

SARMIENTO, Nelson G.
Re: MC No. 1, s. 2014
(Query)

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MEMORANDUM

TO: Acting Director IV NELSON G. SARMIENTO
Civil Service Commission – Regional Office No. I
Quezon Avenue, San Fernando City, La Union 2500

SUBJECT: Query on CSC MC No. 1, s. 2014

This refers to the Memorandum No. 05611, s. 2014 of that Regional Office, seeking guidance/clarification relating to the employment status of General Managers (GM) of local water districts in connection with item no. 2 of CSC MC No. 1, s. 2014¹, pertinent portion of which, reads as follows:

- "2. ***Vested Right; GM Appointees.*** – Pursuant to the doctrine of operative facts and in the higher interest of equity, justice and fairness, the permanent appointments issued to GM incumbents on the basis of CSC Resolution No. 06-01052 (sic) dated June 20, 2006 and CSC MC No. 12, s. 2006 shall be respected. However, upon separation from the service of these GM appointees, the succeeding appointment shall be deemed coterminous with the appointing authority in line with the primarily confidential character of the GM position."

¹ Clarificatory Guideline on the Effects of the Supreme Court Ruling on the Case of CSC vs. Pililla Water District (G.R. No. 190147, March 5, 2013) Relative to the General Manager Position in Local Water Districts.

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In your Memorandum, you wished to be clarified on the following:

1. Whether permanent appointment issued to a GM prior to the effectivity of RA 9286 be respected?
2. Whether permanent appointment issued to a GM during the effectivity of RA 9286 but prior to the promulgation of CSC Resolution No. 06-01052 be also respected; and
3. For a GM whose permanent appointment is to be respected, will he retain such permanent status if his/her local water district is recategorized after June 5, 2013.

As to the first issue, this Office opines that an incumbent GM of local water district holding permanent appointments prior to the effectivity of RA 9286 shall retain his/her permanent status of appointment. This is in line with the pronouncement of the Supreme Court in the case of *Davao City Water District*² wherein the High Court held that *"As these employees are equally protected by the constitutional guarantee to security of tenure, We find it necessary to rule for the protection of such right which cannot be impaired by a subsequent ruling of this court. Thus, those employees who have already acquired permanent employment status at the time of the promulgation of this decision cannot be removed by the mere reason that they lack the necessary civil service eligibilities."*

Furthermore, item no. 2 of **CSC Resolution No. 061052**³ also recognized the vested right of GM appointees who were issued permanent appointments prior to promulgation of above-cited case. Thus, by legal implication, an incumbent GM who acquired permanent status prior to the effectivity of RA 9286 shall retain his/her permanent status of appointment. However, upon separation from the service of this GM appointees, the succeeding appointments shall be deemed coterminous with the appointing authority in line with the primarily confidential character of the position.

As to the issue on whether those GM who were appointed under permanent status during the effectivity of RA 9286 on April 4, 2004 but prior to the promulgation of CSC Resolution No. 06-1052 should retain the said status of employment, this Office likewise opines in the affirmative following the above elucidation. This is so considering that they are also deemed to have acquired vested right to their permanent appointments.

² G.R. No. 95237-38 dated September 13, 1991

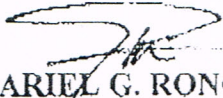
³ Considering the Position of General manager Under the Career Service and Prescribing the Guidelines and Qualification Standards for the said Position Pursuant to R.A. No. 9286

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As regard the third issue, this Office finds that a GM incumbent who was issued a permanent appointment and whose local water district is recategorized after June 5, 2013 shall likewise retain their permanent status of appointment until they vacate their position based on the doctrine of vested right.

It is hoped that this has amply addressed your concern.

JUN 18 2014


Atty. ARIEL G. RONQUILLO
Assistant Commissioner

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