



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**DANGEROUS DRUGS BOARD,**  
 Petitioner,

**G.R. No. 210013**

Present:

- versus -

PERALTA, C.J., Chairperson,  
 CAGUIOA,  
 J. REYES, JR.,  
 LAZARO-JAVIER, and  
 LOPEZ, JJ.

**MARIA BELEN ANGELITA V.  
 MATIBAG,**  
 Respondent.

Promulgated:

**JAN 22 2020**

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**DECISION**

**CAGUIOA, J.:**

Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> (Petition) under Rule 45 of the Rules of Court assailing the Decision<sup>2</sup> dated July 18, 2013 and Resolution<sup>3</sup> dated November 11, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 126310, which denied petitioner Dangerous Drugs Board's (DDB) petition for review under Rule 43 of the Rules of Court and affirmed the Civil Service Commission's (CSC) Decision<sup>4</sup> dated April 10, 2012. The CSC found that respondent Maria Belen Angelita V. Matibag (Matibag) was illegally dismissed.

**Facts**

The antecedent facts as quoted by the CA are as follows:

Records show that Matibag used to be the Chief of Policy Studies, Research and Statistics Division, DDB until she was appointed by then President Gloria Macapagal-Arroyo as Deputy Executive Director for

<sup>1</sup> *Rollo*, pp. 11-31, excluding Annexes.

<sup>2</sup> *Id.* at 32-40. Penned by Associate Justice Franchito N. Diamante and concurred in by Associate Justices Celia C. Librea-Leagogo and Melchor Q. C. Sadang.

<sup>3</sup> *Id.* at 41-42.

<sup>4</sup> *Id.* at 43-49.

Operations (DEDO) with a rank of Assistant Secretary on January 5, 2007 and stayed as such until Office of the President Memorandum Circular (OP-MC) No. 1 was issued.

Covered by the foregoing memorandum are those Non-Career Executive Service Officers (Non-CESOs) occupying a Career Executive Service (CES) position in all government agencies who remain in office and continue to perform their duties and responsibilities until July 31, 2010 or until resignations have been accepted.

On July 16, 2010, the Office of the President issued the **Guidelines Implementing Memorandum Circular No. 1**,<sup>5</sup> which states that “all non-CESOs occupying CES positions in all agencies of the Executive Branch shall remain in office and continue to perform their duties and discharge their responsibilities until July 31, 2010 or until their resignations have been accepted, and/or until their respective replacements have been appointed or designated, whichever comes first, unless they are reappointed in the meantime.”

On November 2, 2010, Matibag sent a letter requesting clarification on the coverage of OP-MC No. 1.

In a letter dated November 23, 2010, Matibag sought the opinion of the Commission [(CSC)] regarding her employment status. In response, the [CSC] in its letter dated November 30, 2010 cited the provision of Section 2 (3), Article IX-B of the 1987 Constitution which states that she enjoys security of tenure for being a holder of an appropriate Civil Service Eligibility. Thus, she cannot be removed or suspended except for cause provided for by law and after due process. The foregoing statement was also stated in the letter dated July 30, 2010 of Chairman Francisco T. Duque III, [CSC] to Executive Secretary Paquito N. Ochoa, Jr., OP.

In a letter dated January 7, 2011, Executive Secretary Ochoa state[d] that:

*“Section 8, Chapter 2, Subtitle A, Title I, Book V of the Administrative Code of 1987 provides that entrance to CES third-level positions shall be prescribed by the Career Executive Service Board (CESB). Pursuant thereto, the requisite eligibility for a CES third-level position is not the Career Service Executive Eligibility neither the Career Executive Officer rank administered/conferred by the Civil Service Commission but the appropriate CESO rank conferred by the CESB. Applied to your case, you are covered by MC for being a non-CESO occupying a CES position.”*<sup>6</sup> (Emphasis and italics in the original)

It appears that following the January 7, 2011 letter, Undersecretary Edgar C. Galvante, the Acting Executive Director of the DDB, issued a Memorandum dated March 2, 2011 addressed to Matibag, which states that “considering that you are a Non-CESO holder and covered by Memorandum Circular No. 2, you are hereby notified that your designation as DEPUTY

<sup>5</sup> Amended by OP-MC No. 2 moving the date from July 31, 2010 to October 31, 2010; see *rollo*, p. 13.

<sup>6</sup> *Rollo*, pp. 33-34.



EXECUTIVE DIRECTOR FOR OPERATIONS is terminated effective this date. This is without prejudice to your reappointment to the position and/or the final resolution of the propriety of the issuance of MC 2 by the Supreme Court.”<sup>7</sup>

Matibag thus filed a complaint before the CSC for illegal dismissal.

#### CSC and CA Decision

The CSC ruled that Matibag was illegally dismissed. It ruled that Matibag enjoyed security of tenure over the position of Deputy Executive Director and she cannot be removed except for just cause since she possessed a Career Service Executive Eligibility (CSEE) conferred by the CSC.<sup>8</sup> The dispositive portion of the CSC Decision states:

**WHEREFORE**, the complaint of Maria Belen Angelita V. Matibag for illegal dismissal is found to be meritorious and is hereby given due course. The Dangerous Drugs Board is ordered to reinstate Matibag as its Deputy Executive Director for Operations with payment of backwages from the time she was illegally dismissed up to her actual reinstatement.<sup>9</sup>

The CA affirmed the CSC. The CA ruled that the CSC is the central personnel agency of the government mandated to establish a career service.<sup>10</sup> The CA further ruled that Civil Service laws expressly empowered the CSC to issue and enforce rules and regulations to carry out its mandate and in the exercise of this authority, it may conduct examinations to determine the appropriate eligibilities in the Career Service including the Third Level positions.<sup>11</sup>

Since Matibag’s position was considered as part of the Career Executive Service (CES), the conferment by the CSC of the CSEE to Matibag entitled her to be eligible and permanently possess the position until she is removed for a just cause.<sup>12</sup> The dispositive portion of the CA Decision states:

**WHEREFORE**, premises considered, the instant petition is **DENIED**. Accordingly, the Decision promulgated on April 10, 2012 in Case No. 120204 and Resolution promulgated on July 17, 2012 in Case No. 1201069 by the Civil Service Commission are hereby **AFFIRMED in toto**.

**SO ORDERED.**<sup>13</sup>

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<sup>7</sup> Id. at 113.

<sup>8</sup> Id. at 34, 48.

<sup>9</sup> Id. at 49.

<sup>10</sup> Id. at 35.

<sup>11</sup> See id. at 35, 37-38.

<sup>12</sup> Id. at 38-39.

<sup>13</sup> Id. at 40.

DDB filed a motion for reconsideration, but this was denied. Hence, this Petition.

### **Issues**

DDB raised the following issues:

#### **I**

A PERSON WITH A CSEE STILL NEEDS TO HURDLE THE TWO OTHER STAGES OF CES ELIGIBILITY EXAMINATIONS PRESCRIBED BY THE CESB TO OBTAIN THE STATUS OF A CES ELIGIBLE.

#### **II**

[MATIBAG] DOES NOT POSSESS THE CES RANK APPROPRIATE FOR THE POSITION TO WHICH SHE WAS APPOINTED, THUS MAKING HER APPOINTMENT MERELY TEMPORARY.

#### **III**

THE CIVIL SERVICE LAWS SPECIFICALLY AUTHORIZE THE CESB TO PRESCRIBE ENTRANCE TO THE THIRD LEVEL (CES) POSITIONS.<sup>14</sup>

It appears that during the pendency of this Petition, Matibag took her oath of office as an Executive Director of the DDB on April 7, 2017. She therefore moved for the dismissal of the case as it has been rendered moot and academic.<sup>15</sup> The DDB filed a Comment<sup>16</sup> arguing that there remains a justiciable controversy as the case is capable of repetition yet evading judicial review.<sup>17</sup> The DDB also argued that a novel issue remains: whether the CSEE conferred by the CSC is equivalent to the CES Eligibility conferred by the Career Executive Service Board (CESB).<sup>18</sup>

The Court shall discuss the issue of mootness together with the other issues raised in the Petition.

### ***The Court's Ruling***

The Petition is meritorious.

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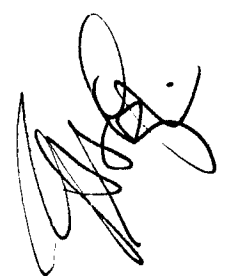
<sup>14</sup> Id. at 15.

<sup>15</sup> Id. at 207.

<sup>16</sup> Comment (On Respondent's Manifestation with Compliance), id. at 212-218.

<sup>17</sup> *Rollo*, p. 213.

<sup>18</sup> Id.



***The Petition is not moot and academic***

This Petition arose out of an illegal dismissal complaint before the CSC when Matibag's designation as Deputy Executive Director was terminated on March 2, 2011 for being a non-CESO holder. Both the CSC and CA ruled that Matibag was illegally dismissed and directed her reinstatement and the payment of backwages. The DDB is questioning these decisions arguing that Matibag did not have security of tenure over her position because she did not possess CES Eligibility. Matibag, however, argues that the issue has been overtaken by her appointment as Executive Director of the DDB for which she took her oath of office on April 7, 2017.

The Petition has not been rendered moot and academic.

A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon will be of no practical use or value.<sup>19</sup> The Court's ruling on whether Matibag was illegally dismissed has a practical value as it will affect her entitlement to reinstatement and backwages. If the Court decides that she was illegally dismissed, she stands to receive backwages and considered as having served as Deputy Executive Director from March 2, 2011 until April 7, 2017. However, if the Court holds otherwise, she is not entitled to reinstatement and backwages and her dismissal from her position shall be considered as valid.

Further, despite her appointment as Executive Director, there is no showing that she has been paid her backwages from March 2, 2011 until her appointment on April 7, 2017. It also cannot be said that she has been reinstated to her former position as it does not appear that the position to which she was appointed to in 2017, Executive Director, is the same as what she held in 2011, Deputy Executive Director. Thus, the mere fact that she was appointed as Executive Director of the DDB did not render the issue of whether she was illegally dismissed moot and academic.

***Matibag was validly dismissed***

With the Petition still ripe for resolution, the Court shall now discuss the issue of whether Matibag was illegally dismissed. This issue centers on whether Matibag's CSEE from the CSC was sufficient to consider her to be eligible for the position of Deputy Executive Director and to permanently possess it.

The CSC and CA are both of the view that the CSC was not divested of its power to confer eligibility through the CSEE, as it is the central personnel agency of the government.<sup>20</sup> Both the CSC and CA found that the CSEE was

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<sup>19</sup> *Lacson v. MJ Lacson Development Co., Inc.*, 652 Phil. 34, 46 (2010), citing *Integrated Bar of the Philippines v. Atienza*, 627 Phil. 331, 336 (2010).

<sup>20</sup> *Rollo*, p. 39.



sufficient to entitle Matibag to be eligible and permanently possess the position of Deputy Executive Director until she is removed for just cause.<sup>21</sup>

The CSC and CA are incorrect.

This issue is not novel as it has already been resolved by the Court in *Feliciano v. Department of National Defense*<sup>22</sup> (*Feliciano*). In fact, *Feliciano* also involved Office of the President Memorandum Circular (OP-MC) Nos. 1 and 2, the implementation of which also gave rise to the present case.

Roberto Emmanuel T. Feliciano (Feliciano) and Horacio S. Gonzalez (Gonzalez) served as Assistant Secretary and Chief of the Administrative Service Office of the Department of National Defense (DND), respectively. Both possessed the CSEE and thus were deemed not compliant with OP-MC Nos. 1 and 2, and accordingly relieved of their positions. Both filed complaints for illegal dismissal before the CSC.

In different decisions, the CSC held that they were illegally dismissed and directed their reinstatement. Also in different decisions, the CA reversed the CSC and ruled that Feliciano and Gonzalez did not enjoy security of tenure.

For the CA, it was not sufficient that Feliciano and Gonzalez both had a CSEE from the CSC as they failed to show proof that they accomplished and completed the last two stages (assessment center and performance validation stage) to be recommended by the CESB for appointment to a CESO position.

On appeal before the Court and in a consolidated Resolution, the Court upheld the CA. The Court therein held that “the CESB is expressly empowered to promulgate rules, standards and procedures on the selection, classification, compensation and career development of the members of the CES.”<sup>23</sup>

In fact, the CESB, as the Court ruled in *Career Executive Service Board v. Civil Service Commission*,<sup>24</sup> which was cited in *Feliciano*, has the authority to “(a) identify other officers belonging to the CES in keeping with the conditions imposed by law; and **(b) prescribe requirements for entrance to the third-level.**”<sup>25</sup>

It is therefore clear from the foregoing that it is the CESB that has the authority to prescribe the requirements for entry to the CES. Following this

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<sup>21</sup> Id. at 38-39.

<sup>22</sup> G.R. Nos. 199232 & 201577, November 8, 2017, 844 SCRA 401.

<sup>23</sup> Id. at 411-412.

<sup>24</sup> 806 Phil. 967 (2017).

<sup>25</sup> Id. at 1000; emphasis and underscoring supplied.



clear authority of the CESB, the Court held that Feliciano and Gonzalez, even though holders of the CSEE, still needed to comply with CESB Resolution No. 811<sup>26</sup> dated August 17, 2009, which states that holders of the CSC's CSEE still needed to comply with the last two stages to get CES Eligibility, which are the assessment center and the performance validation.<sup>27</sup> CESB Resolution No. 811 specifically states:

**RESOLVED FURTHERMORE**, that item no. 1.3.2 of Section 1, Rule VIII (Transitory Provisions) of the aforementioned Revised Integrated Rules on the Grant of CES eligibility (CESB Resolution No. 791 s. 2009) shall be amended herein, as follows:

1.3.2 The Career Service Executive Eligibility (CSEE) conferred by the Civil Service Commission (CSC), which consist of two (2) phases, namely: Written Examination and Panel Interview, **of one who is appointed to a CES position, regardless of the appointing authority or one who is occupying a Division Chief position in a permanent capacity or one designated to a CES position in an acting or OIC capacity for at least one (1) year**, shall be considered equivalent to the two (2) of the four-stage CES eligibility examination process, namely: Written Examination and Board Interview. Hence, for purposes of conferment of CES eligibility and appointment to appropriate rank in the CES, **as the case may be**, the applicant concerned has to complete the two (2) remaining stages of the examination process, namely: Assessment Center and Performance Validation stages and comply with such other requirements as may be prescribed by the Board. (Emphasis and underscoring in the original)

Here, similar to Feliciano and Gonzalez, Matibag only possessed the CSC's CSEE. She failed to prove that she has completed the last two stages of the examination process under CESB Resolution No. 811. Given this, she was not CES Eligible at the time she held the position of Deputy Executive Director for Operations, and did not enjoy security of tenure. Her appointment was temporary. As similarly held in *Feliciano*:

x x x The effect is that their appointments remained temporary, a status that denied them security of tenure. According to *Amores v. Civil Service Commission*:

x x x An appointment is permanent where the appointee meets all the requirements for the position to which he is being appointed, including the appropriate eligibility prescribed, and it is temporary where the

<sup>26</sup> AMENDATORY GUIDELINES ON THE APPOINTMENT OF CAREER EXECUTIVE SERVICE (CES) RANKS OF CAREER SERVICE EXECUTIVE ELIGIBLES (CSEES).

<sup>27</sup> See *Feliciano v. Department of National Defense*, supra note 22, at 413-414.

appointee meets all the requirements for the position except only the appropriate civil service eligibility.

x x x x

x x x [V]erily, it is clear that **the possession of the required CES eligibility is that which will make an appointment in the career executive service a permanent one.** x x x

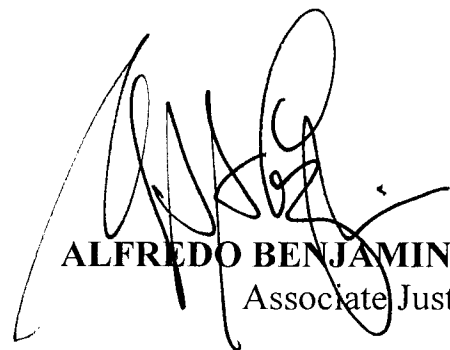
Indeed, the law permits, on many occasions, the appointment of non-CES eligibles to CES positions in the government in the absence of appropriate eligibles and when there is necessity in the interest of public service to fill vacancies in the government. But in all such cases, the appointment is at best merely temporary as it is said to be conditioned on the subsequent obtention of the required CES eligibility x x x

Clearly, the petitioners' termination from their respective positions at the DND was effective and valid.<sup>28</sup> (Citation removed; emphasis in the original)

Similar to Feliciano and Gonzalez, Matibag's termination from her position as Deputy Executive Director for Operations of DDB was therefore effective and valid.

**WHEREFORE**, premises considered, the Decision dated July 18, 2013 and Resolution dated November 11, 2013 of the Court of Appeals in CA-G.R. SP No. 126310 are **REVERSED** and **SET ASIDE** and the Court hereby declares respondent Maria Belen Angelita V. Matibag's termination from her position on March 2, 2011 as **VALID**.

**SO ORDERED.**

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

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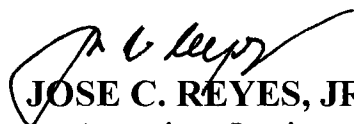
<sup>28</sup> Id. at 414-415.



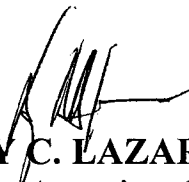
WE CONCUR:



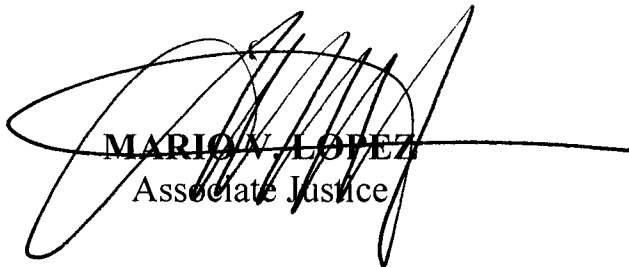
**DIOSDADO M. PERALTA**  
Chief Justice  
Chairperson



**JOSE C. REYES, JR.**  
Associate Justice



**AMY C. LAZARO-JAVIER**  
Associate Justice



**MARION LOPEZ**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**DIOSDADO M. PERALTA**  
Chief Justice

