

BATTUNG, ELADIO C.

Re: Reorganization

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RESOLUTION No. **992762**

Eladio C. Battung, Vice-President, ORGH - Luzon, Philippine Crop Insurance Corporation (PCIC), San Fernando, Pampanga requests the Commission's ruling relative to the authority of the Board of Directors to undertake reorganization of the PCIC.

In his request, Battung represented as follows:

"Our Office, created by virtue of PD. 1467 and amended by RA No. 8175 is currently undergoing a reorganization which will be implemented on (sic) October, 1999. The undersigned sought the opinion of Atty. Anicia M. De Lima, CSC Region III Regional Director on some issues relative to our reorganization but Atty. De Lima opined that PCIC cannot use as a legal basis the provisions of RA 6656.

"Notwithstanding the reply of Atty. De Lima which we furnished to our Head Office, our Board of Directors continued with the plan citing the provisions of Sec. 29, Chapter V, Book V, EO 292 (The Administrative Code of 1987) and Sec. 77,78,79 of RA 8745 (The General Appropriations Act of 1999).

"With these developments, our personnel are now in a quandary whether the ongoing reorganization is legal or not. Moreover, President Estrada has assured the public that there would be no lay-offs in government reorganization."

The letter dated June 22, 1999 of Director IV Anicia M. De Lima, Civil Service Commission Regional

Office No. III, San Fernando, Pampanga, in response to Battung's query reads as follows:

"The Philippine Corp Insurance Corporation was created pursuant to Presidential Decree No. 1467, as amended by Republic act NO. 8175. A close scrutiny of the above- cited laws will show that there is nothing therein which grants to the Corporation the power/authority to reorganize. It must be pointed out that to be able to exercise this power, the same must be expressively granted/ authorized by law. This is very clear from Section 1 of Republic Act No. 6656 which reads as follows:

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and Section 3(a) of the Rules on government Reorganization which provides:

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"The express legal authority is needed owing to the effect and implication of reorganization on the security of tenure of permanent employees. In reorganization, all positions are deemed vacant and pursuant to CSC Resolution No. 991068 dated May 21, 1999, Bedayos, Mary Grace et al (which is the most recent issuance on reorganization), previous incumbents (who are permanent in status) have vested right to be appointed to the same positions they held prior to reorganization only if they meet the qualification requirements of the said positions. This power to reorganize, therefore, operates as a limitation on the security of tenure of permanent employees as it may even cause their separation from their service if the number of regular positions in the new organization is not sufficient to accommodate everybody. There being no express grant in PD 1467 as amended to PCIC of the power to reorganize, it necessarily follows that the Corporation cannot undertake a reorganization of the agency.

"PCIC cannot use as legal basis for any planned reorganization the provisions of RA 6656. It must be stressed that this law does not grant the power to reorganize. This is

explicit from its title 'An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization.' It merely mandates the national agencies, local government units, state universities and colleges, and government- owned controlled corporations with original charters which are authorized by law to reorganize must follow the procedure/rules outlined therein to ensure that the security of tenure of permanent employees is safeguarded.

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"It therefore, only prescribes that any reorganization authorized to be implemented by the executive branch of the government or any of its departments or agencies must be undertaken in accordance with the procedure set forth in the said law and within a specified period of time."

Battung represented that the following provisions of laws are the basis of the PCIC Board in undertaking the current reorganization of the corporation:

"Section 29. Chapter V, Book V, EO 292 (THE ADMINISTRATIVE CODE OF 1987)

"Sec. 29 Reduction in Force. Whenever it becomes necessary because of lack of work or funds, or due to a change in the scope or nature of an agency's program, or as a result of reorganization, to reduce the staff of any department or agency, those in the same group or class of positions in one or more agencies within the particular department or agency wherein the reduction is to be effected, shall be reasonably compared in terms of relative fitness, efficiency and length of service, and those found to be least qualified for the remaining positions shall be laid off.

"Sections 77, 78 & 79 RA 8745 (THE GENERAL APPROPRIATIONS ACT OF 1999)

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"Sec. 77. Organizational Changes. Unless otherwise provided by law or directed by the President of the Philippines, no changes in key positions or organizational units in any department or agency shall be authorized in their respective organizations, structures and funded from appropriations provided by this Act.

Sec. 78. Implementation of Reorganization. Pursuant to Section 42, Chapter 5, Book VI of the Administrative Code of 1987, the appropriations including the functions, projects, purposes and activities authorized in this Act may be realigned as maybe necessary to implement the reorganization of departments, bureaus, offices or agencies of the government as mandated by law. Any unexpected balances or savings in appropriations may be made available for the payment of retirement gratuities and separation benefits as authorized under existing laws to personnel affected by the reorganization.

Sec. 79. Scaling Down and Phase-Out of Activities of Agencies within the Executive Branch. The heads of departments, bureaus, offices and agencies are hereby directed to identify their respective activities which are no longer essential in the delivery of public services and which maybe scaled down, phased-out or abolished, subject to Civil Service rules and regulations. Said activities shall be reported to the Office of the President through the Department of Budget and Management and to the Chairman, Committee on Appropriations of the House of Representatives and the Chairman, Committee on Finance of the Senate. Actual Scaling down, phase-out or abolition of the activities shall be effected pursuant to Circulars or Orders issued for the purpose by the Office of the President.

"Savings generated by departments, bureaus, offices and agencies from the abolition, phase-out or scaling down of unnecessary activities may be used by the departments, bureaus, offices and agencies concerned for the augmentation of their respective programs, projects and activities."

Relevant to the query is Republic Act No. 6656 (An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization). Section 1 of said Act

reads as follows:

"Section 1. It is hereby declared the policy of the State to protect the security of tenure of civil service officers and employees in the reorganization of the various agencies of the National Government xxx expressly authorized by law" xxx" (underscoring supplied)

Hence, the authority to reorganize an office of the national government can only be undertaken by virtue of an express grant of power. Short of an express authority conferred by law, no valid reorganization can be carried out.

The reason for the restrictive exercise of the power to reorganize is explained in the case of *Mendoza vs. Quisumbing* (186 SCRA 108) wherein the Supreme Court ruled as follows:

"From the very start, however, the nature and extent of the power to reorganize were circumscribed by the source of the power itself. The grant of authority was accompanied by guidelines and limitations. It was never intended that department and agency heads would be vested with untrammelled and automatic authority to dismiss the millions of government workers on the stroke of pen and with the same sweeping power to determine under their sole discretion who would be appointed or reappointed to the vacant positions."

Thus, any process with the end in view of restructuring the bureaucracy's organizational and functional set-up to make it more viable in terms of economy, efficiency, effectiveness and to make it more responsive to the needs of public clientele as authorized by law, whether partial or total, is reorganization (Rules on Government Reorganization) which can validly and lawfully be exercised only by virtue of an express grant of such power and to be implemented pursuant to RA No. 6656.

A perusal, however, of the provisions of Presidential Decree No. 1467 (Creating the "Philippine Crop Insurance Corporation" Prescribing its Powers and Activities, Providing for its Capitalization and for the Required Government Premium Subsidy and for Other Purposes) as amended by Republic Act No. 8175 otherwise known as the "Revised Charter of the Philippine Crop Insurance Corporation Act of

1995" shows that no such power, express or implied, was given to the Corporation.

PCIC's authority specific to personnel matters is enumerated under Section 10 which reads as follows:

"SECTION 10. Powers and Functions of the Board of Directors. The Board shall, without limiting the generality of the foregoing have powers and functions:

"10.5 To approve the budget of the Corporation and to fix the reasonable compensation of its personnel; Provided, that the Board of Directors shall have exclusive and final authority to promote, transfer, assign or reassign personnel of the Corporation and these personnel actions are made in the interest of the service and not disciplinary, and provision of existing law to the contrary notwithstanding;

10.6 To establish policies and guidelines for employment on the basis of merit, technical competence and moral character, and approve a staffing pattern of personnel defining their powers and duties;

Clearly, the intention of executive and legislative branches of the government is not to give to the PCIC the power to reorganize. Its authority, exercised through the Board, is limited only to ordinary personnel actions and movements which are normally encountered in the regular course of business of a government office.

Noteworthy to mention also is Section 77 of Republic Act No. 8745 (The General Appropriations Act of 1999) which declares that only when provided by law or directed by the President can changes in key positions or organization units in any department or agency be affected.

In sum, the Commission agrees with the findings of the Civil Service Commission - Regional Office No. III that the Philippine Crop Insurance Corporation does not possess the power to reorganize the corporation. Thus, any reorganization undertaken without express authority is not in order.

WHEREFORE, the Commission hereby rules that the Philippine Crop Insurance Corporation is not

authorized by law to undertake a reorganization of said Corporation.

Quezon City, DEC 15 1999

(SGD.) CORAZON ALMA G. DE LEON
Chairman

(SGD.) THELMA P. GAMINDE
Commissioner

Attested by:

(SGD.) ARIEL G. RONQUILLO
Director III