

ENERIO III, Domingo Ramon C

Re: Appointment; Designation

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RESOLUTION No. 992763

Domingo Ramon C. Enerio III, Attach²¹₁₁ II, Department of Tourism (DOT), Manila, requests a ruling on whether or not his appointment is "Location-specific". The instant request is being made in connection with the earlier ruling of the Commission in CSC Resolution No.99-1315 dated June 29, 1999, the material portions of which read, as follows;

"It is also significant to note that in paragraph 3 of Section 24, attaches are merely designated, and not appointed, to a foreign post where their mother agencies maintain and attach²¹₁₁ service. This being the case, they may be recalled to the home office or reassigned to another post after the completion of their tour of duty²¹₁₁"

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"Thus, the Commission finds no legal impediment should the DOT Secretary recall, transfer or reassign DOT personnel presently designated in a foreign field office. We likewise see no impediment should the DOT personnel presently at the home office to a foreign field office, the only condition being that prior consultation with the Secretary of Foreign Affairs should be made.

"Finally, the Commission finds no need to issue new appointments to DOT personnel who are presently posted in a foreign field office. This is so because they are not to be appointed to a new or another position than what they are presently holding. It should be noted that their present assignment abroad is merely through designation and not by appointment. Hence, they may be re-designated to a new post without the need of issuing them new appointments. Indeed, reassignment does not necessitate the issuance of new

appointment.

"WHEREFORE, the Commission hereby rules that all DOT personnel presently designated to a foreign field offices may be recalled or reassigned to another work station, subject to consultation with the Secretary of Foreign Affairs. Accordingly, they need not be issued new appointments."

The pertinent portions of Enerio's request read, as follows:

"I respectfully seek the Chairman's clarification with the regard to the above-mentioned resolution (sic), especially in the light of my own recall to the Head Office by December 1999. I am of the opinion that my assignment in Frankfurt, Germany is not designation but based on a permanent appointment as Attaché II (SG-22). Furthermore, said the appointment issued by the Department of Tourism explicitly specifies the Frankfurt Field Office as my location of work."

"With the Chairman's further indulgence, I would like to offer a different interpretation of Sections 24 and 25, Chapter 8, Tittle I, Book IV of the Administrative Code of 1987, used [primarily as the basis for CSC Resolution No. 991315, to wit:

"a) Section 24 (1) states that the authority to appoint attaches shall be vested in the Head of the Department or agency maintaining the attached service. This provision clearly indicates that attaches are appointed and not designated to their work location. This is consistent with the appointment issued to me by a former Secretary Mina T. Gabor on 14 February 1997;

"b) Section 24 (3) states that the designation of attaches shall apply only to those serving in diplomatic missions. Those assigned to consular establishments shall be designated as representatives '. In consultation with the Department of Foreign Affairs, I was made to assume the designation of Tourism Representatives when I was first posted to Frankfurt,

Germany. This is in keeping with the spirit of Section 24 (3). Also, the designation of Tourism Representatives is used to merely convey my position in the hierarchy of the Philippine diplomatic mission in Germany. In which case, said designation is simplifying the title I use within Germany and no way reflects the status of my assignment therein.

"c) Section 25 states that all attaches and representatives of other departments shall, during their tour of duty, be under the immediate control and administrative supervision of Chief of Mission where they are assigned'. With this statement, one can deduce that my designation as Tourism Representatives, as provided by the Department of Foreign Affairs, is only meant to establish the Embassy's direct supervision and control over DOT activities, without prejudice to my official appointment by the Department of Tourism.

"Given the above arguments, I would like to request the Civil Service Commission to review Resolution No.991315, and the rule that my current posting in Frankfurt is a result of an official appointment rather than by a designation.

"Such being the case, considering that my appointment papers are "location-specific," I further request by the Commission's opinion on whether a new appointment, subject to consent, should be issued prior to implementation of my recall.'

It is of record that on February 14, 1997, Enerio was issued an appointment as Attach ²¹/₁₁ II (SG-22) under permanent status by then DOT Secretary Mina T. Gabor. The appointment of Enerio shows that on the space above the word "(Ahensya)" is printed: "FRANKFURT FIELD OFFICE.'

Sometime in June 1999, the DOT, through Undersecretary Roberto V. Antonio, sought a ruling on whether or not DOT personnel who had been posted to different foreign field offices can be recalled and/or reassigned to other posts. As such, the Commission promulgated the earlier quoted CSC resolution No.99-1315.

Hence, the instant request, where the central issue to be resolved is whether or not Enerio's appointment is a station-specific such that he cannot be transferred to another post or work station without consent.

Controlling in the present issue are Sections 24 and 25 of Chapter 8, Title I (A), Book IV of the Administrative Code of 1987 which provide that:

SEC. 24. Appointment and Accreditation of Attaches. -(1) The authority to appoint attaches shall be vested in the head of Department or agency maintaining the attach service, who shall consult with the Secretary of Foreign Affairs on such appointments.

"(2) A Department or agency shall have only to one attach $\frac{21}{11}$ accredited to it by the receiving government, except military attach $\frac{21}{11}$.

"(3) the designation of attaches shall apply only to those serving in diplomatic missions. Those assigned to consular establishments shall be designated as representatives.

"Except in extraordinary cases, each Foreign Service establishments shall have only military, labor, revenue, tourism, information and commercial attaches.

"In the event of the actual need for more than one attach $\frac{21}{11}$, as determined by the department or agency in consultation with the Department of Foreign Affairs, the succeeding attach $\frac{21}{11}$ shall be accredited as assistant attach $\frac{21}{11}$.

"SEC. 25. Relationships between the Chief of Mission and the Attaches. - The Chief of Mission shall be responsible for the conduct of the affairs of the government at the diplomatic post. All attaches and the representatives of the other departments shall during their tour of duty, be under immediate control administrative supervision of the Chief of Missions where they are assigned. They shall be required to submit their reports to their agencies through the chief of Mission and the Department of Foreign Affairs, except when national security requires otherwise. They shall clear with the Chief of Mission all their

public pronouncements at the diplomatic post, and all the documents and the materials they send shall be transmitted through the diplomatic pouch.

"The supremacy of the Chief of Mission for the conduct of foreign relations at the post is established: The Chief of Missions shall have the authority to discipline attaches within his Mission, including the authority to have them recalled, if necessary." (Underscoring supplied)

It is very explicit from the aforequoted provisions of the law that the positions of Attaches are to be filled up through appointments to be issued by the department head who, in the present case, is the DOT Secretary. Otherwise stated, attaches are to be appointed by the department head. However, said Attaches may be designated to render service to different diplomatic missions¹ or consular establishments. Thus being merely designated to render service in a particular diplomatic mission or consular establishment, as the case may be, such designation may be recalled, in the best interest of the service, provided that such personnel actions be in consultation and coordination with the Secretary of Foreign Affairs.

In fact, there is nothing in the aforequoted law that prescribes the recall or reassignment of an Attach²¹ posted or assigned to a foreign country. On the contrary, the last paragraph of section 25 categorically allows the recall of attaches rendering service in foreign posts.

Considering, therefore, that the abovesited law itself mandates that Attach²¹ are to be merely designated to a particular diplomatic mission or consular establishment, it necessarily follows that the appointment of Enerio as attach²¹ II is not location-specific. Hence, he may be recalled or reassigned to another workstation even against his consent.

Moreover, it must be stressed that considering the very nature of the functions of the position of Attached II, the head of the agency has the authority to effect their transfer from one workstation to another whenever the interest of the service so demands.

WHEREFORE, the Commission hereby rules that the appointment of Domingo Ramon C. Enerio III as Attach²⁾_{ri} II is not location-specific. Accordingly, he may be recalled or reassigned to another workstation.

Quezon City DEC 15 1999

THELMA P. GAMINDE
Commissioner

CORAZON ALMA G. DE LEON
Chairman

JOSE F. ERESTAIN, JR.
Commissioner

Attested by:

ARIEL G. RONQUILLO
Director

