

## EN BANC

[ G.R. No. 129133, November 25, 1998 ]

### ECONOMIC INTELLIGENCE AND INVESTIGATION BUREAU, PETITIONER, VS. HON. COURT OF APPEALS AND CIVIL SERVICE COMMISSION, RESPONDENTS.

#### D E C I S I O N

##### PURISIMA, J.:

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court to review and set aside the 7 November 1996 **Decision**<sup>[1]</sup> and 18 March 1997 **Resolution**<sup>[2]</sup> of the Court of Appeals<sup>[3]</sup> in CA - G.R. SP No. 37720.

As culled by the Court of Appeals, the antecedent facts that matter are, as follows:

*"In a letter dated October 13, 1988, respondent CSC through Chairman Patricia A. Sto. Tomas required the Secretary of Finance to submit to the CSC all appointments in the Economic Intelligence and Investigation Bureau (EIIB).*

*Instead of complying with the said letter, petitioner Jose T. Almonte, as Commissioner of EIIB, wrote a letter dated March 29, 1989, to respondent CSC, requesting for confirmation of EIIB's exemption from CSC rules and regulations with respect to appointments and other personnel actions invoking as basis for such exemption PD No. 1458 and LOI No. 71.*

*On June 21, 1989, respondent CSC issued the subject Resolution No. 89-400, denying petitioner Almonte's request for exemption of the EIIB from the coverage of the civil service rules and regulations and reiterating its order that petitioner EIIB submit to the CSC all appointments to career or non-career positions in the Bureau.*

*Not having received any compliance from petitioners, respondent CSC, in its Order of December 7, 1990, directed petitioner Jose T. Almonte to immediately implement Resolution No. 89-400, with a warning that any EIIB official who shall fail or refuse to comply with the said order shall be held liable for indirect contempt.*

*On June 4, 1991, respondent CSC issued another order, requiring petitioner Almonte to show cause why he should not be cited for indirect contempt for his continued refusal to implement or comply with CSC Resolution No. 89-400 and the Order of December 7, 1990.*

*In a letter, dated June 13, 1991, petitioner Almonte explained to the*

*respondent CSC the reasons of the EIIB for its inability to comply with Resolution No. 89-400. He invoked PD No. 1458 and LOI No. 71 exempting the EIIB from the coverage of civil service rules and regulations on appointments and other personnel actions. Petitioner Almonte prayed that Resolution No. 89-400, the Order of June 4, 1991, and the subsequent orders be set aside.*

*On August 22, 1991, respondent CSC issued an order, finding petitioner Almonte guilty of indirect contempt of the Commission, the dispositive portion of which reads as follows:*

*"WHEREFORE, foregoing premises considered, the Commission hereby resolves to find and adjudge Jose T. Almonte, Commissioner, EIIB, guilty of indirect contempt of the Commission pursuant to Section 12 (11), Book V, Subtitle A of Executive Order No. 292 and Memorandum Circular No. 42, series of 1990. He is thus meted the penalty of fine P1,000.00 each day from the date of receipt of this Order dated December 7, 1990. Accordingly, the Cashier of the EIIB is hereby directed to deduct from the salary of Commissioner Almonte the amount of P1,000.00 each day of his failure to comply with the above CSC Order. Let copies of this Order be furnished the Resident Auditor of the EIIB as well as the COA, the Secretary of the Department of Finance and the CSFO-DND, for their information and guidance.*

*SO ORDERED."*

Dissatisfied therewith, petitioner went to the Court of Appeals on a Petition for Certiorari. However, on November 7, 1996, the Court of Appeals dismissed the petition; ratiocinating thus:

*"The 1987 Constitution is so clear and categorical in its mandate that:*

*'Article IX (B), Section 2 (1). - The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.'*

*The civil service contemplated in the constitutional provision is very comprehensive in its scope, that it includes every category of officer or employee of the government, its branches, subdivisions and instrumentalities, and even employees of private corporations, if such corporations are controlled or owned by the government with original charters.*

*In the light of this constitutional mandate, petitioner EIIB, being a government agency, is necessarily embraced by the civil service. The fact that positions in the EIIB are primarily confidential did not place it outside the domain of civil servants, since 'it is conceded that one holding in the Government a primarily confidential position is in the Civil Service' (Ingles v. Mutuc, 26 SCRA 171). That fact merely exempts confidential positions in the EIIB from the constitutional rule that 'appointments in the civil service shall be made only according to merit and fitness to be*

*determined, as far as practicable ... by competitive examination [Art. IX (B), Sec. 2 (2) ]'. And it is in this sense that the provisions of PD 1458, particularly Section 5 and LOI 71 relied upon by the petitioners should be interpreted.*

*Neither does petitioners' contention that 'if EIIB's positions and personnel actions will be opened, one may know its operations, movements, targets, strategies, and tactics and the whole of its being' deserve merit, as the same is pure speculation and conjecture. EIIB officials and personnel remain civil servants and as correctly argued by the Solicitor General, 'EIIB officials occupying confidential positions, remain accountable to the people and are subject to the same state policies on morale, efficiency, integrity, responsiveness and courtesy in the civil service'. Thus, We hold that the personnel in the EIIB are covered by the civil service.*

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*WHEREFORE, the Court upholds Resolution No. 89-400 but declares CSC Orders of December 7, 1990, June 4, 1991, and of August 22, 1991, as NULL AND VOID, the Civil Service Commission not having jurisdiction to cite and punish Commissioner Jose T. Almonte of the Economic Intelligence and Investigation Bureau for indirect contempt of the Commission."*

With the denial of its motion for reconsideration by Resolution, dated March 18, 1997, of the Court of Appeals, petitioner found its way to this Court via the present Petition; contending, that:

**IN HOLDING THAT PETITIONER IS COVERED BY CIVIL SERVICE, RESPONDENT COURT VIOLATED P.D. No. 1458 AND LOI No. 71 WHICH EXPRESSLY EXEMPT IT FROM CIVIL SERVICE COVERAGE.**

The pivotal issue here is: whether or not the petitioner, Economic Intelligence Investigation Bureau (EIIB), is embraced by the Civil Service.

Section 2, subparagraph (1), Article IX, paragraph (B) of the 1987 Constitution provides:

*"The civil service embraces all branches, subdivisions, instrumentalities, agencies of the Government, including government-owned or controlled corporations with original charter."*

Succinct and clear is the provision of the Constitution in point that all government agencies, *without exception*, are covered by the civil service.

Petitioner EIIB is a *government agency* under the Department of Finance as provided by Section 17, Chapter 4, Title II, Book IV of the 1987 Administrative Code.<sup>[4]</sup> Therefore, EIIB is within the ambit of the Civil Service Law.

The civil service within the contemplation of the aforecited constitutional provision is comprehensive in scope. It embraces all officers and employees of the government, its branches, subdivisions and instrumentalities. Even employees of corporations