

SIBUG, Bae Trinidad T.

Re: Appointment

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RESOLUTION NO. 990227

Bae Trinidad T. Sibug, former Executive Director of the Southern Cultural Communities (OSCC), requests a ruling as to her present status at the National Commission on Indigenous Peoples (NCIP).

Said request reads, in part, as follows:

"On 23 May 1998, a Notice of Termination was issued by NCIP Chairman Atty. David Dao-as, to me, thus effectively dismissing/terminating my services as Executive Director.

"I honestly believe that said Notice of Termination is arbitrary and oppressive, and without legal basis for the following reasons:

"1. As Executive Director, appointed by the President of the Philippines, the position is non-career but permanent. So that I can only be legally removed or replaced by the President and not by the NCIP or its Chairman;

"2. As of said date, there was no NCIP policy issued relative to my positions (sic). While I was given a notice of termination, other positions which were phased-out were restored by way of designations in the supposed skeletal force of the NCIP, without the benefit of approved NCIP Staffing Pattern and new appointments. While these designates were given the salaries of their phased-out position, I was denied (sic) and discriminated (sic).

"3. However, on 18th July 1998, I was given a designation by the newly appointed NCIP Chairman and Commissioner Cezar B. Sulong, and rendered services (sic)."

It is of record that on March 20, 1995, Sibug was appointed as Executive Director of the OSCC by then President Fidel V. Ramos. Sibug assumed and discharged the duties and functions of said office.

On October 29, 1997, then President Fidel V. Ramos approved Republic Act No. 8371, otherwise known as the Indigenous Peoples Rights Act of 1997. This law created the NCIP and as a consequence thereof, the OSCC and the Office for Northern Cultural Communities (ONCC) were merged and absorbed as organic offices of the NCIP. Section 74 of RA 8371 provides as follows:

"SEC. 74, Merger of ONCC/OSCC - The office for Northern Cultural Communities (ONCC) and the Office of Southern Cultural Communities (OSCC). created under Executive Order Nos. 122-B and 122-C respectively, are hereby merged as organic offices of the NCIP and shall continue to function under a revitalized and strengthened structures to achieve the objectives of the NCIP: Provided, That the positions of Staff Directors, Bureau Directors, Deputy Executive Directors and Executive Directors, except positions of Regional Directors and below, are hereby phased-out upon the effectivity of this Act: Provided further, That the official's and employees of the phased-out offices who may be qualified may apply for reappointment with the NCIP and may be given prior rights in the filling up of the newly created positions of NCIP, subject to the qualifications set by the Placement Committee: Provided, furthermore, That in the case where indigenous person and a non-indigenous person with similar qualifications apply for the same position, priority shall be given to the former. Officers and employees who are to be phased-out as a result of the merger of their offices shall be entitled to gratuity a rate equivalent to one and half (1 $\frac{2}{2}$) months salary for every year of continuous and satisfactory service rendered or the equivalent nearest fraction thereof favorable to them on the basis of the highest salary received. If they are already entitled to retirement or gratuity, they shall have the option to select either such retirement benefits or the gratuity herein provided. Officers and employees who may be reinstated shall refund such retirement benefits or gratuity received: Provided, finally, That absorbed personnel must still meet the qualifications and standards set by the Civil Service and the Placement Committee herein created."
(underscoring supplied)

On the basis of the aforementioned provision, NCIP Chairman David A. Daoas notified Sibug of her separation from the service. Said notice dated May 21, 1998 reads as follows:

"Please be informed that pursuant to Section 74 of R.A. No. 8371, otherwise known as 'The Indigenous People's Rights Act of 1997', the positions of Executive Director, Deputy Executive Director, Bureau and Staff Directors of the Offices for Northern & Southern Cultural Communities (ONCC & OSCC) have been abolished. Corollarily to this, Section 75 provides for a period of six (6) months from the effectivity of the Act, i.e., November 22, 1997 to May 22, 1998, within which to wind up its affairs.

"In this regard, kindly be notified that effective at the close of office hours on May 22, 1998, you are hereby considered separated from the service by operation of law. Please be notified further that your confidential staff whose appointment is co-terminus with yours are likewise considered separated from the service.

"Pursuant to the pertinent provisions of the law, you are entitled to a gratuity at a rate equivalent to one and a half months salary for every year of continuous and satisfactory service rendered or the equivalent nearest fraction thereof on the basis of highest salary received. You also have the option to select either retirement or the gratuity herein offered."

On July 17, 1998, however, Sibug was designated by the NCIP Chairman as Liaison Officer of the NCIP. Said designation reads as follows:

"In the interest and exigency of the public service, BAE TRINIDAD T. SIBUG is hereby designated as Legislative Liaison Officer to Malacañang, House of Congress and Senate, and government agencies like DENR, DAR, DILG and DA effective July 17, 1998.

"BAE SIBUG is hereby tasked to establish adequate linkages, representation and coordination with the Office of the President of the Philippines, Office of the Speaker and

Senate President of the Congress of the Philippines as well as to the Secretaries of DENR, DAR, DILG and DA relative to support of the agency's programs and projects for the Indigenous Cultural Communities. She shall make regular report of the activities and other assigned task to the undersigned and she shall be entitled of all privileges and allowances as provided by law.

"This order shall remain in full force and in effect until revoked in writing by the undersigned or by any higher and competent authority."

It is explicit from Section 74 of RA 8371 that the position of Executive Director, among other positions, of the defunct ONCC and OSCC is to be phased out within the period prescribed under said law. And since Sibug was then the incumbent Executive Director of the OSCC, she has to relinquish her office and shall be entitled to separation pay as provided by the same law.

Be it stressed, however, that RA 8371 does not disqualify or proscribe the absorption or reappointment of officers and employees of the defunct ONCC and OSCC who were phased out to the NCIP. On the contrary, the said law categorically provides that they be given priority for appointment to NCIP, the only condition being that said officials and employees must meet the qualifications required of the positions to which they are to be appointed pursuant to Civil Service Law and rules.

Considering, therefore, that Sibug was designated as Liaison Officer and is rendering service as such, she is deemed to have been absorbed by the NCIP. Accordingly, she is entitled to the payment of her salaries and other benefits corresponding to said position for actual services rendered. Relevant to this issue is the ruling in **CSC Resolution No. 98-2849 dated November 3, 1998** where the Commission held as follows:

"With respect to Blanco, whose position was deemed abolished upon the effectivity of RA 8371, the Commission finds that her designation by virtue of NCIP Resolution No. 11-98, as Director of the Administrative Office is justified" 

"As designated directors of the NCIP, Bistoyong and Blanco are clearly entitled to receive salaries and the other benefits accruing to their positions. (Emphasis supplied)

"WHEREFORE, the Commission resolves to consider the designations of Rosalina L. Bistoyong and Rudita B. Blanco as Regional Director (NCIP) and Director, Administrative Office (NCIP) respectively, as valid. Hence, they are entitled to receive salaries and other emoluments pertaining to said positions."

Indeed, Sibug should be paid her salaries and other emoluments for actual services rendered on the strength of her designation as Liaison Officer. Otherwise, the non-payment or withholding of the same would result to the undue enrichment of the government at the expense of Sibug.

Moreover, the Commission has noted the work experience and qualifications of Sibug. As such, the Commission interposes no objection if she be issued, at the discretion of the appointing authority, a regular appointment under the new staffing pattern and plantilla of personnel of the NCIP, commensurate to her qualifications.

WHEREFORE, the Commission hereby rules that Bae Trinidad T. Sibug is entitled to the payment of her accrued salaries, for actual services rendered and other emoluments appurtenant to the position to which she was designated.

Quezon City, January 20, 1999

CORAZON ALMA G. DE LEON
Chairman

THELMA P. GAMINDE

Commissioner

JOSE F. ERESTAIN, JR.
Commissioner

Attested by:

ARIEL G. RONQUILLO
Director III

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