

ABSTRACT

Thesis Title : An Approach to the Development of Court's Administrative Personnel Laws

Student's Name : Mr. Monton Tienkasem

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Advisor Committee:

1. Mr.Jaran Pukditanakul Chairperson
2. Assoc.Prof.Dr.Montree Rupsuwan
3. Assoc.Prof.Dr.Apirat Petchsiri

The administration of Thai Courts of Law is controlled by two major laws. The first one is the Judiciary Act, which is the law governing the organization of the courts. The other is the Judicial Services Act which relates to the management system governing officials of the court including both judges and personnel of the courts other than judges. It should however be noticed that these laws have come into effect for more than 60 years. It is therefore very interesting whether the rules and regulations governing the management of non-judges staffs of the courts are still suitable for the implementation of justice of the courts at the present day.

Pursuant to the Judicial Service Act. B.E.2479 (1936), the commission established the "Commissions for Managing Personnel of the Courts other than judges"(COTJ) was charged with the duty of supervising the personnel management of court staffs who were not judges. Thus, judges extended their power to administer personnel management over non-court administrative staff without interference from external powers which, in practice, would be beneficial to the performance of the courts as a whole. This principle, however, was challenged when the dictatorship government proposed a change to the aforesaid Act. by claiming that the performance of duties of court administrative staff were no different from those of the general civil service. The Revision Act of 1954 repealed the COTJ completely, and was replaced by the Civil Services Commission (CSC) laws, which related to personnel management for general government and officers and includen rules and regulations for the management of court administrative staff. Since then, the administration of court administrative staff. Has been

subjected to the supervision of the CSC which is the central personnel management unit of the Civil Service. This feature tremendously contrasts to the principle of separation of powers and, also the principle of freedom of the Judiciary in administering court administrative staff. Court Administrative staff have duties that primarily consist of secretarial work to support the adjudicatory work of judges. As a result their duties, the personnel management system should not be subjected to the supervision or review of the Executive's unit, the CSC. Furthermore, the organization, rules and regulations concerning personnel management of court administrative staff should be established by judges if the effectiveness of the judicial system is considered the ultimate goal.

This research, therefore, proposes change to the laws relating to personnel management for court administrative staff to achieve greater efficiency of the Judicial system, and proposes three different solutions.

Firstly, the provisions of the Judicial Services Act of 1978 which empowers the CSC to administer the personnel management for court administrative staff should be repealed, and the provisions on COTJ should be prescribed instead so as to reestablish the former system of the management for court administrative staff.

Secondly, insofar as the first proposal could not be effectively carried out other subordinate legislations and rules and regulations relating to personnel management such as the Royal Decree on Organization of the Office of the Permanent Secretary of the Ministry of Justice, B.E.2536 (1993) and rules and regulations of the CSC on personnel management, should be amended in order to affirm the legal status of court administrative staff and their power and duties.

The final and recommended solution is that the personnel management system for the officials of the Judiciary; both judges and court administrative staff, should be completely independent from the Ministry of Justice. Subject to this solution, the power of the CSC in supervising personnel management for court administrative staff would be transferred to the Judiciary. In this regard, the judiciary will also take full responsibility for both the adjudicatory work and administrative work. In this way, the Judiciary would be a completely independent not subject to examination by the Executive and the Legislative branches of all the duties

performed by it. This research therefore proposes that the Executive and the Legislative branches should be permitted to examine personnel management for court administrative staff of the Judiciary in some areas, under the condition that the Judiciary should have such have similar powers to examine the other branches in the same manner.