

ABSTRACT

For the study on the Administrative Court of Appeal only in the case of the proposal relating to the establishment of the Administrative Court and Administrative Court procedure, from the study of related laws viz.: the Act on the Establishment of the Administrative Court and the Administrative Court Procedure, B.E. 2542 (1999) and the Rule of the General Assembly of Judges on the Administrative Court Procedure, B.E. 2543 (2000), it is found that:

Firstly, since the adjudication is the use of discretion by the courts or judges, which may cause an error from the admission of fact and the application of law, the provision of rights to appeal the judgments or orders of the Administrative Court of First Instance, it is the control and review of the use of discretion by the court in order to protect and prevent from the error adjudication by the Administrative Court of First Instance;

Secondly, under the legal provisions according to the Act on the Establishment of the Administrative Court and the Administrative Court Procedure, B.E. 2542 (1999), both parties are entitled to appeal all of the judgments or orders of the Administrative Court of First Instance for every case in both factual and legal problems without any limitation of the rights of appeal;

Thirdly, the appeal is the suspension of execution as per the judgments of the Administrative Court of First Instance. The parties who lost the cases mostly exercise their rights to submit the appeal against judgments of the Administrative Court of First Instance to suspend the execution as per the judgments of the Administrative Court of First Instance.

From the aforesaid reasons, the quantity of cases being brought into the Supreme Administrative Court is increased and there is the case where under legal provisions, both parties are entitled to appeal all of the judgments or orders of the Administrative Court of First Instance without any limitation of the rights of appeal. Moreover, the appeal results in the suspension of execution as per the judgments of the Administrative Court of First Instance and it entitles the parties who lost the cases to exercise their rights to submit the appeal against judgments of the Administrative Court of First Instance to the Supreme Administrative Court to suspend the execution as per the judgment of the Administrative Court of First Instance. Apart from this, due to the fact that the Supreme Administration Court also performs its duty as the Administrative Court of First Instance in the cases where there is law prescribing that the certain cases shall be filed directly to the Supreme Administrative Court, the burdens for the cases of the Supreme Administrative Court are increased and there is a small number of judges in the Supreme Administrative Court comparing to the burdens of the adjudication. Consequently, the judges fail to complete the judgments or orders for the cases which

are under the process of adjudication within the appropriate timeframe. This affects the adjudication of important cases which are benefits for general public

From the study of aforesaid reasons and necessity, it is found that the significant benefits which shall be obtained from the establishment of the Administrative Court of Appeal are as follows:

1. For the judicial benefits, the number of cases which are brought into the adjudication of the Supreme Administrative Court should be decreased. The adjudication by the court should be expedited within the appropriate timeframe and the court should have more time to decide the important cases in which the precedents should be standardized;

2. For the benefits of people, the grievance and injury should be alleviated within the appropriate timeframe and promptly. Moreover, it should be convenient for the people to access the justice procedure of the Administrative Court;

The structure of powers and duties, the organization and the case procedure of the Administrative Court of Appeal in other countries e.g. France and the Federal Republic of Germany are studied. Moreover, the structure of powers and duties, the organizational management and the case procedure of the Administrative Court of Appeal in Thailand are also presented. The impacts and the adjustments of the procedures of the Administrative Court of First Instance and the Supreme Administrative Court when the Administrative Court of Appeal is established are also presented.

Furthermore, the certain suggestions are provided in order that the Administrative Court of Appeal should be established in accordance with the intention of such establishment and in order to develop the Thai administrative justice procedure to be equal with the countries in which the administrative justice procedures have been developed for a long time.