

J. Y. Interpretation No.429 (June 6, 1997) *

ISSUE: Is Article 4, Paragraph 2, of the Regulation Governing the Training of Public Functionaries Passing High Level or Ordinary Level Civil Test? Examination, which confers no exemption of practical training, in contravention to the Public Functionaries Examination Act and the Constitution?

RELEVANT LAWS:

Articles 7 and 18 of the Constitution (憲法第七條、第十八條) ; Article 20, Paragraph 1, of the Public Functionaries Examination Act (公務人員考試法第二十條第一項) ; Article 4, Paragraph 2, of the Regulation Governing the Training of Public Functionaries Passing High Level or Ordinary Level Civil Test (公務人員高等暨普通考試訓練辦法第四條第二項) .

KEYWORDS:

public functionaries (公務人員) , high level civil service examination (高等考試) , ordinary level civil service examination (普通考試) , qualification (及格) , basic training (基礎訓練) , practical training (實務訓練) , assign (分發) , appoint (任用) , waiver (抵免) , exempt (免除) , commissioned (實授) . **

* Translated by Professor Spenser Y. Hor.

** Contents within frame, not part of the original text, are added for reference purpose only.

HOLDING: Article 21, Paragraph 1, of the Public Functionaries Examination Act, implemented on January 24, 1986, states that, “Training shall be given to those who pass the high level or ordinary level civil service examinations, according to each respective examinee’s qualified category. Certificates, assignments and appointments shall only be issued or made to those who satisfactorily complete the training.” (The wording in Article 20, Paragraph 1, of the same Act currently in force stipulates the same.) Accordingly, public functionaries, after passing the high level or ordinary level civil service written examination, shall receive training and after receiving satisfactory training scores, shall have completed the examination procedures. Since training is part of the statutory examination procedures, unless otherwise provided in other laws or regulations, no waiver of training shall be allowed. Article 4, Paragraph 2, of the Regulation Governing the Training of Public Functionaries Passing High Level or Ordinary Level Civil Test prescribing that no waiver is allowed for practical training is

解釋文：中華民國七十五年一月二十四日公布之公務人員考試法第二十一條第一項規定：「公務人員高等考試與普通考試及格者，按錄取類、科，接受訓練，訓練期滿成績及格者，發給證書，分發任用」（現行法第二十條第一項之規定意旨亦同）是公務人員高普考試筆試及格後，須經訓練，訓練期滿成績及格，始完成考試程序。訓練既為法定考試程序之一部分，除法令另有規定外，自不得抵免。公務人員高等暨普通考試訓練辦法第四條第二項就實務訓練無免除之規定，符合上述立法意旨，與憲法尚無牴觸。

consistent with said legislative intent [of Article 21, Paragraph 1, of the Public Functionaries Examination Act], and is not in contravention to the Constitution.

REASONING: Article 21, Paragraph 1, of the Public Functionaries Examination Act, implemented on January 24, 1986, states that, “Training shall be given to those who have passed the high level or ordinary level civil service examination, according to the respective examinee’s qualified category. Certificates, assignments and appointments shall only be issued or made to those who satisfactorily complete the training.” (The wording in Article 20, Paragraph 1, of the same Act currently in force stipulates the same.) Article 21, Paragraph 1, prescribes the procedures of civil service examinations, i.e., after passing the written examination and completing the training, the examination procedure will be completed. Article 21, Paragraph 2, of the same Act authorizes the promulgation of the Regulation Governing the Training of Public Functionaries Passing High Level or Ordinary Level Civil Test in order to ensure

解釋理由書：七十五年一月二十四日公布之公務人員考試法第二十一條第一項規定：「公務人員高等考試與普通考試及格者，按錄取類、科接受訓練，訓練期滿成績及格者，發給證書，分發任用。」（現行法第二十條第一項之規定意旨亦同）是公務人員高普考筆試及格後，須經訓練，訓練期滿成績及格，始為完成法定考試程序。依同法條第二項授權訂定之公務人員高等暨普通考試訓練辦法，旨在增進工作知能，加強考用之配合。同辦法第四條第一項規定：「本訓練分基礎訓練與實務訓練兩階段，其期間合計四個月至一年。」其第二項規定：「本辦法實施前曾應公務人員高等、普通考試及格之現任或曾任公務人員；或曾依本辦法之規定接受基礎訓練成績及格者，得免除基礎訓練，惟實務訓練期間與分兩階段實施者同。」明示公務人員高等及普通考試筆試錄取人員之訓練分為兩階段實施，前階段之基礎訓練係以充實初任公務人員應具備之基本觀念及有關業務之一般知

the competence of future civil servants and strengthen the connection between examinations and appointments. Article 4, Paragraph 1, of the said Regulation provides that: "The period of training, lasting from four months to a year, can be divided into two portions, basic training and practical training." Said Article 4, Paragraph 2, further states that: "those current or former public functionaries who qualified after passing the high level or ordinary level civil service examination before the implementation of the said Regulation or completed the basic training after the said implementation, may be exempted from basic training; whereas, the length of the practical training for those exempted public functionaries is the same as that of regular ones." Consequently, training for qualified candidates who have passed the high level or ordinary level civil service examination can be divided into two parts. The first part of basic training is designed to instill the basic concepts and knowledge of new public functionaries; the second part of practical training is designed to strengthen job-related professional knowledge and skills.

識為主，而後階段之實務訓練則以增進有關工作所需知能為專業訓練之重點。實務訓練既基於特殊目的而實施，自與筆試錄取人員先前是否曾有服公職經驗或年資等未必相涉，上開辦法第四條第二項對此並無抵免規定，對所有公務人員高等或普通考試及格人員一體適用，與憲法第七條及第十八條尚無牴觸。惟應考人在筆試錄取前已取得與錄取類科相當之合格實授公務人員身分，且與擬任職務之工作性質亦屬雷同者，是否一律不得以其實際經驗抵免實務訓練，宜由主管機關檢討改進。

Since practical training is based upon special purposes, the fact of whether a given candidate qualified for the high level or ordinary level civil service examination and served in the civil service before, or whether he/she has certain years of experience is not necessarily relevant. Article 4, Paragraph 2, does not make such distinctions and does not provide any exemptions. It shall apply to everyone who qualifies for the high level or ordinary level civil service examination, and is not in contravention to Articles 7 and 18 of the Constitution. Nevertheless, the question of whether examinees who served equivalent civil service as commissioned public functionaries before taking the high level or ordinary level civil service examination in a specific category are absolutely prohibited from waiving the practical training may be further reviewed by the competent authority.