

Thesis Title	The Administrative Court's Judicial Review of the Discretion of the Promotion Order for Governmental Officials
Author	Wanida Kongleng
Thesis Advisor	Professor Dr. Phaisith Phipatanakul
Department	Law
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ABSTRACT

The goal of this study is to examine the discretion of the state agencies or administrative officials in issuing a promotion order for governmental officials in order to explore the causes of unlawful promotion orders and reasons that the Administrative Court of Thailand applied in the judicial review of such order including seeking for a proper guideline to control the discretion of the promotion order.

According to the research, application to the law by the Administrative Court in reviewing the legitimacy of the promotion order is obscure. This is because the administrative orders were not issued by an authorized agency or person or such orders were not comply with the legal process or the agencies or the officials abuse their discretion in issuing the promotion order.

In addition to unclear application to law of judicial review of the promotion order, it is also found that judicial review of the discretion by the Administrative Court remains inexplicit. In the event that the agencies or officials had set the direction to make discretion in issuing the promotion order, the Administrative Court has no certain way to strictly control the agencies or officials to comply with such direction in order to abide with legislative intent and make the least impact on governmental officials' interest. Furthermore, the Administrative Court had controlled the discretion of the appointment of an academic research examiner. However, the Court had no special knowledge to consider an appropriate person for this position, while the agencies know the qualification of a person who is fit for this position better. The agencies may have special reasons to appoint such person in order to run the human management effectively.

Concerning the French legal system, a promotion order is a type of an administrative order, therefore; the judicial review of such order followed the same principle as the other administrative orders. In other words, when the administrative order is not legitimate because an agency or official who issued the order is not authorized, the Administrative Court has the power to withdraw such order without considering the discretion of the agency or the official. In the case that laws provide power to the agencies or officials to make discretion, the Court would review only the legitimacy and allows the agencies or officials independently make their own decision. Rejection to make discretion when required by law is an illegal administrative action. The German Administrative Court applies the same principle as the French Administrative Court. Both French and German Courts do not interfere with the discretion of the state agencies or governmental officials particularly when special knowledge is required.

In conclusion, the Thai Administrative Court should apply concept and principle from the foreign Courts in order to control legality of the discretion in issuing promotion order. Therefore, the discretion of the order would comply with the same direction of legal concept and principle of the discretion by the administrative agency.