

GARCIA, Sonia S.
BAYOCA, Anilo D.
Re: Payment of Terminal Leave
Benefits

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RESOLUTION NO. 001278

Sonia S. Garcia and Anilo D. Bayoca, both former members of the Sangguniang Bayan, Prieto Diaz, Sorsogon, request exemption from the provisions of Section 5, Rule XVI of Civil Service Commission (CSC) Memorandum Circular No. 41, series of 1998, which would in effect forfeit their accumulated terminal leave benefits from year 1988 to December 31, 1991.

Said Memorandum Circular reads, as follows:

"Section 5. Leave Credits of Local Elective Officials - Local elective officials started to be entitled to leave privileges effective May 12, 1983 only pursuant to Batas Pambansa 337. However, said leave was commutative but cumulative. This means that local elective officials who did not commute said leave during the year earned are deemed to have forfeited the same.

"However, starting January 1, 1992 local elective officials shall be entitled to leave privileges as those enjoyed by appointive local officials, including accumulation and commutation thereof."

In said request, they stated the following:

"Our request is anchored on humanitarian grounds considering the fact that Prieto Diaz (and all other poor municipalities) is a 6th class municipality whose IRA share is so small that in those years 1988 to 1992, it was simply impossible to appropriate an amount to pay for the leave credits of local officials. Only a very small portion can only be allocated and it was good for those who lost in the elections (sic). In our case, since we are still in the service (and in the absence of a clear cut policy) it was deemed accumulated.

"After our third term (1988 to 1998), we were about to file our terminal leave as they are properly appropriated in the Municipality's Annual Budget for CY 1999, however, MC No. 41, s. 1998 was released by your CSC Provincial Office on January 11, 1999 and were furnished a copy by the Municipal Accountant underscoring Section 5 of Rule XVI as quoted.

"It was not our intention to forfeit the same and said ruling shall deeply prejudice us together with all other local officials. We have served as Sangguniang Bayan members and after ten (10) years of public service, we hoped to claim as our only consolation said benefits. I would be frustrating that when funds are finally appropriated for the purpose, the Honorable

Commission shall deprive us of said benefits."

Records show that Garcia and Bayoca were duly elected members of the Sangguniang Bayan of the municipality of Prieto Diaz, Sorsogon, from 1988 to 1998. On their third term of office in 1998, they were about to apply for the payment of their terminal leave pay from year 1988 to 1998 as the same was appropriated in the municipality's annual budget for the year 1999. However, the municipal accountant withheld said payment on the basis of the aforesaid provision of MC 41, s. 1999.

If the said provision of law will be strictly applied, Garcia and Bayoca will only be entitled to their terminal leave benefits from January 1, 1992 up to the end of their third term in 1998. Consequently, this would deprive them of the payment of their terminal leave benefits from 1988 up to December 31, 1991.

Hence, this request.

Be it noted that the provisions of Civil Service Commission (CSC) Memorandum Circular No. 41, s. 1998 have been amended by Section 5 of CSC Memorandum Circular No. 14, s. 1999 (Additional Provisions and Amendments to CSC Memorandum Circular No. 41, s. 1998). The amendment included the entitlement of elective officials in the local government units to the commutation and cumulation of their leave credits effective May 12, 1983. This means that the leave credits earned in a given year which were not used therein will be carried over to the succeeding year. Specifically, said provision reads, as follows:

"Sec. 5. Leave credits of local elective official - Local elective officials are entitled to leave privileges effective May 12, 1983 pursuant to Batas Pambansa 337 and Local Government Code of 1991 (RA 7160). Said leave credits shall be commutative and cumulative. (Underscoring supplied)

The amendment was effected to conform to the provisions of Article 77(b) (1), of Rule XIV, Rules and Regulations Implementing the Local Government Code of 1991 which explicitly provides as follows:

"Article 77. Compensation and Benefits. -

(b) Benefits

"(1) Elective local officials shall be entitled to the same leave privileges as those enjoyed by appointive local officials, including the cumulation and commutation thereof."

As culled from the records of the case, local elective officials who held office as such are entitled to leave privileges similarly enjoyed by appointive public officials effective May 12, 1983. Hence, their leave credits are commutative and cumulative. For this reason, it is obvious that there is no need for Garcia and Bayoca to request from exemption from the aforesaid

provision of Memorandum Circular No. 41, s. 1998.

In sum, as former members of the Sangguniang Bayan of Prieto Diaz, Sorsogon, from 1988 to 1998, the terminal leave credits earned by Garcia and Bayoca within such period are cumulative and therefore, may be paid to them as terminal leave pay.

WHEREFORE, the Commission declares that Sonia S. Garcia and Anilo D. Bayoca, former members of the Sangguniang Bayan, Prieto Diaz, Sorsogon, from 1988 to 1998 shall be paid their terminal leave benefits pursuant to Civil Service Commission Memorandum Circular No. 14, s. 1999.

Quezon City, May 26, 2000

(Sgd.) CORAZON ALMA G. DE LEON

Chairman

(Sgd.) JOSE F. ERESTAIN, JR.

Commissioner

Attested by:

(Sgd.) ARIEL G. RONQUILLO

Director III