

**BAUTISTA, Enrique R.**  
**Re: Retirement; Query**

x-----x

## **RESOLUTION NO. 001629**

Enrique R. Bautista, former Mayor of the Municipality of Sta. Cruz, Laguna, request this Commission for a ruling on the following issues:

"1. Having been lawfully elected for a three-year term, shouldn't the undersigned be paid the salaries and other emoluments of the office for the three-year period?

"With all due respect, it is the contention of the undersigned that since he was unjustly deprived of the position because of the alleged election of his opponent, which election was subsequently declared null and void, undersigned should rightfully be paid in full the emoluments of the position. The undersigned situation is analogous to permanent appointees in the Philippine Civil Service who are illegally dismissed from the service. Upon reinstatement, they are fully paid back salaries/wages aside from being fully restored to their full seniority rights.

"2. Granting arguendo that the undersigned may not be paid his full salaries and other emoluments or allowances for the whole 3-year period for which he was elected, shouldn't he be credited for the whole 3-year term even only for purposes of meeting the 3-year continuous service required under the afore-cited GSIS Memorandum Circular No. 3-97 for retirement under RA 1616?

"Again, with all due respect, the undersigned strongly contends that the issue be resolved in his favor. If he cannot be paid his back salaries and emoluments/allowances he would be doubly penalized if the whole 3-year period of his term cannot even be taken into account to qualify him for retirement under RA 1616. Such an interpretation is certainly most unjust and unfair to him! Further, it goes against the time-honored principle that in case of doubt, labor legislation should always be interpreted in favor of labor."

The records show that on October 2, 1997, Bautista was judicially declared to have won the May 8, 1995 election as Municipal Mayor of Sta. Cruz, Laguna. The dispositive portion of the Decision dated October 2, 1997 of Judge Pablo P. Francisco, Regional Trial Court of Laguna, Branch XXVI, reads, as follows:

"WHEREFORE, judgment is hereby rendered declaring protestant ENRIQUE R. BAUTISTA to have won the May 8, 1995 election for the position of the Municipal Mayor of Sta. Cruz, Laguna with a plurality vote of 8,635 and declaring the election of protestee DOMINGO G. PANGANIBAN to the same office as null and void. x x x"

The said decision was elevated on appeal to the Commission on Elections (COMELEC). The COMELEC, in its Resolution promulgated on May 7, 1998, ruled, as follows:

"WHEREFORE, premises considered, the Decision dated October 3 (sic), 1997 is hereby affirmed with modifications to the extent that protestant is the lawfully elected Mayor of Sta. Cruz, Laguna with a margin of two thousand four hundred sixty nie (2,469) votes."

The Commission opines that Bautista cannot claim from the Municipality of Sta. Cruz the payment of salaries covering the period from May 8, 1995 to October 1, 1997. While it is true that he was declared as the lawfully elected Mayor of Sta. Cruz, Laguna, it must be stressed that such was made only on October 2, 1997. It should be noted that if payment of salary or other compensation is made by the government, in good faith, to an officer de facto, while he is still in possession of the office, the government cannot be compelled to pay a second time to the office de jure when he has recovered the office, at least where the tenure of the office de facto was by color of title. Disbursing officers, charged with payment of salaries, have a right to rely upon the apparent title, and treat the officer who is clothed with it as the officer de jure, without inquiring whether another has the better right. (*Dolan vs. Mayor*, 68 N.Y. 274, 23 Am. Rep. 168; *Mechem*, A Treatise on the Law of Public Offices and Officers, Section 332, pp. 222-223).

However, the Commission finds merit on the request of Bautista to consider the period from May 8, 1995 to October 1, 1997 as part of his government service in order for him to comply with the three (3) years continuous service requirement provided for in Government Service Insurance System Memorandum Circular No. 3-97, which reads as follows:

"Any official or employee, appointive or elective, regardless of age and employment status is eligible to retire under Sec. 12 (c) of RA 1616 as amended by RA 4968 subject to the following conditions:

x x x

"3. Last 3 years of service must be continuous, meaning, no separation or leave of absence without pay of more than 1 year within the last 3 years of service x x x."

While it is true that Bautista did not render actual service from May 8, 1995 up to October 1, 1997, the said period, however, may be considered as creditable service for purposes of retirement. Retirement laws are liberally construed and administered in favor of the persons intended to be benefited, and all doubts are resolved in favor of the retiree to achieve their humanitarian purpose. (*In Re: Amount of Monthly Pension of Judges*, 190 SCRA 315; *Profeta vs. Drilon*, 216 SCRA 728)

WHEREFORE, it is hereby ruled that Enrique R. Bautista cannot claim from the Municipality of Sta. Cruz, Laguna, salaries and other emoluments appurtenant to the position of the Mayor of said municipality from May 8, 1995 up to October 1, 1997. However, his request to accredit the period from May 8, 1995 to October 1, 1997 as part of his creditable service for

purposes of retirement is hereby granted.

Quezon City, JUL 11 2000

**(SGD.) CORAZON ALMA G. DE LEON**

Chairman

**(SGD.) JOSE F. ERESTAIN, JR.**

Commissioner

**(SGD.) ELMOR D. JURIDICO**

Commissioner

Attested by:

**(SGD.) ARIEL G. RONQUILLO**

Director III

CADL-RES/bautista/MVM/A2/S14/jca106/0-00-0156