

ILAGAN, Ma. Corina Antonette

Re: Back Salaries

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RESOLUTION NO. 002640

Federico M. Lago, Municipal Vice Mayor, Officer-In-Charge, Office of the Mayor, Palo, Leyte, requests clarification from the Commission relative to the issue as to who will pay the back salaries of Ma. Corina Antonette Ilagan, former Budget Aide of the said municipal government, who was ordered reinstated to the said position with payment of back salaries under CSC Resolution Nos. 98-2681 and 99-0811 dated October 8, 1998 and April 14, 1999, respectively.

In his letter dated August 24, 2000, Lago represents, as follows:

"This is with regard to the case of ILAGAN, Ma. Corina Antonette, which was the subject of CSC Resolution No. 98-2681, dated October 8, 1998, which provides for the reinstatement of Ilagan to her former position with payment of back salaries from the period of her illegal separation to actual reinstatement.

"Considering that the aforementioned Resolution does not indicate as to who will pay Ilagan's back salaries, may we be enlighten (sic) as to who will shoulder the payment of her back salaries."

Records show that on October 8, 1998, the Commission issued Resolution No. 98-2681, the dispositive portion of which reads as follows:

"WHEREFORE, the appeal of Ma. Corina Antonette Ilagan is hereby granted. Accordingly, she is reinstated to her former position with payment of back salaries from the period of her illegal separation to actual reinstatement."

Aggrieved by the aforesaid resolution, Mayor Federico B. Diamante moved for the reconsideration of the same but was denied by the Commission under Resolution No. 99-0811 dated April 14, 1999.

As a general rule, payment of back salaries shall be taken from the coffers of the government. However, if it can be proved by evidence that the official(s) acted in bad faith or malice in effecting the dismissal of an employee from the service, then the latter may be held liable in his personal capacity for the payment of back salaries. This pronouncement has been incisively elucidated in the case of Fernandez vs. Cuneta, 108 Phil. 427, where the Supreme Court ruled, as follows:

"If the dismissal of an employee was effected not only illegally, but, also, with gross negligence on the part of the official concerned, if not utter disregard of the employees rights, practically amounting to malice and bad faith, the said official may

be ordered to pay the employee his back salaries."

In the instant case, the Commission finds no ill motive on the part of Mayor Diamante in effecting the termination of Ilagan from the service. The record is bereft of any evidence to show that Mayor Diamante was motivated by ill will or personal malice in dismissing Ilagan. As it was, the Mayor only desired to comply with the mandates of the law on civil service which was, unfortunately, misinterpreted or misconstrued by him. This being so, he cannot, therefore, be made liable to pay the back salaries of Ilagan in his personal capacity.

Viewed in the light of the foregoing premises, it is only appropriate to charge the payment of Ilagan's back salaries against the coffer of the municipal government of Palo, Leyte, there being no showing of malice or bad faith on the part of Mayor Diamante in effecting the termination of Ilagan from the service.

WHEREFORE, the Commission hereby rules that the back salaries of Ma. Corina Antonette Ilagan shall be charged against the coffers of the municipal government of Palo, Leyte. Vice Mayor Federico M. Lago, Officer-in-Charge, Office of the Municipal Mayor or whoever is the incumbent Mayor, is hereby directed to implement immediate release of Ilagan's back salaries.

Quezon City, November 27, 2000

J. WALDEMAR V. VALMORES

Commissioner

CORAZON ALMA G. DE LEON

Chairman

JOSE F. ERESTAIN, JR.

Commissioner

Attested by:

ARIEL G. RONQUILLO

Director III

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