

LIBO-ON, Manuel
Re: Query; Effect of Leave Without
Pay on the Grant of Length of
Service Step Increment

x-----x

RESOLUTION NO. 002643

Manuel S. Libo-on, Assistant Regional Director for Administration, Department of Agrarian Reform (DAR), Agrarian Reform Regional Office No. VI, Iloilo City, seeks clarification on the provisions of Civil Service Commission Memorandum Circular 41, series of 1998, specifically Section 60 thereof which pertains to the effect of vacation leave without pay on the grant of length of service step increment.

His letter-query reads as follows:

X X X

"On December 1998, CSC issued MC #41, the Omnibus Leave Laws which amended certain provisions of Book V of EO 292, and we understood this as part of the humanization efforts of the CSC. One particular provision, however, needs further clarification. Section 60 of MC #41, s. of 1998 specifically provides:

'Section 60. Effect of vacation leave without pay on the grant of length of service of service step increment. - For purposes of computing the length of service for the grant of service step increment, approved vacation leave without pay for an aggregate of fifteen (15) days shall not interrupt the continuity of the three-year service requirement for the grant of service step increment. However, if the total number of authorized vacation leave without pay included within the three-year period exceeds fifteen (15) days, the grant of one-step increment will only be delayed for the same number of days that an official or employee was absent without pay.' (emphasis ours)

"Some of our employees have had vacation leave without pay for more than fifteen (15) days and was not given step increment then.

"One particular case is that of a Bar Reviewee, who was authorized vacation leave for six (6) months, four months of which is (sic) without pay. She applied for leave effective April 1990 and was on leave without pay by June 1 up to September 30, 1990. She reinstated on October 3, 1990. At that time, there never was any support from the CSC or any agency for those who took the Board or Bar. However, CSC-DBM Circular No. 1, series of 1990 already took effect on January 1, 1990.

"She was appointed to her position on January 20, 1988 and while she could have been entitled to a one (1) step increment by January 20, 1991, she could not because she was on vacation leave without pay for four months. Instead, she was given her first step increment on October 1990, her day one of continuous three (3) year service having commenced only upon reinstatement.

"By virtue of the aforementioned provision, which to us is more humane and favorable to the employee, can she be given her first step increment earlier than 1994? If she can, how shall the three year of service be computed?

"We believe that this new development, if given retroactive effect, is a welcome treat for those who have been in the service and the same position for quite sometime, lest they be among those "wounded souls" in the government service."

As represented by Libo-on, the employee who was appointed on January 20, 1988 is entitled to a one-step increment on January 21, 1991, as provided for under Section 2 of the Joint CSC-DBM Circular No. 1, s. 1990, which provides, as follows:

"Section 2. Length of Service. A one (1) step increment shall be granted to all officials and employees for every three (3) years of continuous satisfactory service in the position. Years of service in the position shall include the following:

those rendered before the position was reclassified to a position title with a lower or the same salary grade allocation; and

those rendered before the incumbent was transferred to another position within the same agency or to another agency without a change in position title and salary grade allocation. (b) "In the initial implementation of step increments in 1990, an incumbent shall be granted step increments equivalent to one (1) step for every three (3) years of continuous satisfactory service in a given position occupied as of January 1, 1990." (underlining supplied)

However, since said employee went on vacation leave for six months, four of which are without pay, the aforementioned provision will not apply to her. The mere fact that she was on leave without pay indicates that her service is not continuous. Hence, she will only be entitled to the grant after completing another three years of continuous satisfactory service from the time she reports to office after her leave.

Thus, Libo-on contends that if Section 60 of CSC Memorandum Circular No. 41, series of 1998 will be given retroactive effect, said employee no longer needs to wait for another three years to be entitled to a step increment. Instead the grant of step increment will only be delayed for four months, as in this case or for the number of days that an official or employee was absent without pay.

For clarity, quoted hereunder is Section 60 of MC No. 41, s. 1998:

"Section 60. Effect of vacation leave without pay on the grant of length of service step increment. - For purposes of

computing the length of service for the grant step increment, approved vacation leave without pay for an aggregate of fifteen (15) days shall not interrupt the continuity of the three-year service requirement for the grant of step increment. However, if the total number of authorized vacation leave without pay included within the three-year period exceeds fifteen (15) days, the grant of one-step increment will only be delayed for the same number of days that an official or an employee was absent without pay." (underlining supplied)

A cursory reading of the instant query reveals that the focal issue that needs to be clarified is whether or not Section 60 of CSC Memorandum Circular No. 41, series of 1998 can be given retroactive effect to entitle an employee who went on leave without pay a step increment based on his/her length of service without necessarily completing another three years.

It is worthy to note that CSC MC No. 41, s. 1998 was issued by the Commission in accordance with its rule making power under Section 12(2), Chapter 3, Title I-A, Book V of the Administrative Code of 1987.

Rules and regulations issued by administrative authorities pursuant to the powers delegated to them shall have the force and effect of law (Nachura, Outline/Reviewer in Political law, page 231 [1996 ed.]). Having the force and effect of law, the rules and regulations promulgated by the Commission, as a general rule, have no retroactive effect (Article 4 of the New Civil Code).

There is nothing in Memorandum Circular No. 41, series of 1998 which would indicate that it was intended to apply to cases that arose prior to its effectivity. In view thereof, the present provision that if the total number of vacation leave without pay included within the three-year period exceeds fifteen (15) days, the grant of one-step increment will only be delayed for same number of days that an official or employee was absent without pay, shall apply prospectively.

WHEREFORE, the Commission hereby rules that Section 60 of CSC Memorandum Circular No. 41, series of 1998 applies prospectively.

Quezon City, NOV 27 2000

(SIGNED)

JOSE F. ERESTAIN, JR.

Commissioner

(O.B.)

CORAZON ALMA G. DE LEON

Chairman

(SIGNED)

J. WALDEMAR V. VALMORES

Attested by:

(signed)

ARIEL G. RONQUILLO

Director III