

GUIANG, Loreta S.

Re: Denial of Rehabilitation

Leave; Appeal

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RESOLUTION NO. 030094

Loreta S. Guiang, Teacher II, Department of Education, Culture and Sports (DECS) District of San Fabian, Pangasinan, appeals the Opinion dated December 6, 2001 of the Civil Service Commission Regional Office (CSCRO) No. I, San Fernando, La Union denying her request to avail of rehabilitation leave under Section 55, Rule XVI of Civil Service Commission Memorandum Circular No. 41 Series of 1998.

The material portions of the said letter-opinion read, as follows:

" . . . you are requesting clarification as to the payment of your sick leave of absence from June 4, 2001 to September 1, 2001 on account of multiple 'colloid adenomatous' operation.

"You mentioned that your operation . . . was incurred in the performance of your duty as shown by medical certificates and other expenses attached to the said letter-request. Thus, you claimed that you are entitled to the payment of your sick leave of absence from June 4, 2001 to September 1, 2001 pursuant to Section 55, Rehabilitation for job-related injuries.

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" . . . this Office opines that you are entitled to the payment of your sick leave of absence if you have available sick leave credits as maybe certified by the head of the HRMO in your division office. This is based on the presumption that you were on leave with pay, if not your absences from June 4, 2001 to September 1, 2001 due to operation or medical treatment shall be deducted from your salary. In such case, you are not entitled to the benefits during the period of your medical treatment and recuperation as provided under Sec. 55 of Omnibus Rules on Leave since your illness cannot be considered as work/job related injuries."

The appeal of Guiang reads, in part, as follows:

"Taong 2001, June 1, nang maipasya kong magpa-opera sa Baguio City General Hospital . . .

"Ayaw ko mang gawin napilitan akong mag-leave ng tatlong buwan sa hangad kong makapag-pahinga, ngunit wala po akong tinanggap na sueldo dahil ayon kay Dr. JULIANA B. LAOAG, Schools Division Superintendent ng DECS Pangasinan II, Binalonan Pangasinan, ay hindi raw ako INTITLED (sic) dahil ikinunsidera niya na wala daw kinalaman ito sa aking (TRABAJO) bilang isang public school teacher, sa ilalim ng SEC. 55 of OMNIBUS RULES ON LEAVE.

"Kung atin pong uunawain at uugatin mabuti and nilalaman ng SEC. 55 ay maliwanag pa sa sikat ng araw sa umaga na WORK/JOB RELATED INJURIES ang aking kaso: BAKIT?

"1. Dahil hindi po ako RETIRED EMPLOYEE dahil kasalukuyan po akong nasa ACTIVE DUTY noong ako'y mainjured dahil sa aking pagpapa-opera.

"2. Na-Injured ako dahil inopera at hiniwa ang aking leeg dahil inalis ang aking COLLOID ADINOMATOUS GOITER NA tumubo dahil nakuha ko ito sa aking pagtuturo, pagtatrabajo kaya, WORK/JOB RELATED INJURIES ang nangyari!

"3. NAINJURED (sic) ako dahil naapektuhan ang aking kanang tenga kaya himina ang aking pandinig.

"Kaya maliwanag na INTITLED (sic) ako gaya ng isinasaad sa SEC. 55 REHABILITATION FOR JOB-RELATED INJURIES . . . "

The CSCRO No. I commented on the appeal, as follows:

" . . . this Office reiterates its opinion . . . that she is not entitled to rehabilitation leave. Based on the documents she submitted, her wound was on account of her operation on "Multiple Colloid Adenomatous,' not due to an injury or accident incurred while performing her official function. In short, it is not work-related injury. Further, there is no doubt that her operation was due to illness which she claims started 10 years ago. Hence, her appeal deserves denial."

Records show that on May 30, 2001, Guiang filed an application for sick leave for the period June 4, 2001 to August 2, 2001 to undergo an operation. On June 1, 2001, she underwent a medical operation to cure her of "Multiple Colloid Adenomatous Goiter" she was then suffering from. To recuperate from the effects of the said operation on July 23, 2001 she filed another application for sick leave, this time, for the period August 3, 2001 to September 1, 2001.

On September 2, 2001, Guiang returned to work. In a letter dated October 17, 2001 addressed to Juliana B. Laoag, Schools Division Superintendent, Department of Education, Culture and Sports (DECS) Region I, Division of Pangasinan II,

the appellant requested for the payment of her sick leave of absence for the period of June 4, 2001 to September 1, 2001.

The said request reads, as follows:

"Pursuant to CSC MC Nos. 4, s. 1998; 6 & 14, s. 1999 re: Rehabilitation Leave for Job Injuries, I would like to request your good office for the payment of my sick leave of absence effective June 4 to September 1, 2001 on account of my Multiple Colloid Adenomatous Operation which I incurred in the performance of duty.

Thereafter, the letter of Guiang was forwarded by Schools Division Superintendent Laoag to the Civil Service Commission Regional Office (CSCRO) No. I, requesting a clarification on whether the appellant is entitled to the said benefit. In a letter dated December 6, 2001, the CSCRO No. I opined that Guiang is not entitled to the payment of sick leave of absence since her operation or medical treatment is not a work/job related injury under **Section 55, Rule XVI of Civil Service Commission Memorandum Circular No. 41, s. 1998.**

Subsequently, in a letter dated December 22, 2001 and received by the Commission on January 7, 2002 Guiang appealed the opinion of the CSCRO No. I to the Commission Proper. In an Order dated February 4, 2002, the said Regional Office was requested to comment on the appeal and to submit the complete records of the case. Subsequently, in an Order dated July 12, 2002, the Commission reiterated the request for CSCRO No. I to comment on the appeal and also for Guiang to pay the required appeal fee and to submit a certificate of non-forum shopping.

On August 9, 2002 the Commission received the comment dated August 1, 2002 of the CSCRO No. I. Finally, Guiang complied with the requirements of perfecting an appeal on August 7, 2002.

Hence, this appeal.

The pivotal issue to be resolved is whether the Multiple Colloid Adenomatous Goiter may be considered job related illness under the rules for availment of rehabilitation leave.

Relevant to the instant case is **Section 55, Rule XVI (Leave of Absence) of Civil Service Commission Memorandum Circular No. 41 Series of 1998**, which provides:

"SEC. 55. Rehabilitation leave for job-related injuries. – Applications of officials and employees for leave of absence on account of wounds or injuries incurred in the performance of duty must be made on the prescribed form, supported by the proper medical certificate and evidence showing that the wounds or injuries were incurred in the performance of duty. The head of department/agency concerned shall direct that absence of an employee during his period of disability thus occasioned shall be on full pay, but not to exceed six (6) months. He shall also authorize the payment of medical attendance, necessary transportation, subsistence and hospital fees of the injured person. Absence in the case contemplated shall not be charged against the

sick leave or vacation leave, if there are any."

Well-entrenched is the precept that a social legislation like the rehabilitation leave, being remedial in character, should be liberally construed and administered in favor of the persons intended to be benefited thereby. The liberal approach aims to achieve humanitarian purposes of the law in order that the efficiency, security and well being of government employees may be enhanced.¹

It has been the intention of the Commission from the start that any sickness or illness, as long as it is service connected, is deemed included in the coverage of the rehabilitation leave contemplated under **MC No. 41, s. 1998²**.

Nevertheless, while the rehabilitation leave is a social legislation designed to give relief to employees, it is not the intention of the Commission to include in its coverage all injuries and illness which might be acquired by the employee in the course of the employment, but only those which are acquired in the performance of duty. Moreover, the claim for rehabilitation leave is over and above the rights of an employee to claim from other agencies such as GSIS or ECC. In evaluating the entitlement of an employee to rehabilitation leave, the Commission must not only decide from the sympathetic point of view but must consider proven facts pertaining to the relation of the injury and the work of an employee. To be entitled to the same, there must be evidence to show that the illness was incurred in the performance of duty or that it is service or work connected.³

In the present case, Guiang failed to present proof that the illness she was suffering from, "*Multiple Colloid Adenomatous Goiter*", was incurred in the performance of duty or that, it is service or work connected. Other than her personal opinion and conclusion that she acquired it while discharging her duties as a school teacher, the appellant did not provide evidence to substantiate such assertion. On the contrary, however, appellant admitted contracting the illness ten (10) years ago or way back 1991. Relevant to the discussion is the ruling of the Commission in the case of **MARANAN, Margaret, (Civil Service Commission Resolution No. 01-1532 dated September 13, 2001)**, which provides:

"There can be no hard and fast rule in determining whether or not a sickness is work-related. It is up to the applicant for rehabilitation leave to show a reasonable work-connection in his/her illness and if there is no work-connection in the sickness, he/she must show proof that the risk of contracting the illness is increased by the working conditions. He/she who alleges a fact has the burden of proving it and a mere allegation is not evidence."

It must also be mentioned that the illness of Guiang is not one of those Occupational Diseases found in the **Amended Rules on Employee's Compensation dated July 21, 1997**. Since the appellant failed to prove that her illness was incurred in the performance of duty or service or work related or that it is one of the Occupational Diseases, the Commission has no alternative but to deny her claim for rehabilitation leave for the period June 4, 2001 to September 1, 2001.

WHEREFORE, the appeal of Loreta S. Guiang is hereby **DISMISSED**. Accordingly, the Opinion dated December 6, 2001 of the Civil Service Commission Regional Office No. I, San Fernando, La Union, declaring that Guiang is not entitled to rehabilitation leave for the period June 4, 2001 to September 1, 2001 is affirmed.

Quezon City, January 21, 2003

(Signed)
KARINA CONSTANTINO-DAVID
Chairman

(Signed)
JOSE F. ERESTAIN, JR.
Commissioner

O.B.
J. WALDEMAR V. VALMORES
Commissioner

Attested by:

(Signed)
ARIEL G. RONQUILLO
Director III

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/guiang'r

¹Ortiz vs. COMELEC, 162 SCRA 812

²IGNACIO, Edgar W., Civil Service Commission Resolution No.01-0230 dated January 30, 2001

MARANAN, Margaret, Civil Service Commission Resolution No. 01-1532 dated September 13, 2001