

MANUBAG, Jerry M.

UY, Gary A.

**Re: Back Salaries: Double Compensation;
Employment in Private Corporation**

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RESOLUTION NO. 001341

Engineer Manuel M. Casino, General Manager, Bukidnon Forests Incorporated (BFI), Malaybalay, Bukidnon, requests clarification of Civil Service Commission Resolution No. 98-2111 (Manubag, Jerry, et. al.) dated August 13, 1998. Said Resolution ordered the payment of back salaries to Jerry M. Manubag and Gary A. Uy, Planning Officer III and Warehouseman, respectively, of the Bukidnon Industrial Plantation Project (BIPP-BFI), as follows:

"WHEREFORE, the Commission resolves to rule that Jerry Manubag and Gary Uy are entitled to all benefits accruing to their positions from the time they were illegally terminated up to their actual reinstatement. Accordingly, BIPP-BFI is ordered to reinstate them and to pay their back salaries."

In his request, General Manager Casino represented that Manubag and Uy were gainfully employed at a private organization, Philippine Tree Farm Incorporated, during the period they were terminated.

The issue that needs to be resolved is whether or not the earnings of an illegally terminated employee during the pendency of his case should be deducted from the back salaries that would be awarded him.

There are two situations that need to be considered. First, if the employee during the period of the illegal termination is employed in the public sector and second, if he is employed in a private institution.

As regards the first situation, it is already well settled that the salaries earned by an employee from another government entity during the pendency of his case, should, in case of reinstatement, be deducted from his back salaries. Otherwise, this would constitute double compensation. This is prohibited under Article IX-B, Section 8 of the Constitution which states that "No elective or appointive public officer or employee shall receive additional, double, or indirect compensation x x x ."

Relevant to this is CSC Resolution No. 92-569 (Daquer, Mario C.) dated April 14, 1992 wherein the Commission ruled, as follows:

"Daquer was able to get employment from another government agency (AFP) during the period of his separation. However, allowing him to get back salaries for that period, on the premise that he has not left his office at the City Government xx and

at the same time collecting salaries from the government through AFP during the same period, will already constitute double compensation which is prohibited by the Constitution. Double compensation properly refers to two sets of compensation, from two different offices held concurrently by one officer. The salaries received by Daquer from his employment during the period of his separation should be deducted from the total back salaries due him."

This ruling has been reiterated in CSC Resolution No. 98-1095 (Romasanta, Antonio, Jr.) dated May 15, 1998, as follows:

However, the third ground raised by PPWCD has merit. In keeping with the constitutional provision against double compensation, it is but right that the salaries Romasanta earned during his termination be deducted from his backwages xxx.

X X X

"WHEREFORE, the motion for reconsideration is hereby denied xxx. However, the payment of back salaries and other benefits due to Antonio Romasanta, Jr., should be reckoned from his illegal termination up to his reinstatement in the service minus the salaries received from the City Government of Puerto Princesa City."

From the above, it is clear that to allow the employee to receive his back salaries covering the period of his illegal termination without any deduction, notwithstanding that he was employed in the government for the same period, should result in double compensation, and is thus, prohibited.

Anent the second situation wherein the employee entitled to back salaries has been employed in the private sector during the pendency of his case, the commission believes and so holds, that the constitutional prohibition on double compensation does not apply.

The prohibition against additional, double or indirect compensation has a legal purpose: to inform the people of the exact amount a public functionary is receiving from the government so they can demand commensurate services, and prevent the public functionary from dividing his time among the several positions concurrently held by him and ineptly performing his duties in all of them because it cannot devote to each the proper attention it deserves (Cruz, Philippine Political Law, 1995 Edition, page 304).

The above-stated purpose of the prohibition on double compensation does not obtain when the employee who was illegally dismissed sought employment in a private sector during the pendency of his case. Hence, the earnings of the said employee obtained from the private sector should not be deducted from the back salaries due him on account of his illegal dismissal.

Likewise, pertinent to this discussion is the rationale behind the grant of full backwages without deduction as stated by the

Supreme Court in the case of Bustamante vs. NLRC, 265 SCRA 61 [1996], to wit:

"The underlying reason for this ruling is that the employee, while litigating the legality (illegality) of his dismissal, must still earn a living to support himself and his family, while full backwages have been paid by the employer as part of the price or penalty he has to pay for illegally dismissing his employee."

WHEREFORE, the Commission hereby rules that the salaries earned by Jerry Manubag and Garry Uy from the private sector during the pendency of their case should not be deducted from the back salaries to be paid by Bukidnon Industrial Plantation Project - Bukidnon Forests Incorporated (BIPP-BFI).

Quezon City. June 08, 2000

(Sgd.) CORAZON ALMA G. DE LEON

Chairman

(Sgd.) JOSE F. ERESTAIN, JR.

Commissioner

Attested by:

(Sgd.) ARIEL G. RONQUILLO

Director III