

**RAMOS-ROMUALDO, Raquel**  
**Re: Dismissal from the Service;**  
**Request for Commutation and**  
**Payment of Leave Credits**

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**RESOLUTION NO. 001813**

Raquel Ramos-Romualdo, former Data Entry Machine Operator II, this Commission, in a letter dated January 14, 1999, requests the commutation and payment of her unused vacation and sick leave credits.

The request of Ramos-Romualdo reads, as follows:

"Ako po si Ms. RAQUEL RAMOS ROMUALDO na dating Empleyado ng Komisyon ng Serbisyo Sibil magmula noong May 11, 1978 hanggang Setyembre 1996. Ako po ay nakapaglingkod ng may mahigit sa labing walong (18) taon.

"Ako po ay humihingi ng tulong sa inyo na kung maari po ay makuha ko ang money value ng aking Leave Credits na naipon sa mahabang panahon na ako'y nagsilbi sa Komisyon. Kailangang-kailangan ko po ang ano mang halaga na makukuha para sa pang-araw-araw na gastos ng aking pamilya. Maliit lang po ang sahod ng asawa ko at hindi nagkakasya sa aming gastos sa araw-araw lalo na po sa pagtaas ng halaga ng mga bilingin.

"Umaasa po ako at tatanawin ko pong malaking utang na loob ang tulong na maibibigay ninyo sa akin."

Records show that in CSC Resolution No. 95-1660 (Ramos, Raquel, et al.) dated March 2, 1995, the Commission found Ramos-Romualdo (then named Ramos) guilty of Grave Misconduct and Falsification of Public Document and imposed on her the penalty of Dismissal from the Service. The dispositive portion of said Resolution reads, as follows:

"WHEREFORE, the Commission finds Raquel Ramos guilty of Grave Misconduct and Falsification of Public Document. Accordingly, she is meted the penalty of Dismissal from the Service. While there is no evidence to show that Aurelia Sagaoinit participated in the acts of Ramos, she is however hereby admonished to be cautious in her actions."

In CSC Resolution No. 96-5587 (Ramos, Raquel) dated September 4, 1996, the Commission denied her motion for reconsideration, thus:

"WHEREFORE, the Motion for Reconsideration of Raquel Ramos is hereby denied for lack of merit. Accordingly, CSC Resolution No. 95-1660 stands."

The provisions prevailing at the time the request was made are the following:

Section 9, Rule IV of the Omnibus Rules Implementing Book V, Title I-A of the Administrative Code of 1987 which specifically states:

"SEC. 9. The penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of leave credits and retirement benefits, and the disqualification for reemployment in the government service. Further, it may imposed without prejudice to criminal or civil liability." (underscoring supplied)

And Section 65 of Memorandum Circular No. 41, series of 1998 which states:

"SEC. 65. Effect of decision in administrative case. - An official or employee in the government who is separated from the service for cause shall forfeit his leave credits." (underscoring supplied)

In a letter dated October 21, 1999, Ramos-Romualdo followed up the said request to wit:

"This is to follow up my request for the entitlement of my terminal leave benefits which I forwarded to the Commission on January 18, 1999. I was dismissed from the service effective September 10, 1996.

"I would like to reiterate said request on the basis of section (sic) 61 & 65 of Memorandum Circular No. 14, s. 1999 (copy attached), providing additional provisions and amendments to CSC Memorandum Circular No. 41, s. 1998 which states as follows:

xxx

"I have been in the government service (CSC) for more than 18 years.

"I do hope the Commission will consider my request based on the abovementioned provisions."

In her follow-up letter, Ramos-Romualdo anchored her request pursuant to Sections 61 and 65 of Memorandum Circular No. 14, series of 1999 which are reproduced hereunder.

"SEC. 61. Effect of pending administrative case against an official or employee. - An official or employee with pending administrative case/s is not barred from enjoying leave privileges.

"SEC. 65. Effect of decision in administrative case. -- An official or employee who has been penalized with dismissal from

the service is likewise not barred from entitlement to his terminal leave benefits.

It is quite clear that of the two provisions, Section 61 has no application to the request of Ramos-Romualdo because her case had already become final and executory. Hence, only Section 65 may be applicable to the request of Ramos-Romualdo. However, it should be noted that Memorandum Circular No. 14, series of 1999 took effect on September 27, 1999.

Thus, the sole issue to be resolved is whether or not the abovementioned memorandum circular has a retroactive effect. Will it apply to officers and employees who were dismissed from the service, for cause, before September 27, 1999 which is the effectivity date of the said memorandum circular?

The above-cited memorandum circular was issued by this Commission in accordance with its rule-making power vested 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; they are binding on all persons subject to them, and the courts will take judicial notice of them Nachura, Outline/Reviewer in Political Law, page 213 [1996 ed.]

Having the effect and force 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). Moreover, any amendment made to an existing law (in this case the rules and regulations of this Commission) shall not be applicable to acts committed before the effectivity of the said amendments.

This principle was illustrated in the case of Buyco vs. Philippine National Bank, 112 Phil. 588 dated June 30, 1961, where the Supreme Court held as follows:

"Laws shall have no retroactive effect unless the contrary is provided. It is said that the law looks to the future only and has no retroactive effect unless the legislature may have formally given that effect to some legal provisions; that all statutes are to be construed as having only prospective operation, unless the purpose and intention of the legislature to give them a retroactive effect is expressly decreed or is necessarily implied from the language used; and that every case of doubt must be resolved against retroactive effect. These principles also apply to amendments of statutes. Republic Act 1576 does not contain any provision regarding its retroactive effect nor such may be implied from its language. It simply states its effectivity upon approval. The amendment therefore, has no retroactive effect, and the present case should be governed by the law at the time the offer in question was made. The rule is familiar that after an act is amended, the original act continues to be in force with regard to all rights that had accrued prior to such amendment." (emphasis supplied)

There is nothing in Memorandum Circular No. 14, series of 1999 which would indicate that it was intended to apply to cases that arose prior to its effectivity. In view thereof, the present provision allowing a dismissed employee to receive his terminal

leave benefits shall apply prospectively.

Be that as it may, the Commission recognizes the authority of the head of agency to determine, by his good and sound judgment, whether or not to grant the benefits of Section 65, MC No. 14, s. of 1999 to employees who were dismissed, for cause, prior to its effectivity. The head of agency is in the best position to review the case of the claimant and decide on the merit of the claim, or the lack thereof. Each actual situation should be resolved or decided by the head of agency on a case to case basis.

With this in mind, the Commission is inclined to grant the request of Ramos-Romualdo for the commutation and payment of her unused leave credits. In ruling favorably on the request of Ramos-Romualdo, the Commission does not intend to diminish the gravity of the offense committed by her. The Commission reviewed her case and believed that to grant her request would be more in keeping with the demands of justice and equity.

WHEREFORE, the request of Raquel Ramos-Romualdo for the commutation and payment of her unused vacation and sick leave benefit is granted.

Quezon City, AUG 11 2000

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

Chairman

**JOSE F. ERESTAIN, JR.**

Commissioner

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

Commissioner

Attested by:

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

## Director III

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