

PASION, Jaime G.

Re: Dismissal from the Service;
Request for Commutation and
Payment of Leave Credits

X-----X

RESOLUTION No. 01-0984

Jaime G. Pasion, former Civil Service Field Officer of Quezon Province, this Commission, requests the commutation of his unused vacation and sick leave credits. Pasion was dismissed from the service for Dishonesty, Gross Neglect of Duty, and Conduct Prejudicial to the Best Interest of the Service in CSC Resolution No. 95-0883 dated February 14, 1995. Moreover, his motion for reconsideration was denied in CSC Resolution No. 97-2122 dated March 25, 1997.

The pertinent portions of the letter-request of Pasion read, as follows:

"Ito po ay may kaugnayan . . . hinggil sa pagbabago ng patakaran tungkol sa forfeiture ng leave credits ng mga nadismised na kawani ng pamahalaan, bilang pagbabakasakali na makukuha ko pa ang money value nito.

"Bagama't hindi ko pa po natatanggap ang inyong kasagutan sa liham pong ito, ako po ay nakakuha na ng sipi ng CSC RES. No. 001813 sa kaso ni Gng. Raquel Ramos-Romualdo, kaya't batid ko na rin po ang mga sagot sa aking katanungan. Wala po palang retroactive

effect ang probisyon ng Section 65 ng MC 14, s. 1999, . . .

" . . . nabanggit po ng CSC RES. No. 001813 na '[B]e 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 14, s. of 1999 to employees who were dismissed for cause, prior to its effectivity. . . . Ito po ang nagbigay sa akin ng lakas ng loob upang muling lumiham sa inyo upang hilingin na kung maari po ay macommute ko pa ang anumang unused vacation and sick leave credits ko . . .

" x x x

"Sana naman po, kung naunawaan ng Komisyon si Raquel, sana'y maunawaan din po ninyo kami (sic)."

Records show that on February 14, 1995, Pasion was found guilty of Dishonesty, Gross Neglect of Duty, and Conduct Prejudicial to the Best Interest of the Service in CSC Resolution No. 95-0883. The material portions of the said resolution read, as follows:

"The evidence presented by the prosecution and the voluntary admission of Pasion in his Answer to the Formal Charge have explicitly and sufficiently established his guilt.

"It was never denied that Pasion, as accountable officer, was issued AFS by the Cashier of CSRO No. 4, on various dates, with an aggregate amount of P777,600.00, evidenced by Invoice and Receipt of Accountable Forms . . . Pasion returned unused AFS on September 7, 1993 in the amount of P31,400.00 and on May 4, 1994 in the amount of P23,600.00, thus leaving him a net accountability of P722,600.00.

"Pasion categorically admitted in his Answer under oath that he spent the collections from the sale of AFS. . . .

". . . There is no question that the amount involved, represents proceeds from the sale of AFS, thus public funds. Pasion knew fully well as an accountable officer that his only duty with respect to the said proceeds is to collect and to promptly remit the same to CSRO. He is proscribed from spending any amount for whatever purpose. By spending said collections he, in effect, committed serious breach of the trust reposed upon him as accountable public officer. Worst, Pasion, by his admission, used the collections in a "game of chance". Verily, this constitutes Dishonesty and Conduct Prejudicial to the Best Interest of the Service.

". . . Records show that, up to this time, several demands notwithstanding, Pasion failed and still fails to make good his obligation of remitting the AFS collections. For this reason, the Commission finds Pasion guilty of Gross Neglect of Duty.

"WHEREFORE, the Commission finds Jaime G. Pasion guilty of Dishonesty, Gross Neglect of Duty, and Conduct Prejudicial to the Best Interest of the Service. Accordingly, Pasion is hereby meted the penalty of dismissal from the service will all the accessory penalties including perpetual disqualification from holding any public office and forfeiture of benefits. This is without prejudice to the filing of criminal charges against him if the evidence so warrants." (Underlining ours)

Subsequently, his motion for reconsideration was denied on March 25, 1997. In accordance with the two (2) resolutions, the terminal leave pay of Pasion was forfeited. On November 14, 2000, Pasion requested an opinion on the effect of Section 65 of CSC MC No. 14, s. 1999 on the commutation of his leave credits.

He asserts that since the said provision is favorable to a dismissed employee, it should be given retroactive effect. On January 18, 2001, the Commission answered his query stating thus, "[T]here 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."

Hence, the present request.

Relevant to the instant request is **Section 65, Rule XVI of the Civil Service Commission Memorandum Circular No. 14, Series of 1999**, which provides:

"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."

The provision abovementioned may be given retroactive effect depending on the good and sound judgment of the head of agency. Thus, the Commission ruled in the case of **RAMOS-ROMUALDO, Raquel, CSC Resolution No. 00-1813 dated August 11, 2000**, in the following manner:

"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 benefits is granted."

The sole issue to be resolved is whether or not the ruling in the said resolution may be applied to Pasion.

After a careful evaluation of the records of the case, the Commission finds Pasion not entitled to the application of the said resolution.

As culled from the records, the service of Pasion was terminated by this Commission for his failure to remit to the CSCRO No. IV the proceeds of the sale of the Admission Fee Stamps (AFS) in the amount of P777,600.00. Although he was able to return P55,000.00, a substantial amount of P722,600.00 remains unpaid up to this date.

It must be emphasized that public service requires utmost integrity and strictest discipline. A public servant must exhibit at all times the highest sense of honesty and integrity (**RTC Makati Movement Against Graft and Corruption vs. Dumlao, 247 SCRA 108 dated August 9, 1995**). The Commission noted that Pasion has failed to measure up to this standard.

The assertion of Pasion that the Commission should be symphathetic to him since he has mouths to feed can not be considered. Pasion should have thought of this first before he committed the said offense. There is even nothing in the records to show that he returned the bulk of the amount he malversed.

Moreover, officials and employees of this Commission must be reminded of the important roles they are performing within the bureaucracy. As the agency tasked with the power to hear and decide administrative cases instituted by or brought before it directly or on appeal (**SEC. 12 [11], Chapter 3, Subtitle A, Title I, Book V of the Revised Administrative Code of 1987 [Executive Order No. 292]**) it is incumbent upon them to act with the highest degree of uprightness and incorruptibility so that they remain deserving of the trust reposed in them.

In sum, the Commission is not inclined to grant the request of Pasion for the commutation and payment of his unused leave credits.

WHEREFORE, the request of Jaime G. Pasion for the commutation and payment of his unused vacation and sick leave benefits is hereby **DENIED**.

Quezon City, **June 1, 2001**

(SIGNED)

JOSE F. ERESTAIN, JR.

Commissioner

(SIGNED)

KARINA CONSTANTINO-DAVID

Chairperson

(ON LEAVE)

J. WALDEMAR V. VALMORES

Commissioner

Attested by:

(SIGNED)

ARIEL G. RONQUILLO

Director III

CPS/AGR/pvp/cm14-2001

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