

SUEBZON, Alejandro C.

**Re: Payment of Terminal Leave;
Appointive Barangay Officials**

X-----X

RESOLUTION No. 011572

Alejandro C. Suebzon, Barangay Secretary, Barangay Taft, Surigao City, Surigao del Norte, requests legal opinion pertaining to terminal leave benefits of appointive barangay officials, particularly the Barangay Treasurer and the Computer Operator, who both voluntarily resigned. Pertinent portions of Suebzon's letter read as follows:

“The Punong Barangay of Taft, Surigao City, Surigao Del Norte, concurred by the Sangguniang Barangay Members, appointed a Brgy. Secretary, a Brgy. Treasurer and a Brgy. Bookkeeper. Their present honorarium are P9,400.00 per month each for the Brgy. Secretary and Brgy. Treasurer while that of the Brgy. Bookeeper (sic) P6,500.00 per month.

“Said appointing party also appointed Office Personnel since 1992. The appointment of said Office Personnel are always on a two-months basis; . . .

“In the Taft 2001 Annual Budget, P100,000.00 is for Terminal Fee.

“Last December 31, 2000 the Computer Operator resigned. Today January 31, 2001, the Brgy. Treasurer resigned. Both resignations were accepted, in fact, their replacements (sic) already concurred by the Sangguniang Barangay.

“Now, both are claiming Terminal Fee. Shall we pay their claim? What clearances shall we require (sic) them? What are our legal basis (sic) for the said payments.”

It is represented that the Punong Barangay of Brgy. Taft, Surigao City appointed, with the concurrence of the Sangguniang Barangay, officials and office personnel, among whom were the Barangay Secretary, Barangay Treasurer, Bookkeeper and Computer Operator. Subsequently, the appointed Brgy. Treasurer and Computer Operator resigned on January 31, 2001 and December 31, 2000, respectively. Both are now claiming terminal leave benefits.

The issue to be resolved is whether the appointive Barangay Treasurer and Computer Operator who resigned, are entitled to terminal leave benefits as barangay official and personnel, respectively.

It may be recalled that in **CSC Resolution No. 00-1495 dated June 26, 2000**, the Commission ruled that barangay officials are entitled to leave credits, as follows:

“Based on the aforequoted provisions of law, it is clear that local elective and appointive officials in the barangay are entitled to leave privileges provided under Article 172, Rule XXII, Rules and Regulations Implementing the Local Government Code of 1991.

x x x

“It should, however, be stressed that the grant of the abovesaid leave privileges is subject to the standards set by the Civil Service Commission, including cumulation and commutation thereof . . . Moreover, local elective officials are entitled to leave privileges effective May 12, 1983, pursuant to Batas Pambansa Blg. 337 and Local Government Code of 1991 . . .

x x x

“WHEREFORE, the Commission holds that:

“1. The Punong Barangay, Sanggunian Members, Sangguniang Kabataan, Barangay Secretary and Barangay Treasurer are entitled to leave privileges . . .” (Emphasis supplied)

It must be borne in mind, however, that earning of leave credits is only an incident of a government employee's rendition of service. Hence, services of the barangay secretary and barangay treasurer may only be considered as validly rendered when the same satisfy the following, in accordance with **CSC Memorandum Circular No. 18, s. 2001 (CSC Resolution No. 01-1352 dated August 10, 2001)** which provides, as follows:

“NOW, THEREFORE, foregoing premises considered, the Civil Service Commission RESOLVES as it is hereby RESOLVED that the barangay secretary and barangay treasurer who are covered by the provisions of the Local Government Code of 1991 may be recognized as government employees provided the following conditions are satisfied:

- ‘1. Their respective appointments are submitted to the CSC for record purposes;*
- ‘2. Their positions have fixed salary in accordance with the salary schedule provided for in the Local Budget Circular No. 63, s. 1996;*
- ‘3. They meet the qualification requirements set in the Local Government Code of 1991; and;*
- ‘4. Their attendance and service records are kept and maintained in the barangay office.*

“The Commission further resolved that the services rendered by the barangay secretary and barangay treasurer prior to and after the promulgation of the Local Government Code of 1991 may be accredited by the CSC as government service provided that the said barangay secretary and barangay treasurer were paid fixed salary and subject to compliance with the other requirements for accreditation of services prescribed under CSC MC 8 and 8-A, s. 1997 and CSC MC 5, s. 1999.”

The foregoing prompted the Commission to revisit and re-examine its latest stand on entitlement of barangay officials, particularly the barangay secretary and barangay treasurer, to leave credits. The Commission believes that the conditions

abovementioned must be satisfied in order to validly entitle said appointive barangay officials to leave credits.

Hence, the Commission resolves that the barangay secretary and barangay treasurer are entitled to leave credits only when they sufficiently comply with the requisites stated under **CSC Memorandum Circular No. 18, s. 2001**. Otherwise, their services can only be considered as voluntarily rendered, and the same may not be accredited as part of government services.

However, on the principle of non-retroactivity of judicial (in this case, quasi-judicial) rulings and in the spirit of equity, the Commission deems the resigned Barangay Treasurer of Brgy. Taft, Surigao City, entitled to payment of his terminal leave benefits for the period covering the effectivity of **CSC Resolution No. 00-1495 dated June 26, 2000** up to the date prior to the effectivity of his resignation on January 31, 2001, even on the assumption that the requisites imposed by the Commission under **CSC Memorandum Circular No. 18, s. 2001** have not been met. The reason lies in the fact that barangay officials benefited by the effects of **CSC Resolution No. 00-1495** granting them leave credits, and who relied in good faith on the wisdom of said Resolution, may not be prejudiced by the effects of a subsequent Resolution overturning or modifying the previous one. This is in accordance with the ruling of the Supreme Court in **People vs. Jabinal, 55 SCRA 607**, as follows:

“It is true that the doctrine was overruled in the Mapa case in 1967, but when a doctrine of this Court is overruled and a different view is adopted, the new doctrine should be applied prospectively, and should not apply to parties who had relied on the old doctrine and acted on the faith thereof.” (Emphasis supplied)

However, as to the entitlement of the appointive Barangay Computer Operator to terminal leave benefits, be it stressed that under Civil Service Law and rules, before a government employee may be entitled to leave credits, he must be validly rendering government service, wherein the following four (4) requisites are present: (a) appointment; (b) salary; (c) qualifications; and (d) approval of the appointment by the Commission. Only upon compliance with the foregoing can services rendered be considered as government service to enable the employee concerned to earn leave credits. Be it stated further that upon compliance with such requisites, the appointment will be considered on coterminous status.

In the instant case, the records are bereft of any evidence to show that there was compliance with the foregoing requirements when the now resigned Computer Operator was appointed. Hence, it can be fairly deduced that terminal leave benefits cannot be

granted him. He is, at the very least, a mere volunteer, and his services could not be deemed government services (**CSC Resolution No. 00-1495 dated June 26, 2000**).

WHEREFORE, the Commission hereby rules that appointive barangay officials such as the Barangay Treasurer and Barangay Secretary, are entitled to leave credits provided they meet the conditions set forth under **CSC Memorandum Circular No. 18, s. 2001 (CSC resolution No. 01-1352 dated August 10, 2001)**. However, the Barangay Treasurer of Brgy. Taft, Surigao City, who resigned, may claim payment of leave credits corresponding to the period when **CSC Resolution No. 00-1495 dated June 26, 2000** was in effect, provided he or she rendered actual services during such period. The former Computer Operator, same barangay, may not claim terminal leave benefits, in the absence of showing of compliance with the four (4) requisites above-stated.

Quezon City, **September 24, 2001**

(SIGNED)

KARINA CONSTANTINO-DAVID

Chairman

(SIGNED)

JOSE F. ERESTAIN, JR.

Commissioner

(O.B.)

J. WALDEMAR V. VALMORES

Commissioner

Attested by:

ARIEL G. RONQUILLO

Director III

JJC/FPG/KPZ/X2/X13/vog/volt41

Suebzon2

O-01-0067