

DE LA CRUZ, Ma. Eleanor

Re: Motion for Reconsideration of

CSC Resolution No. 02-0568

Dated April 17, 2002

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RESOLUTION NO. 020993

Victor P. Lladoc, Intelligence Officer V, Central Management Information Office (CMIO), Department of Finance (DOF), moves for the reconsideration of Civil Service Commission Resolution No. 02-0568 dated April 17, 2002 which was rendered upon the request for an opinion of Ma. Eleanor Dela Cruz, Assistant Secretary, same Department. In the said Resolution, the Commission ruled that the former employees of the deactivated Economic Intelligence and Investigation Bureau (EIIB) shall not be entitled to the payment of separation pay. However, it ruled that said employees may transfer their accrued leave credits to their new office, the Central Management Information Office (CMIO) of the DOF.

The pertinent portions of the said resolution read, as follows:

"The issues to be resolved are the following:

"1) Whether the integrees are entitled to the payment of separation pay by virtue of the deactivation of the EIIB;

"2) Whether the integrees may still transfer their accrued leave credits to the CMIO.

"Relevant to the first issue is Section 3 of Executive Order No. 247 (SUPPLEMENTING EXECUTIVE ORDER NO. 191 ON THE DEACTIVATION OF THE ECONOMIC INTELLIGENCE AND INVESTIGATION BUREAU AND FOR OTHER MATTERS), which provides:

" x x x

"Also pertinent are Sections 3 and 6 of Executive Order No. 259 (ACTIVATING THE CENTRAL MANAGEMENT INFORMATION OFFICE IN THE DEPARTMENT OF FINANCE AND INTEGRATING THE APPROPRIATE POSITIONS OF THE ECONOMIC INTELLIGENCE AND INVESTIGATION BUREAU IN SAID OFFICE AND THE BUREAU OF CUSTOMS AND FOR OTHER PURPOSES), which provides:

" x x x "

"However, Section 9 of Republic Act No. 6656 (AN ACT TO PROTECT THE SECURITY OF TENURE OF CIVIL SERVICE OFFICERS AND EMPLOYEES IN THE IMPLEMENTATION OF GOVERNMENT REORGANIZATION) provides, as follows:

" x x x

"From the foregoing, former employees of the deactivated EIIB may be entitled to the payment of separation pay if they were separated from the service by virtue of such deactivation. Further, R.A. 6656 is explicit that only those officers and employees who have been separated pursuant to reorganization shall be entitled to separation pay.

"In the present case, it is ineluctable that the former employees of the EIIB were reemployed after a month at the CMIO hence, they cannot be considered separated employees. Their case could be considered as similar to that of a teacher and so the use of the word "integrated". It must be mentioned that reemployment is the reappointment of a person who has been previously appointed to a position in the career service under permanent status but was separated therefrom as a result of reduction in force, **reorganization, retirement, voluntary resignation or of any non-disciplinary actions such as dropping from the rolls.¹ Therefore, the employees who were integrated at the CMIO are not entitled to any separation pay because they were not separated but integrated or absorbed by the Department of Finance.**

"Notably, Executive Order No. 247 does not mention the payment of separation pay but rather for "EIIB personnel qualified for retirement to elect optional retirement as they may deem proper.

"On the other hand, the Commission has already passed upon the issue of whether the subject employees may transfer their leave credits to their new office (CMIO) despite the fact that they have incurred a gap in their service of more than one (1) month.

"Thus in the case of **OSORIO, Nieves L.,² the Commission ruled in the following manner:**

" x x x "

"WHEREFORE, the Commission hereby rules that the former employees of the deactivated EIIB shall not be entitled to the payment of separation pay. However, they may transfer their accrued leave credits to their new office, the Central Management Information Office (CMIO) of the Department of Finance (DOF)."

The motion for reconsideration of Lladoc reads, in part, as follows:

"CMIO 'integrees were not automatically integrated or absorbed by the Department of Finance upon their

separation.

"The Commission was misled into believing that upon separation of the former EIIB employees, they were automatically absorbed or integrated to the Department of Finance-CMIO. While it is true that there was an integration of appropriate positions from the EIIB to the DOF . . . the same was not automatic to the incumbents. In fact, there is no incumbent to speak about because all EIIB positions were deactivated and abolished, and all incumbents separated and dismissed from the service.

"Records will readily showed (sic) that about sixty (60) new positions created under the CMIO were being contested by about three hundred and fifty (350) applicants through series of qualifying and competitive examinations including a battery of panel interviews. Applicants were made to submit new clearances and appropriate certifications. Failure to do the same will automatically disqualify you from the race. Former EIIB employees were discriminately being deliberated upon before qualifying to the proposed CMIO position. In fact, some of them were not given a comparable position form their previous EIIB position, if at least we will view it as a reorganization scheme . . .

"Had the Department of Finance automatically absorbed or integrated former EIIB personnel to the CMIO without the qualifying requirements, the same could have spell the difference . . . Being re-employed to the DOF . . . after being separated is but a logical thing to do (sic) . . . By law and jurisprudence, separation is plainly view (sic) as a cessation and severance from the service irrespective of their causes, nature and circumstances. In fact, RA 6656 does not distinguished nor qualify the recipients for (sic) separation benefits, and or whether after re-employment, one does not qualify for such benefit . . . Neither it can (sic) be inferred or construed that being re-employed will disqualify one from receiving the separation benefits.

" x x x

"In the light of the foregoing, movant most respectfully prayed (sic) before this Honorable Commission that Resolution No. 02-0568 dated, April 17, 2002 be reconsidered and set aside, and a new one be issued granting separation benefits under RA 6656 to former EIIB employees now employed at the CMIO-Department of Finance."

Records show that in Executive Order No. 191³ dated January 7, 2000, then President Joseph E. Estrada ordered the deactivation of the Economic Intelligence and Investigation Bureau (EIIB) of the Department of Finance (DOF)⁴ and the transfer of its functions to the Bureau of Customs (BOC) and the National Bureau of Investigation (NBI).⁵ Moreover, he instructed the DOF Secretary to review the need of the personnel of the EIIB for eventual termination or integration to the department proper or other agencies of Government.⁶

Subsequently, in Executive Order No. 223,⁷ dated March 29, 2000 former President Estrada instructed that the EIIB personnel shall be given priority in hiring for existing vacant positions in other government agencies⁸ and that all benefits, including payment of accrued leave credits, that may lawfully be given to the said personnel by virtue of their transfer, retirement or separation from the service shall be paid within one month from the filing of the necessary clearances and other pertinent documents.⁹

On June 9, 2000, Executive Order No. 259¹⁰ dated June 29, 2000 was issued which activated the Central Management Information Office (CMIO) of the DOF. The CMIO integrated the appropriate positions from the former EIIB, as proposed by the DOF and reviewed by the Department of Budget and Management (DBM), considering the actual staffing requirements of the unit. It also directed the integration of other EIIB positions to other organizational units of the DOF, primarily in the BOC.¹¹ Lastly, it directed the transfer of all EIIB Assets and Liabilities to the CMIO.

The Buklod ng Kawaning EIIB, represented by their officers Cesar Posada *et al.*, questioned the constitutionality of the said executive orders before the Supreme Court. However, in a Decision¹² dated July 10, 2001, the Supreme Court denied their petition.

In view of the foregoing, some former EIIB employees were integrated and transferred to the other offices of the DOF (e.g. CMIO or BOC). In a letter dated February 26, 2001, DOF Asst. Secretary De La Cruz requested the Commission to render an opinion/ruling on behalf of the twenty-seven (27) employees of the deactivated Economic Intelligence and Investigation Bureau (EIIB) who were subsequently integrated to the Central Management Information Office (CMIO), Department of Finance (DOF) on whether the said employees are entitled to the payment of separation pay.

In Civil Service Commission Resolution No. 02-0568 dated April 17, 2002, the Commission ruled that the former employees of the deactivated EIIB shall not be entitled to the payment of separation pay. However, they may transfer their accrued leave credits to their new office, the CMIO of the DOF.

Hence, this motion for reconsideration.

The motion of Lladoc must be denied outright pursuant to **Section 40, Rule III of the Uniform Rules on Administrative Cases in the Civil Service**,¹³ which provides:

"Section 40. Grounds for Motion for Reconsideration. – The motion for reconsideration shall be based on any of the following:

"a. New evidence has been discovered which materially affects the decision rendered, or

"b. The decision is not supported by the evidence on record, or

"c. Errors of law or irregularities have been committed prejudicial to the interest of movant."

Movant Lladoc has neither presented new evidence nor raised any valid argument to warrant the reversal or modification of CSC Resolution No. 02-0568 dated April 17, 2002. The arguments raised in the present motion are practically the same and were already judiciously passed upon and resolved by the Commission in the resolution sought to be reconsidered.

To reiterate, former employees of the deactivated EIIB may be entitled to the payment of separation pay if they were separated from the service by virtue of such deactivation. R.A. No. 6656 (An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization) is explicit that only those officers and employees who have been separated pursuant to a reorganization shall be entitled to separation pay.

In the present case, it is ineluctable that the former employees of the EIIB (including movant Lladoc) were reemployed at the CMIO hence, they cannot be considered separated employees to entitle them to payment of separation pay.

Movant further complains that the selection and placement of personnel undertaken by the DOF Management was too tedious for the applicants. The Commission finds no merit in the complaint. It must be mentioned that Sections 5, 6 and 7 of the Rules on Government Reorganization specifically provide the procedures to be undertaken by the agency concerned in the selection and placement of personnel, to wit:

"Sec. 5. Officers and employees holding permanent appointments shall be given preference for appointment in other agencies if they meet the qualification requirements of the position therein."

"Sec. 6. In order that the best qualified and most deserving persons shall be appointed in any reorganization, there shall be created a Placement Committee in each department or agency to assist the appointing authority in the judicious selection and placement of personnel. The Committee shall consist of two (2) members appointed by the head of the department or agency, a representative of the appointing authority, and two (2) members duly elected by the employees holding positions in the first and second levels of the career service: Provided, That if there is a registered employee association with a majority of the employees as members, that employee association shall also have a representative in the Committee: Provided, further, That immediately upon approval of the staffing pattern of the department or agency concerned, such staffing pattern shall be made known to all officers and employees of the agency who shall be invited to apply for any of the positions authorized therein. Said application shall be considered by the Committee in the placement and selection of personnel."

"7. A list of the personnel appointed to the authorized positions in the approved staffing pattern shall be made known to all the officers and employees of the department or agency. Any of such officers and employees aggrieved by the appointments made may file an appeal with the appointing authority who shall make a decision within thirty days from the filing thereof."

In the present case, there is no evidence that the DOF Management violated the rules mentioned rather the Department strictly observed the same.

To this end, movant's assertion that the Commission was misled into believing that the concerned employees were automatically absorbed in the DOF deserves scant consideration. The Commission has appropriately determined that the provisions of RA No. 6656 and the Rules on Government Reorganization shall govern the reemployment of the EIIB employees who were not separated from the service. Needless to say, Section 5, 6 and 7 of the Act prescribe the reappointment procedure.

WHEREFORE, the motion for reconsideration of Victor P. Lladoc is hereby **DENIED**. Accordingly, Civil Service Commission Resolution No. 02-0568 dated April 17, 2002. ruling that EIIB employees who were integrated to the CMIO are not entitled to separation pay, stands.

Quezon City, JUL 29 2002

(Signed)
JOSE F. ERESTAIN, JR.
Commissioner

(Signed)
J. WALDEMAR V. VALMORES
Commissioner

(Signed)
KARINA CONSTANTINO-DAVID
Chairman

Attested by:

(Signed)
ARIEL G. RONQUILLO
Director III

¹ Section 4 (e), Rule III of the Revised Omnibus Rules on Appointments and Other Personnel Actions (Civil Service Commission Memorandum Circular No. 40, s. 1998)

² CSC Resolution No. 02-0064 dated January 10, 2002

³ DEACTIVATION OF THE ECONOMIC INTELLIGENCE AND INVESTIGATION BUREAU

⁴ Section 2 of the same issuance

⁵ Section 3 of the same issuance

⁶ Section 4 of the same issuance

⁷ SUPPLEMENTING EXECUTIVE ORDER NO. 191 ON THE DEACTIVATION OF THE ECONOMIC INTELLIGENCE AND INVESTIGATION BUREAU AND FOR OTHER MATTERS

⁸ Section 2 of the said law

⁹ Section 3 of the same law

¹⁰ ACTIVATING THE CENTRAL MANAGEMENT INFORMATION OFFICE IN THE DEPARTMENT OF FINANCE AND INTEGRATING THE APPROPRIATE POSITIONS OF THE ECONOMIC INTELLIGENCE NAD INVESTIGATION BUREAU IN THE SAID OFFICE

¹¹ Section 3 of the said law

¹² BUKLOD NG KAWANING EIIB, CESAR POSADA, REMEDIOS G. PRINCESA, BENJAMIN KHO, BENIGNO MANGA, LULU MENDOZA VS. HON. SECRETARY RONALDO B. ZAMORA, HON. SECRETARY JOSE PARDO, DEPRATMENT OF FINANCE, HON. SECRETARY BENJAMIN DIOKNO, DEPARTMENT OF BUDGET AND MANAGEMENT, HON. SECRETARY ARTEMIO TUQUERO, DEPARTMENT OF JUSTICE, GR. NO. 142801-802 dated July 10, 2001

¹³ CSC Resolution No. 99-1936 dated August 31, 1999