

CONCEPCION, Gil P.

Re: Year End Bonus; Hazard Pay During
Pendency of Administrative Case

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RESOLUTION NO. 02-1474

Administrator Dominador Ferrer, Jr. of the Intramuros Administration requests a ruling from this Commission on whether Gil Concepcion, Supply Officer III, same office, is entitled to the benefits which were withheld during the pendency of his administrative case like hazard pay, anniversary bonus and 13th month pay for the year 1996. Concepcion was found guilty of the offense of Simple Misconduct and imposed the penalty of fine equivalent to six (6) months salary in Civil Service Commission Resolution No. 99-1243 dated June 21, 1999.

The pertinent portions of Administrator Ferrer, Jr.'s letter-query read, as follows:

"As a backgrounder, on February 20, 1996, a case was filed against Mr. Gil Concepcion an employee of the Intramuros Administration for Dishonesty and Falsification of Public Documents. The CSC resolved the case through its resolution no. 99-1234 dated June 21, 1999 finding Mr. Concepcion guilty of Simple Misconduct, and he is imposed the penalty of suspension of six (6) months without pay.

"Mr. Concepcion filed a motion for reconsideration for which the penalty was modified from six (6) months suspension to a fine equivalent to his six (6) months salary which may be paid in lump sum or equal monthly installment. Mr. Concepcion opted for the latter which he has already served.

"After which, Mr. Concepcion claimed for the hazard pay, anniversary bonus and 13th month pay for the year 1996 which were withheld during the pendency of the above case. Upon further inquiry, the CSC through its letter dated June 2, 2000 noted that the penalty of fine does not carry with it any accessory penalty specifically on the forfeitures of benefits. Further stating that the payment of benefits earlier withheld may now be paid subject to the rules relative to the grant thereof.

"The rule/guideline to the grant referred to carries with it an instruction that those (employees) with administrative case can claim after exoneration."

Records disclose that on February 20, 1996, Concepcion was formally charged by the Civil Service Commission-

National Capital Region (CSC-NCR) with Dishonesty and Falsification of Public Documents in connection with his act of making it appear in his Personal Data Sheet (PDS) that he is a graduate of Bachelor of Science in Industrial Engineering (BSIE) in order that he may qualify to take the CS Professional examination given by this Commission on December 6, 1981. Formal hearings were conducted and subsequently, in CSC Resolution No. 99-1243 dated June 21, 1999, the Commission found Concepcion guilty only of a lower offense of Simple Misconduct and was meted the penalty of six (6) months suspension from the service. Not satisfied, Concepcion moved for its reconsideration. Although denied by the Commission in CSC Resolution No.00-0276 dated January 27, 2000, the penalty was modified from six (6) months suspension to a fine equivalent to six (6) months salary. Concepcion served the penalty of fine by payment of the same in equal monthly installments. After service of the penalty, Concepcion now claims hazard pay, anniversary bonus and 13th month pay for the year 1996 which were withheld by the Intramuros Administration during the pendency of his case. He argued that the penalty of fine does not carry with it the accessory penalty of forfeiture of the aforementioned benefits, hence he should be entitled to the payment of said benefits.

Pertinent to the instant request is **Section 58, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service** which provides:

"Section 58. Administrative Disabilities Inherent in Certain Penalties.

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`e. The penalty of fine shall carry with it disqualification for promotion for a period twice the number of days he was fined.

`f. The penalty of fine shall be paid to the agency imposing the same, computed on the basis of respondent's salary at the time the decision becomes final and executory."

At the very outset, it must be stressed that his entitlement to the aforementioned benefits depends on the rules relative to the grant of each particular benefit.

With respect to hazard pay **Section 311, Article 7 (Hardship or Hazard Allowance), Volume I of the Commission on Audit's (COA) Government Accounting and Auditing Manual (GAAM)** provides, as follows:

"Sec. 311. Employees entitled to hardship/hazard allowance. – Employees, whether regular or contractual, assigned on a permanent, temporary, special or travel basis to the following areas, which expose them to great damage or contagion or peril to life, are entitled to hardship/hazard allowance:

- `a. Hardship or difficult areas;*
- `b. Strife-torn or embattled areas;*
- `c. Distressed or isolated stations;*
- `d. Prison camps;*

- `e. Mental hospitals;*
- `f. Radiation-exposed clinics or laboratories;*
- `g. Disease-infested areas;*
- `h. Areas declared under state of calamity or emergency."*

With respect to anniversary bonus, **Administrative Order No. 263 dated March 28, 1996 (Authorizing the Grant of Anniversary Bonus to Officials and Employees of Government Entities)** provides, as follows:

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"WHEREAS, the grant of anniversary bonus on the occasion of milestone years of government agencies will directly improve and enhance employee morale consistent with Section 36 (2), Chapter 5, Subtitle A, Title I, Book V of Executive Order No. 292 otherwise known as the Administrative Code of 1987;

"WHEREAS, there is a need to regulate the grant of such benefit by adopting a uniform scheme for its implementation to ensure fairness and equity and to conform with the policy of standardization of compensation enunciated under Republic Act No. 6758;

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"1.0 Coverage/Exemption.

"1.1 All government personnel whether employed on a full-time or regular, part-time basis or under permanent, temporary or casual status, and contractual personnel whose employment is in the nature of a regular employee, who have been appointed as such in a specific government entity by virtue of a valid appointment and continue to be employed in the same government entity as of the occasion of its milestone years as defined in 2.5 herein, shall not be entitled to the immediately succeeding year.

"1.2 Government personnel who have been found guilty of any offense in connection with their work during the five-year interval between milestone years, as defined in 2.5 herein, shall not be entitled to the immediately succeeding year.

"2.0 Rules and Regulations.

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"2.5 Payment of the Anniversary Bonus shall be in an amount not exceeding P3,000.00 each

employee provided that the employee has rendered at least one (1) year service in the same agency as of the date of the milestone year.

`2.5.1 In case of insufficiency of funds, the government entity concerned may grant the benefit at a rate lower than that prescribed herein, provided that such rate shall be uniformly applied to all its officials and employee.'

"2.6 An employee may receive Anniversary Bonus only once every five years, regardless of transfer from one government entity to another."

Relative to the grant of Year-end Bonus (13th month pay), **Department of Budget and Management (DBM) Budget Circular No. 11 dated October 31, 1996**, provides as follows:

"2.0 Coverage -

"2.1. All government personnel, whether appointive or elective, under regular, temporary or casual status, and contractual personnel whose employment is in the nature of a regular employee who are under the following instances from January 1 to April 30 or from July 1 to October 31 of each year and shall still or are still in the service, respectively, as of October 31 of the same year:'

`2.1.1 those who have rendered at least a total of four (4) months of service including leaves of absence with pay;

`2.1.2 those who are on approved leave without pay but have rendered at least a total of four (4) months of service provided they are not yet dropped from the rolls; and

`2.1.3 those who have less than four (4) months of service.'

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"3. Exemptions

'All government personnel under the following instances as of April 30 or as of October 31, as the case may be, of each year shall not be entitled to the benefits authorized herein:

'3.1 those with pending cases, viz;

`3.1.1 when under preventive suspension, until exonerated

3.1.2 when formally charged in administrative cases, i.e., their offices have found, after preliminary investigation, that a prima facie case exists against them and the requisite written formal charge has been issued by the disciplining authority; (underscoring ours)

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Applying the abovequoted provisions in the instant case, it becomes clear that hazard pay may only be granted to employees assigned to difficult, strife-torn or embattled areas or in areas declared under a state of calamity which expose them to great danger, contagion, occupational risk, danger to one's health or perils to life. In this case, record is bereft of any showing that Concepcion, as Supply Officer III at Intramuros Administration was ever exposed to great danger as contemplated in the rule granting hazard pay. Thus, absent the documentary requirements under the earlier quoted Section 313 of the Government Accounting and Auditing Manual, Concepcion cannot claim entitlement to hazard pay.

On the other hand, the rule on the grant of anniversary bonus provides that government personnel who have rendered at least one (1) year service in the same agency as of the date of the milestone year shall be entitled to anniversary bonus provided they are not found guilty of an offense relating to their work within the five-year period prior to the date when the said benefit will be granted. In the case of Concepcion, considering that he was only found guilty on June 21, 1999, then he may receive any anniversary bonus given prior to said date, if he meets the requirements for the grant thereof.

However, anent the year-end bonus, Concepcion is not entitled to the same. While it may be true that Concepcion's employment as Supply Officer III is in the nature of a regular employment and he served continuously as of October 31, 1996, **Department of Budget and Management (DBM) Budget Circular No. 11 dated October 31, 1996** expressly provides for the exemptions from entitlement of the year-end bonus. Specifically, it provides that government personnel who are formally charged and therefore with pending administrative cases shall not be entitled to the year-end bonus (**Item 3, 3.1 and 3.1.2 of DBM Budget Circular No. 11 dated October 31, 1996**). Considering that Concepcion was formally charged for the offenses of Dishonesty and Falsification of Public Documents on February 20, 1996, he is disqualified from receiving the bonus.

WHEREFORE, this Commission hereby rules and so holds that Gil P. Concepcion may be entitled to receive anniversary bonus for the year 1996 provided he meets the requirements for the grant thereof. However, Concepcion is not entitled to 13th month pay (year-end bonus) and hazard pay for the same year.

Let a copy of this Resolution be furnished the Commission on Audit (COA) for its information and for whatever action it may deem proper relative to this case.

Quezon City, **November 8, 2002**

(Signed)
J. WALDEMAR V. VALMORES
Commissioner

(Signed)
KARINA CONSTANTINO-DAVID
Chairman

O.B.
JOSE F. ERESTAIN, JR.
Commissioner

Attested by:

(Signed)
ARIEL G. RONQUILLO
Director III

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