

BASBAS, Maria P.

Re: Appeal; Rehabilitation Leave

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RESOLUTION NO. 021563

Maria P. Basbas, Master Teacher II, District of San Fabian I, San Fabian Pangasinan, appeals the Opinion dated December 6, 2001 of the Civil Service Commission Regional Office (CSCRO) No. I, San Fernando City, La Union, relative to her entitlement to rehabilitation leave benefits.

Pertinent portion of Basbas' letter-appeal dated January 18, 2002, which was received by the Commission on February 4, 2002, reads, as follows:

"May I have the honor to appeal from your good office regarding with my application for payment of my sick leave of absence from August 27, 2001 up to September 21, 2001 for the account of my operation on multiple gall bladder stones which was denied by our school Superintendent JULIANA B. LAOAG thru the Office of the Civil Service Commission headed by Director LORENZO S. DANIPOG, Region I, San Fernando City as per Omnibus Rule on leave, for Sec. 55 Rehabilitation leave for job-related injuries evidenced by medical certificate and other necessary documents as hereto attached showing that my wound/injury incurred during my performance of duty;"

On the other hand, pertinent portions of the CSCRO No. 1 Opinion dated December 6, 2001, read as follows:

"It was embodied in your letter that you are requesting for clarification as to the payment of your sick leave of absence from August 27, 2001 to September 21, 2001 on account of your operation on multiple gall bladder stones.

"You mentioned that your operation on multiple gall bladder stones was incurred in the performance of your duty as shown by medical certificates and other expenses attached to the said letter-request. Thus, you claimed that you are entitled to the payment of sick leave of absence from August 27, 2001 to September 21, 2001 pursuant to Section 55, Rehabilitation leave for job-related injuries.

"In the 1st indorsement dated October 23, 2001, Superintendent Juliana B. Laoag holds a contrary view that illness incurred was not due to wound or injury but sickness with long term development not necessarily as a result of performing official duty.

"x x x this Office opines that you are entitled to the payment of your sick leave of absence if you have available sick leave credits as may be certified by the head of the HRMO in your division office. This is based on the presumption that you were on leave with pay, if not your absences from August 27, 2001 to September 21, 2001 due to operation or medical treatment shall be deducted from your salary. In such case you are not entitled to the benefits during the period of your medical treatment and recuperation as provided under Sec. 55 of Omnibus Rules on Leave since your illness cannot be considered as work/job related injuries."

In a Memorandum dated April 3, 2002, the Commission requested Regional Director Lorenzo S. Danipog of CSCRO No. I to submit his comment on said appeal and to transmit the complete records of the case. Director Danipog complied with the same in his letter dated May 3, 2002, relevant portion of which reads, as follows:

"Please be informed that this Office adopts its opinion dated December 6, 2001, denying Ms. Basbas' entitlement to rehabilitation leave benefits during the period of her medical treatment and recuperation pursuant to provisions under Sec. 55 of the Omnibus Rules on Leave."

Records show that Basbas was admitted as a patient at the Specialist Group Hospital and Trauma Center, Tapuac District, Dagupan City, from August 28, 2001 to September 1, 2001 for treatment of Chronic Cholecystitis caused by multiple gall bladder stones. She underwent Cholecystectomy or surgery for removal of the gall bladder stones on August 29, 2001. As a result of said major operation, she incurred absences from August 27, 2001 to September 21, 2001. Subsequently, in a letter dated October 17, 2001, addressed to the School Division Superintendent, Division of Pangasinan II, she filed a claim with the Office of the District Supervisor, San Fabian District I, for rehabilitation leave benefits covering the period from August 27 to September 21, 2001. Said letter-request was referred by Josefina B. Lomandas, Officer-in-Charge of San Fabian District I, to Division Superintendent Juliana B. Laoag, Division of Pangasinan II, who in turn endorsed the letter-request to the Director of the CSC-Urdaneta Field Office, Urdaneta City, through her 1st Indorsement dated October 23, 2001. In the said indorsement, Superintendent Laoag requested clarification on Basbas' entitlement to rehabilitation leave benefits and further noted that the illness incurred by Basbas was not due to *"sickness with long term development not necessarily as a result of her performing official duty."* The CSC-Urdaneta Field Office, through a letter dated November 9, 2001 and signed by Officer-in-Charge Jose M. Agbayani, Jr. referred Basbas' letter-request and other pertinent documents to CSCRO No. I for appropriate action. On December 6, 2001, CSCRO No. I rendered its opinion on the matter by ruling that the illness suffered by Basbas is not a work or job-related injury and therefore this precludes her from being entitled to rehabilitation leave benefits. Based on the said opinion, Superintendent Laoag then denied payment of said benefits to Basbas. Hence, this appeal.

The sole issue to be resolved in the instant appeal is whether Basbas is entitled to rehabilitation leave benefits during the period of her medical treatment for Chronic Cholecystitis or multiple gall bladder stones.

Pertinent thereto is **Section 55 of the Omnibus Rules on Leave (as amended by CSC Memorandum Circular**

Nos. 41 s. 1998 and 14 s. 1999) which provides, as follows:

"Sec. 55. Rehabilitation leave for job-related injuries. – Applications of officials and employees for leave of absence on account of wounds or injuries incurred in the performance of duty must be made on the prescribed form, supported by the proper medical certificate and evidence showing that the wounds or injuries were incurred in the performance of duty. The head of department/agency concerned shall direct that absence of an employee during his period of disability thus occasioned shall be on full pay, but not to exceed six (6) months. He shall also authorize the payment of medical attendance, necessary transportation, subsistence and hospital fees of the injured person. Absence in the case contemplated shall not be charged against sick leave or vacation leave, if there are any."

Based on the aforementioned provision, in order for an employee to be entitled to rehabilitation leave benefits, it is important to determine whether the wounds or injuries suffered were incurred in the performance of duty. In Basbas' case, she suffered Chronic Cholecystitis, which required a Cholecystectomy, a surgical procedure for the removal of gall bladder. For Basbas to be entitled to rehabilitation leave benefits under Section 55 of the Omnibus Rules on Leave, it is essential to determine the relation of Cholecystitis to her work as a teacher.

For clarity, Cholecystitis is a disorder marked by inflammation of the gallbladder, a pear-shaped organ that stores bile salts until they are needed to help digest fatty foods, that is often caused by the presence of gall bladder stones or gallstones. A gallstone is a solid crystal deposit that forms in the gallbladder. Gallstones may be caused by a combination of factors, including inherited body chemistry, body weight, gallbladder motility (movement), and perhaps, diet. Moreover, low-fiber, high-cholesterol diets, and diets high in starchy foods have been suggested as contributing to gallstone formation. Men and women who are overweight and pregnant women are found to be more at risk in developing gallstones. Cholecystectomy or the surgical removal of the gall bladder and gallstones is the most common treatment of said disease.

It must be noted that Cholecystitis is not listed as an occupational disease under the **Amended Rules on Employees Compensation**. Furthermore, the issue whether said illness is service or work-related will depend upon the peculiarities of each case. As ruled by the Commission in the case of **Maranan, Margaret, CSC Resolution No. 01-1532 dated September 13, 2001**:

"x x x There can be no hard and fast rule in determining whether or not a sickness is work related. It is up to the applicant for rehabilitation leave to show a reasonable work-connection in his illness and if there is no work connection in the sickness, he must show proof that the risk of contracting the illness is increased by the working conditions. He who alleges the fact has the burden of proving it and a mere allegation is not evidence."
(Emphasis supplied)

Be it emphasized that in her letter-appeal, Basbas did not give any justification or proof to show that the illness she suffered is service or work-related. There was even no proof or evidence to show that working conditions increased the risks of

her illness. In essence, she merely based her claim for rehabilitation leave benefits solely on the fact that the illness occurred during her employment and nothing more. In contrast, there is a view to the effect that said illness is caused by factors attributable to the patient, to include but not limited to, food intake. Suffice it to say, she failed to establish even a semblance of connection between her illness and her occupation. Therefore, the Commission concurs in the Opinion of the CSCRO No. 1 that she is not entitled to rehabilitation leave benefits.

Thus, as further elucidated by the Commission in the Maranan case:

"While the rehabilitation leave is a social legislation designed to give relief to employees, it is not the intention of the Commission to include in its coverage all injuries and illness which might be acquired by the employee in the course of the employment, but only those which were incurred in the performance of duty. x x x In evaluating the entitlement of an employee to rehabilitation leave, the Commission must not only decide from a sympathetic point of view but must consider proven facts pertaining to the relation of the injury and the work of an employee. To be entitled to the same, there must be evidence to show that the illness was incurred in the performance of duty or that it is service or work connected."

WHEREFORE, the appeal of Maria P. Basbas is hereby **DISMISSED** for lack of merit. Accordingly, the Opinion dated December 6, 2001 of the Civil Service Regional Office No. 1, San Fernando City, La Union, that Maria Basbas' illness (Cholecystitis) is not a work or job-related injury to entitle her to rehabilitation leave benefits, is hereby **AFFIRMED**.

Quezon City, DEC 17 2002

(Signed)
JOSE F. ERESTAIN, JR.
Commissioner

(Signed)
KARINA CONSTANTINO-DAVID
Chairman

(Signed)
J. WALDEMAR V. VALMORES
Commissioner

Attested by:

(Signed)

ARIEL G. RONQUILLO
Director III

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