

TRASPADILLO, John Marlon M.

Re: Step Increment; Suspension as a Gap
in the Service

X-----X

RESOLUTION NO. 021564

John Marlon M. Traspadillo, Project Manager I, City Waterworks Department, San Carlos City, Negros Occidental requests an opinion on the following:

"1. An employee hereat was suspended for one month as a consequence of an administrative charge filed against the said employee. To date, the said penalty had been served x x x.

"2. In approximately two (2) years from now, the said employee shall be entitled to avail of the step increment allowed under existing rules.

X X X

"a. Considering that the abovesaid employee had been penalized in an administrative charge can he still avail of the step increments in the future, as in this particular case?"

"b. How shall we treat the effect of such penalty in relation to the avilment of his step increments and in other personnel records in the future?"

Records show that the instant request concerns an employee of the abovementioned agency who was found guilty of Simple Misconduct by the Office of the Ombudsman for the Visayas and imposed the penalty of suspension for one (1) month without pay.

The two (2) issues raised, being intimately intertwined, shall be jointly addressed.

In point is **Section 2, Rule III of Joint CSC-DBM Circular No. 1, s. 1990** which provides, as follows:

"Sec. 2. Length of Service. *A one (1) step increment shall be granted to officials and employees for every three (3) years of continuous and satisfactory service in the position. Years of service in the position shall include the following:*

'(a) those rendered before the position was reclassified to a position title with a lower or the same salary grade allocation; and

'(b) those rendered before the incumbent was transferred to another position within the same agency or to another agency without a change in position title and salary grade allocation."

The aforementioned provision is clear that in the grant of a one (1) step increment based on length of service, an official or employee must have rendered three (3) years of continuous satisfactory service in his position.

In determining whether the government service is considered continuous or broken as a result of the imposition of the penalty of suspension in an administrative case, relevant is **Section 56(d), Rule IV of the Uniform Rules on Administrative Cases in the Civil Service** which provides, as follows:

"Section 56. Duration and effect of administrative penalties. – The following rules shall govern in the imposition of administrative penalties:

X X X

'(d) The penalty of suspension shall result in the temporary cessation of work for a period not exceeding one (1) year.

'Suspension of one day or more shall be considered a gap in the continuity of service. During the period of suspension, respondent shall not be entitled to all money benefits including leave credits."

In the instant case, the one (1) month suspension imposed upon the subject employee, therefore, effectively interrupted the continuity of his government service at the commencement of the service of the said suspension. This is so since the person under penalty of suspension is not rendering actual service. As defined by **Section 28 of CSC Memorandum Circular No. 41, s. 1998 otherwise known as the Revised Omnibus Rules on Leave**, actual service refers to the period of continuous service since the appointment of the official or employee concerned, including the period or periods covered by any previously approved leave with pay.

Premises considered, it follows that a one-month suspension is undoubtedly considered a gap in the continuity of the service for purposes of the computation of the three (3)-year period in the grant of step increment. However, the same should not be construed to mean that an employee will only be entitled to the grant of said benefit after completing another three (3) years of continuous satisfactory service reckoned from the time he/she has fully served the penalty of suspension.

The Commission believes that the computation of the three-year service requirement for the grant of step increment

should only be extended by the number of days that said employee was under suspension. Otherwise stated, the grant of step increment will only be delayed by the same number of days that the subject employee was under suspension.

This is not only fair but is reasonable as well in the sense that the employees who were imposed the penalty of suspension as a result of an administrative case would be equitably relegated to the same status as those employees who incurred vacation leave without pay for purposes of the grant of step increment. This is so since those who were on approved vacation leave without pay enjoy the liberal application of the rule on the grant of step increment under **CSC Memorandum Circular No. 41, s. 1998 (Revised Omnibus Rules on Leave), specifically Section 60** thereof which provides, as follows:

"Section 60. Effect of vacation leave without pay on the grant of length of service step increment. - For purposes of computing the length of service for the grant of step increment, approved vacation leave without pay for an aggregate of fifteen (15) days shall not interrupt the continuity of the three-year service requirement for the grant of step increment. However, if the total number of authorized vacation leave without pay included within the three-year period exceeds fifteen (15) days, the grant of one-step increment will only be delayed for the same number of days that an official or employee was absent without pay."

It may be true that there is no Civil Service law or rule which states that the penalty of suspension shall be construed as leave of absence without pay for purposes of the computation of the three-year service requirement in the grant of step increment. It bears emphasis, however, that with regard to leave of absence without pay, it is the intention of the employee to incur the said absence, albeit without pay. On the other hand, an employee's inability to report to work during the period of his suspension is because he is legally barred from rendering service as a consequence of his suspension. Hence, it is only logical to treat the penalty of suspension in the same manner as vacation leave of absence without pay in the computation of the three-year service requirement for the grant of step increment. This is subject, however, to the condition that the penalty of suspension should not exceed the period of three (3) months.

Finally, be it emphasized that it is a well-entrenched dictum that a social legislation like the aforementioned circular on the grant of step increment, being remedial in character, should be liberally construed and administered in favor of the persons to be benefitted thereby. The liberal approach aims to achieve humanitarian purposes of the law in order that the efficiency, security and well-being of government employees may be enhanced (**Ortiz v. COMELEC, 162 SCRA 182**). Moreso, a conservative adherence to the literal import of a particular provision is not always the general rule. There may be instances when an equitable construction may be adopted to accomplish a greater purpose. These are instances when the interest of justice calls for a liberal interpretation of a given law or rule (**CSC Resolution No. 02-0711 dated May 16, 2002**).

WHEREFORE, the Commission resolves to rule that a penalty of suspension imposed upon an official or employee is considered as a gap in the service and has effectively interrupted the continuity of the three (3)-year service requirement for the grant of step increment. However, the grant of step increment will only be delayed for the same number of days, which must not exceed three (3) months, that an official or employee was serving the penalty of suspension.

(Signed)
KARINA CONSTANTINO-DAVID
Chairman

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

(Signed)
J. WALDEMAR V. VALMORES
Commissioner

Attested by:

(Signed)
ARIEL G. RONQUILLO
Director III

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