



Republic of the Philippines
CIVIL SERVICE COMMISSION

RAMEL, Samuel T.

Re: Computation of Leave Without Pay;
Query March

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RESOLUTION NO. 991305

Director Samuel T. Ramel, Foreign Service Institute (FSI), Department of Foreign Affairs, Pasay City, requests clarification on the actual basis of computation of daily rate for determining absences without pay.

In her letter dated March 10, 1999, she represented that:

"FSI had been using the calendar days as the divisor in computing the daily rate for purposes of determining the amount deductible from salaries due to absences without pay. The computation used was due to the premise that government employees are paid on Saturday, Sunday and holidays, although they are not required to work on these days, except on cases of continuous absences.

"This premise was based on the issuance of CSC MC 16 and 16-A, s. 1991 which state that in case an employee has no more leave credits, leave of absence incurred at the start or at the end of the week is computed as follows: (a) if continuous and uninterrupted includes Saturday, Sunday and holidays; (b) if broken and intermittent, excludes Saturday, Sunday or holidays.

"However, in 1998, the COA Auditor assigned to FSI disallowed the payment of salaries and allowances due to alleged error in the computation of leave without pay. The Auditor alleges that the computation should be based on 22 working days to be consistent with Budget Circular No. 10 dated 29 March 1996 which prescribes the computation of overtime services with pay, and CSC MC No. 31, s. 1991 which prescribes the computation of monetization of leave credits."

The request for clarification is brought about by the disallowance by the Commission On Audit (COA) State Auditor IV, Lota B. Latido, assigned at FSI, in the payment of salaries and allowances due to alleged error in the computation of leave without pay. A request for reconsideration was made and the same was denied by Auditor Latido in a letter dated January 12, 1999 which reads as follows:

"The disallowances were made on the ground that undertime and absences incurred by FSI employees were computed based on calendar days instead of over 22 working days as prescribed under Budget Circular No. 10 dated March 29, 1996, a circular issued prescribing the computation of the hourly rate for overtime and Civil Service Memorandum Circular No. 31 dated July 23, 1991 prescribing the computation of the monetization of leaves.

"As per justification for the herein request referring to CSC Memo Cir. No. 16 and 16-A s. 1991, leaves of absence if continuous and uninterrupted includes Saturdays, Sundays and Holidays and if broken and intermittent excludes Saturdays, Sundays and Holidays, thus, using the calendar days computation.

"There is no question when leave of absence is incurred on a continuous and uninterrupted manner because the difference is minimal. But if broken and intermittent there would be a great difference.

"The CSC Memorandum Circular 16 and 16-A refers only on how the leave of absence are to be deducted but not on the equivalent money value of such leave is to be computed and deducted from the salary of employee concerned. The case as cited specifically speaks of those prior to the issuance of CSC Memo Cir. No. 31 dated July 23, 1991. CSC Memo Cir. No. 16 and 16-A were dated April 26, 1991 and July 11, 1991, respectively.

"As provided under Budget Circular No. 10 dated March 29, 1996 the daily rate of an employee for the purpose of computing overtime is as follows:

$$\text{Actual Hourly Rate} = \frac{\text{Actual Salary per month}}{22 \times 8}$$

"The same is true with CSC Memorandum Circular No. 31 dated July 23, 1991 prescribing the monetization of leaves.

$$\frac{\text{Monthly Salary}}{22 \text{ working days}} = \text{Daily Rate}$$

"Basic accounting principle specifically on the computation of daily salary rate should be consistent, be it on overtime or an undertime. An employee should have only one basis on the computation of his daily rate. It would be disadvantageous to the government to be paying overtime based on 22 working days and if an employee goes on leave will be without pay based on calendar days. There is no consistency on accounting policy in this case.

"Since the Department of Budget and Management and the Civil Service had both prescribed the same computation of the daily rate then it would be consistent that we apply the same principle to both undertime and overtime."

It must be noted that Section 60, Book V of the Administrative Code of 1987 (E.O. No. 292) provides that "*officers and employees in the Civil Service shall be entitled to leave of absence with or without pay, as may be provided by law and the rules and regulations of the Civil Service Commission in the interest of the service*".

Pursuant thereto, the Commission had issued Rules on Leave of Absences (see Rule XVI, Omnibus Rules Implementing Book V of EO 292) which had undergone several amendments, the latest of which is Memorandum Circular No. 41, series of 1998.

Specifically Section 1, Rule XVI provides that:

"Section 1. Entitlement to Leave Privileges - In general, appointive officials and employees of the government whether permanent, temporary, or casual, who render work during the prescribed office hours, shall be entitled to 15 days vacation and 15 days sick leave annually with full pay exclusive of Saturdays, Sundays, Public Holidays, without limitation as to the number of days of vacation and sick leave that they may accumulate". (Underscoring supplied)

As can be deduced from the aforequoted provision of the Rules, the grant of vacation and sick leave with pay does not include Saturdays, Sundays and Public Holidays. In line with this provision, the computation of daily rate for purposes of monetization of leave credits and computation of the money value of terminal leave is based on twenty-two (22) days per month, the average number of working days in a month and not thirty (30) days, the average number of calendar days monthly.

The relevant provisions on leave of absence without pay are Sections 33, 56, 57 and 58 of the Rules. As to the issue at hand, Sections 33 and 56 provide, to wit:

"Section 33. Leave of Absence without pay on a day immediately preceding or succeeding Saturday, Sunday or holiday. - When an employee, regardless of whether he has leave credits or not is absent on a day immediately preceding or succeeding a Saturday, Sunday or holiday, he shall not be considered absent on said days. However, the same provision is applicable only to intermittent or broken absence incurred by an employee but not to continuous or uninterrupted absences without pay exceeding a period of seven (7) calendar days.

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"Section 56. Leave without pay. - All absences of an official or employee in excess of his accumulated vacation or sick leave credits earned shall be without pay.xxx"

A close scrutiny of the provision of Section 33 reveals that the same pertains to the computation of the number of days of leave of absence without pay. On this point, in the case of **Peralta vs. Civil Service Commission, 212 SCRA 425**, the Supreme Court ruled as follows:

"Thus, the law speaks of the granting of a right and the law does not provide for a distinction between those who have accumulated leave credits and those who have exhausted their leave credits in order to enjoy such right. Ubi non distinguist nec nos distinguere debemus. The fact remains that government employees, whether or not they have accumulated leave credits, are not required by law to work on Saturdays, Sundays and Holidays and thus they cannot be declared absent on such non-working days. They cannot be or are not considered absent on non-working days; they cannot and should not be deprived of their salary corresponding to said non-working days just because they were absent without pay on the day immediately prior to, or after said non-working days."

With regard, however, to the computation of the equivalent amount of his leave without pay which is deductible from the salaries of the concerned employee, the Omnibus Rules on Leave is silent. Hence, for the purpose of uniformity in application, the Commission clarifies that the daily rate is to be computed, based on the provisions on monetization of leave credits, as follows:

$$\text{Daily Rate} = \frac{\text{Monthly Salary}}{22 \text{ working days}}$$

Thus, by analogy, the deductible leave without pay from the salary of the concerned employee should be computed in this wise:

$$DA = DR \times N$$

where:

- DA = deductible amount
- DR = Daily Rate (as determined above)
- N = number of working days the employee is on leave without pay.

WHEREFORE, the Commission hereby rules and so holds that the deductible amount from the salaries of the employee who incurs absences without pay is equivalent to the product of his daily salary rate and the number of absences. The daily salary rate is the result of dividing the monthly pay by twenty two (22) working days and the quotient or result thereof is multiplied by the number of working days covered by his leave without pay, exclusive of Saturdays, Sundays and holidays, to come up with the deductible amount.

Quezon City, **JUN 29 1999**


CORAZON ALMA G. DE LEON
Chairman


THELMA P. GAMINDE
Commissioner

DID NOT PARTICIPATE
JOSE F. ERESTAIN, JR.
Commissioner

Attested by:


ARIEL G. RONQUILLO
Director III