

JOSEF, Fernando

Re: Query; Step Increments

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RESOLUTION NO. 030231

Solita S. Reolizado, Director, OPCCB, Department of Budget and Management (DBM), Manila requests opinion from the Commission relative to the propriety of the grant of step increment on the basis of the length of service to recently resigned Director Fernando C. Josef of the Philippine High School for the Arts (PHSA).

Specifically, the request reads, as follows:

"x x x The antecedents of the case are as follows:

- `- Prior to his assignment at PHSA, Director Josef was connected with the Cultural Center of the Philippines (CCP), serving as Division Chief III on permanent capacity;*
- `- He became Director of PHSA, on secondment status, in January 1995;*
- `- A new appointment was then issued that changed the employment status from secondment to temporary, still in the same capacity as Director IV, covering the period May 2, 1997 to May 1, 2003;*
- `- Said personnel movement was construed as transfer/promotion, and indicated a shift from the career to non-career;*
- `- Director Josef tendered his resignation January 1, 2002.'*

"Under Joint CSC-DBM Circular No. 1, s. 1990, as amended by Joint CSC-DBM Circular No. 2, series of 1991, all employees of government, appointed on permanent status in both career and non-career service, are entitled to one salary step increment for every three (3) years of satisfactory service in a particular position.

"Strictly adhering to the provisions of the Joint Circular, Director Josef would not be entitled to step increments as his last appointment, as attested by your office, was on a temporary status.

"Under the Implementing Rules and Regulations of Executive Order 420, which provided for the establishment of PHSA, the Director shall be appointed for a term of six (6) years. Relatedly, the Career Executive Service Board (CESB) has clarified that positions with a fixed term of Office are not within the coverage of the Career Executive Service (CES), hence, a CES eligibility is not a requirement for appointment to said position. Under the rules of the CSC, temporary appointments are issued due to the failure of incumbents to meet all the requirements for the position, and should not exceed twelve (12) months.

"We believe that the tenure clause was the prime reason for the provisional appointment of Director Josef. He is thus entitled to salary increments due to length of service reckoning from the day he served as Director as PHSA on secondment status."

A thorough scrutiny of the above representation reveals that the main issue that needs to be addressed is whether then Director Josef is entitled to step-increment from the time of his secondment to the PHSA as Director IV until his resignation on January 1, 2002.

Section 1(b), Rule II and Section 2, Rule III of Joint CSC-DBM Circular No. 1, s. 1990 provide respectively, as follows:

"Rule II. Selection Criteria

"Section 1. Step Increments shall be granted to all deserving officials and employees x x x

x x x

"(b) Length of Service – For those who have rendered continuous satisfactory service in a particular position for at least three (3) years.

"Rule III. Step Increments

x x x

"Section 2. Length of Service – A one (1) step increment shall be granted officials and employees for every three (3) years of continuous 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 grant of step increment on the basis of length of service requires that an employee must have rendered at least three (3) years of continuous and satisfactory service in the position to which he/she is an incumbent (**CSC Resolution No. 02-1035 dated August 7, 2002, re: DERY, Merlita M.**). Moreover, length of service includes those rendered by an incumbent prior to his transfer to another position within the same agency or to another agency without a change in position title and salary grade.

Records show that Cultural Center of the Philippines (CCP) was created under **Presidential Decree (PD) No. 15 dated October 5, 1972, Sections 6 and 8** of which provide, as follows:

"Section 6. Board of Trustees. – The governing powers and authority of the corporation shall be vested in, and exercised by, a Board of nine (9) trustees who shall serve without compensation.

X X X

"Section 8. Appointment of Personnel. – The Chairman, with the confirmation of the Board, shall have the power to appoint all officers, staff and personnel of the Center with such compensation as may be fixed by the Board, who shall be residents of the Philippines. x x x."

On the other hand, PHSA was converted into a regular government agency under **Executive Order (EO) No. 420 dated September 7, 1990** issued by then President Corazon C. Aquino, **Sections 3 and 6** of which provide, as follows:

"Section 3. Advisory Council. The High School shall have an Advisory Council, composed of the following members:

'(a) President of the Cultural Center of the Philippines who shall be the Chairman, ex-officio;

'(b) Undersecretary of the Department of Education, Culture and Sports, who shall be the Vice-Chairman, ex-officio;

'(c) Artistic Director of the Cultural Center of the Philippines, ex-officio;

'(d) Director of the Bureau of Secondary Education of the Department of Education,

Culture and Sports, ex-officio;

'(e) Director of the Philippine High School for the Arts, ex-officio;

'(f) A representative from each of the fields of music, dance, theatre arts, visual arts, and literature to be appointed by the Chairman, upon recommendation of the Governing Board.

X X X

"Section 6. Director. *The day-to-day operations of the High School shall be under the supervision and control of the Director in accordance with Section 4 hereof. He shall be appointed by the Secretary of Education, Culture and Sports, upon recommendation of the Advisory Council. x x x."*

Hence, as can be gleaned from the aforequoted provisions, it is clear that CCP and PHSA have distinct and separate juridical personalities by virtue of their respective charters. While it may be true that the appointment of the Director of PHSA needs a prior recommendation from the Advisory Council, one of the ex-officio members of which is the CCP President, it does not automatically follow that PHSA is under the organizational structure of CCP. It bears emphasis that the appointing authority of the PHSA Director is the DepEd Secretary. Also, it is explicit in PD No. 15 that in the CCP, the CCP President has no power to appoint as it is the Chairman of the CCP Board of Trustees who is accorded such power.

In this case, prior to Josef's secondment to PHSA as Director IV on January 16, 1995, he occupied the position of Division Chief III under permanent status at the CCP. That being the case, there is no doubt that Josef was only on secondment to the PHSA before he was issued a temporary appointment as Director IV in May, 1997.

At this juncture, it bears emphasis that a seconded employee shall be on leave without pay in his mother agency for the duration of his/her secondment (**Section 6[c][viii], Rule III of CSC Memorandum Circular No. 15, s. 1999**). However, it does not follow that he/she did not render continuous service during the secondment for purposes of the grant of step increment. While it may be true that the aforequoted Joint CSC-DBM Circular is so worded that it explicitly mentions only of the term "*transferred*", it is worth stressing, however, that the same should be liberally construed to include other personnel movement like secondment as long as it does not involve a change in the subject employee's position title and salary grade.

Josef's service record at PHSA discloses, as follows:

1. Director IV (on secondment)
January 16, 1995 to May 1, 1997
2. Director IV (appointment under temp. status)

May 2, 1997 to December 31, 2001

3. Resigned effective January 1, 2002

On the basis of Josef's service record, the duration of his secondment to PHSA as Director IV thereof can not be considered in the computation of the length of service for purposes of the grant of step increment, not because there was no transfer yet, but primarily due to the fact that during the said secondment, he was an incumbent of a lower position, at the CCP i.e., Division Chief III, hence, in repugnance of **Section 2(b), Rule III, Joint CSC-DBM Circular No. 1, s. 1990**, which requires that the transfer (or secondment) as the case may be, should not involve a change in position title or salary grade.

Based on Josef's service record at PHSA, his length of service is four (4) years and eight (8) months, more or less, reckoned from the effectivity date of his appointment (transfer) to the position of Director IV. Thus, he is entitled to only one (1) step increment, notwithstanding the fact that his appointment was merely on temporary status.

This finds support in **CSC Resolution No. 00-2837 dated December 22, 2000 re: TADIAR, Alfredo F.** which reads, as follows:

"Section 1 of the Joint CSC –DBM Circular No. 2, s. 1991 dated July 5, 1991, which amended Section 1, Rule I of the Joint CSC-DBM Circular No. 1, s. 1990 provides, as follows:

'Section 1. These rules and regulations shall apply to all officials and employees in the national and local governments, including those in government-owned and controlled corporations with original charters, state universities and colleges, judiciary and legislature, who are appointed on a permanent status in the career and non-career service.'

"A reading of the aforequoted provision reveals that the grant of step increment is no longer exclusively enjoyed by those government officials and employees who are appointed under permanent status in the career service. The said privilege has been extended to those appointed in the non-career service under the said amendatory circular."

Thus, all non-career officials and employees in the government shall be entitled to the grant of step increment provided they must have rendered three (3) years of continuous satisfactory service in a given position occupied as of the effectivity date of the Joint CSC-DBM Circular No. 2, s. 1991, i.e., July 5, 1991.

WHEREFORE, the Commission hereby rules that the period during which Fernando Josef was on secondment shall not be considered in the computation of step increment as the same involved a change in position title and salary grade.

Quezon City, FEB 20 2003

(Original Signed)
KARINA CONSTANTINO-DAVID
Chairman

(Original Signed)
JOSE F. ERESTAIN, JR.
Commissioner

(Original Signed)
J. WALDEMAR V. VALMORES
Commissioner

Attested by:

(Original Signed)
ARIEL G. RONQUILLO
Director III

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