

**SULPICIO G. PAREDES, PETITIONER, VS. ACTING CHAIRMAN,
COMMISSION ON AUDIT, THE CITY TREASURER AND CITY AUDITOR
OF MANILA, RESPONDENTS.***G.R. No. L-39298. August 30, 1982*

Ponente: ABAD SANTOS, J.

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Petition for review on certiorari of the decision of the Acting Chairman of the Commission on Audit denying petitioner's claim for payment of P500.00 monthly representation allowance for the period covered by his terminal leave.

The facts of the case are not disputed. Petitioner Sulpicio G. Paredes was a former Assistant City Auditor of Manila with a monthly basic salary of P1,833.33. In addition to his monthly basic salary, he was receiving a monthly representation allowance in the amount of P500.00 pursuant to R.A. No. 5353 which authorized the City of Manila to grant commutable representation allowance to city officials as may be determined by the Board and as approved by the Mayor. Petitioner retired from the service effective November 1, 1972. Thereupon, he was granted the money value of his terminal leave from November 1, 1972 to January 14, 1974, computed on the basis of his monthly basic salary of P1,833.33. Contending that his monthly commutable representation allowance of P500.00 should have been added to his monthly basic salary for the purpose of determining the "highest rate received" to be used as the basis for computing the money value of his terminal leave, the petitioner filed with the City Treasurer of Manila on February 20, 1973, a claim for payment of said P500.00 monthly commutable representation allowance for the period covered by his terminal leave. The City Treasurer of Manila referred the claim to the City Auditor who in turn forwarded the same to the Commission on Audit. Thru its Acting Chairman, the Commission on Audit disallowed the claim. A motion for recon-sideration of the disallowance was denied. Hence, the present petition for review on certiorari.

Petitioner contends that since the P500.00 commutable representation allowance is specifically authorized by law (R.A. No. 5353), the same does not fall under the constitutional prohibition against additional or double compensation and must therefore be reckoned with, in addition to his monthly basic salary, in computing the money value of his terminal leave. We cannot agree. While it may be true that the P500.00 commutable representation allowance does not fall under the constitutional prohibition against additional or double compensation since it is specifically authorized by R.A. No. 5353, it does not follow that the same should be considered, in addition to petitioner's monthly basic salary, in computing the money value of his terminal leave. There is nothing in the constitutional provision invoked (Sec. 5, Art. XV) which could give validity to petitioner's conclusion. What should be consulted in resolving the issue of whether said representation allowance should be considered in the computation of the money value of petitioner's terminal leave is the law authorizing the grant of such benefit, namely, Commonwealth Act No. 186, as amended. Subsection (c), Section 12 of Commonwealth Act No. 186, as amended, reads as follows:

"(c) Retirement is likewise allowed to any official or employee, appointive or elective, regardless of age and

employment status, who has rendered a total of at least twenty years of service, the last three years of which are continuous. The benefit shall, in addition to the return of his personal contributions with interest compounded monthly and the payment of corresponding employer's premiums described in subsection (a) of Section five hereof, without interest, be only a gratuity equivalent to one month's salary for every year of the first twenty years of service, plus one and one-half month's salary for every year of service over twenty but below thirty years and two month's salary for every year of service over thirty years in case of employees based on the highest rate received and in case of elected officials on the rates of pay as provided by law. This gratuity is payable by the employer or office concerned which is hereby authorized to pro-vide the necessary appropriation or pay the same from any unexpended items of appropriations or savings in its appropriations. Officials and employees retired under this Act shall be entitled to the commutation of the unused vacation and sick leave, based on the highest rate received, which they may have to their credit at the time of retirement.

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The foregoing legal provision requires the computation of the money value of the terminal leave to be based on the retiree's "highest rate received." And a reading of the entire provision shows that "highest rate received" refers to the retiree's highest "monthly salary."

The question now before Us is whether petitioner's monthly commutable representation allowance should be considered as part of his monthly salary for the purpose of computing the money value of his terminal leave. To resolve this question, We have to consult the definition given to the term "salary" by the law granting the subject benefit. Section 2(c) of Commonwealth Act No. 186, as amended by Republic Act No. 1573, reads as follows:

"(c) 'Salary, pay, or compensation' shall be so construed as to exclude all bonuses, per diems, allowances and overtime pay, or salary, pay or compensation given in addition to the base pay of the position or rank as fixed by law or regulations."

It is clear from the foregoing provision of the very retirement law invoked by the petitioner that "allowances" are not considered parts of "salary" for purposes of retirement and payment of the money value of terminal leave. The fact that petitioner's representation allowance is "commutable" is of no moment since the law does not distinguish between "commutable" and "non-commutable" allowance. Besides, it expressly limits "salary" to "base pay of the position or rank as fixed by law or regulations."

The Acting Chairman of the Commission on Audit did not err in excluding petitioner's monthly representation allowance from the computation of the money value of his terminal leave.

WHEREFORE, the decision under review is hereby AFFIRMED, with costs against petitioner.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., Guerrero, De Castro, and Escolin, JJ., concur.

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