

**CRISANTO B. AMORES, PETITIONER, VS. ACTING CHAIRMAN,
COMMISSION ON AUDIT; THE PROVINCIAL TREASURER AND
PROVINCIAL AUDITOR OF MISAMIS OCCIDENTAL, RESPONDENTS.**

G.R. No. L-45998. February 04, 1993

Ponente: CAMPOS, JR. J.

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CAMPOS, JR. J.:

This is an appeal on certiorari from the decision of the Commission on Audit affirming the disallowance of P8,998.84 from the terminal leave pay of P16,150.72 which herein petitioner collected as retired Provincial Treasurer of the Province of Misamis Occidental. This disallowance was made in post-audit by the Provincial Auditor of Misamis Occidental.

Petitioner had been in the government service in various capacities -- the latest as Provincial Treasurer of Misamis Occidental until his retirement on October 17, 1972. With all the services in the government, petitioner allegedly was able to accumulate vacation and sick leave credits totalling 188.645 days of vacation leave and 332.559 of sick leave or a total of 571.204 (and not 570.904 as alleged) days as of May 31, 1971. Respondents, however, because of the finding by the post-auditing Provincial Auditor, maintain that petitioner accumulated leave credits totalling to only 380.904 as of the same date.

Thereafter, petitioner filed a long leave of absence of 189 days covering the period from July 1, 1971 to March 29, 1972 for which he collected the amount of P10,327.85 after deducting the insurance retirement premiums. The same was approved in pre-audit by Provincial Auditor Casiano Lagura.

Upon the termination of said leave, he returned to the service of the same province and stayed until his retirement on October 17, 1977.

On his retirement, petitioner was granted terminal leave of ten (10) months or 300 days and collected P16,150.72 after the usual pre-audit approval by the same Provincial Auditor.

In 1973, Boransing Daksila replaced Provincial Auditor Casiano Lagura and post-audited the foregoing claims of herein petitioner. Daksila's finding was that there was an overpayment in the amount of P8,998.84 representing excess leave credits. This figure was arrived at because according to Daksila, petitioner could not have accumulated more than ten (10) months or 300 days inasmuch as his commuted leave of 190 days must have been deducted from the 300 days pursuant to GAO Memorandum Circular No. 618 dated July 28, 1972.[1]

This finding was appealed by petitioner. However, the same was affirmed by the Commission on Audit (COA) which then required petitioner to refund the amount of P8,998.84 which was eventually reduced to P8,715.24.

The respondent COA, in a 7th indorsement dated August 28, 1975, affirming the post-audit finding, stated among others, as follows:

"The points raised by the Appellant-Claimant in the resume of his request for reconsideration cannot prevail

over the applicable provisions of Republic Acts 1081, 2625 and 4968: the Revised Administrative Code; and the Revised Manual of Instructions to Treasurers which are clear, restrictive and prohibitory, limiting the accumulation of leaves to only 300 days. Due to the clarity of the provisions thereof, there is no further need of resorting to interpretations notwithstanding the issuance of Memorandum Circular No. 618 of this Commission only on July 28, 1972, the same being clarificatory and procedural and was issued only as a reminder. Where before the maximum duly authorized accumulated leave was only five months, this was raised to ten months under RA 1081. Under RA 2625, Sundays, Saturdays and Holidays are excluded in the computation of the leave where before they were being included. RA 4968 reiterated only the right of a government official or employee to be entitled to the commutation of his terminal leave at the highest rate of salary he received while in the government service. Nothing is stated in RA 4968 expressly amending RA 1081 authorizing the accumulation of earned leaves in excess of ten months."[2]

On the sole issue of whether the ten-month restrictive and prohibitory rule applies to the commutation of all accumulated leaves at the time of retirement or that it applies to all leaves accumulated at any time during his employment, petitioner brought this action.

The core of the controversy lies in the appreciation of Section 286 of the Revised Administrative Code, as amended by Republic Act. No. 1081, which provides as follows:

"Section 286. When vacation and sick leave may be taken. -- Vacation leave and sick leave shall be cumulative and any part thereof which may not be taken within the calendar year in which earned may be carried over to the succeeding years, but whenever any officer, employee or laborer of the Government of the Philippines shall voluntarily resign or be separated from the service through no fault of his own, he shall be entitled to the commutation of all accumulated vacation and/or sick leave to his credit. Provided, That the total vacation leave and sick leave that can accumulate to the credit of any officer or employee shall, in no case, exceed ten months. Provided further, That the proper Department Head may in his discretion authorize the commutation of the salary that would be received during the period of vacation and sick leave of any appointed officer or employee or teacher or laborer of the Philippine Government and direct its payment on or before the beginning of such leave from the fund out of which the salary would have been paid: x x x." (Underscoring supplied).

Petitioner contends that the ten-month limitation pertains only to the accumulated leave credits upon retirement or severance from employment without fault on the part of the employee. In which case, the leave credits to which he was entitled should total 570.904 (571.204) days inasmuch as the excess leave credits of petitioner whether or not enjoyed during employment or upon retirement should not have been forfeited. Accordingly, he should not have been ordered to refund the amount of P8,715.24.

Respondents, however, maintain the view that the law is clear and unequivocal and as such, to distinguish the leave credits during employment from leave credits upon retirement would not be necessary. Therefore, any deduction of leave credits already enjoyed should be made from the ten-month limitation or 300 days, irrespective of the time when the same were enjoyed.

We agree with the respondents' position.

Firstly, it is clear from the law as above-cited, that the total vacation and sick leave that can accumulate to the credit of any officer or employee shall, in no case exceed ten months. To quote, Section 286 provides: "that the total vacation leave and sick leave that can accumulate to the credit of any officer or employee shall in no case exceed ten months". The provision of the law does not make any distinction as to which vacation and/or sick leave is referred to. Following a well-settled principle in statutory construction, We must not distinguish where the law does not distinguish.[3] In the same vein, where the law is free from ambiguity, the court may not introduce exception or conditions where none is provided from considerations of convenience, public welfare, or for any laudable purpose;[4] nor may it engraft into the law qualifications not contemplated.[5]

Secondly, citing COA (then GAO) Memorandum Circular No. 618,[6] "under no circumstance and at no time shall the total vacation and sick leave accumulating to the credit of the officer or employee exceed ten (10) months or three hundred (300) days"; "and that any such excess leave should not be credited and should automatically be forfeited pursuant to the provisions of Section 286 of the Revised Administrative Code". As a matter of contemporaneous interpretation of the law, this Circular has persuasive value. Moreover, it is undisputed that in administrative law, contemporaneous and practical interpretation of law by administrative officials charged with its administration and enforcement carries great weight and should be respected, unless contrary to law or manifestly erroneous.[7]

Lastly, the supplemental brief of the petitioner cannot be considered as to add weight to his argument. Said brief was anchored on the fact that on October 12, 1981, the Civil Service Commission promulgated Resolution No. 81-1158, which was circularized by the COA on July 27, 1982[8] stating therein that there shall be no limit as to the accumulation of leave credits during employment: that the limitation refers only to the commutation of the employee's leave credits upon retirement. The computation of Provincial Auditor Daksila[9] is precisely in accordance with the language of Section 286 of the Revised Administrative Code, as amended by Republic Act No. 1081 and even with the foregoing Resolution. The net effect of such computation was the limitation of the commutation of petitioner's leave credits and not the accumulation of the same. Commutation of leave credits, more commonly known as terminal leave, is applied for by an officer or employee who retires, resigns or is separated from the service through no fault of his own.[10]

In view of the foregoing discussion, the decision of respondent Commission on Audit is hereby AFFIRMED. This petition is therefore DISMISSED for lack of merit without pronouncement as to costs.
SO ORDERED.

Narvasa, C.J., (Chairman), Feliciano, Regalado, and Nocon, JJ., concur.

[1] Rollo, pp. 18-19; Annex "A", Petition.

[2] Rollo, pp. 7-8.

[3] Robles vs. Zambales Chromite Mining Co., et al., 104 Phil. 688, 690 (1958).

[4] University of the Phil. Board of Regents vs. Auditor General, 30 SCRA 5 (1969).

[5] Ramos vs. Court of Appeals, 108 SCRA 728 (1981).

[6] Dated July 28, 1972.

[7] Secretary of Justice Op. No. 145, s. 1973; No. 89 s. 1980.

[8] COA Circular No. 82-194, July 27, 1982; Rollo, p. 124.

[9] Rollo, p. 20; Annex "B" of Petition.

[10] Manual on Leave Administration Course for Effectiveness published by the Civil Service Commission, pp. 16-17 as cited in Borromeo vs. Civil Service Commission, 199 SCRA 911, 921 (1991).

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