



MC No. 6, s. 2011

MEMORANDUM CIRCULAR

TO : ALL HEADS OF CONSTITUTIONAL BODIES; DEPARTMENTS; BUREAUS AND AGENCIES OF THE NATIONAL GOVERNMENT; LOCAL GOVERNMENT UNITS; GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS WITH ORIGINAL CHARTER; AND STATE COLLEGES AND UNIVERSITIES

SUBJECT : Entitlement to Payment of Backwages and Other Benefits of Illegally Dismissed Employees

Under CSC Resolution No. 10-00379 dated November 19, 2010, the Commission promulgated the rules that shall govern the payment of backwages and other benefits to illegally dismissed employees who are later ordered reinstated, as follows:

“Section 1. An illegally dismissed employee who is later ordered reinstated is considered as not having left his/her office and shall be entitled to payment of backwages and other benefits that should accrue to him/her by virtue of his/her office.

“Section 2. For purposes of Productivity Incentive Bonus (PIB), the performance rating of the employee prior to his/her illegal dismissal shall be the basis for the grant.

“Section 3. All previous issuance of the Civil Service Commission inconsistent herewith are deemed repealed or modified accordingly.

“Section 4. These rules on entitlement to payment of backwages and other benefits shall have prospective application.

In a Race to Serve: Responsive, Accessible, Courteous and Effective Public Service

“These rules shall take effect after fifteen (15) calendar days from the date of publication in a newspaper of general circulation.”

Please be guided accordingly.


FRANCISCO T. DUQUE III, MD, MSc
Chairman

07 MAR 2011

Note: CSC Resolution No. 10-00379 dated November 19, 2010 was published in the Philippine Star on February 24, 2011.

AGR/X36/j127

Entitlement to backwages_MC



Entitlement to Payment of Backwages
and Other Benefits of Illegally Dismissed
Employees

Number: 1000379

Promulgated: 19 NOV 2010

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RESOLUTION

WHEREAS, Section 12 (2), Chapter 3, Title I (A), Book V of Executive Order No. 292, otherwise known as "*The Administrative Code of 1987*," empowers the Civil Service Commission to prescribe, amend, and enforce rules and regulations which are necessary in effectively carrying out its mandate;

WHEREAS, pursuant to its rule-making power, the Commission issued CSC Resolution No. 99-1936 dated August 31, 1999, otherwise known as the "*Uniform Rules on Administrative Cases in the Civil Service*" which provides for the Effect of Exoneration on Certain Penalties, as follows:

"Section 59. Effect of Exoneration on Certain Penalties.

- a. xxx
- b. In case the penalty imposed is demotion, the exonerated employee shall be restored to his former position without loss of seniority rights with payment of salary differentials.
- c. xxx
- d. In case the penalty imposed is suspension, he shall immediately be reinstated to his former post without loss of seniority rights with payment of back salaries.
- e. In case the penalty imposed is dismissal, he shall immediately be reinstated without loss of seniority rights with payment of back salaries."

WHEREAS, under existing jurisprudence, "*an employee who is reinstated after having been illegally dismissed is considered as not having left his office and should be given the corresponding compensation at the time of his reinstatement.*"

WHEREAS, Section 66 (Effect of exoneration from criminal/administrative case) of the Omnibus Rules on Leave, (Rule XVI of the Omnibus Rules Implementing Book V of Executive Order No. 292) provides that, "*In general, officials and employees who have been dismissed from the service but who were later exonerated and thereafter reinstated, are entitled to the leave credits during the period they were out of the service.*"

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WHEREAS, the Commission deems it necessary to revisit the rules on the payment of backwages and other benefits to illegally dismissed employees in accordance with the prevailing jurisprudence in order to be more responsive to the present cases being handled by the Commission;

WHEREFORE, the Commission hereby adopts and promulgates the following rules that shall govern the payment of backwages and other benefits to illegally dismissed employee who is later ordered reinstated, as follows:

Section 1. An illegally dismissed employee who is later ordered reinstated is considered as not having left his/her office and shall be entitled to payment of backwages and other benefits that should accrue to him/her by virtue of his/her office.

Section 2. For purposes of Productivity Incentive Bonus (PIB), the performance rating of the employee prior to his/her illegal dismissal shall be the basis for the grant.

Section 3. All previous issuances of the Civil Service Commission inconsistent herewith are deemed repealed or modified accordingly.

Section 4. These rules on entitlement to payment of backwages and other benefits shall have prospective application.

These rules shall take effect after fifteen (15) calendar days from the date of publication in a newspaper of general circulation.

Quezon City.


FRANCISCO T. DUQUE III
Chairman


CESAR D. BUENAFLOR
Commissioner


MARYANN Z. FERNANDEZ-MENDOZA
Commissioner

Attested by:


DOLORES B. BONIFACIO
Director IV

Commission Secretariat and Liaison Office