



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. L-C-2001-01

SUBJECT : Local Government Compensation

ISSUE : Whether or not the proportionate sharing by the Local Government Unit (LGU) and the National Government (NG) in the payment of Terminal Leave Benefits (TLB) of Dr. Pepito D. Balgos, a devolved personnel (now the Mayor of the Municipality of Bambang, Nueva Ecija, still applies since he did not request for the payment of his retirement benefits (gratuity and terminal leave) at the time he was separated from the government service in 1995.

FACTS : Dr. Balgos was appointed by the NG as Rural Health Physician (RHP) in Bambang, Nueva Viscaya, on 01 February 1982. He was devolved to the said LGU effective 01 January 1993 and continued rendering as such until his resignation on 27 March 1995 having filed his candidacy for an elective post. During the 1995 local elections, he won as Vice Mayor of Bambang, Nueva Viscaya. Later, on 28 March 1998, he became the Mayor of the Municipality by succession. Currently, Dr. Balgos is the incumbent Mayor after he was elected for the said post in the 1998 local elections.

In letter dated 21 February 2000, Isabel G. Asuncion, Municipal Budget Officer of Bambang, requested on behalf of Dr. Balgos, the release of funds to cover the payment of the NG share in the TLB of the latter. It was informed that the claimant had opted to request for the payment of the NG share of his TLB computed based on his old salary as RHP in 1995. He further commented that should he transfer his accrued leave credits to the Local Government Unit (LGU), the payment of the money value thereof shall already be based on his present salary as a Mayor and would seem to be prejudicial to the interest of the LGU in terms of the financial requirements thereof.

OPINION : The National Government shall be responsible for its proportionate share in the payment of the terminal leave benefits of Dr. Balgos covering the period 01 February 1982 to 01 January 1993 and computed based on NBC Nos. 429 and 429-A.

The pertinent rules on the matter are quoted hereunder, particularly, Section 2 paragraph f (3) of Executive Order No. 503 dated 22 January 1992; Section 3.5 of NBC No. 429 dated 30 September 1993; and Section 5 of NBC No. 429-A dated 29 December 1993, to wit:

A. E.O. No. 503 dated 22 January 1992 (Providing for the Rules and Regulations Implementing the Transfer of Personnel and Assets, Liabilities and Records of National Government Agencies Whose Functions are to be Devolved to the Local Government Units and For Other Related Purposes)

*"f(3) Payment of retirement benefits to the NGA personnel transferred to the LGUs shall be proportionately shared by the NGA and the LGU concerned based on the length of service of the personnel concerned in both agencies.
x x "*

B. NBC No. 429 dated 30 September 1993 (Separation and Retirement Benefits of National Government Agency Personnel Devolved to the Local Government Units

"3.5 An official or employee who is transferred to the LGU but who subsequently retires or is separated from the service shall be paid retirement benefits proportionately shared by the NGA and the LGU concerned based on the cumulative length of service."

C. NBC No. 429-A dated 29 December 1993 (Amending Section 5 of NBC No. 429 dated 30 September 1993)

"5.5 As a general rule, the payment of retirement and terminal leave benefits of government employees shall be the responsibility of the last employer. However, in

be the responsibility of the last employer. However, in the case of devolved personnel, the payment of their benefits shall be proportionately shared by the Local Government Unit (LGU) and the National Government Agency (NGA) concerned."

NBC No. 429 and 429-A shall apply to the leave credits claimed by Dr. Balgos with respect to his employment as RHP based on the following arguments:

Paragraph 3.5 of NBC No. 429 states that an official or employee who is transferred to the LGU but who subsequently retires or is separated from the service shall be paid retirement benefits proportionately shared by the NGA and the LGU concerned based on the cumulative length of service. In the instant case, Dr. Balgos was separated from the service as an RHP by virtue of his filing of certificate of candidacy for Vice Mayor in the Municipality of Bambang. Section 66 of Omnibus Election Code provides:

"Sec. 66. Candidates holding appointive office or position. – *Any person holding a public appointive office or position, including active members of the Armed Forces of the*

Philippines, and employees in government-owned or controlled corporation, shall be considered ipso facto resigned from his office upon the filing of his certificate of candidacy.
(Underscoring ours)

REFERENCE: Memorandum of the Secretary dated 19 February 2001 to DBM RO-II

Recommended:


JANET B. ABUEL
Director, LLS

Approved:


EMILIA T. BONCODIN
Secretary