



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
 Malacañang, Manila

LEGAL OPINION NO. 1.-C-2001-02

SUBJECT : Local Government Compensation

ISSUE : Whether or not a Pairing Judge of RTC Branch 4 is entitled to an additional monthly allowance from the City Government of Manila.

FACTS : In April 1997, Judge Antonio I. De Castro, RTC, Branch 7 in the City of Manila was given additional assignment as pairing judge of RTC Branch 4, Manila, in view of the retirement of the judge assigned therein. As pairing Judge, he holds all cases assigned in both Branches 4 and 7. Supreme Court (SC) Circular No. 19-98 mandates the judge of the paired court to take cognizance of all cases thereat as acting judge therein until the appointment and assumption to duty of the regular judge or until further orders from the SC.

In line with this mandate, the SC Resolution En Banc No. 99-1-04 dated 02 February 1999 granted judges of RTCs, MTCs and MCTCs, who are given additional assignment of hearing and deciding cases of other branches, an additional expense allowance at a rate of P500 a day for every day rendered in the other branches but in no case to exceed P6,000 a month, chargeable against the regular appropriations for Representation and Transportation Allowance (RATA) for such other branches which are deemed savings in such item for the duration of the vacancy of such other branch. Such SC Resolution further allowed the grant to such judges a monthly hardship allowance of P500 for every additional branch that is assigned to them, chargeable against the savings of the lower courts or the Judiciary Development Fund.

The Office of the City Auditor of Manila believes that Judge De Castro is entitled to RATA appertaining to the Office of RTC Branch 4, Manila.

In letter dated 07 January 1999, DBM-NCR opined that Judge De Castro is not entitled to receive additional allowance in the light of the

is not entitled to receive additional allowance in the light of the constitutional prohibition against "double compensation". It was further opined that in the absence of an express provision of law, rule or regulation authorizing the contrary, the pairing judge is barred from receiving the allowance appropriated for the judge of the vacant court.

Judge De Castro requested reconsideration thereon based on the following SC issuances:

1. SC Circular No. 19-98 which provides that the pairing judge shall assume the functions of a regular presiding judge, and
2. SC Resolution No. 99-1-04 which authorizes the grant of monthly additional expense allowance to the pairing judge chargeable against the regular appropriation for RATA.

OPINION : Judge De Castro is not entitled to an additional monthly allowance from the City Government of Manila.

The appropriate legal basis and guideline involving the grant of allowance/benefit to certain national government officials stationed in local government units charged from local funds is the 1991 Local Government Code of 1991 (Sections 447, 458 and 468) which is implemented by DBM Local Budget Circular Nos. 55 and 62. Pursuant to said Circulars, the rate of honoraria that an LGU may grant a national government official assigned therein shall not exceed the RATA rate for its department heads. Likewise, said national official may simultaneously receive from more than one LGU provided that the total honoraria that a national government official may receive from the local government is limited to the RATA authorized in the LGU for its department head, regardless of the number of positions served or sources, (in case the incumbent is assigned to more than one LGU the maximum shall correspond to the highest rate among the LGUs concerned). This limitation was imposed to avoid unnecessary strain on the financial resources of LGUs which should be devoted to the delivery of basic services and development projects. The grant of honorarium/benefit to national government personnel is not a mandatory obligation of the local government, but is considered a "grant" subject to the discretion or goodwill of the giver. The services rendered by the RfC Judges in the LGUs are actually the duties and responsibilities of said positions for which salaries are paid.

In the instant case, Judge De Castro is already receiving the regular honorarium from the City Government as Presiding Judge of RTC Branch

In the instant case, Judge De Castro is already receiving the regular honorarium from the City Government as Presiding Judge of RTC Branch 7, his regular position. While the duties and responsibilities rendered in Branch 4 are additional, he cannot receive the honoraria for both positions as this constitutes double compensation for he will be receiving similar allowance for the same nature of work. Under existing compensation policy, a government personnel cannot receive the kind of benefit regardless of the sources or additional duties he takes. In cases where the additional position he holds is authorized the same allowance, he is entitled to the difference only if the rate in the second position or designation is higher. Where the rates are similar, he cannot validly receive both benefit. This limitation serves as check on holding multiple positions which may prejudice the quality of public service and receipt of excessive compensation. Moreover, he was also given an allowance of P500 per day for every day rendered in Branch 4 but not exceeding P6,000 or the RATA attached to the vacant position. To collect additional

allowance from the LGU would already constitute double compensation prohibited by the Constitution.

REFERENCE: Letter to Honorable Antonio I. De Castro, Presiding Judge, RTC, Manila, dated 20 February 2001

Recommended:


JANET B. ABUEL
Director, LLS

Approved:


EMILIA T. BONCODIN
Secretary