



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. N-M-2002-01

SUBJECT : National Government Compensation - Extension of Government Service

ISSUE : Whether or not the services of a SUC President rendered beyond the mandatory retirement age of 65 years may be included in the computation of terminal leave and retirement gratuity benefits.

FACTS : Dr. Helmar E. Aguilar, SUC President I of Aklan State University (formerly Aklan State College of Agriculture), reached the mandatory retirement age of 65 years on 01 August 1998. By virtue of Resolution No. 52-04, Series of 1998, the Board of Trustees of Aklan State College of Agriculture (ASCA) (now Aklan State University [ASU]) reappointed President Aguilar as SUC President I of ASCA for a term of three (3) years commencing on 03 August 1998 to 30 April 2001. The Board further reappointed President Aguilar to the same position effective 04 April 2001 to 01 August 2003 pursuant to Resolution No. 01-07, series of 2001.

Republic Act (R.A.) No. 9055, an Act which converted ASCA into ASU, vested upon the Board of Regents specific power to extend the term of the President of the ASU beyond the retirement age to 70 years.

With his reappointment, Dr. Aguilar was granted all the powers, rights, responsibilities and privileges appertaining to the position. However, in letter dated 27 August 2001 to the ASU Board of Regents, President Aguilar tendered his resignation effective at close of office hours of 31 December 2001.

In the computation of the retirement benefits of Dr. Aguilar, only his services up to his compulsory retirement at 65 was considered. The corresponding SARO therefor was released. However, he is now claiming his retirement benefits covering the period of his extension.

corresponding SARD therefor was released. However, he is now claiming his retirement benefits covering the period of his extension.

OPINION : The extension of service of Dr. Helmar E. Aguilar is allowed under the law (RA No. 9055). However, the same is subject to the provision of Section

12, Rule XIII of CSC Memorandum Circular No. 40, s. of 1998, that services rendered during the period of extension shall not be credited as part of government service. Moreover, such extension shall not entitle the employee to earn leave credits and other benefits.

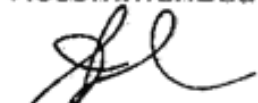
There is nowhere in RA No. 9055, which provides that the extended services of a faculty member of the Aklan State University shall be credited as part of government service which would entitle him/her to leave credits and other benefits. Therefore, while it may be true that the extension of services may be approved by the ASU Board of Regents as authorized under ASU Charter, such extension of services shall be subject to existing civil service laws, rules and regulations.

It should be noted that CSC Memorandum Circular No. 40, s. of 1998 speaks of the rules on appointments and other personnel actions in all departments, bureaus and agencies of the National and Local Governments, including Government-Owned and/or Controlled Corporations and State Universities and Colleges.

The mere extension of the services of Dr. Aguilar does not change the fact that, officially, he is no longer part of the Civil Service after reaching the mandatory retirement age and therefore, his services are not considered nor should be added to the total period of service for the purpose of computing retirement benefits under the law

REFERENCE: Memorandum dated 18 January 2002 to DBM RO-VI

Recommended:


JANET B. ABUEL
Director, LLS

Approved:


EMILIA T. BONCODIN
Secretary

