

PINEDA, MAXIMINO
TUDLONG, JEANETTE

Re: Appointments: Retroactive

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RESOLUTION NO. 991880

Nestor B. Fongwan, Mayor, Municipality of La Trinidad, Benguet, requests the approval of the retroactive appointments of Maximino Pineda and Jeanette Tudlong as Accountant II and Accountant I, respectively, in the Municipal Government of La Trinidad, Benguet.

The pertinent portions of said letter-request dated January 22, 1999, read as follows:

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"Mr. Maximino D. Pineda held the position of Senior Supervising Clerk, while Ms. Jeanette T. Tudlong held the position of Bookkeeper before the implementation of the Salary Standardization Law, part I. On July 1, 1989 upon the implementation of Salary Standardization Law, Part I, the position of Mr. Pineda as Supervising Accounting Clerk was allocated to Accountant II and the position of Ms. Tudlong as Bookkeeper was allocated to Accountant I as per notice of Salary Adjustments were (sic) issued to them.

" However, it was later found out, upon verification by the CSC-CAR, Baguio-Benguet Field Office that no appointments were issued to them for their present positions.

"The non-issuance of a new appointments (sic) to them was an honest oversight due to the turnover of personnel handling personnel matters.

"The said employees were employed in the local government since February 25, 1969 and held permanent positions prior to the reclassification of their positions. May we

therefore request that their appointments which are retroactive (sic) July 1, 1989 be approved by your office."

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Pineda M. et al /p2

The rule regarding the effectivity of appointments is provided under Section 2, Rule IV of the Omnibus Rules on Appointments and Other Personnel Actions, as follows:

"Sec. 2. No appointment shall made effective earlier than the date of issuance, except in the case of change of status in view of having acquired a civil service eligibility .."

The rule notwithstanding, the Commission deems it proper to consider the peculiar circumstances involved in the present case.

Prior to the implementation of Republic Act No. 6758, otherwise known as the "*Compensation and Position Classification Act of 1989*", both Pineda and Tudlong were permanent employees of the municipality. Pineda was employed as Supervising Accounting Clerk while Tudlong was a Bookkeeper.

The provision of RA No. 6758 was implemented in the Local Government Units through joint Commission Circular No. 36. Under said Joint Circular, the position of Supervising Accounting Clerk, which belonged to the first level was allocated to or reclassified as Accountant II, second level. Likewise, the position of Bookkeeper, belonging to the first level was allocated or upgraded to Accountant I, second level.

To achieve a smooth implementation of RA No. 6758, the Commission issued Memorandum Circular

NO. 44 s. 1989, dated October 5, 1989. Said MC requires the issuance of a new appointment "*when a first level position as of June 30, 1989 is converted to a second level position like Supervising Clerk to Records Officer I or Administrative Officer I*"

However, instead of issuing new appointments in favor of Pineda and Tudlong whose first level items were converted to second level positions, the then Mayor of La Trinidad issued Notice of Salary Adjustment. By way of rectifying the oversight or mistake of the former Mayor, his successor, Mayor Nestor Fongwan, issued new appointments to Pineda and Tudlong as Accountant II and Accountant I, respectively, retroactive to July 1, 1989, the date of effectivity of RA No. 6758.

Pineda, M. et al /p3

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In view of the antecedent facts, the question to be resolved is whether the retroactive appointments issued by Mayor Fongwan may be allowed.

Based on the facts and circumstances of this case, the Commission is of the opinion and so holds that in the interest of substantial justice and equity, the two (2) appointments be deemed as exceptions to the general rule that no appointment shall be made effective earlier than the date of issuance.

Pointedly, Pineda and Tudlong have vested claim to the positions arising out of their equitable rights as incumbents. Records show that they have been performing the duties and functions of the positions of Accountant II and Accountant I, respectively, since then and that they have been receiving the corresponding salaries therefor since 1989. The fact that the previous appointing official merely issued them Notices of Salary Adjustment instead of appointments as required under existing rules does not bar these employees the right to continue serving as such and to be issued appointments indicating the true

and correct effectivity dates. In other words, they should not be made to suffer the consequences of the negligence or mistake of the former Mayor.

Moreover, in order to resolve all doubt as to their entitlement to the positions, the CSC Office Memorandum No. 65, s. 1989 dated November 27, 1989, provides that new appointments issued pursuant to Joint Memorandum No. 36 shall be approved as permanent regardless of whether or not the appointees meet the qualification standards of the new positions.

Thus, it is clear that both Pineda and Tudlong have the right to be issued and extended permanent appointment effective July 1, 1989.

Pineda, M. et al ../p4

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WHEREFORE, the appointments of Maximino D. Pineda and Jeanette T. Tudlong to the positions of Accountant II and Accountant I, respectively, effective July 1, 1989, are hereby approved. Accordingly, the CSRO-CAR is directed to reflect the approval of these appointments in their records.

Quezon City, **Aug 23, 1999**

THELMA P. GAMINDE
Commissioner

CORAZON ALMA G. DE LEON
Chairman

JOSE F. ERESTAIN, JR.
Commissioner

Attested by:

ARIEL G. RONQUILLO
Director III

TPG/RM
NLA/A3/S15/jca79
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