

NINTH DIVISION

[CA–G.R. SP No. 137281, March 25, 2015]

**CIELITO A. MARTINEZ, PETITIONER, VS. CIVIL SERVICE
COMMISSION, RESPONDENT.**

D E C I S I O N

DICDICAN, J.:

Before us is a Petition for Review^[1] filed pursuant to Rule 43 of the Revised Rules of Court assailing Decision No. 140256^[2] that was promulgated by the respondent Civil Service Commission (CSC) on April 10, 2014 which, in turn, modified the Memorandum^[3] that was issued by the CSC National Capital Region (CSC-NCR) dated October 7, 2013 denying the request of herein petitioner to transfer his leave credits which he earned from the Ministry of Education and Culture, the CSC and the Bureau of Immigration to his terminal leave in the CSC ("assailed decision"). Likewise assailed in the instant petition is the subsequent Resolution^[4] that was issued by the CSC on July 30, 2014 which denied the motion for reconsideration of its herein assailed April 10, 2014 decision that was filed by the petitioner in the said case for lack of merit.

The material and relevant facts of the case, as culled from the record, are as follows:

Petitioner Cielito A. Martinez ("petitioner") started his employment in the government on August 9, 1978 as Statistician III at the then Ministry of Education and Culture (now Department of Education, Culture and Sports). On August 24, 1984 and, after he rose from the ranks, the petitioner transferred to the CSC Central Office as Senior CS Attorney. His earned 15.069 days of vacation leave and 9.916 days of sick leave were likewise transferred from the Ministry of Education and Culture (MEC) to the CSC.

Subsequently, on July 18, 1986, the petitioner once again transferred from the CSC to the then Ministry of Justice (now Department of Justice-Bureau of Immigration) where he served as a Hearing Officer III on a co-terminous status of employment. His earned 31.120 days of vacation leave and 24.457 days of sick leave were also transferred from the CSC to the Ministry of Justice.

The employment of the petitioner at the Ministry of Justice ended on February 10, 1988. In the meantime, during the whole period of his employment in the government from August 9, 1978 until February 10, 1988, the petitioner earned a total of 97.493 leave credits which were not converted into its monetary value.

Thereafter, the petitioner engaged in the private practice of law for more than eighteen (18) years or until July 10, 2006 when the petitioner again joined the CSC-NCR as Attorney VI. At the CSC-NCR, the petitioner had earned a total of 156.029

leave credits as of April 1, 2013.

However, while the petitioner was then reviewing the papers for his retirement on April 29, 2014, he realized that he had failed to monetize his leave credits or claim his terminal leave when his employment in the Ministry of Justice ended on February 10, 1988. Thus, in a Letter^[5] that was addressed to the CSC-NCR Regional Director Lydia Alba-Castillo dated September 23, 2013, the petitioner requested that he be allowed to transfer his leave credits of 97.493 days from the Ministry of Education to CSC-NCR in order to form part of his total leave credits when he retire in 2014.

In a Memorandum dated October 7, 2013, the CSC denied the aforesaid letter-request of the petitioner on the ground that the same would be violative of the pertinent Civil Service Law and rules. Quoting Section 47, in relation to Section 26, of CSC Memorandum Circular No. 41, series of 1998, the CSC explained the basis of the said denial as follows:

"Ideally, based from the foregoing provisions, a government official or employee should avail of the right to commute his/her accumulated leave credits upon his separation from the service, and as such, upon re-entry in the government, he/she shall start from zero balance insofar as the leave credits are concerned. However, in the event that he/she re-enters the government service without having previously availed of his right to terminal leave benefit, the same may, by analogy, be covered by the rule under Section 47, CSC MC No. 41, s. 1998, which allows the transfer of leave credits earned from the previous employment in the government, provided that the gap in the service should not be more than one (1) month and not due to his/her fault.

"Notably, under Section 47 of the same MC, whether the government official or employee transferred to another government agency or re-entered government service, it is an indispensable requirement that the gap in the service of the employee or official concerned should not have exceeded one (1) month, for purposes of considering his/her leave credits. Moreover, the exercise of this privilege must be availed within one (1) year from the employee's transfer or re-employment to the new government agency.

"Applying the foregoing rules to this case, this Office notes that eighteen (18) years and five (5) months had elapsed before you re-entered government service. Likewise, seven (7) years and two (2) months lapsed before you sought to have your leave credits earned from 1978-1988 transferred to this Office. These periods clearly indicate a gap in your service, and a manifest deviation from the above-cited requirement on the allowable time to request the transfer of leave credits previously earned."

Consequently, the petitioner filed an Appeal Memorandum^[6] in the CSC Main Office pleading for the liberal application of the Civil Service Law and rules in his favor. In support of his appeal, the petitioner cited several cases that were decided by the CSC and the Supreme Court whereby the Civil Service Law was liberally applied in favor of some government officials and employees. The petitioner claimed that the same liberality should likewise be applied in his case considering that he had fully

dedicated his life to his work at the CSC-NCR. He stressed that he introduced innovations and reforms in the aforesaid office which led to a more systematic handling and speedy disposition of the cases in the said office.

Thus, in the herein assailed decision dated April 10, 2014, the CSC partly granted the appeal that was filed by the petitioner. Citing humanitarian reasons, the CSC held, to wit:

“WHEREFORE, the Appeal/Petition for Review of Cielito A. Martinez, Attorney VI/Chief, Legal Services Division, Civil Service Commission-National Capital Region (CSC-NCR), is hereby PARTLY GRANTED. Accordingly, the decision embodied in a Memorandum dated October 7, 2013 of the CSC-NCR, denying his request to transfer his leave credits, from the Bureau of Immigration (BI) to the CSC-NCR, as an exemption to the provision of Section 47 of CSC Memorandum Circular (CSC-MC) No. 41, s. 1998, is hereby MODIFIED, such that the 30.592 leave credits which he earned in the Civil Service Commission, prior to his transfer to the Bureau of Immigration (BI), are allowed to be transferred to the CSC-NCR, and be paid to him as terminal leave.”

Nonetheless, the petitioner filed a Motion for Reconsideration^[7] of the April 10, 2014 decision of the CSC but the same was likewise denied for lack of merit by the CSC in the herein assailed resolution dated July 30, 2014.

Aggrieved by the foregoing disposition of the CSC, the petitioner filed the instant petition for review raising the following errors that were purportedly committed by the CSC, to wit:

I.

THE CSC ERRED IN NOT ALLOWING THE INCLUSION OF THE 66.901 LEAVE CREDITS WHICH WERE EARNED BY THE PETITIONER DURING HIS EMPLOYMENT AT THE DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF JUSTICE TO FORM PART OF HIS LEAVE CREDITS AT CSC-NCR FOR THE PURPOSE OF COMPUTING HIS TERMINAL LEAVE.

II.

THE CSC DECISION AND RESOLUTION WHICH DISALLOWED THE INCLUSION OF THE 66.901 LEAVE CREDITS THAT THE PETITIONER EARNED DURING HIS EMPLOYMENT AT THE DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF JUSTICE TO FORM PART OF HIS TERMINAL LEAVE WOULD RESULT IN THE FORFEITURE OF HIS LEAVE CREDITS WHICH IS NO LONGER ALLOWED UNDER THE PRESENT RULE, THEREBY PLACING THE PETITIONER IN A SITUATION WHICH IS WORSE THAN THE ONE WHO WAS DISMISSED FROM THE SERVICE.

In sum, the sole issue to be resolved by us in this case is whether or not the CSC erred in disallowing the inclusion of the 66.901 leave credits which the petitioner earned during his employment at the Department of Education and Department of Justice to form part of his terminal leave in the CSC. Upon perusal of the record of the case, it is evident to this Court that no cogent reason exists to disturb the findings of the CSC.