

Ruling of the General Auditing Office

MUNICIPAL POLICE FORCE WITHDRAWN TEMPORARILY FROM MUNICIPALITY FOR SERVICE ELSEWHERE, SALARY OF.—

When a member of the municipal police force is withdrawn or mobilized temporarily by the Provincial governor under section 2084 of the Administrative Code and Executive Order No. 175 of the President of the Philippines, from one municipality where he is regularly appointed for service in another part of the province, his salary during the period of such withdrawal or mobilization will be paid by the municipality where he has been duly appointed but his traveling expenses incident to or arising from, the said temporary withdrawal or mobilization will be paid by the province.

This ruling amends accordingly the provisions of section 633(a) of the Manual of Instructions to Provincial, City and Municipal Treasurers and revokes all previous rulings on the same subject which are in conflict herewith. *1st Ind., April 3, 1941, of Aud. Gen. to the Provincial Auditor of Pangasinana; see Provincial Division Circular No. 520, dated April 15, 1941, of the General Auditing Office.*

ADDITIONAL COMPENSATION NOT AUTHORIZED FOR GOVERNMENT OFFICIAL GIVEN TEMPORARY DESIGNATION UNDER C. A. 588.—

Respectfully returned to the Honorable, the Secretary of Finance, Manila, inviting attention to the following excerpts of the letter of the Secretary to the President of the Philippines addressed to this Office under date of July 30, 1941:

"In connection with the aforementioned provisions of Section 1 of Commonwealth Act No. 588, His Excellency, the President, desires that any Government official given temporary designation under said Act shall, unless expressly authorized to receive additional compensation in his designation or in a subsequent order from the President, be allowed to draw only his regular compensation as usual in consonance with the provisions of Section 261 of the Administrative Code.

"It is requested that this instruction be circularized for the information and guidance of all officials and employees concerned in that office."

The above was embodied in General Circular No. 324 and Provincial Treasurers' Memorandum No. 581 of this Office.

Unless advised that the policy enunciated above by his Excellency, the President of the Philippines, has either been revoked or modified, this office will be constrained to continue its enforcement.—*3rd Ind., Dec. 19, 1946, of the Aud. Gen. to the Sec. of Finance.*

DURATION OF AUTHORIZATION FOR AUTOMOBILE ALLOWANCES.

—There is no definite rule as to the length of the period authorizations for automobile allowances should be held valid. Years ago, the Department of the Interior, then exercising full authority in matters of provincial automobile allowances, established the rule that such authorizations should be renewed yearly; but since the decentralization of that authority among the different Departments that rule has not been consistently enforced. As a result there are now authorizations for indefinite periods subject only to the availability of appropriations.

It is, therefore, our opinion that authorizations for automobile allowances do not necessarily terminate with the fiscal year, unless the resolution of the provincial board or the Department approval or both so provide.—*1st Ind., July 17, 1939, of Aud. Gen. to the Provincial Auditor of Misamis Occidental; G.A.O.F. 13.1 Mis. Occ.*

CAN MUNICIPALITY APPROPRIATE FUNDS FOR BENEFIT OF FEW INHABITANTS THEREOF?—

The Municipal Council of Loon, Bohol, in its Resolution No. 86, series of 1937, has set aside the sum of ₱100.00 from the general fund of the municipality for the relief of the four widows of Cabilao Island, Loon, whose husbands died at sea in the typhoon of November 17, 1937. According to the within papers, these widows are poor and indigent and have no means of livelihood and that they are in need of help.

This case presents the question: Can the municipal Council appropriate municipal funds for the benefits of a few inhabitants of the municipality?

We are not aware of any law authorizing the municipal council to appropriate municipals funds for the purpose stated above. In this connection, attention is invited to section 2288 of the Administrative Code which provides as follows:

"Use of municipal funds.—Except as allowed by law, municipal funds shall be devoted exclusively to local public purposes."

Taxation is the taking away of private property for public use. In the instant case, a portion of the taxes collected from the inhabitants of the municipality of Loon is being appropriated by the municipal council as relief aid to the four widows of Cabilao Island. This cannot be done because the "rule is well established, and supported by numerous well considered cases that municipal corporations have only such powers as are expressly granted in their charters or are necessary to carry into effect the powers so granted. It is a rule of public utility, and courts should recognize and enforce it as a safeguard against the tendency of municipalities to embark in enterprises not germane to the objects for which they are incorporated." (Dailey v. City of New Haven, 60 Wis. 314). "Taxation is the absolute conversion of private property to public use, and its validity rests on the use. In legislative grants of the power to municipal corporations, the public use must appear. The legislature can delegate the power to tax; and the validity of the delegation rests on the public purpose. Were this otherwise, as was said at bar, municipal taxation might well become municipal plunders." (Attorney General v. Claire, 37 Wis. 436). Public use "must be for the benefit and advantage of all the public and in which all have a right to share." (Smith v. Smythe, 197 N.Y. 457, 463; 90 1121; 44 Corpus Juris, p. 1109).

What is a local purpose? "The term 'local purpose'*** means a purpose the benefit of which is confined to a particular locality or limited district. A local purpose has reference to the citizens or interest of a particular locality." (Words and Phrases Judicially Construed). "A municipal council can-

not expend public funds for any purpose it may desire; in expending money municipalities are rigidly restricted to the purposes authorized by law. * * *. A municipal corporation cannot expend its funds for private purposes, or make appropriations for donations." (44 Corpus Juris, pp. 1108, 1109).

In view of the foregoing, our answer to the question is in the negative, it appearing that the sum of ₱100.00 voted by the Municipal Council of Loon in its Resolution No. 86, series of 1937, as relief aid to the four widows of Cabilao Island, Loon, whose husbands died at sea in the typhoon of November 17, 1937, is not for a local public purpose or public use, and hence, not within the powers of the municipality to grant.—11th Ind., Sept. 22, 1938, of Aud. Gen. to Sec. of the Int.; G. A. O. File 120.

Rizal - - (Continued from page 604)
home. I have only my parents, but my country has many sons besides myself who are able to take my place and are already taking my place successfully.

I desire, furthermore, to let those who deny our patriotism, see that we know how to die for our duty and for our convictions. What matters death if one dies for what he loves, for his motherland, and the beings he adores.

If I supposed that I was the only fulcrum of the policy of the Philippines, and if I were convinced that my fellow countrymen would utilize my services, perhaps I should hesitate to take this step; but there are still others who can, with advantage, take my place.

I have always loved my poor motherland, and am sure I shall love her to the last moment, even though perhaps men are unjust to me; and my future, my life, my joys, all have been sacrificed for my love of her. Whatever my fate may be, I shall die blessing her and longing for the dawn of her redemption.

Publish these letters after my death.—Jose Rizal. (Reprint from PANORAMA, Vol II, No. 12.

Activities - - -

(Continued from page 627)
canor Roxas of Quezon City, for their information.

Carried unanimously.