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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-138913

OCT 15 1964

AIRMAIL

Mr. et al.

Sta. Ann, Manila, Philippines

Gentlemen:

We refer to your letter of August 3, 1964, signed by Mr. [illegible] and concerning your claims for additional compensation as employees of the American Battle Monuments Commission, Manila, Philippines.

On the basis of the enclosures to your letter we requested a further report from the American Battle Monuments Commission specifically requesting that they inform us when they became aware that you were citizens of the United States. The Commission has reported that there is no evidence in their files that your citizenship status was known to them at the times of your employment in 1951 and 1952. However, the Commission's report of September 30, 1953, to the United States Embassy in Manila on non-Filipino employees contained the notation that you claimed United States citizenship. Prior similar reports contained no such indication. Therefore, it appears that the Commission considered you citizens of the Philippines during the first years of your employment. On various dates in 1957, however, your United States citizenship was proved to the Commission in connection with your applications for social security coverage. The United States Embassy in Manila informed the Officer in Charge of the Commission's Manila office on April 26, 1957, that Mr. [illegible] was a citizen of the United States. Similar information was transmitted from the United States Embassy with regard to Messrs. [illegible] and [illegible] on August 9, 1957, and with regard to Mr. [illegible] on September 9, 1957.

Prior to the dates given above the Commission only knew that you claimed to have United States citizenship. You continued to work for the Commission at native wage rates without attempting to prove your actual citizenship status or asserting your right to be compensated at classification act rates until just prior to July 30, 1958, at which time your employment was summarily terminated by the Commission because it did not have sufficient funds to retain you as employees at the higher classification act rates.

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There is no authority for an agency to pay a rate other than the appropriate classification act rate to a United States citizen occupying an overseas position of the type which normally is subject to that act. B-144081, March 16, 1961. However, since the Commission was not aware that you were citizens of the United States at the time of your employment and since the Commission employed you at native rates which you accepted as full payment for your services you are entitled to compensation at classification act rates only prospectively from the date the Commission received notification that you were citizens of the United States.

For the reasons stated we are today directing our Claims Division to issue settlement to you for additional compensation--the difference between native rates and classification act rates--for the period after the Commission received actual notice of your citizenship status. As noted above the date of such actual notice was April 26, 1957, in the case of Mr. , August 9, 1957, in the cases of Mr. and Mr. , and September 9, 1957, in the case of Mr. . You will receive payment for such additional amounts in due course.

Very truly yours,

FRANK H. WEITZEL

Assistant Comptroller General  
of the United States