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DECISION



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

Entitlement to Additional Severance Pay

FILE: B-199116

DATE: August 25, 1980

MATTER OF: Mr. Pascual E. Padua

- DIGEST:**
1. Philippine citizen was a civilian employee of U.S. Army Corps of Engineers in Okinawa and was separated from his position in 1964 due to a reduction in force. As a result, he claims severance pay under a 1947 agreement between the United States and the Republic of the Philippines which claim was disallowed by Claims Division in 1965. The agreement in question, entitled "Recruitment of Filipino Laborers and Employees" effective May 16, 1947, does not provide for the payment of severance pay upon termination of covered employment. In the absence of language specifically authorizing severance pay, payment may not be made.

 2. Philippine citizen who was separated from his civilian employment with the U.S. Navy in 1970 was paid severance pay by the Navy, but his previous employment with the Army was apparently not credited in the computation of the severance pay because there was a several year break in service between the two employment periods. While a 1968 agreement between the Philippines and the U.S. provides for including periods of prior employment in computing severance pay, such periods must be "continuous." Also, the claim for severance pay arising out of the 1970 separation was filed more than 6 years after accrual and is, therefore, barred by 31 U.S.C. § 71a.

Reference is made to correspondence from Mr. Pascual E. Padua, appealing the disallowance of his claim for severance pay believed due incident to his separation from civilian employment with the Department of the Army on August 10, 1964, and the Department of the Navy on August 15, 1970.

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B-199116

Documents contained in the file indicate that Mr. Padua, a citizen of the Philippines, was a civilian employee of the United States Army Corps of Engineers in the Okinawa Engineer District from August 22, 1949, through August 10, 1964, at which time he was apparently separated due to a reduction-in-force action. Mr. Padua filed a claim with our Claims Division in 1965 for severance pay as a result of his 1964 separation. That claim was disallowed because there was no authority for payment.

Several years after his separation in 1964 Mr. Padua was employed by the Navy. That employment terminated August 15, 1970, for which he was paid severance pay by the Navy.

Mr. Padua contends that under a 1947 agreement between the United States and the Republic of the Philippines he is entitled to severance pay as the result of his 1964 separation. In support of his claim he submitted a copy of the agreed minutes to a 1968 agreement between the United States and the Republic of the Philippines regarding employment of Philippine citizens which provides for such payment. In further support of his entitlement, he says that he received severance pay under this agreement for the later period of 2 years and 28 days of employment by the United States Navy which terminated August 15, 1970, but he notes that in computing that payment he was not credited with his prior employment with the Army.

The agreed minutes upon which Mr. Padua bases his claim appear to be part of an agreement between the United States and the Republic of the Philippines regarding the employment of Philippine citizens by military and civilian agencies of the United States Government in certain areas of the Pacific and Southeast Asia. That agreement, entitled "Offshore Labor," 19 UST 7560; TIAS 6598, became effective December 28, 1968, and only required the payment of severance pay to Philippine citizens so employed on and after that date. It did not authorize or require severance pay payments to Philippine citizens whose employment was terminated prior to that date. However, in computing severance pay it did provide for crediting "all prior continuous service" with the United States Government paid for with appropriated funds in computing severance pay, "unless severance pay has been paid for such prior service."

B-199116

Based on available information it appears that the agreement which was in effect when Mr. Padua was separated in 1964 is the agreement between the United States and the Republic of the Philippines entitled "Recruitment of Filipino Laborers and Employees," 7 UST 2539; TIAS 3646, which became effective May 16, 1947. While that agreement does provide for Philippine citizen employment by the United States Army, it contains nothing which authorized the payment of severance pay to Philippine citizens upon termination of employment under that agreement. Therefore, at the time of his 1964 separation there was no authority to pay him severance pay.

Concerning his 1970 separation, apparently because Mr. Padua had a several-years break in his service between his separation in 1964 and his employment with the Navy, his prior service with the Army was not considered "continuous service" and was not credited in computing his severance pay by the Navy in 1970. In any event any claim Mr. Padua had for additional severance pay arising out of his 1970 separation is barred by 31 U.S.C. § 71a since his claim for that pay was first received in our Office more than 6 years after the last date it could have accrued upon his separation in 1970.

Therefore, Mr. Padua is not entitled to any additional severance pay and the disallowance of his claim is sustained.

Copies of the full texts of both agreements between the Philippines and the United States discussed here are being furnished to Mr. Padua.

For the

Harry R. Van Allen
Comptroller General
of the United States