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Authority 883078

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PHILIPPINE ARMY, EMPLOYEES OF

PA - 22

11
dup
GSXRP

Phil. Army Employees

From: Civ. Section To: Director, Rec Pers Div Date 9 Nov 45

1. Inclosed herewith draft of negative letter covering claims for benefits under the M.P.A. from former employees of the Philippine Army.

2. Thru investigation by the undersigned, it is definate that the Philippine Commonwealth has no act similar to the U.S. Missing Persons Act.

3. All cases where claimant has back pay due him for periods worked, he is advised to submit such claims to the Philippine Army, La Garda Elementary School, Manila, P.I.

4. It is suggested no allied papers pertaining to individual cases be forwarded to the Philippine Army in asmuch as payments are not made for period of Japanese occupation to former employees of the Philippine Army.

1 Incl - Draft.

J. T. K.

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GSXRP

Policy on PA Cantonment Construction
Workers

FROM: GSXRP

TO: Ch Adjudication Br

12 Nov 45

1. Par 1, less sub-par a, b, and c, Recommendations basic C/N is approved. Under no circumstances will any of persons falling in this category be paid claims under the Missing Persons Act.

2. Sub-par a, b, and c, paragraph 1, are disapproved. This will be taken care of automatically if the claimant files proper claims.

3. Pars 2 and 3, recommendations, basic C/N are disapproved.

M. H. M.

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ADJUTANT GENERAL'S OFFICE
RECOVERED PERSONNEL DIVISION
ROUTING SLIP

FROM Rudolph Bumgardner, Jr.
Lt. Col. J.A.G.D.

6 Nov 1945

TO: *[Handwritten initials]*
Director (3)
Asst Director _____
Executive Officer (1) [Handwritten initials]
Asst. Ex. Officer _____
Legal Officer _____

FOR:
Approval _____
Information _____
Initials _____
Signature _____
Appropriate Action _____
Correction _____
Note & Return _____
File _____

Administrative Branch _____
Allot & Benefits _____
Plans & Operations _____

Adjudication Branch _____
AUS Sub-Section _____
Civ Sub-Section _____
PS Sub-Section _____

Invest. & Review Branch _____
Special Investigation _____
Archives _____
201 Files _____
Liaison Officer _____

Finance Branch _____
Disbursing Section _____

Chief Clerk _____

Capt Kelly (3)

*What are your
recommendations
on files as per
our conference
[Handwritten signature]*

Capt Kelly

Bring this to [Handwritten initials]

dup

Policy on PA Cantonment
Construction Workers

From: Legal Officer
Rec Pers Div

To: Director
Rec Pers Div

Date: 5 November 1945

1. Authority cited in Par 6, Discussion, Basic CN gives authority to disallow claims of persons who were "civilian employees of the Commonwealth of the Philippines". This is, of course, a question of fact to be determined from all available evidence. General statements such as that of Col. Janairo, may be considered, as well as information such as the payrolls, which specifically refer to the particular claimant, in determining this fact.

2. I do not concur in a, b and c of 1, Recommendations. It is believed that these would tend to confuse the adjudicators. For these persons to come under the Missing Persons Act, it would be because of an actual employment by the War Department in accordance with the terms of the Act. This would be an employment separate and apart from any former employment by the Phil gov't.

3. I do not concur in 2 and 3, Recommendations, for the following reasons:

a. It would appear desirable that we maintain the same files in these cases as any others which we have disallowed.

b. The material proposed to be turned over to Phil Gov't would be of value to us in determining the status of any persons listed therein, who may file claims subsequently. Should we have any records to which the Phil gov't would need to make reference, they could be made available for their examination.

c. The Phil gov't, if it has any provision under which these people might make claim, undoubtedly have their own forms and information requirements, so that our form would be of little or no ^{value} ~~claim~~. Further the transfer of the claims filed with us might be interpreted as a tacit indication that we consider these persons to have a claim against them. It is for the Phil gov't to decide as to whether these people have a claim and how they desire to process them.

RUDOLPH BUMGARDNER, JR.
Lt Col, JAGD

Duplicate Copy
already filed (Page 39-41)

APC 500
2 October 1945

Honorable C. F. Hanson
Deputy Commissioner
U.S. Employees' Compensation Commission
Manila, P.I.

Dear Mr. Hanson:

Receipt is acknowledged of your communication of 22 August 1945 relative to the status of civilian employees of the Philippine Army. The following information is categorically furnished in reply to the questions propounded therein, in order of submission:

a. From what funds are these civilians paid and how are such funds disbursed?

(1) To provide a complete background in connection with the funds appropriated by the U.S. Government for use in the Philippines, it becomes necessary to trace the origin of such funds currently being used to the Independent Offices Appropriation Act, 1942 (Public Law 28-78th Congress) approved 5 April 1941, appropriating monies for "Emergency Funds for the President". This legislation enabled the President of the United States to make funds available for emergencies affecting national security extant at that time. This appropriation was continued in the First Supplemental National Defense Appropriation Act, 1942 (Public Law 353-77th Congress), under the heading entitled "Army of the Philippines", and provided that any expenditures heretofore or hereafter made from said appropriation, "Emergency Funds for the President", for the purposes and in the manner authorized under the heading in this Act are hereby authorized and validated. Funds made available by this Act to the Commonwealth of the Philippines are for the operation and maintenance of the Army of the Philippines, including the expenditures incident to pay, allowances, operation, maintenance, and other activities of units and personnel of the Philippine Army. Expenditures could be made without regard to the provisions of law regulating the expenditure of, or the accounting for, funds of the United States, but shall be expended in a manner prescribed by the President of the United States. (Executive Order 9011, 3 January 1942). Funds provided for in the above cited appropriation acts are advanced to the Commonwealth of the Philippines and are accounted for by the Commonwealth without reference to laws and regulations of accounting for public funds of the United States.

In this connection it should also be noted the "statutory laws of the United States hereinafter enacted shall not apply to the Philippine Islands except when they specifically so provide or it is so provided in this act" (48 United States Code 1003).

(2) Prior to the enactment of the emergency legislation cited above, monies made available in the Military Appropriation Act could not legally be expended for Philippine Army operations when such expenditures involved a cost to that appropriation or any other cost over and above what was necessary to carry on the regular army functions (Section 2135, Digest of Opinions of the Judge Advocate General of the Army, 1912-1940). Accordingly, a limited sum of the funds used in the payment of civilian employees in the Philippine Army could be considered as appropriated monies of the United States, but qualified to the extent that such appropriated monies are for the purpose of assisting the Commonwealth of the Philippines in maintaining its army. Cognizance should be taken that the Commonwealth of the Philippines appropriates from its own sources funds to meet current expenses in the governmental branches.

(3) Disbursements made from the above mentioned sources are expended by Philippine Army disbursing officers in accordance with Philippine Army laws and regulations. To some extent, the Commanding General, United States Army Forces in the Far East, may administratively review expenditures made by Philippine Army disbursing officers, in accordance with Executive Order 9011. Generally speaking, however, such funds are managed, controlled and accounted for by the Commonwealth.

b. What degree of direct supervision, if any, does the United States Army exercise over these persons?

(1) Administrative and direct control of the civilian employees of the Philippine Army rests with that agency save for possible liaison supervision by United States Army authorities.

c. Are these persons regarded by the United States Army as employees of the United States Army or as employees of the Philippine Army?

(1) From the information furnished in reply to question a. above, it may readily be seen that Philippine Army civilian employees are not accorded the statutory rights granted United States civilian employees and as outlined above, the funds used in payment of services rendered would in the ordinary sense be considered as Philippine Army appropriations, therefore the United States Government could not consider employees under the Commonwealth of the Philippines' direct control as employees of the United States Army.

It is believed that the answers contained above will satisfactorily resolve your queries.

Sincerely yours,

B. M. FITCH,
Brigadier General, U. S. Army,
Adjutant General

A TRUE COPY

Andrew D. Gurnea
Capt ~~asp~~