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Juan R. Liwag, Opinion No. 164, s. 1963, 13 ATENEO L.J. 448 (March 1964).

ALWD 7th ed.

Juan R. Liwag, Opinion No. 164, s. 1963, 13 Ateneo L.J. 448 (1964).

APA 7th ed.

Liwag, J. R. (1964). Opinion no. 164, s. 1963. Ateneo Law Journal, 13(4), 448-449.

Chicago 17th ed.

Juan R. Liwag, "Opinion No. 164, s. 1963," Ateneo Law Journal 13, no. 4 (March 1964): 448-449

McGill Guide 10th ed.

Juan R. Liwag, "Opinion No. 164, s. 1963" (1964) 13:4 Ateneo LJ 448.

AGLC 4th ed.

Juan R. Liwag, 'Opinion No. 164, s. 1963' (1964) 13(4) Ateneo Law Journal 448

MLA 9th ed.

Liwag, Juan R. "Opinion No. 164, s. 1963." Ateneo Law Journal, vol. 13, no. 4, March 1964, pp. 448-449. HeinOnline.

OSCOLA 4th ed.

Juan R. Liwag, 'Opinion No. 164, s. 1963' (1964) 13 Ateneo LJ 448

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OPINIONS OF THE SECRETARY OF JUSTICE

Scope of Sec. 9 of the Civil Service Law (re WAPCO)

OPINION NO. 164, S. 1963
4th Indorsement
July 3, 1963

Respectfully returned to the Executive Secretary, Malacañang, Manila.

The issue here presented is whether the salaries and rates of pay agreed upon in collective bargaining agreements concluded by government corporations performing proprietary functions are subject to Section 9 of the Civil Service Law. Or differently stated, whether appointments of employees in such government corporations to positions with salaries in excess of their respective Civil Service eligibilities, as prescribed in Section 9 of Republic Act No. 2260, should be approved as permanent or provisional.

The relevant legal provisions are Sections 9 and 28(c) of the Civil Service Act which read as follows:

"Sec. 9. WAGE AND POSITION CLASSIFICATION OFFICE. — The wage and Position shall be responsible for the classification of positions in the civil service and shall standardize the salaries of the group or groups of positions so classified: PROVIDED, That the range of minimum and maximum salaries allowable for civil service eligibles shall be:

Eligibilities	Minimum	Maximum
First Grade	P2,400	No Limit
Second Grade	1,800	P5,100
Third Grade	1,440	3,720
Senior Stenographer	2,400	No Limit
Junior Stenographer	1,800	5,100
Senior Typist	2,400	4,800
Junior Typist	1,560	3,600

"It shall be transferred to the Civil Service Commission as an integral agency of the Civil Service system by executive order of the President upon the full implementation of the classification and pay plans." (As amended by Republic Act No. 3675)

"Sec. 28 (c). LIMITATION ON THE RIGHT TO STRIKE. — The terms and conditions of employment in the Government, including any political subdivision or instrumentality thereof, are governed by law and it is declared to be the policy of the Government that the employees therein shall not strike for the purpose of securing changes in their terms and conditions of employment. Such employees, however, may belong to any labor organization which does not impose the obligation to strike or to join strikes: PROVIDED, That this section shall apply only to employees employed in governmental functions and not to those employed in proprietary functions of the Government including, but not limited to, governmental corporations."

By the opening sentence of the above-quoted Section 28(c), "the terms

and conditions of employment in the government, including any political subdivision or instrumentality thereof, are governed by law". If nothing more was added to this provision by way of limitation or restriction, the broad sweep of this policy declaration would undoubtedly sustain the conclusion that in no case can there be a deviation from the salary ceilings stipulated in Section 9 of the same Act. But the said Section 28(c) goes on further to state that it "shall apply only to employees employed in governmental functions and not to those employed in proprietary functions of the government including, but not limited to, governmental corporations".

Under the circumstances, it cannot be said that Section 9 establishes an absolute limitation on the fixing of salary rates for those employed in government corporations performing proprietary functions. For in the ordinary course of things, the proviso appended to Section 28(c) must prevail over the principal policy statement there contained. As previously held by this Department in Opinion No. 128, s. 1962:

"The clear, obvious and reasonable import of this provision [Sec. 28(c)] is that the terms and conditions of employment of those employed in entities or corporations performing proprietary functions are not governed by law and that it is the policy of the government that such employees can strike for the purpose of securing changes in the terms and conditions of employment. x x x

"Section 9 of the Civil Service Act which provides for the WAPCO classification of positions and standardization of salaries in the Philippine Civil Service states the general; Section 28(c) establishes the exception. The Civil Service Act includes all entities, including government-owned and controlled corporations, and the WAPCO as part of the system. But same Act expressly exempts corporations exercising proprietary functions from certain restrictions generally imposed on all other members of the system."

It was clearly implied in our previous opinion, therefore, that Section 28(c) prevails over and qualifies the provisions of Section 9 of the same Act. Consequently, when the Office of the President approved and concurred in said opinion, it may be deemed to have authorized negotiation of wages as part of the terms and conditions of employment in government corporations exercising proprietary functions, without the restriction of Section 9 of the Civil Service Act of 1959; and it was so understood by both the management and employees, groups in these corporations.

In view of all the foregoing, I am of the opinion and so hold that the salary rates in collective bargaining agreements concluded by government corporations performing proprietary functions take precedence over the limitations in Section 9 of the Civil Service Act. And consequently, appointments made in conformity with the provisions of said agreements should be unconditionally honored and given effect during the duration of the said agreements.

(Sgd.) JUAN R. LIWAG
Secretary of Justice