

**ALAMHALI, Armando M.**

Re: Tardiness and Undertime During

Fridays, The Prayer Day for Muslims;

CSC Resolution Nos. 81-1277 and 00-0227

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**RESOLUTION NO. 020720**

Director IV Rogelio C. Limare, Civil Service Commission - Regional Office (CSC-RO) No. XII, refers to this Commission for policy determination the letter of Armando M. Alamhali, Clerk III, CSC Field Office for Lanao del Norte, Iligan City dated April 27, 2001. In said letter, Alamhali, a Muslim, claimed that under CSC Resolution No. 81-1277 (Request for Recognition of Muslim Holidays in Areas Outside the Autonomous Regions) dated November 13, 1981 Muslims can neither be required to render forty (40) hours of work in a week nor to render additional work time to compensate for lost working hours during Fridays which he devoted to prayer in observance of Fridays as The Prayer Day of Muslims.

Alamhali's letter was in response to Director Limare's letter dated March 29, 2001 which directed him to comply with the provisions of CSC Resolution No. 00-0227 (Muslim Holidays; Query) dated January 26, 2000 to adopt a flexi-time work schedule to compensate for the working hours he devoted to prayers on Fridays. Alamhali incurred a total of thirteen (13) tardiness and undertime in January, ten (10) in February and eleven (11) in March, 2001.

The pertinent portions of CSC Resolution No. 81-1277 read, as follows:

*"Pursuant to Sections 2 and 5 of Presidential Decree No. 291 dated September 12, 1973, as amended by Presidential Decree No. 322 dated October 26, 1973, the request for authority to excuse from office Muslim-Filipinos who are working with the local or the national government in areas throughout the Philippines outside of the autonomous regions, is hereby approved in the manner hereinunder provided:*

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*"3. During Friday, the Muslim pray day, Muslims are excused from work from 10 o'clock in the morning to 2 o'clock in the afternoon."*

In his letter, Alamhali avers, as follows:

*"I received your letter dated March 29, 2001, relative to the usual attendance in office I observed during Friday, the prayer day of Muslims which is in accordance with the imports of CSC Resolution No. 81-1277 dated November 19, 1981, hence, in paragraph no. 3 thereof, it clearly states:*

*`During Friday, the Muslim prayer day, Muslims are EXCUSED FROM WORKS (sic) from 10:00 o'clock in the morning to 2:00 o'clock in the afternoon.'*

*"It did not mention that your Muslim brothers and sisters, I am one of those of course, shall have to adopt flexi-time scheme or other arrangement in order for them to compensate for their leave of works during those times stated. Because the language used in that resolution is the word EXCUSE which should mean, 'to grant exemption or release to' or 'to exact neither punishment nor redress' (Webster's Dictionary, 19<sup>th</sup> Ed., p. 405). In other words, Muslims are excused from their works so that the government can exact neither rendering of 40 hours of works a week nor additional time to offset so-called 'free time' or excuse from works between 10:00 a.m. to 2:00 p.m. every Friday. To require our Muslim employees to adopt a flexi-time scheme in order to comply the 40 hours work a week is not in agreement with the imports of CSC Resolution No. 81-1277, Presidential Decree 1083 (The Code of Muslim Personal Laws in the Philippines), Section 22, Article II, and Section 17, Article XIV of the New Philippine Constitution. Because such excuse from office work of Muslims does not mean that we are free to use the number of hours covered, except to attend to our religious Friday obligations and service to Muslim community. This means no leisure time whereby we can just stay in our homes, stroll around the city, go to movies or beaches, or make some parties, etc. But what we are required to do during those times is we serve our Almighty God and Muslim community as we exercise our religious duties – this can be considered as part of our continued service to the public during those hours. Our service to our Muslim community is indeed a service to the people and the government. How come that our Christian brothers and sisters would question this kind of arrangement laid down by the Holy Qur'an and which is recognized already and respective by the government of this land through the issuance of CSC Resolution No. 81-1277, series of 1981. They should understand that Islam is not only a religion but also a community that operates in the same manner that a public community does. To sum it up, the excuse from works that is granted to the Muslims between 10:00 a.m. and 2:00 p.m. during Fridays never indicates any cut of public service because many good things can be accomplished by us within those times as we are obliged by our Islamic faith and duties to the Muslim community like promotion of unity, peace and understanding among our people as we do our religious contact and relations with our fellow Muslims outside of our office and inside the Muslim centers in the Philippine society.*

*"Being an adherent of Islamic faith, I am indeed greatly affected by the letter, as it caused me to experience sleepless nights and suffered wounded feelings after I read it. CSC Resolution No. 81-1277 is more just, appropriate and a favorable policy of public service in a country like ours, which is constituted by, diversified big cultures. Its implementation must be observed and remain adopted in our government service.*

*"Our Christian brethren in this country do not have much knowledge about the great importance of Friday, the prayer day of Muslims nor have they any idea of how much time every Muslim individual needs in preparing for the hours of prayer and releasing to their families and community the teaching, messages and duties charged to them by the Imam (Religious*

*Leader) or Khatib (Spokesperson of a Muslim Center/Mosque) during the hours of sermons and prayer times. These are the basics of Friday obligations of a Muslim that Allah, the Most high, Most Aware Master of this Universe and the life hereafter has obliged upon us. The Glorious Qur'an tells us that when the times of Friday congregational prayer approaches, we Believers, must leave our activities or works and prepare for the congregations in the Houses of Allah (i.e. Mosques) and after the prayer, we shall have to disperse to the wide lands of the earth and extend the good message to our families and other members of the society and seek the bounties of Allah that comes from the skies and the soils --- this is such a kind of service that has greater value than any office work we may deliver in those times as we are excused from works. Because it makes us not only worship the Lord of this Universe but even allow us to do great public service to our community as well, such as visiting, sharing and promoting unity, closeness and peace with our neighbors and fellowmen in our community. These are the duties of our government which we your Muslim brethren in this land are not only religiously charged but communally obliged to carry out also.*

*"Therefore, in response to your letter, I should be grateful if you could extend favorable consideration on this appeal to your good sense of fairness and understanding to allow me to remain observing the old rule that during Fridays, I shall be excused from my office works from 10:00 a.m. to 2:00 p.m. as I shall attend to my religious duty and service to my Muslim community. So that I shall not be obliged to adopt a flexi-time scheme on the matter, because the fact is that my Islamic duty and obligation that I usually perform in those times are indeed service to my community and the public."*

Records show that Alamhali incurred a total of thirteen (13) tardiness and undertime in January, ten (10) in February and eleven (11) in March, 2001; most of which were on Fridays. In view thereof, in a letter dated March 29, 2001, Director Limare informed Alamhali to comply with the provisions of **CSC Resolution No. 00-0227 dated January 26, 2000** which requires employees of Muslim faith the adoption of flexible time schedule of work in observance of the Muslim's Prayer Day. The flexi-time work hours is already provided for in **CSC Resolution No. 89-256 dated April 21, 1989**. For reference, the pertinent portions of CSC Resolution Nos. 00-0227 and 89-256 read, as follows:

"CSC Resolution No. 00-0227:

"7. Although the Commission acknowledges the Muslims' Prayer day, it cannot allow diminution of government working hours. Therefore, as a compromise, a flexitime scheme should be adopted to comply with both equally pressing obligations."

"CSC Resolution No. 89-256:

"2) The flexible working hours shall not start earlier than 7:00 in the morning and end later than 7:00 o'clock in the evening, hence the public is still assured of the core working hours of eight o'clock in the morning to five o'clock in the afternoon;"

In response thereto, Alamhali represented that Paragraph 3 of CSC Resolution No. 81-1277 specifically excused Muslims to

perform work from 10 o'clock in the morning up to 2 o'clock in the afternoon of Fridays in recognition of said day as The Prayer Day of Muslims. He claimed that the term "excused" means "to grant exemption or release to" pursuant to the Webster's Dictionary. As such, he added, that the government cannot exact work from them to complete the forty (40) hours of work and that they cannot be made to compensate for such hours of work.

Alamhali maintained that to mandate them to render forty (40) hours would be in contradiction to the provisions of aforementioned CSC Resolution, Presidential Decree No. 1083 (The Code of Muslim Personal Laws in the Philippines), Section 22, Article II and Section 17, Article XIV of the New Philippine Constitution. He further maintained that the Muslim's excuse from work will be devoted to attend to their religious Friday obligations, and that, they are not free to use the same for purpose of leisure.

He also stated that the Muslim's performance of religious obligations during such times are considered part of their continued service to the public and government and never considered a cut in their public service. This being so because the people of Muslim faith can accomplish many good things outside office such as promotion of unity, peace and understanding among the people.

Alamhali stated that the implementation of CSC Resolution No. 81-1277 should be observed in the government as it is a favorable policy of public service in a country like the Philippines which has diversified culture.

Finally, Alamhali requested from Director Limare that he be allowed to continuously observe the old rule (referring to CSC Resolution No. 81-1277) by excusing him from work for the entire duration of 10 o'clock in the morning up to 2 o'clock in the afternoon during Fridays. And that he be exempted from adopting flexi-time. Director Limare transmitted Alamhali's letter to the Commission Proper that the matter may call for a policy determination.

The sole issue to be resolved is whether Muslims are exempted from rendering forty (40) hours of work in a week under CSC Resolution No. 81-1277.

After a careful examination of CSC Resolution No. 81-1277, the answer is in the negative.

The Resolution's intent not to exempt employees from working forty (40) hours in a week in the observance of the Prayer Day on Fridays is very evident therefrom. Paragraphs 1 and 2 thereof, expressly state that Muslims are not considered absent and/or have not incurred undertime during certain Muslim holidays enumerated therein. However, such express declaration is wanting in the 3<sup>rd</sup> paragraph on occasions of Prayer Day. The first and second paragraphs, respectively read, as follows:

*"1. During the (1) Eid-UI-Fitr (Hariraya Puasa); (2) Eid-Di-Adha (Hariraya Haji); (3) Maulod-en-Nabi; (4) Dailatul Isra Hal Miraj; (5) Muharram; and (6) Amon Jaded, Muslims are free from office work the whole day of these holidays without being marked absent.*

*"2. During `Ramadan' the Fasting month (30 days) of the Muslims, the Civil Service official time of 8 o'clock to 12 o'clock and 1 o'clock to 5 o'clock is hereby modified to 7:30 A.M. to 3:30 P.M. without noon break and the difference of 2 hours is not counted as undertime."*

Thus, it cannot be argued that the intention of the Resolution is to exempt Muslim employees from the mandatory working hours in a given work week contained in **Section 5, Rule XVII of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws (Omnibus Rules)** in the observance of the Prayer Day on Fridays. Otherwise it should have expressly stated in the 3<sup>rd</sup> paragraph as it did in the first and second paragraphs. For emphasis, the 3<sup>rd</sup> paragraph of the Resolution provides, as follows:

*"3. During Friday, the Muslim pray day, Muslims are excused from work from 10 o'clock in the morning to 2 o'clock in the afternoon."*

In observance, however, of the Prayer Day on Fridays the 3<sup>rd</sup> paragraph expressly stated that they are excused from rendering work between the hours of 10 o'clock in the morning up to 2 o'clock in the afternoon. Consequently, heads of offices are mandated to allow employees of Muslim faith to cease working during said hours. Nonetheless, being "excused" from work should not be taken to mean being exempted from the forty hours of work specifically mandated under **Section 5, Rule XVII (Government Office Hours) of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws**, which states, as follows:

*"SEC. 5. Officers and employees of all departments and agencies except those covered by special laws shall render not less than eight hours of work a day for five days a week or a total of forty hours a week, exclusive of time for lunch. As a general rule, such hours shall be from eight o'clock in the morning to twelve o'clock noon and from one o'clock to five o'clock in the afternoon on all days except Saturdays, Sundays and Holidays."*

Within the context of the Resolution, the term "excuse" means to permit to leave a place or stop an activity or task (Webster's Third New International Dictionary). On the other hand, "exempt" means to free from duty (*supra*). Jointly construed and in the contemplation of the Resolution, one may be permitted to momentarily leave his place of work but without being freed from his duty to render forty hours of work.

For this reason, **CSC Resolution No. 00-0227 (Ibay-Javier, Grace dated January 26, 2000)** has categorically ruled that flexible working time should be adopted in the fulfillment of both the religious duty and the duty to render the forty (40) hours of work. Pertinently, the Commission laid down the following rule:

*"7. Although the Commission acknowledges the Muslims' Prayer Day, it cannot allow diminution of government working hours. Therefore, as a compromise, a flexitime scheme should be adopted to comply with both equally pressing obligations."*

We now pass upon Alamhali's arguments.

As regards Alamhali's allegation that **CSC Resolution No. 81-1277, Presidential Decree No. 1083 (The Code of Muslim Personal Laws in the Philippines), Section 22, Article II and Section 17, Article XIV of the New Philippine Constitution** will be violated in the event Muslims will be required to render forty (40) hours, the same is without merit. Based on the earlier discussion, there is no provision in the CSC Resolution which specifically grants exemption from the mandatory number of working hours. On the other hand, Alamhali failed to provide any provision from the Decree providing for the exemption.

A perusal of **Section 22 of Article II and Section 17 of the 1987 Constitution** failed to show direct relevance or bearing to the issue at bar. While Section 22 includes the promotion of religion as among the areas of concern, religion therein pertains to those practiced by tribal groups (**Committee on National Integration Report No. 1, Annex B-1, p. 1, February 2, 1972, 1971 Constitutional Convention**). It does not deal with practice or observance of faith *per se*. The Sections are reproduced hereunder, as follows:

*"Article II*

*"Declaration of Principles and State Policies"*

*"Sec. 22. The State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development."*

*"Article XIV*

*"Education, Science and Technology, Arts, Culture, and Sports*

*"Sec. 17. The State shall recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions. It shall consider these rights in the formulation of national plans and policies."*

Thus, under Section 22, the government may enact laws especially for members of ethnic cultural communities taking into account their customs, traditions, beliefs, and interest. Under Section 17, the rights of indigenous cultural communities to preserve and develop their cultures, traditions, among others, must be recognized by the State and included in the formulation of national plans and policies.

Anent the representation that attendance to religious devotion is not a "*cut*" in public service alleging that people of Muslim faith can accomplish many good deeds outside office such as promotion of unity, peace and understanding among the people must similarly be rejected. The theory is that a religious belief by itself cannot in any degree affect public interest (**Textbook on the Philippine Constitution, Hector S. De Leon, 1991 Edition**). The promotion of unity, peace and understanding is a right accompanying the right to religion as it partakes the form of the right to dissemination of belief. Additionally, the exercise of religious profession and worship is obviously alien to performance of work considering that the former is a cleric activity and the latter is secular one.

More importantly, the right to act in accordance with one's belief is not and cannot be absolute. Conduct remains subject to regulation and even prohibition for the protection of society (**Cantwell vs. Connecticut, 310 U.S. 296**). It may not be used to justify an action or refusal inconsistent with general welfare of society (**People vs. Diel, [CA] 44 O.G. 590, August 22, 1947**). One of the regulations imposed in its exercise is the compliance of government employees to Section 5 of the Omnibus Rules relative to the number of working hours. While government employees of Muslim faith are excused from work between the hours of 10 o'clock in the morning up to 2 o'clock in the afternoon every Friday, they are obligated to compensate said lost working hours by adopting flexible time schedule to complete forty hours of work in a week.

Equally important to note is that the matter of Prayer Day during Fridays was already passed upon by the Commission on January 26, 2000. The adoption and observance of flexi-time was already ruled on the purpose of making up the person hours lost on such occasion. Thus, Alamhali's tardiness and undertime in January, February and March, 2001 are governed by the Resolution. He cannot feign ignorance of said Resolution particularly because he is an employee of this Commission.

**WHEREFORE**, this Commission hereby clarifies that Civil Service Commission Resolution No. 81-1277 dated November 19, 1981 (Muslim's Prayer Day on Fridays) does not exempt Muslims from complying with the mandatory forty (40) hours of work in a week contained Section 5, Rule XVIII of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws. In observance thereof, Muslims are required to adopt a flexible time work schedule pursuant to CSC Resolution No. 00-0227 dated January 26, 2000. Accordingly, Director IV Rogelio C. Limare, Regional Office No. XII, is directed to take appropriate action relative to the undertime and tardiness of Armando M. Alamhali.

Quezon City, MAY 20 2002

(Signed)

**KARINA CONSTANTINO-DAVID**

Chairman

(Signed)

**JOSE F. ERESTAIN, JR.**

Commissioner

(Signed)

**J. WALDEMAR V. VALMORES**

Commissioner

Attested by:

(Signed)  
**ARIEL G. RONQUILLO**  
Director III

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