



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

**PRIVACY POLICY OFFICE
ADVISORY OPINION NO. 2018-012**

02 April 2018



RE: RELEASE OF SERVICE RECORD

Dear ,

This pertains to your request for advisory opinion received by the Privacy Policy Office of the National Privacy Commission (NPC) on 01 March 2018, which sought to clarify whether the National Transmission Corporation (TransCo) can lawfully release the service records of former employees for the processing of their claims, as a result of the case filed by the National Power Corporation (NAPOCOR) Drivers and Mechanics Association (DAMA). Also, whether the consent of the employees is required for the said purpose.

At the outset, it is important to establish that the respondents in the DAMA case are former employees of the NAPOCOR, a government-owned and controlled corporation, created under Commonwealth Act No. 120.¹

Section 4 of Republic Act No. 10173,² also known as the Data Privacy Act of 2012 (DPA), provides that the law does not apply to information about officers or employees of government institutions, particularly relating to the position or function of such individual, including the classification, salary range and responsibilities of the position held by such employee. The exemption is only to the minimum extent of collection, access, use, disclosure or other processing necessary to the purpose, function, or activity concerned.

Furthermore, personal information may be lawfully processed when it is necessary for compliance with a legal obligation to which TransCo is subject.³ In this case, we understand that TransCo is required to provide the service records of the respondents in order to fulfill the judgement of the court. Indeed, the judgment in the case will not be fully executed without

¹ AN ACT CREATING THE "NATIONAL POWER CORPORATION," PRESCRIBING ITS POWERS AND ACTIVITIES, APPROPRIATING THE NECESSARY FUNDS THEREFOR, AND RESERVING THE UNAPPROPRIATED PUBLIC WATERS FOR ITS USE (03 November 1936).

² AN ACT PROTECTING INDIVIDUAL PERSONAL INFORMATION IN INFORMATION AND COMMUNICATIONS SYSTEMS IN THE GOVERNMENT AND THE PRIVATE SECTOR, CREATING FOR THIS PURPOSE A NATIONAL PRIVACY COMMISSION, AND FOR OTHER PURPOSES, "Data Privacy Act of 2012" (15 August 2012).

³ Id., §12(c).

information pertaining to the years of service of the employees, as well as the corresponding salary of the last position held.

Considering that there is a legal obligation to disclose the service records, TransCo can lawfully release the service records, even without the consent of the data subjects or employees, in this case.

However, although there is a legitimate purpose for the disclosure of service records, TransCo must ensure that the information to be disclosed is adequate, relevant, suitable, necessary, and not excessive in relation to the declared and specified purpose, i.e. the proper computation and processing of claims.⁴

It is worthy to note that the DPA has the twin task of protecting the right to privacy and ensuring the free flow of information. The law cannot be used as an excuse to hinder the speedy administration of justice and execution of judgment, especially the disposition of this case which aims to compensate government employees for due and demandable claims.⁵

For your reference.

Very truly yours,

(Sgd.) IVY GRACE T. VILLASOTO
OIC - Director IV, Privacy Policy Office

Noted by:

(Sgd.) RAYMUND ENRIQUEZ LIBORO
Privacy Commissioner and Chairman

⁴ Implementing Rules and Regulations of RA No. 10173, §18(c).

⁵ Republic of the Philippines, et al., vs. Hon. Luisito G. Cortez, et al, G.R No. 187257 and Rolando G. Andaya vs. Hon. Luisito G. Cortez, et. al., G.R No. 187776 (07 February 2017).