

## EN BANC

[ G.R. No. 210204, July 10, 2018 ]

**ASSOCIATION OF RETIRED COURT OF APPEALS JUSTICES, INC. (ARCAJI), REPRESENTED BY TEODORO P. REGINO, PETITIONER, V. HON. FLORENCIO ABAD, JR., AS SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT, RESPONDENT.**

### DECISION

**VELASCO JR., J.:**

This is a Petition for *Mandamus* filed by the Association of Retired Court of Appeals Justices, Inc. (ARCAJI), represented by its President, Teodoro P. Regino, praying that respondent Florencio Abad Jr. (Sec. Abad), as the Secretary of the Department of Budget and Management, be ordered to immediately . issue the necessary Special Allotment Release Order (SARO) and Notice of Cash Allocation (NCA) to cover the funding requirements for the retirement gratuity differentials of twenty-eight (28) retired Court of Appeals (CA) Justices, namely: Sixto C. Marella, Jr., Arturo G. Tayag, Arcangelita R. Lontok, Regalado E. Maambong, Edgardo F. Sundiam, Edgardo F. Cruz, Teresita Dy-Liacco Flores, Monina A. Zenarosa, Jose L. Sabio, Jr., Myrna Dimaranan-Vidal, Aurora Santiago-Lagman, Marina L. Buzon, Enrico A. Lanzas, Lucenito N. Tagle, Agustin S. Dizon, Rodrigo V. Cosico, Roberto A. Barrios, Arsenio J. Magpale, Santiago J. Ranada, Eliezer R. Delos Santos, Vicente L. Yap, Delilah V. Magtolis, Eugenio S. Labitoria, Mercedes G. Dadole, Danilo P. Pine, Ruben C. Ayson, Conrado M. Vasquez, and Renato C. Dacudao.<sup>[1]</sup>

### The Facts

In the case now before the Court, all the twenty eight (28) CA associate justices retired from the judiciary on various dates from 2005 to 2010. During the five-year span after their retirement, a series of salary increases were granted to all employees in the public sector, thereby increasing the salaries being received by incumbent CA Justices at the time of said adjustments. These salary increases were brought about by the implementation of Salary Standardization Law 2 (SSL 2) and Salary Standardization Law 3 (SSL 3). The first round of salary increase was implemented under Executive Order No. 611, effective July 1, 2007, which upped the salary by ten percent (10%). The second round of salary increase was implemented under Executive Order No. 719, effective July 1, 2008, which further increased the salary by another 10%. These two salary increases were a result of the full implementation of SSL 2.

The next round of salary increases were brought about by the passing and implementation of SSL 3. The first *tranche* of increases under SSL 3 was implemented under Executive Order No. 811, effective July 1, 2009; the second *tranche* under Executive Order No. 900, effective June 24, 2010; and the third *tranche* under Executive Order No. 40, effective June 1, 2011.

The aforesaid increases in the salary of incumbent CA Justices prompted the petitioners, the twenty-eight retired Justices, to file a claim for their retirement gratuity differentials. Since the retirement gratuity that they received was computed solely on the basis of their salary at the time of their retirement, they asked for the payment of said differentials anchored on the salary increases given to incumbents of similar rank during the 5-year period after their retirement. They thus petitioned the DBM to allow the adjustment and release of their retirement gratuity differentials.

In total, the 28 petitioners are claiming differentials under RA Nos. 910 and 9946 amounting to Twenty Three Million Twenty-Five Thousand Ninety-Three and 75/100 Pesos (P23,025,093.75), broken down as follows:

	Retirement Date	Amount
1. Hon. Sixto C. Marella, Jr.	02/01/2010	P2,372,165.95
2. Hon. Arturo G. Tayag	03/02/2010	1,283,498.05
3. Hon. Arcangelita R. Lontok	03/18/2010	830,422.23
4. Hon. Regalado E. Maambong	01/02/2009	624,708.78
5. Hon. Edgardo F. Sundiam	02/01/2009	2,276,270.38
6. Hon. Edgardo F. Cruz	05/12/2009	777,666.78
7. Hon. Teresita Dy-Liacco Flores	05/14/2009	762,640.89
8. Hon. Monina A. Zenarosa	08/22/2009	874,752.17
9. Hon. Jose L. Sabio Jr.	12/15/2009	2,188,495.53
10. Hon. Myrna Dimaranan-Vidal	12/20/2009	896,461.88
11. Hon. Aurora Santiago-Lagman	01/16/2008	353,410.48
12. Hon.	03/19/2008	387,792.04

Marina L. Buzon		
13. Hon. Enrico A. Lanzanas	04/19/2008	527,128.84
14. Hon. Lucenito N. Tagle	06/26/2008	524,049.00
15. Hon. Agustin S. Dizon	06/27/2008	564,269.34
16. Hon. Rodrigo V. Cosico	07/04/2008	494,329.53
17. Hon. Roberto A. Barrios	02/13/2007	1,829,270.33
18. Hon. Arsenio J. Magpale	07/03/2007	1,829,270.33
19. Hon. Santiago J. Ranada	11/10/2006	121,311.84
20. Hon. Eliezer R. Delos Santos	12/20/2006	1,776,510.22
21. Hon. Vicente L. Yap	08/22/2006	96,080.63
22. Hon. Delilah V. Magtolis	11/29/2005	17,027.26
23. Hon. Eugenio S. Labitoria	12/13/2005	17,068.68
24. Hon. Mercedes G. Dadole	12/20/2005	23,560.33
25. Hon. Danilo P. Pine	12/27/2005	29,224.74
26. Hon. Ruben C. Ayson	03/02/2011	1,195,018.13
27. Hon. Conrado M. Vasquez	01/06/2010	181,066.63
28. Hon. Renata C. Dacudao	06/19/2007	235,556.46

<b>GRAND TOTAL</b>		<b>P23,025,093. 5</b>
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In fine, the petitioners are arguing that due to the increase in the salaries received by the incumbent Justices of the CA, they are also entitled to receive as part of their retirement gratuity all the increases in salaries that have been implemented within five years after their retirement from service.

For example, in the case of petitioner Justice Delilah V. Magtolis, who retired on November 29, 2005, she is claiming a differential of **P17,027.26**. The following illustrates the difference between the salary she was receiving at the time of her retirement, as opposed to the increased salary received by an incumbent:

	Received as	2 <sup>nd</sup>
	of	tranche,
	11/29/2005	SSL 3 2010
Basic Salary		
and	P50,314.00	P90,923.60
Allowances		
Special		
Allowance	P31,095.00	
under R.A		
9227		
Longevity Pay		
(20%)	6,219	
<b>TOTAL</b>		
<b>BASIC</b>	<b>P87,628.00</b>	<b>90,923.60</b>
<b>SALARY AND</b>		
<b>ALLOWANCE</b>		

**Differential**

**P3,295.60**

Thus, the differentials being claimed by retired Justice Magtolis can be computed as follows:

June 24, 2010 to	P3,295.60/30	P 768.97
June 30, 2010 (7	x 7 days	
days)		
July 1, 2010 to	P3,295.60 x	13,182.40
October 31, 2010	4 months	
(4 months)		
November 1-28,	P3,295.60/30	3,075.89
2010 (28 days)	x 28 days	

**TOTAL**  
**DIFFERENTIALS**

**P17,027.26**

The P17,027.26 differential claimed by Justice Magtolis can be attributed to the implementation of the second *tranche* of SSL 3 starting June 24, 2010. Prior increases in the salary of incumbent CA Justices implemented after Justice Magtolis's retirement are already deemed part of the retirement gratuity that she received when retired in 2005, due to the provision in Republic Act (R.A.) No. 9227

providing that the SAJ component are deemed advanced implementation of future salary increases. Hence, the Special Allowance for the Judiciary (SAJ) component of the retirement gratuity she received in 2005 would have already covered for such salary increases. With the implementation of the second *tranche* of SSL 3, however, the SAJ has been fully integrated in the basic salary, i.e. there is no more SAJ component to the basic salary given to incumbent Justices. Consequently, the SAJ component that Justice Magtolis received in 2005 would no longer suffice to cover the differential brought about by the implementation of the second *tranche* of SSL 3. This situation, which occurs in the case of all 28 petitioners, necessitates the recomputation of their respective retirement gratuities, and the granting of differentials in their favor. Thus, their request for the DBM to recompute their retirement gratuities.

Rejecting the claim of petitioners for retirement gratuity differentials, the DBM, in its letter dated October 8, 2012, stated that the claimed differentials must be sourced from the SAJ, and not from the Pension and Gratuity Fund. More particularly, the DBM said:

The request stemmed on Administrative Matter (AM) No. 91-8-225-CA dated October 24, 1995 which decreed the right of certain retired Justices to receive their RG [retirement gratuity] based on the increased rates of salary and representation, living and transportation allowances given to incumbents after their retirement from government service.

Section 3 of RA No. 910 explicitly provides that a retired [J]ustice shall receive a five (5) year lump-sum gratuity computed on the basis of the highest monthly salary plus the highest monthly aggregate of transportation, living, and representation allowances at the time of retirement. The requested RG differentials are due to subsequent salary increases authorized after the dates of their retirement.

Section 4 of RA No. 9946, which is the latest amendatory law of RA 910, however, authorized the automatic pension increase whenever there is an increase in the salary of incumbents. Said adjustment shall be applied prospectively to the monthly pensions to be received by the retired justice subsequent to the date the salary increase was granted.

The reliance by the Justices on A.M. No. 91-8-225-CA may not be proper because RA No. 910, as amended[,], is clear, and grants automatic adjustment of the retirees' monthly pension only excluding RG.

Our [lawmakers] therefore enacted laws which clearly differentiated the bases/treatment between the five (5) year lump RG and the monthly pension after the expiry of the five years. Otherwise, they could easily have included in any of the amendatory laws to RA No. 910 that both RG and pension shall be automatically adjusted in case of increase in the salary of the incumbents.

In view of the foregoing, the request for the release of funds for RG differentials [cannot] be acted upon favorably.<sup>[2]</sup>

***Comment of the Solicitor General***