

## EN BANC

[ **A.M. No. 17-08-01-SC, September 19, 2017** ]

### **RE: REQUESTS FOR SURVIVORSHIP PENSION BENEFITS OF SPOUSES OF JUSTICES AND JUDGES WHO DIED PRIOR TO THE EFFECTIVITY OF REPUBLIC ACT NO. 9946**

#### **RESOLUTION**

##### **MARTIRES, J.:**

For resolution are the applications for survivorship benefits of spouses of justices and judges who died prior to the effectivity<sup>[1]</sup> of Republic Act (R.A.) No. 9946, which introduced substantial amendments to the benefits provided in R.A. No. 910.

In a Memorandum, dated 11 July 2017, the Special Committee on Retirement and Civil Service Benefits (SC-RCSB) submitted for this Court's consideration the respective positions of the members of the Committee on the matter regarding the survivorship pension benefits. The first position paper, labeled as Memorandum A, dated 23 June 2017, recommends the approval of the applications; whereas, the second position paper, labeled as Memorandum B, dated 6 July 2017, recommends their denial. Memorandum B adopted the position and arguments of the SC-RCSB Technical Working Group (TWG) contained in the latter's Memorandum, dated 24 February 2017.

We now determine whether the applicants are entitled to the survivorship pension benefits and automatic pension adjustment under R.A. No. 9946.

#### **Background**

Enacted in 1954, R.A. No. 910 is the law on retirement benefits for the justices of the Supreme Court and the Court of Appeals. It provides for two kinds of benefits: (1) **retirement** and (2) **death benefits**.<sup>[2]</sup>

The retirement benefits granted under R.A. No. 910 may be **compulsory** or **optional**, subject to certain age and length of service requirements. For compulsory retirement, a justice must have reached the age of 70 years and must have rendered service in the Judiciary or any other government branch for at least 20 years; for optional retirement, 57 years of age and 20 years in government service, the last 10 of which must be continuously rendered in the Judiciary. Compulsory retirement also applies when the justice, regardless of age, is forced to resign by reason of incapacity to discharge the duties of the office.

The death benefits, on the other hand, are given to the heirs of the justice who dies while in actual service. The benefits are equivalent to a five-year lump sum of the salary the justice was receiving during the period of death, provided the justice had reached the minimum 20 years of government service; and only two-year lump sum of the salary, if service rendered was less than 20 years. The same benefits are granted as to justices who have not attained the 20-year service requirement but

are compulsorily retired upon reaching the age of 70 years, or were forced to retire due to illness or other causes beyond their control.

Under R.A. No. 910, the retirement benefits were granted the justice; the death benefits to the *heirs*. **No benefits were granted to the surviving legitimate spouse of the retired justice** except for the death benefit which is paid to the surviving spouse as a rightful heir.

Subsequent legislations expanded the coverage of R.A. No. 910 to include justices or judges of other courts, such as the Sandiganbayan, the Court of Tax Appeals (CTA), the Regional Trial Court (RTC), the Metropolitan Trial Court, the Municipal Trial Court (MTC), the Municipal Circuit Trial Court, the Shari'a District Court, the Shari'a Circuit Court, and any other court.<sup>[3]</sup> The qualifications for entitlement to the benefits were likewise amended. Thus, in 1959, R.A. No. 2614 adjusted the minimum age for optional retirement of justices and judges to 65 years.

The enactment of R.A. No. 9946 in 2010 introduced more changes to R.A. No. 910, more importantly the amendments to benefits granted to the surviving spouses of justices and judges: (1) Retirement Benefits; (2) Death Benefits; (3) Lump Sum Retirement Benefits; (4) Survivorship Pension Benefits; and (5) Automatic Pension Adjustment. The following Table of Retirement Benefits<sup>[4]</sup> prepared by the TWG shows a summary of the benefits and salient changes under R.A. No. 9946:

<b>Eligibility Qualifications</b>	<b>Mode</b>	<b>Retirement Benefits (under RA 910, as amended by RA 9946)</b>
Age 70; with 15 years of government service (Section 1)	Mandatory retirement; Full pension	For living Justice or Judge: 1) Lump Sum Gratuity of 5 years (Sec. 3); 2) Lifetime pension upon survival of 5 years (Sec. 3); 3) Automatic increase of pension benefits (Sec. 3A) For surviving spouse: 1) Lifetime Survivorship Pension Benefits (Sec. 3)
Age 70; with 15 years of government service (Sec. 1); with partial permanent disability (Secion 3)	Mandatory retirement; Full pension; with full partial permanent disability	For living Justice or Judge: 1) Lump Sum Gratuity of 7 years (Sec. 3); 2) Lifetime pension upon survival of 7 years (Sec. 3); 3) Automatic increase of pension benefits (Sec. 3) For surviving spouse: Lifetime Survivorship Pension Benefits (Sec. 3)
Age 70, with less than 15 years of government service (Section 1)	Mandatory retirement, Pro-rata pension;	For living Justice or Judge: 1) Lump Sum Gratuity of 5 years (Sec. 3) 2) Lifetime pro-rata pension upon survival of 5 years (Sec. 3) 3) Automatic increase of pension benefits (Sec. 3)

		For surviving spouse: Lifetime Survivorship Pension Benefits (Sec. 3)
Age 70, with less than 15 years of government service (Sec. 1); with partial permanent disability (Sec. 3)	Mandatory retirement; Pro-rata pension; with partial permanent disability	For living Justice or Judge: 1) Lump Sum Gratuity of 7 years (Sec. 3) 2) Lifetime pro-rata pension upon survival of 7 years (Sec. 3) 3) Automatic increase of pension benefits (Sec. 3A) For surviving spouse: Lifetime Survivorship Pension Benefits (Sec. 3)
Total Permanent Disability (Incapacity to discharge functions of office), regardless of age, with 15 years of government service (Sec. 1)	Disability Retirement (regardless of age)	For living Justice or Judge: 1) Lump Sum Gratuity of 10 years (Sec. 3); 2) Lifetime pension upon survival of 10 years (Sec. 3); 3) Automatic increase of pension benefits (Sec. 3A) For surviving spouse: Lifetime Survivorship Pension Benefits (Sec. 3)
Total Permanent Disability (Incapacity to discharge functions of office), regardless of age, with less than 15 years of government service (Sec. 1)	Disability Retirement; pro-rata pension (regardless of age)	For living Justice or Judge: 1) Lump Sum Gratuity of 10 years (Sec. 3); 2) Lifetime pro-rata pension upon survival after 10 years (Sec. 3); 3) Automatic increase of pension benefits (Sec. 3A) For surviving spouse: Lifetime Survivorship Pension Benefits (Sec. 3)
At least age 60, with 15 years of government service, the last 3 [of which shall have been] continuously [rendered] in the judiciary (Sec. 1)	Optional Retirement	For living Justice or Judge: 1) Lump Sum Gratuity of 5 years (Sec. 3); 2) Lifetime pension upon survival of 5 years (Sec. 3); 3) Automatic increase of pension benefits (Sec. 3A) For surviving spouse: Lifetime Survivorship Pension Benefits (Sec. 3)
Killed because of work, regardless of age, with at least 5 years of government service, e.g. killed intentionally (Section 2)	Death Benefits (regardless of age)	For the Heirs: 1) Lump Sum Gratuity of 10 years (Section 2)
Died in service, regardless of age,	Death Benefits (regardless of age)	For the Heirs: Lump Sum Gratuity of 10 years

with 15 years of government service (Section 2)		(Sec. 2)
Died in service, regardless of age or length with [less than 15 years] of government service (Sec. 2)	Death Benefits (regardless of age)	For the Heirs: 1) Lump Sum Gratuity of 5 years (Section 2)

The benefits granted to the surviving legitimate spouses of justices and judges are encapsulated in paragraph 2, Section 3, of R.A. No. 910, as amended by R.A. No. 9946, viz:

Upon the death of a Justice or Judge of any court in the Judiciary, if such Justice or Judge had retired, or was eligible to retire optionally at the time of death, the surviving legitimate spouse shall be entitled to receive all the retirement benefits that the deceased Justice or Judge would have received had the Justice or Judge not died. The surviving spouse shall continue to receive such retirement benefits until the surviving spouse's death or remarriage.

Also inserted in the new law are Sections 3-A and 3-B which provide:

Sec. 3-A. All pension benefits of retired members of the Judiciary shall be automatically increased whenever there is an increase in the salary of the same position from which he/she retired.

Sec. 3-B. The benefits under this Act shall be granted to all those who have retired prior to the effectivity of this Act: *Provided*, that the benefits shall be applicable only to members of the Judiciary: *Provided, further*, That the benefits to be granted shall be prospective.

On 6 September 2010, the Court issued Revised Administrative Circular No. 81-2010 (*RAC 81-2010*), or the Guidelines on the Implementation of R.A. No. 9946, which provide, among others:

***E. Survivorship Pension Benefits***

The legitimate surviving spouse of a Justice or Judge who (1) has retired or was eligible to retire optionally at the time of death, and (2) was receiving or would have been entitled to receive a monthly pension, shall be entitled to receive the said benefits that the deceased Justice or Judge would have received had the Justice or Judge not died. The surviving spouse shall continue to receive such retirement benefits until the surviving spouse's death or remarriage.

***F. Other Entitlements***

1. All pension benefits of retired members of the Judiciary shall be automatically increased whenever there is an increase in the salary of the same position from which he/she retired.
2. The benefits under R.A. No. 9946 shall be granted to all those who have retired prior to its effectivity, provided that the benefits shall

be applicable only to members of the Judiciary and the benefits to be granted shall be prospective, beginning February 11, 2010, the date of effectivity of R.A. No. 9946.

3. The implementing guidelines provided herein shall be applicable to officials of the Judiciary who have been granted the rank, salary and privileges of a member of the Judiciary subject to the conditions set forth in the resolutions, dated December 9, 2008, and February 17, 2009, in A.M. No. 11838-Ret.

### **PROHIBITIONS TO ENTITLEMENT TO PENSION**

1. A retired Justice of the SC, CA, SB, CTA or a Judge of the RTC, MeTC, MTCC, MTC, MCTC, SDC, SCC or his/her surviving spouse receiving the benefits of R.A. No. 9946 during the time that he/she is receiving said pension shall not appear as counsel before any court in any civil case wherein the government or any subdivision or instrumentality thereof is the adverse party, or in any criminal case wherein an incumbent or former office or employee of the government is accused of an offense committed in relation to his/her office, or collect any fee for his/her appearance in any administrative proceedings to maintain an interest to the Government, National, Provincial or municipal, or to any of its legally constituted offices.
2. The member of the Judiciary or his/her surviving spouse who assumes an elective public office shall not, upon assumption of office and during his/her term, receive the monthly pension due to him/her.
3. The surviving spouse who remarries shall no longer be entitled to the survivorship benefit.

### **Related Cases**

Since the passage of R.A. No. 9946, a great number of applications for survivorship benefits had been filed by surviving spouses of justices and judges, presumably on account of the retroactivity provision in Section 3-B thereof. The Court had approved many of such applications. As reported by the TWG, there are now 307 spouses of justices and judges who had died prior to the effectivity of R.A. No. 9946 and who are receiving pension benefits. There are also 29 pending requests with the TWG, and more than 100 applications more before the Office of the Court Administrator waiting clarification of deemed inconsistent grants of survivorship benefits.

The apparently inconsistent rulings of the Court refer to the cases of Deputy Court Administrator Nimfa Vilches (*Vilches*),<sup>[5]</sup> CTA Judge Manuel Gruba (*Gruba*),<sup>[6]</sup> and MTC Judge Galo Alvor, Jr. (*Alvor*)<sup>[7]</sup> In *Vilches* and *Gruba*, the Court granted 10-year lump sum gratuities under Section 2 in favor of the surviving spouses of Vilches and Gruba but **denied the claim for survivorship pension benefits** for the reason that the latter were not eligible to retire and, thus, not entitled to the benefits under Section 3. However, in *Alvor*, the Court **granted** Mrs. Alvor **pro rata survivorship pension benefits** even though Judge Alvor was not eligible to retire at the time of his death. The following table presented by the TWG shows the comparative data of the three cases:

<b>TABLE A</b>	<b>DCA Vilches</b>	<b>CTA Judge</b>	<b>MTC Judge</b>
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