

## EN BANC

[ A.M. No. 99-7-01-SC, August 18, 2015 ]

### RE: REQUEST OF RETIRED SUPREME COURT AND COURT OF APPEALS JUSTICES FOR INCREASE/ADJUSTMENT OF THEIR DECEMBER 1998 PENSIONS

#### RESOLUTION

##### LEONEN, J.:

The Court of Tax Appeals Presiding Justice Roman G. Del Rosario (Presiding Justice Del Rosario), through a letter,<sup>[1]</sup> requests this court to grant retired Court of Tax Appeals justices the retirement benefits and other privileges given to retired Court of Appeals justices, specifically the annual year-end bonus and cash gift.

The letter request was prompted by the letter<sup>[2]</sup> sent by retired Court of Tax Appeals Justices Ernesto D. Acosta (Justice Acosta) and Olga Palanca-Enriquez (Justice Palanca-Enriquez) to Presiding Justice Del Rosario. They requested for entitlement to the annual year-end bonus and cash gift while they have yet to receive their monthly pensions from this court.

To support their request, Justice Acosta and Justice Palanca-Enriquez cited the Resolution dated January 16, 2001 in A.M. No. 99-7-01-SC and Section 1 of Republic Act No. 9282.<sup>[3]</sup> They also pointed out that retired Sandiganbayan justices enjoy the same retirement benefits given to retired Court of Appeals justices.<sup>[4]</sup> Being of the same rank as Court of Appeals justices, retired Court of Tax Appeals justices should be given the same retirement benefits.<sup>[5]</sup>

The issue we are asked to resolve is whether retired Court of Tax Appeals justices are entitled to the annual year-end bonus and cash gift pending receipt of their monthly pensions from this court.

#### I

Republic Act No. 6686<sup>[6]</sup> as amended by Republic Act No. 8441,<sup>[7]</sup> Department of Budget and Management Budget Circular Nos. 2003-02<sup>[8]</sup> and 2010-1,<sup>[9]</sup> and Commission on Audit Circular No. 2012-001<sup>[10]</sup> provide the guidelines for the grant of the year-end bonus and cash gift.

Republic Act No. 6686, also known as An Act Authorizing Annual Christmas Bonus to National and Local Government Officials and Employees Starting CY 1988, states:

SECTION 1. All officials and employees of the National Government who have rendered at least four months of service from January 1 to October 31 of each year *and who are employed in the government service as of*

*October 31 of the same year* shall each receive a Christmas bonus equivalent to one month basic salary and additional cash gift of One thousand pesos (P1,000.00). (Emphasis supplied)

Republic Act No. 8441 amended Republic Act No. 6686 and increased the amount of cash gift to P5,000.00. Nonetheless, the clause, "who have rendered at least four months of service from January 1 to October 31 of each year and who are employed in the government service as of October 31 of the same year[.]" was maintained.

Commission on Audit Circular No. 2012-001 dated June 14, 2012 provides the documentary requirements for the grant of the year-end bonus and cash gift. Paragraph 5.11 of Commission on Audit Circular No. 2012-001 states:

### **5.11 Year-End Bonus (YEB) and Cash Gift (CG)**

#### General Guidelines

The guidelines on the grant of YEB and CG are provided under DBM Budget Circular No. 2010-1 dated April 28, 2010 which is applicable for FY 2010 and years thereafter.

#### Documentary Requirements

##### For Individual Claims

- Clearance from money, property and legal accountabilities
- Certification from head of Office that the employee is qualified to receive the YEB and CG benefits pursuant to DBM Budget Circular No. 2003-2 dated May 9, 2003

##### General Claims

- YEB and CG Payroll
- Payroll register (hard and soft copy)
- Letter to the Bank to credit employees account of their YEB and CG claims
- Deposit slips

Department of Budget and Management Budget Circular No. 2003-002 dated January 1, 2003 states:

## **2.0 Coverage**

All officials and employees whether permanent, temporary or emergency in nature and contractual personnel whose employment is in the nature of a regular employee, appointive or elective, now existing or hereafter created in all national government agencies, state universities and colleges, government-owned and controlled corporations, government financial institutions and local government units.

. . . .

#### 4.0

##### **Pro-rated Share of the Remaining Balance of Cash Gift**

4.1 All government personnel who have rendered more than four (4) months of service in a given year before their retirement/separation from the service may receive a proportionate share of the remaining balance of the cash gift in addition to the benefit provided under Item 3 hereof.

Department of Budget and Management Budget Circular No. 2010-1 dated April 28, 2010 states that it covers the following:

##### **3.0 Coverage**

The following personnel are covered by this Circular:

3.1 Civilian government personnel occupying regular, contractual, or casual positions; appointive or elective; rendering services on full-time or part-time basis;

3.2 Military personnel of the Armed Forces of the Philippines, Department of National Defense; and uniformed personnel of the Philippine National Police, Bureau of Fire Protection, and Bureau of Jail Management and Penology under the Department of the Interior and Local Government; Philippine Coast Guard; and the National Mapping and Resource Information Authority; and

3.3 *Barangay* officials and employees.

These laws and circulars do not provide that retirees are entitled to the grant of the year-end bonus and cash gift pending receipt of their monthly pensions. At most, retirees are entitled to the year-end bonus and cash gift during the year of retirement. Paragraph 6.4 of Department of Budget and Management Budget Circular No. 2010-1 provides:

##### 6.0 Grant of Year-End Bonus (Based on Basic Pay) and Cash Gift

. . . .

6.4 Personnel with a total or an aggregate of four (4) months of service, including leaves of absence with pay, *and who retires or is separated without cause before October 31 of the year*, shall be granted a proportionate share of the remaining half or balance of the Year-End Bonus and Cash Gift based on the following scheme, to be paid within the month of retirement/separation. The basic pay immediately prior to retirement/separation shall be the basis for the remaining half or balance of the Year-End Bonus. (Emphasis supplied)

Month of Retirement/Separation from the Service	Percentage of Remaining Half or Balance of the Year-End Bonus and Cash Gift
May	15%
June	30%

July	45%
August	60%
September	75%
October	90%

Based on the foregoing, retired justices are not entitled to the annual year-end bonus and cash gift. However, a special law governs the retirement benefits of members of the judiciary.

## II

Prior to its amendment, Republic Act No. 910<sup>[11]</sup> provided retirement benefits for Supreme Court and Court of Appeals justices. Section 3 of Republic Act No. 910 originally reads:

SEC. 3. Upon retirement a Justice of the Supreme Court or of the Court of Appeals shall be automatically entitled to a lump sum payment of the monthly salary that said Justice was receiving at the time of his retirement for five years, and thereafter upon survival after the expiration of this period of five years, to a further annuity payable monthly during the residue of his natural life equivalent to the amount of the monthly salary he was receiving on the date of his retirement.

Republic Act No. 1057<sup>[12]</sup> amended Republic Act No. 910 and inserted Section 3-A, which provides:

SEC. 2. Republic Act Numbered Nine hundred and ten is hereby further amended by inserting between its sections three and four a new section to be known as section Three-A thereof, and which shall read as follows:

"SEC. 3-A. In case the salary of Justices of the Supreme Court or of the Court of Appeals is increased or decreased such increased or decreased salary shall, for the purposes of this Act, be deemed to be the salary which a Justice who ceased to be such to accept another position in the Government was receiving at the time of his cessation in office: *Provided*, That any benefits that have already accrued prior to such increase or decrease shall not be affected thereby."

Republic Act No. 1797<sup>[13]</sup> amended Section 3-A of Republic Act No. 910 to read as:

Section 3-A. In case *the salary of Justices of the Supreme Court or of the Court of Appeals is increased or decreased*, such increased or decreased salary shall, for the purposes of this Act, be deemed to be the salary or the retirement pension which a Justice who as of June twelve, nineteen hundred fifty-four had ceased to be such to accept another position in the Government or who retired was receiving at the time of his cessation in office: *Provided*, That any benefits that have already accrued prior to such increase or decrease shall not be affected thereby. (Emphasis supplied)

Presidential Decree No. 1438<sup>[14]</sup> amended Republic Act No. 910 to include all retired justices and judges. This was further amended by Republic Act No. 9946.<sup>[15]</sup> At present, the following justices and judges are entitled to the retirement benefits

under Republic Act No. 910:

- (1) Justices of this court;
- (2) Justices of the Court of Appeals, the Sandiganbayan, and the Court of Tax Appeals;
- (3) Judges of Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts, Municipal Circuit Trial Courts, Shari'a District Courts, and Shari'a Circuit Courts; and
- (4) Judges of any other court established after the passage of Republic Act No. 9946.<sup>[16]</sup>

Section 3 of Republic Act No. 910, as amended by Republic Act No. 9946, now reads:

SEC. 3. Upon retirement, a Justice of the Supreme Court or of the Court of Appeals, the Sandiganbayan or of the Court of Tax Appeals, or a Judge of the regional trial court, metropolitan trial court, municipal trial court in cities, municipal trial court, municipal circuit trial court, shari'a district court, shari'a circuit court, or any other court hereafter established shall be automatically entitled to a lump sum of five (5) years' gratuity computed on the basis of the highest monthly salary plus the highest monthly aggregate of transportation, representation and other allowances such as personal economic relief allowance (PERA) and additional compensation allowance he/she was receiving on the date of his/her retirement and thereafter upon survival after the expiration of five (5) years, to further annuity payable monthly during the residue of his/her natural life pursuant to Section 1 hereof: *Provided, however,* That if the reason for the retirement be any permanent disability contracted during his/her incumbency in office and prior to the date of retirement, he/she shall receive a gratuity equivalent to ten (10) years' salary and the allowances aforementioned: *Provided, further,* That should the retirement under Section 1(a) hereof be with the attendance of any partial permanent disability contracted during his/her incumbency and prior to the date of retirement, he/she shall receive an additional gratuity equivalent to two (2) years lump sum that he/she is entitled to under this Act; *Provided, furthermore,* That if he/she survives after ten (10) years or seven (7) years, as the case may be, he/she shall continue to receive a monthly annuity as computed under this Act during the residue of his/her natural life pursuant to Section 1 hereof: *Provided, finally,* That those who have retired with the attendance of any partial permanent disability five (5) years prior to the effectivity of this Act shall be entitled to the same benefits provided herein.

Upon the death of a Justice or Judge of any court in the Judiciary, if such Justice or Judge has 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.