

FIRST DIVISION

[G.R. No. 146175, June 30, 2008]

**SIMEON M. VALDEZ, PETITIONER, VS. GOVERNMENT SERVICE
INSURANCE SYSTEM, RESPONDENT.**

DECISION

LEONARDO-DE CASTRO, J.:

Before the Court is a special civil action for *certiorari* under Rule 65 of the Rules of Court, filed by petitioner Simeon M. Valdez assailing the July 31, 2000 Decision^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 54870, as reiterated in its Resolution^[2] of October 17, 2000, upholding the Civil Service Commission's (CSC's) January 14, 1999 Opinion and Resolution No. 991940.

Principally, the CSC held that petitioner's services rendered in the Manila Economic Cultural Office (MECO), Mariano Memorial State University (MMSU), Philippine Veterans Investment Development Company (PHIVIDEC) and as OIC Vice-Governor of Ilocos Norte cannot be credited in the computation of his retirement benefits.

The facts are as follows:

On October 09, 1998, petitioner filed his application for retirement benefits with the Government Service Insurance System (GSIS).

On November 03, 1998, petitioner filed the same application with the CSC and at the same time, he sought the CSC's opinion on whether his two (2) years and three (3) months stint as MECO Director can be accredited as government service among others.

In support of his claim for retirement benefits, petitioner submitted a summary of his government service record, to wit:

SUMMARY

- | | | |
|---|---|--------------------------|
| 1. As Congressman (5 th , 6 th , 7 th & 10 th Congress) | - | 15 years |
| 2. As Director of PHIVIDEC
November 1974 to March 1987 | - | <u>12 years 5 months</u> |
| Sub total | - | 27 years 5 months |
| 3. As Member, Board of regents | | |
| a) INIT (1975-1977) | - | 3 years |
| b) MMSU (1978-1987) | - | 10 years |
| c) MMSU (1989-1992) | - | <u>4 years</u> |

	Sub total	-	17 years	=====
4.	As OIC Vice-Governor			
	Ilocos Norte			
	Nov. 1986-Dec. 1986	-	2 months	
	Jan. 1, 1987 to Mar. 1987	-	<u>3 months</u>	
	Sub total	-	5 months	=====
5.	As Director of MECO			
	1 Jan. 1993 to 31 Dec. 1994	-	2 year	
	1 Jan. 1995 to March 1995	-	<u>3 months</u>	
	Sub total	-	2 years 3months	=====

REMARKS

1. Please note therefore that there is overlapping of my services at PHIVIDEC & MMSU. My services of 12 years 5 months with PHIVIDEC should be counted and only 4 years and 7 months with MMSU where there is no overlapping.
2. My services as OIC Governor should not be counted as I was still with PHIVIDEC during the 6 months I served as OIC Vice-Governor.
3. Therefore the length of service to be credited for my retirement will cover only the following:

a) As Congressman	-	15 years
b) As Director of PHIVIDEC	-	12 years 5 months
c) As Board of Regent MMSU	-	4 years 7 months
d) As Director of MECO	-	<u>2 years 3 months</u>
Total	-	33 years 15 months
		=====

On February 23, 1999, petitioner received two mails, one from the CSC and the other from GSIS. The letter from CSC contained the challenged January 14, 1999 Opinion^[3] denying the accreditation of petitioner's services as former Director of MECO and of PHIVIDEC and as Member of the Board of Regents of MMSU, pertinently reading as follows:

Section 2 (1), Article IX of the 1987 Constitution provides that the "*civil service embraces all branches, subdivisions, instrumentalities and agencies of the Government, including government-owned or controlled corporations with original charters.*" (Underscoring Ours). Equivocably, subsidiary corporations created under the Corporation Code are not considered part of the Civil Service. Since MECO is a subsidiary corporation of the government governed by its Articles of Incorporation and By-Laws, whatever services rendered therein shall not be considered part and parcel of government service.

x x x

We note that at the time you were still a member of the Board of Regents of the Mariano Marcos State University (MMSU) from 1978 to 1992, you were likewise holding the positions of Philvidic Director (November 1974-March 1987) and as OIC-Vice Governor (August 1986-March 1987). As such, it must be reiterated that a part-time employee is not entitled to leave benefits unless he works part-time in two different government offices and renders the required office hours. This rule has been emphasized in CSC Resolution No. 90-1087, pertinent portion of which reads as follows:

"Under the Leave Law and Rules, Leave Privileges are accorded only to regular, temporary, provisional or casual officials and employees who are rendering full time service in an agency or government. However, the status of appointment of employees in the government further identify certain specifications in the entitlement of leave privileges; **hence, a part-time employee is not entitled to leave unless he works part-time in two different offices and renders the required office hours** (Manual of Leave Administration, p.3.2). Thus it is completely inconceivable that members of the various Regulatory Board of the PRC who hold concurrently other positions in the civil service are, at the same time on full-time basis in other positions. x x x To grant them leave benefits in consideration of their services would be tantamount to double compensation, the receipt of which is constitutionally prescribed. x x x This has to be so, otherwise they would be enjoying leave privileges over and above what is provided in the leave Law and Rules (*Valdez v. Commission on Audit*: GR 87277, 25 May 1989). Besides, CSC Memorandum Circular No. 43, series of 1989 (Retirement of Employees Holding More than One Positions), is explicit that 'an appointment to a second position must be regarded only as imposing additional duties to the regular functions of an employee and consequently an employee can retire only from his regular or main position and not from his additional position."

Let is (*sic*) be stressed that for purposes of computation of government service, only "full-time services with compensation" are included (Section 10 (b), RA 8291). Moreover, under Section 2(l) of RA 8291, "compensation" refers to the basic pay or salary received by an employee, pursuant to his election/appointment, excluding per diems, bonuses, overtime pay, honoraria, allowances and other emoluments received in addition to the basic pay which are not integrated into the basic pay under existing laws. (Underscoring Ours)

Premised on our answer in your first query, your services at the MECO for 2 years and 3 months did not earn any leave credit for you.

The correspondence from the GSIS contained a Letter^[4] and a Retirement Voucher informing petitioner of the approval of his retirement benefits computed on the basis of the CSC's opinion.

Displeased, petitioner sought reconsideration of the subject CSC opinion in a Letter^[5] addressed to the CSC and the GSIS. Petitioner insisted on the inclusion of his services rendered in the MECO, PHIVIDEDEC and MMSU in the computation of his retirement benefits pursuant to Sections 10 (b) and 2 (I) of Republic Act (RA) No. 8291.^[6]

The GSIS indorsed^[7] the Letter to the CSC with a view that the same is within the jurisdiction of the latter.

The CSC, for its part, rendered Resolution No. 991940^[8] dated August 31, 1999 denying petitioner's request for reconsideration of the subject CSC opinion, thus:

WHEREFORE, the Commission hereby resolves to deny the instant request of Simeon Valdez. Accordingly, the assailed Opinion is affirmed.

Petitioner then elevated the matter to the CA by way of petition for review on *certiorari* against the CSC and the GSIS. There, petitioner argued that his services rendered as Director of MECO should have been credited for retirement purposes and that his salary thereat should have been the highest remuneration considered in the computation of his retirement benefits. Petitioner likewise insisted that his respective tenures as Member of the Board of Regents of Ilocos Norte Institute of Technology (INIT) and the MMSU, as Director of the PHIVIDEDEC and as OIC Vice-Governor of Ilocos Norte be included as government service in the computation of his retirement benefits.

On July 31, 2000, the CA rendered the herein challenged decision dismissing the petition and affirming both the January 14, 1999 Opinion and Resolution No. 991940 of the CSC. Dispositively, the Decision reads:

With the foregoing, the assailed CSC Opinion dated 14 January 1999 and Resolution No. 991940 dated 31 August 1999 are hereby AFFIRMED.

SO ORDERED.

Thereafter, petitioner filed a motion for reconsideration of the foregoing decision and for the first time raised as an issue the lack of jurisdiction of the CSC and the CA over the case.

In the resolution of October 17, 2000, the CA denied petitioner's motion for reconsideration.

Petitioner now comes to this Court *via* this petition for *certiorari*. Although the CSC was the author of the challenged issuances which were affirmed by the CA and in fact it was a respondent in the case below, it was not impleaded in the instant petition. Petitioner now lays all the blame on the GSIS as he raises the following assigned errors:

I.