

## EN BANC

[ A. M. No. 07-8-27-SC, October 10, 2007 ]

### RE: COMPUTATION OF LONGEVITY PAY UPON COMPULSORY RETIREMENT.

### R E S O L U T I O N

#### CHICO-NAZARIO, J.:

Before Us are two communications, 1) a letter,<sup>[1]</sup> dated 23 August 2007, of Hon. Cancio C. Garcia, Associate Justice of this Court; and 2) a *Memorandum*,<sup>[2]</sup> dated 29 August 2007 of Corazon G. Ferrer-Flores, Deputy Clerk of Court and Chief of Office, Fiscal Management and Budget Office (FMBO), also of this Court. Both communications, addressed to Chief Justice Reynato S. Puno, embody a request for clarification whether or not to tack earned leave credits in the computation of Longevity Pay upon compulsory retirement of Justices and Judges. Justice Garcia's letter reads in part -

I am ending my more than 45 years of government service by midnight of 19 October 2007, 30 years, 10 months and 26 days of which were with the judiciary x x x.

I am presently receiving monthly longevity pay computed at thirty percent (30%) of my basic salary, conformably with Sec. 42 of BP 129 which pertinently provides:

Sec. 42. *Longevity Pay*. - A monthly longevity pay equivalent to 5% of the monthly basic pay shall be paid to the Justices and Judges of the courts herein created for each five years continuous, efficient and meritorious service rendered in the judiciary x x x.

As of 19 October 2007, my **earned leave credits** would have reached a total of 1,499.5 days which would be equivalent to 5 years, 8 months, and 3.5 days x x x.

x x x x

Under *Administrative Circular No. 58-2003*, my retirement pay, and God-willing, my monthly pension five (5) years later, shall have to be computed by tacking my leave credits of 5 years, 8 months and 3.5 days to my total years of service in the judiciary (30 years, 10 months and 26 days), making a total of 36 years, 6 months 29.5 days or 36.58 years, thus, increasing my monthly longevity pay to thirty six percent (36%). It will be noted that the Circular makes no distinction as to what branch of the government the leave credits were earned for purposes of increasing

the longevity pay of Justices and Judges who reach the age of compulsory retirement.<sup>[3]</sup>

In connection thereto, the FMBO Chief, in her Memorandum, relates that -

Upon the request of Justice Gutierrez and Justice Garcia, we have computed their estimated retirement benefits under Republic Act No. 910 (RA 910), as amended. The computation of their retirement benefits did not consider the tacking of earned leave credits in the computation of longevity pay provided under Administrative Circular No. 58-2003. [Citation omitted.]

Associate Justice Renato C. Dacudao, who retired from the Court of Appeals on June 19, 2007, likewise requests, in his letter dated August 6, 2007 [citation omitted], that his earned leave credits be tacked for the purpose of computing his longevity pay in accordance with Administrative Circular No. 58-2003.<sup>[4]</sup>

To recall, a similar situation arose sometime in 2003, prior to the compulsory retirement of then Senior Associate Justice Josue N. Bellosillo, also of this Court. In a letter-request<sup>[5]</sup> dated 25 September 2003, docketed as A.M. No. 03-9-20-SC entitled "*Re: Request of Senior Associate Justice Josue N. Bellosillo for Computation of His Longevity Pay upon Compulsory Retirement,*" then Senior Associate Justice Bellosillo asked this Court that his earned leave credits be tacked to his judicial service to increase his longevity pay. In a Resolution<sup>[6]</sup> dated 7 October 2003, this Court resolved to grant said request. Consequently, on 11 November 2003, this Court approved and adopted Administrative Circular (A.C.) No. 58-2003 entitled "*ALLOWING THE TACKING OF EARNED LEAVE CREDITS IN THE COMPUTATION OF LONGEVITY PAY UPON COMPULSORY RETIREMENT OF JUSTICES AND JUDGES,*" which, in whole, provides that:

WHEREAS, The Court has studied proposals to allow the tacking of earned leave credits to the length of judicial service for computation of the longevity pay.

WHEREAS, Section 42 of Batas Pambansa (BP) 129 provides for a monthly longevity pay equivalent to 5% of the monthly basic pay for every five years of service rendered in the judiciary;

WHEREAS, it is true that vacation and sick leave credits earned during the period of employment are, by their nature and purpose, generally enjoyed during employment; however, the law does not preclude the accumulation of these leave credits, not to be paid while one is working, but to be reserved for senior age;

WHEREAS, retirement laws are liberally interpreted in favor of the retiree because their intention is to provide for his sustenance, and hopefully even comfort, when he no longer has the stamina to continue earning his livelihood and the liberal approach aims to achieve the humanitarian purposes of the law in order that the efficiency, security, and well-being of government personnel may be enhanced;

WHEREAS, laws pertaining to retiring government personnel should be liberally construed to benefit retiring personnel, following an interpretation that rightly expresses the nation's gratitude towards the women and men who have tirelessly and faithfully served the government;

WHEREAS, earned leave credits, computed in accordance with Section 40, Rule XVI of the Omnibus Rules on Leave, should accordingly be allowed to increase the longevity pay of Justices and Judges reaching the age of compulsory retirement;

NOW, THEREFORE, the COURT RESOLVED, as it hereby RESOLVES, that earned leave credits shall be allowed to be tacked to the length of judicial service for the purpose of increasing the longevity pay of Justices and Judges who reach the age of compulsory retirement. The computation should also include the additional percentage of longevity pay that corresponds to any fraction of a five-year period in the total number of years of continuous, efficient and meritorious service rendered, considering that the retiree would no longer be able to complete the period because of his compulsory retirement.<sup>[7]</sup>

With the foregoing issuances, it is manifestly directed that earned leave credits ought to be included in the computation of the longevity pay of Justices and Judges upon their compulsory retirement.

At present, however, as the FMBO explains, the non-inclusion of earned leave credits in the computation of the longevity pay of Supreme Court Associate Justices Gutierrez and Garcia, as well as Retired Court of Appeals Associate Justice Dacudao, upon their compulsory retirement, even in the face of A.C. No. 58-2003, and the edicts by this Court in A.M. No. 03-9-20-SC, *i.e.*, 1) Resolution<sup>[8]</sup> dated 7 October 2003, granting the request of Senior Justice Bellosillo to tack his earned leave credits; and 2) Resolution<sup>[9]</sup> dated 11 November 2003, approving and adopting A.C. No. 58-2003, is the consequence of its apprehension as to the non-sustainability of charging payments of longevity pays, computed in accordance with A.C. No. 58-2003, to the savings of the court concerned. According to the FMBO, the longevity pay of retired Senior Associate Justice Bellosillo was charged to the savings of this Court in view of the prior refusal of the Department of Budget and Management (DBM) to pay the amount due him, computed in accordance with the subject circular, notwithstanding this Court's Resolution<sup>[10]</sup> dated 26 July 2005 in A.M. No. 03-9-20-SC, enjoining said department to disburse payment thereof, to wit:

SC Administrative Circular No. 58-2003 allows earned leave credits of Justices and Judges who reach the age of compulsory retirement to be tacked to the length of judicial service for the purpose of increasing their longevity pay, on the basis of a liberal interpretation of retirement legislation in line with previous jurisprudence for the benefit of deserving retirees. **The observations of the Secretary of Budget and Management are, therefore, noted but she is enjoined to pay the amount due to retired Senior Associate Justice Josue N. Bellosillo in the implementation of said Circular.**

WHEREFORE, the payment of longevity pay in accordance with