

CIRIACO C. DIAZ, IN HIS CAPACITY AS HEAD PARKS & GAME WARDEN, PETITIONER, VS. EUTQUIO RAQUID, IN HIS CAPACITY AS AUDITOR, AUDITING UNIT NO. B-30, HON. AUDITOR GENERAL AND DIREC...*G. R. No. L-19158. February 27, 1965*

Ponente: DIZON, J.

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Original petition for mandamus filed by Ciriaco C. Diaz to compel Entiquio Raquid, as Auditor of the Auditing Unit No. 30-B for the Parks and Wildlife Office, and the Auditor General, to pay him his salary as Head Parks and Game Warden, effective July 1, 1961, at the rate of P448.00 a month, and to declare him entitled to whatever salary is fixed by law for said position, the provisions of Section 9, Republic Act 2260 notwithstanding.

Upon the effectivity of the Government Reorganization Plan in July 1957, petitioner was appointed Head Parks and Game Warden (Division Chief) of the Parks and Wildlife Office, Department of Agriculture and Natural Resources, as evidenced by the Plantilla Appointment Form of the staffing pattern of said office made pursuant to the provisions of Executive Order No. 216, Series of 1956, and approved by the Secretary of Agriculture and Natural Resources, the Commissioner of Civil Service, the Budget Commissioner and the Executive Secretary. (Annex A attached to the petition). Said plantilla shows that the position of Head Parks and Game Warden was classified with a salary range of 40 and a staffing pattern salary of P1,920 per annum, and that at the time of petitioner's appointment to the position aforementioned, his civil service eligibility was that of a "Ranger".

Under the Appropriation Act (Republic Act 2700) for the fiscal year 1960-61, petitioner's position was allocated by the WAPCO to the class of Head Parks and Game Warden, Range 45, with an annual salary of P4,176.00 (Annex B of the petition). This was increased further to P5,376.00 per annum for the fiscal year 1961-62 under Republic Act No. 3100.

On the other hand, Republic Act No. 2260, otherwise Known as the New Civil Service Act, enacted, on June 19, 1959 provides: "Section 9. Wage and Position Classification Office-The Wage and Position Classification Office shall be responsible for the classification of position in the Civil Service and shall standardize the salaries of the group or groups of position so classified: Provided, that the range of maximum and minimum salaries allowable for civil service eligibilities shall be:

Eligibilities

(Minimum Maximum)

First Grade

P2,400

No limit

Second Grade	
1,800	
P3,720	
Third Grade	
1,440	
2,400	
Senior Stenographer	
2,400	
No limit	
Junior Stenographer	
1,800	
3,720	
Senior Typist	
1,920	
3,720	
Junior Typist	
1,560	
2,400	

It shall be transferred to the Civil Service Commission as an integral agency of the Civil Service System by executive order of the President upon the full implementation of the classification and pay plans." In a memorandum dated September 20, 1960 filed with the Director of the Parks and Wildlife Office, the then Auditor of said office, Mrs. Visitacion M. Morales, objected to the full payment of petitioner's salary as provided for under the Appropriation Act for the fiscal year 1960-61 (P4,176.00 per annum) on the ground that petitioner only possessed a second grade eligibility which, in accordance with the above quoted section of Republic Act No. 2260, carried a maximum salary of P3,720.00 per annum, relying apparently upon a portion of Opinion No. 85, series of 1960 of the Secretary of Justice. Answering the same, the Director of Parks and Wildlife explained that, under the aforementioned Opinion of the Secretary of Justice petitioner was entitled to receive his full salary as provided for under said appropriation act, because the provisions of Republic Act No. 2260, particularly those of Section 9 thereof, had no retroactive effect upon those whose positions-like petitioner's-had been reclassified before its effectivity. As a result, Mrs. Morales allowed the full payment of petitioner's salary under Republic Act No. 2700, except for the months of July and August, 1960.

Upon the effectivity of the Appropriation Act for the succeeding fiscal year (1961-62), petitioner's salary, as already stated before, was increased to P5,876.00 per annum. This time, it was respondent Eutiquio Raquid, then Auditor for the office, who refused to authorize payment of petitioner's full salary under said act for the same reason as his predecessor in office. Hence, the present petition.

Under the pertinent provisions of Reorganization Plans Nos. 1-A and 2-A, upon the initial allocation of positions to classes-as therein provided-any incumbent who holds a permanent appointment and possesses any grade of civil service eligibility shall be deemed to be appointed to that position and class in the same manner and with the same rights as if he had qualified and had been appointed through competitive examination (paragraph 4, Reorganization Plan No. 1-A). Accordingly, said incumbent would be entitled to any salary adjustment the WAPCO plans allow. As already stated heretofore, petitioner's position was allocated by WAPCO to the class of Head Parks and Game Warden, Range 45, with an annual salary of P4,176 for the fiscal year 1960-61 (Republic Act 2700), which salary subsequently further increased to P5,376 per annum the fiscal year 1961-62 (Republic Act 3100).

The issue to be decided now therefore is whether Section 9 of Republic Act 2260 (Civil Service Act of 1959), which fixes the range of the minimum and maximum salary allowable for different civil service eligibilities, can adversely affect petitioner.

It is our opinion that the provisions of the law above-mentioned can not be given retroactive effect so as to deprive petitioner of any portion of his compensation, because Section 47 of Republic Act 2260 itself provides the rights or privileges fixed or acquired under the Old Civil Service Law, rules and regulations prior to the effectivity of the act will remain in full force and effect in the case at bar, there is no claim or pretense that the provisions of Reorganization Plans Nos. 1-A and 2-A and the provisions of the Appropriation Act for fiscal year 1960-61 (Republic Act 2700) in any manner contravene provisions of the Old Civil Service Law. Neither is it denied that petitioner was appointed to his position upon the effectivity and operation of the Reorganization Pay Plan in the month of July 1957 and that said position had been reclassified prior to the effectivity of Republic Act 2260. We deem it clear therefore that petitioner, in the eyes of the law, was a permanent incumbent of that position at the time when Republic Act 2260 was enacted in the month of June 1959, and, pursuant to the provisions of section 47 of said Act, section 9 thereof can not affect him adversely. Consequently, the provisions of the Appropriation Act for 1960-61 fixing his annual salary at P4,171.00, which is within the salary range 45 to which petitioner's position was allocated by WAPCO, control the matter of his salary.

WHEREFORE, the writ prayed for is granted, and respondents are hereby ordered to pay petitioner's salary as fixed in the Appropriation Act for the year 1960-1961. Without costs.

Bengzon, C. J., Bautista Angelo, Reyes, J.B.L., Barrera, Regala, Bengzon, J.P. and Zaldivar, JJ., concur.

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