

REQUEST OF CTA PRESIDING JUDGE ALEX Z. REYES

Adm. Case No. 91-6-007-CTA. December 21, 1992

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

In his letter-request dated May 21, 1991, Court of Tax Appeals Presiding Judge Alex Z. Reyes asks that, for purposes of his compulsory retirement from judicial service under R.A. No. 910, the last step increment of his salary grade be used in the computation of his retirement pay and terminal leave benefits.

Judge Reyes was appointed Associate Judge of the Court of Tax Appeals on July 31, 1980, and served as such until November 20, 1990. Beginning November 21, 1990 until his retirement on November 24, 1991, he served as Presiding Judge of said court.

In his request, Judge Reyes cites the Position Allocation List and a salary schedule (Approved Salary Standardization), both issued by the Department of Budget and Management.

The Position Allocation List, which took effect on July 1, 1989, was issued by the Department of Budget and Management pursuant to Section 6 of R.A. 6758, otherwise known as the Compensation and Position Classification Act of 1989, which provides:

"SEC. 6. Index of Occupational Services, Position Titles and Salary Grades of the Compensation and Position Classification System - All positions in the government covered under Section 4 hereof shall be allocated to their proper position titles and salary grades in accordance with the Index of Occupational Services, Position Titles and Salary Grades of the Compensation and Position Classification System which shall be prepared by the DBM."

Under the Position Allocation List, the position of Presiding Judge of the Court of Tax Appeals is allocated salary grade 30, with the salary rate of P227,700 per annum, or P18,975 monthly. Judge Reyes was receiving such amount at the time of his retirement.

The salary schedule cited by Judge Reyes provides the following for salary grade 30:

"1st
2nd
3rd
4th
5th
6th
7th

8th

18975

19165

19355

19544

19734

19924

20114

20303"

Under the salary schedule, the salary received by Judge Reyes corresponds to the first step increment.

In his Memorandum, the Court Administrator does not favorably endorse the request of Judge Reyes. He cites Joint Civil Service Commission and Department of Budget and Management Circular No. 1, Series of 1990 issued on January 1, 1990, and explains the contents of said circular as follows:

"xxx The Circular provides that Step Increments to be granted to deserving officials and employees shall be based on two (2) criteria; merit and length of service. MERIT, for those who have rendered very satisfactory or outstanding performance in assigned functions for two (2) consecutive rating periods; and LENGTH OF SERVICE, for those who have rendered continuous satisfactory service in a particular position for at least three years. Each department or agency shall adopt its own system and procedure in the recommendation, evaluation and approval of step increments.

A 2-step increment shall be given to officials and employees with outstanding performance for two (2) consecutive rating periods. Moreover, a 1-step increment shall be given to officials and employees with very satisfactory performance for two (2) consecutive rating periods and for those officials and employees on the basis of length of service, for every three (3) years of continuous satisfactory service in the position."

To support his non-endorsement of Judge Reyes' request, the Court Administrator gives the following reasons: (1) Section 4(d) of the above-mentioned circular prohibits the grant of step increments based on merit for retirement purposes; (2) the longevity pay granted to judges under Section 42 of B.P. No. 129, being given on the same premise as step increments based on length of service, can no longer be given to judges; and (3) there is no showing on record that Judge Reyes was given a step increment on merit.

Joint Circular No. 1, which took effect on January 1, 1990 was issued pursuant to Section 13(c) of R.A. No. 6758 (Preamble paragraph), which provides:

"SEC. 13. Pay Adjustments - Paragraphs (b) and (c), Section 15 of Presidential Decree No. 985 are hereby amended to read as follows:

xxx xxx xxx

'(c) Step Increments - Effective January 1, 1990 step increments shall be granted based on merit and/or length of service in accordance with rules and regulations that will be promulgated jointly by the DBM and the Civil Service Commission.'"

Judge Reyes, in his Reply to the Comment of the Solicitor General, invokes the doctrine of liberal construction of retirement laws, citing *Borromeo v. Civil Service Commission* (199 SCRA 924 [1991]). Such doctrine, however,

cannot be applied in the instant case, in view of section 4 of Joint Circular No. 1, which provides:

"SEC. 4 Restrictions. The following restrictions shall be observed in the grant of step increments:

xxx xxx xxx

(d) No step increment based on merit shall be given to an official or employee on the ground that he is retiring in the near future and for purposes of enabling him to collect a higher retirement gratuity, except as he may qualify in accordance with the criteria established under these Rules."

In *Borromeo*, the court had occasion to say: "It is axiomatic that retirement laws are liberally construed and administered in favor of the persons intended to be benefited. All doubts as to the intent of the law should be resolved in favor of the retiree to achieve its humanitarian purposes." Such interpretation in favor of the retiree is unfortunately not called for nor warranted, where the clear intent of the applicable law and rules are demonstrably against the petitioner's claim. (*Paredes v. City of Manila*, G.R. No. 88879, March 21, 1991). Section 4 is explicit and categorical in its prohibition and unfortunately for Judge Reyes applies squarely to the instant case.

The criteria of merit and length of service call for continuous service in a particular position or assigned function for at least two consecutive rating periods or three years, respectively. Judge Reyes has served as Presiding Judge for only one year and three days. Step increments are also proscribed if the purpose is to enable a higher retirement gratuity. Coming as it does after retirement, the request of Judge Reyes appears to fall under the prohibition.

The Court disagrees, however, with the contention that the longevity pay of Judges under Section 42 of B.P. 129 is incompatible with step increments.

There appears to be no legal obstacle to Judges receiving step increments based on MERIT due to outstanding performance for two consecutive rating periods. Merit is a criterion entirely distinct from either longevity or length of service. Longevity pay is based on a law which antedates by many years the legal basis for step increments. There is no incompatibility between the two statutes.

In the interest of good government and public welfare, merit whenever found in the government service, must be recognized and whenever authorized by law, must be rewarded.

Practical considerations also rule against a sweeping denial of government employees' compensation benefits to Judges. It is apparent from the salary schedule that the escalation from one grade to another of the incomes of top officials from Grades 30 to 33 is not fairly proportionate to the nature of the duties and responsibilities exacted from the people occupying those top positions. Political considerations, not logic or rational analysis, are the reasons for the discrepancy at the top. The general public, whose voices are organized and, in this respect, magnified by media have expressed aversion and displeasure against the grant of salary increases to top elective officials. As a result, the President, Vice President, Senators, and Congressmen cannot be given salary increases, after the constitutional waiting period, no matter how well-deserved these increases may be. Since the salaries of the Chief Justice and Justices, not to mention Department Secretaries, are pegged to the same levels as elective officials and since Judges cannot move up in the salary scale beyond what Justices receive, a stagnation of salary increases for Judges is the result.

It is true that there are other compensations in the judicial service such as public respect, honor, and the satisfactions arising from the faithful discharge of judicial duties. However, for Judges who rise from the lowest judicial ranks until they reach the higher or highest court hierarchies, it is quite disconcerting at times to see their less talented or deserving contemporaries receive six or seven digit monthly incomes while theirs are held down by law. It is for this reason that any policy which appears to discriminate against Judges in matters of

compensation must be examined carefully and struck down if enacted into law. It is also for this reason that this Court rules in favor of merit step increments and longevity pay which may be paid at the same time. The salary after the grant of a merit step increase shall constitute the basis for the computation of longevity pay and total salary.

We are not prepared at this time to rule in favor of longevity pay and step increments based on length of service being given simultaneously. The Court Administrator believes the two are based on the same premise. We do not necessarily sustain his position but pending an actual case more squarely in point and the presentation of more valid arguments based on factual and legal considerations, we reserve a ruling on this issue for the future.

In his Comment, the Solicitor General assails the validity of the Position Allocation List issued by the Department of Budget and Management, upon the belief that said List provides for the step increments for salary grades 30 to 33. He contends that "the DBM does not possess quasi-legislative power so as to amend what is clearly provided for by Section 7 of R.A. No. 6758 (*Animos v. Philippine Veterans Office*, 174 SCRA 214 [1989]), nor does DBM possess quasi-judicial power so as to interpret a void in the law and fill it up, i.e., provide for the absence in Section 7 of any provision for rates beyond step one for salary grade 30." (p. 4, Comment) Section 7 of R.A. No. 6758 referred to provides as follows:

SEC. 7. Salary Schedule - The Department of Budget and Management is hereby directed to implement the Salary Schedule prescribed below:

Salary Schedule

Grade

1st

2nd

3rd

4th

5th

6th

7th

8th

X X X X X X X X

29

17,0975

17,246

17,418

17,592

17,768

17,946

18,125

18,307

30

18,975

31

19,550

32

22,000

33

25,000

The Position Allocation List does not provide for step increments for salary grade 30. Rather, it is Section 3 of Circular No. 1 which provides the mechanism for computing such step increments. Nowhere in the Solicitor General's Comment is Joint Circular No. 1, s. 1990 mentioned.

The Solicitor-General gives no basis for the discrimination. There appears to be no valid justification for salary Grades 1 to 29 to be given eight (8) step increments and for Salary Grades 30 to 33 to be denied the same benefit. On the contrary, larger step increments and salary escalations for top officials as compared to rank and file or clerical and manual workers are sound and established management practices in big business and industry. The government is the biggest enterprise in the Philippines.

To give a detailed pronouncement on the contentions of the Solicitor General calls for a specific ruling on the quasi-legislative powers of the Department of Budget and Management. Such a ruling is not necessary under the facts of this particular case. We likewise reserve it for a case more in point.

WHEREFORE, the request of Court of Tax Appeals Presiding Judge Alex Z. Reyes that the last step of salary Grade 30 be used as the basis for the computation of his retirement pay and terminal leave benefits is regrettably DENIED. The Court Administrator is, however, ordered to prepare and present to the Court a plan providing for merit step increments for deserving members of the Judiciary.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Grino-Aquino, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, and Campos, Jr., JJ., concur.

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