

RE: APPLICATION FOR RETIREMENT UNDER R.A. NO. 910 OF ASSOCIATE JUSTICE RAMON B. BRITANICO OF THE INTERMEDIATE APPELLATE COURT.

Adm. Matter No. 6484-Ret. May 15, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

Justice Ramon B. Britanico wrote a letter to this Court on January 20, 1989, requesting that he be granted retirement benefits under Republic Act No. 910, as amended, in addition to, or in lieu of, the benefits he received under Republic Act 1616 upon the termination, on July 31, 1986, of his service in the Judiciary by the acceptance of his courtesy resignation by Her Excellency, President Corazon C. Aquino. Justice Britanico tendered his courtesy resignation pursuant to Proclamation No. 1 dated February 25, 1986, requiring "all appointive public officials to submit their courtesy resignations beginning with the members of the Supreme Court."

Justice Ramon B. Britanico served the Government in different capacities for 36.23 years, of which 10 years, 2 months, and 27 days were served in the Judiciary as follows:

As Ad Interim Justice of the Peace, Balimbing, Sulu from Oct. 12, 1956 to April 23, 1957;

Justice of the Peace (permanent) of Balimbing, Sulu from April 24, 1957 to Sept. 28, 1957;

District Judge, Court of Agrarian Relations, Ozamis City, from Jan. 1, 1972 to Oct 2, 1974;

District Judge, Court of First Instance, Bacolod City, from Oct. 3, 1974 to Jan. 3, 1980;

Associate Justice, Intermediate Appellate Court, from April 11, 1985 to July 31, 1986.

He was Justice of the Peace for 11 months and 5 days, a CFI Judge for 8 years and 2 days, and a CA Justice for 1 year, 3 months and 20 days, or a total service of 10 years, 2 months and 27 days on the Bench.

Born on November 12, 1926 (Annex F), Justice Britanico was 59 years, 8 months and 19 days old when he was "forcibly" retired on July 31, 1986 or 3 months and 11 days short of 60 years.

The Government Service Insurance System (GSIS) approved his retirement under Republic Act No. 1616 which enabled him to receive a retirement pay equivalent to his highest monthly salary as an Appellate Court Justice multiplied by 24 months as provided in Section 1, par. (c) of said Republic Act No. 1616 which reads as follows:

"(c) Retirement is likewise allowed to a member, regardless of age, who has rendered at least twenty years of service. The benefit shall, in addition to the return of the personal contributions plus interest, be only a gratuity equivalent to one month salary for every year of service, based on the highest rate received, not to exceed twenty-four months. This gratuity is payable by the employer or office concerned which is hereby authorized to provide the necessary appropriation or pay the same from savings in its appropriations."

If, as he now requests, he would be allowed to retire under Republic Act No. 910, he will receive a lump sum of

five (5) years gratuity - or 60 months - computed on the basis of his highest monthly salary and allowances as a CA Justice. Having already received a 24-month lump sum gratuity under Republic Act No. 1616, he can expect a retirement pay differential of 36 months plus a lifetime monthly annuity after five (5) years. There is no gainsaying the fact that the amount involved is substantial.

Republic Act No. 910, as amended by Republic Acts Nos. 1057, 1797, 2614, 4627 and 5095 and by Presidential Decree No. 1438, provides:

"Sec. 1. When a justice of the Supreme Court or of the Court of Appeals, a judge of Court of First Instance, Industrial Relations, Agrarian Relations, Tax Appeals, Juvenile and Domestic Relations, or a city or municipal judge who has rendered at least twenty years service in the judiciary or in any other branch of the Government, or in both, (a) retires for having attained the age of seventy years, or (b) resigns by reason of his incapacity to discharge the duties of his office, he shall receive during the residue of his natural life, in the manner hereinafter provided, the salary which he was receiving at the time of his retirement or resignation. And when a justice of the Supreme Court or of the Court of Appeals, a judge of Court of First Instance, Industrial Relations, Agrarian Relations, Tax Appeals, Juvenile and Domestic Relations, or a city or municipal judge has attained the age of sixty years and has rendered at least twenty years service in the government, the last five of which shall have been continuously rendered in the judiciary, he shall likewise be entitled to retire and receive during the residue of his natural life, also in the manner hereinafter provided, the salary which he was then receiving. x x x.

"Section 2. In case a justice of the Supreme Court or of the Court of Appeals or a judge of the Court of First Instance, Circuit Criminal Court, Agrarian Relations, Tax Appeals, Juvenile and Domestic Relations, city or municipal court, or any other court hereafter established, dies while in actual service, his heirs shall receive a lump sum of five years gratuity computed on the basis of the highest monthly salary plus the highest monthly aggregate of transportation, living and representation allowances received by him as such justice or judge, if by reason of his length of service in the government he was already entitled to the benefits of this Act. The same benefits provided in this section shall be extended to any incumbent justice of the Supreme Court or the Court of Appeals, or a judge of the Court of First Instance, Circuit Criminal Court, Agrarian Relations, or city or municipal court, or any other court hereafter established, as the case may be, who without having attained the length of service required in Section one hereof, shall have to retire upon reaching the age of sixty-five years, or upon other causes, such as illness or permanent physical disability, to be certified to by the tribunal to which the justice concerned belongs, or by the Supreme Court in the case of an incumbent judge of the Court of First Instance, and other similar courts of record, or a city or municipal judge, which render him incapacitated to continue in his position.

"Section 3. Upon retirement, a justice of the Supreme Court or of the Court of Appeals, or a judge of the Court of First Instance, Circuit Criminal Court, Agrarian Relations, Tax Appeals, Juvenile and Domestic Relations, city or municipal court, or any other court hereafter established shall be automatically entitled to a lump sum of five years' gratuity computed on the basis of the highest monthly salary plus the highest monthly aggregate of transportation, living and representation allowances he was receiving on the date of his retirement; 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. Provided, however, that if the reason for the retirement be any permanent disability contracted during his incumbency in office and prior to the date of retirement he shall receive only a gratuity equivalent to ten years' salary and allowances aforementioned with no further annuity payable monthly during the rest of the retiree's natural life." (Underscoring supplied.)

As provided in Section 1, the justices or judges who may enjoy retirement benefits with lifetime annuity, should, as a condition sine qua non, have rendered "at least 20 years service in the judiciary or in any other branch of the Government, or both." They fall into three (3) categories:

1. Those who mandatorily retire at age 70 and had rendered at least 20 years service in the judiciary or any other branch of the Government or both;
2. Those who resign by reason of incapacity to discharge the duties of their office and had rendered at least 20 years service in the judiciary or in any other branch of the Government or both; and
3. Those who voluntarily retire at age 60 after having rendered at least 20 years service in the Government, the last 5 years of which were continuously rendered in the judiciary.

Section 2 enumerates the instances when a justice or judge is entitled to receive the lump sum of 5 years gratuity, without the lifetime annuity, as follows:

1. When he dies while in actual service after having rendered at least 20 years service in the Government;
2. When he retires at age 65 without having rendered 20 years service in the Government; and
3. When he retires "upon other causes such as illness or permanent physical disability" without having rendered 20 years service in the Government.

Section 3 provides that in addition to the lump sum of 5 years gratuity, the retiree, upon having survived 5 years after his retirement, shall be entitled "to a full annuity payable monthly during the residue of his natural life equivalent to the amount of the monthly gratuity he was receiving on the date of his retirement." However, if a justice or judge retires due to a permanent disability contracted during his incumbency in office and prior to the date of retirement, he shall receive a lump sum of 10 years gratuity with no further annuity payable monthly during the rest of his natural life.

Inasmuch as Justice Britanico rendered 36.23 years of service in the Government, more than ten (10) years of which were served in the judiciary, he is entitled to retire under Section 1 of Republic Act No. 910. He comes under the second category of justices or judges who, after having rendered at least 20 years service in the judiciary or in any other branch of the Government, or in both, have to "resign by reason of their incapacity to discharge the duties of their office." In the case of Justice Britanico, he was forced to resign when his courtesy resignation was required by President Corazon C. Aquino under her Proclamation No. 1 directing all appointive officials to hand in their courtesy resignations. The acceptance of his courtesy resignation by President Aquino on July 31, 1986 resulted in his "incapacity to discharge the duties of his office," which otherwise he could have continued to discharge until he reaches the mandatory retirement age of 70 years.

As this Court held in *Ortiz vs. Commission on Elections, et al.*, G.R. No. 78957, June 28, 1988, "a courtesy resignation cannot properly be interpreted as resignation in the legal sense for it is not necessarily a reflection of a public official's intention to surrender his position. Rather, it manifests his submission to the will of the political authority and the appointing power."

Neither is a "courtesy resignation" similar to a voluntary retirement under the third classification in Section 1 of Republic Act No. 910 of justices or judges who voluntarily retire at age 60 after rendering "at least 20 years service in the government, the last 5 years of which were continuously rendered in the judiciary."

There is no age requirement for a justice or judge (in the second group in Section 1 of RA No. 910) who "resigns by reason of incapacity to discharge the duties of his office, the only requirement being that he should have rendered "at least 20 years service in the judiciary or in any other branch of the government, or in both." Neither is it mandated that the last five (5) years of his service should have been rendered continuously in the judiciary. That requirement applies only to justices and judges in the third group - the voluntary retirees who opt for retirement at age 60. Justice Britanico falls the bill for the second group (the resignees) in Section 1 of Republic Act No. 910.

He had rendered more than 36 years of service in the Government, of which more than 10 years were served in the Judiciary. His "incapacity to further discharge the duties of his office" resulted from his forced resignation pursuant to Proclamation No. 1 of the President. His long record of service is unstained by scandal.

Retirement laws should be liberally construed and applied in favor of the persons intended to be benefitted thereby, for, as We again held in the Ortiz case:

"x x x. To a public servant, pension is not a gratuity but rather a form of deferred compensation for services performed and his right thereto commences to vest upon his entry into the retirement system and becomes an enforceable obligation in court upon fulfillment of all conditions under which it is to be paid. Similarly, retirement benefits receivable by public employees are valuable parts of the consideration for entrance into and continuation in public employment. They serve a public purpose and a primary objective in establishing them is to induce able persons to enter and remain in public employment, and to render faithful and efficient service while so employed." (Ortiz vs. COMELEC, supra, pp. 10-11; emphasis ours.)

WHEREFORE, the application of Justice Ramon B. Britanico for retirement benefits under Republic Act No. 910, as amended, is hereby approved. The Government Service Insurance System is ordered to process his application and the payment of his retirement benefits under that law, deducting the benefits he had earlier received under Republic Act No. 1616.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Sarmiento, Cortes, Medialdea, and Regalado, JJ., concur.

Gancayco, J., on leave.

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