

THE PHILIPPINE VETERANS AFFAIRS OFFICE, PETITIONER, VS. HON. LINO L. AÑOVER, AS JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, BRANCH V, QUEZON CITY, AND DIONISIO ESTUDILLO, RES...

G.R. No. L-39835. October 27, 1983

Ponente: GUERRERO, J.

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GUERRERO, J.:

This is a petition for certiorari, treated as a special civil action, seeking a review of the decision of the former Court of First Instance of Rizal, Branch. V, Quezon City, promulgated on October 1, 1974 in Civil Case No. Q-18363, for specific performance, entitled "Dionisio Estudillo, plaintiff, versus Philippine Veterans Affairs Office, defendant," ordering the defendant to pay the plaintiff differential pensions as well as allowances for his unmarried minor children pursuant to Section 9 of Republic Act No. 65[1] as amended by Republic Act Nos. 1920 and 5753. Defendant was likewise ordered to pay attorney's fees and costs of suit. The dispositive portion of the decision reads as follows:

"WHEREFORE, judgment is hereby rendered sentencing the defendant to pay to the plaintiff:

"(A) the difference of his monthly pension at the rate of P25.00 per month effective April 22, 1950 up to June 21, 1957;

"(B) P75.00 a month plus P10.00 monthly for his then two unmarried minor children below 18 years of age from June 22, 1957 up to June 30, 1963;

"(C) P50.00 a month from July 1, 1963 up to June 21, 1969; and

"(D) P150.00 a month from June 22, 1969 and monthly thereafter; to pay attorney's fees in the amount of P1,000.00 and the costs of suit.

"SO ORDERED."

In a complaint dated December 12, 1973 before the lower court, Dionisio Estudillo (hereinafter referred to as Estudillo) averred that he was an enlisted man in good standing of a guerilla organization who took active participation in the liberation drive against the enemy in the last world war; that due to said military service, he contracted pulmonary tuberculosis which rendered him permanently incapacitated; that on or about April 22, 1950, he filed a disability claim for pension with the defunct Philippine Veterans Board (later succeeded by Philippine Veterans Administration, now Philippine Veterans Affairs Office) pursuant to Section 9 of R.A. 65, which claim was approved on July 20, 1950 but only at the rate of P25.00 a month instead of P50.00 as provided by said Act. It was further asserted in the complaint that on June 22, 1957, said Section 9 was amended by Republic Act No. 1920 increasing the monthly pension for those who are permanently incapacitated from P50.00 to P100.00 and granting the amount of P10.00 for their unmarried minor children; that despite the amendment, Estudillo's monthly pension was increased only to P50.00 and his two minor children were not extended any benefit; that on or about the year 1966, his pension was raised to P60.00 a month. Likewise, Estudillo claimed that

said Section was further amended by Republic Act No. 5753 on June 22, 1969 increasing the monthly pension of those per-manently incapacitated from P100.00 to P200.00 but not withstanding the amendment, his monthly pension of P60.00 remained the same from said date until the complaint was filed in the lower court.

In its answer dated June 25, 1974, the Philippine Veterans Affairs Office (PVAO for short) alleged that as shown by the records, the service-connected disability of Estudillo is bronchitis, chronic secondary to gunshot wound; that Estudillo was initially awarded pension benefits at the rate of P25.00 per month only because his disability was then rated at 50% disabling in accordance with the rating adopted by PVAO pursuant to law; that when Republic Act No. 1920 took effect, Estudillo's monthly pension was only increased to P50.00 because his disability was then rated at 50% disabling and his minor children were not awarded additional pension as he is not permanently inca-pacitated; that Estudillo's monthly pension was raised to P60.00 due to the increase in severity of his service-connected disability to 60% as found out during his sub-subsequent re-rating; that Estudillo is still receiving P60.00 a month because his service-connected disability remains to be 60% disabling. PVAO set up the defenses that the disability of Estudillo is not permanent, hence, he is not entitled to differentials and additional benefits allowed by law; that the findings of an administrative body should not be interfered with by the court; that the claim of Estudillo was approved on July 20, 1950, thus his cause of action, if any, has prescribed when the case was filed.

On August 26, 1974, the parties submitted a joint stipulation of facts worded in the following manner:

"JOINT STIPULATION OF FACTS

"COME NOW the parties, represented by their respective counsel, and unto this Honorable Court, respectfully submit the following Joint Stipulation of Facts:

"1. That defendant Philippine Veterans Affairs Office, which succeeded the defunct Philippine Veterans Administration and the Philippine Veterans Board, is an agency of the Government charged with the administration of different laws in favor of veterans, their widows, orphans and indigent parents; that it has the power to pass upon the merits and qualifications of persons applying for rights and privileges extended by the Act, pursuant to such rules and regulations as it may adopt to insure the speedy and honest fulfillment of its aims and purposes;

"2. That plaintiff was a member in good standing of a recognized guerilla organization, and took active participation in the liberation drive against the enemy in the last World War, and due to said military service, he contracted bronchitis in line of duty;

"3. That on October 18, 1946, Republic Act No. 65 was approved providing for a Bill of Rights for officers and Enlisted Men of the Philippine Army, Recognized and Deserving Guerilla organizations, and veterans of the Philippine Revolution, and Section 9 thereof, reads as follows:

'SEC. 9. The persons mentioned in Sections one and two hereof who are permanently incapacitated from work owing to sickness, disease or injury sustained in line of duty, shall be given a life pension of Fifty pesos a month, unless they are actually receiving a similar pension from other government funds, and shall receive in addition, the necessary hospitalization and medical care.'

"4. That on or about April 22, 1950, plaintiff filed a claim for disability pension under Sec. 9, RA 65, which claim was approved on July 20, 1950 to take effect from the date of filing on April 22, 1950, and at the rate of P25.00 per month;

"5. That on June 22, 1957, Sec. 9, RA 65 was amended by RA 1920, increasing the basic monthly pension from P50.00 to P100.00 plus P10.00 a month each for unmarried minor children below 18 years of age, which RA 1920 was implemented effective July 1, 1963;

"6. That effective July 1, 1963, plain-tiff's pension was increased from P25.00 to P50.00 a month, and sometime in 1966, the rate was increased to P60.00;

"7. That on June 22, 1969, Sec. 9, RA 65, was again amended by RA 5753 further increasing the basic monthly pension from P100.00 to P200.00, plus P30.00 for the wife, and P30.00 a month each for unmarried minor children below 18 years of age, but plaintiff's pension was no longer increased as only veterans with 100% disabilities and who are permanently incapacitated from work are entitled to the full rate of pension as plaintiff is only 60% disabled.

"WHEREFORE, it is respectfully prayed that a decision be rendered in accordance with the foregoing Stipulation of Facts. It is likewise prayed that the parties be granted a period of fifteen (15) days from the filing of the Stipulation of Facts within which to file simultaneous memorandum in support of their respective contention with the understanding that after the lapse of said period, with or without memoranda, this case is deemed submitted for decision.

"MANILA, August 26, 1974.

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Upon the facts thus stipulated, the lower court as aforesaid, rendered its questioned decision in favor of Estudillo. The court a quo in resolving the sole issue as to whether or not Estudillo is entitled to the full benefits of Republic Act No. 65 and of the subsequent amendatory laws, started on the premise that to be entitled to the benefits allowed under said laws, one has to be permanently incapacitated from work. The respondent court brushed aside the argument of PVAO that Estudillo's disability is merely partial and is rated only 60% by ruling that when the claim of Estudillo for disability pension was approved, it can only be assumed that he is permanently disabled, otherwise, Estudillo would have not been given the monthly pensions. Furthermore, the rating given on the incapacity of Estudillo as a basis for the amount of monthly pension is not justified because the laws involved do not provide for ratings. The lower court held as untenable PVAO's defense of prescription because the claim of Estudillo is continuing and there was partial compliance by PVAO.

PVAO's motion for reconsideration having been denied, the present case was instituted, raising the following arguments:

"Disability of veteran Estudillo only partial, hence the decision of respondent judge awarding full pension benefits to him is erroneous.

"There is no appropriated funds to cover the claim of private respondent and the respondent judge erred in compelling its payment.

"The respondent judge erred in not finding that the money claim of private respondent has already prescribed.

"Respondent judge erred in ordering petitioner pay attorney's fees and costs."

The question of whether Estudillo is entitled to the full benefits of Section 9 of R.A. 65 and its amendatory Acts, as raised in the first argument, constitutes the core of the present controversy.

PVAO argues that Section 9 of R.A. 65, as amended by R.A. 1920 and R.A. 5753, limits the coverage of its provision to those veterans who are permanently incapacitated for work. PVAO contends that in paragraphs 2 and 7 of the joint stipulation of facts, it was admitted by Estudillo that as a consequence of his military service, he contracted bronchitis and for which he was given by PVAO a disability rating of only 60%. The aforesaid stipulated facts, the PVAO stressed, bind the court so as not to extend to Estudillo the full benefits of the law.

On the other hand, Estudillo anchors his right to recover differential pensions and allowances for his minor children on the basis of the rulings of this Court on the cases of Begosa vs. Philippine Veterans Administration^[2] and Teoxon vs. Member of the Board of Administrators.^[3] Estudillo argues that in Begosa, the disability was only 30%, while in Teoxon it was only 50%, but since the disability of both veterans are permanent, they were awarded the full benefits of the law.

We agree with the PVAO. The issue is not a novel one for this Court, in the similar case of Board of Administrators, PVA vs. Agcaoili,^[4] (hereinafter referred to as Agcaoili case) has settled this question. In said case, veteran-claimant Mauro Abrera filed before the lower court a petition for mandamus seeking to recover his differential pensions and the monthly allowances for his wife and minor children. Abrera and PVA submitted to the lower court a stipulation of facts stating that Abrera was not permanently incapacitated; that upon physical examination, his incapacity was rated as only 50% by the PVAO and he was given the corresponding monthly pension in the amount of P25.00; that after a re-rating, Abrera's disability was increased to 75% and his monthly pension was likewise increased; that after a subsequent re-rating, his disability was reduced to 60% with a corresponding decrease in his monthly pension. On the facts stipulated and the memoranda submitted by the parties, the lower court rendered judgment awarding Abrera full pension benefits, including allowances for his wife and minor children. On appeal, this Court, in setting aside the decision of the lower court, said:

"In the case at bar, however, the provisions of the stipulation of facts clearly evince one inescapable fact: that Abrera's disability did not render him permanently incapacitated for work. When it formulated its decision in civil case 90373, the court disregarded this material fact, and consequently failed to draw a conclusion consistent therewith. Stipulation by parties to a litigation regarding certain facts require no further evidence and cannot be contradicted unless the party adversely affected can show that he agreed thereto through a palpable mistake. In the case at bar, Abrera has made no attempt to demonstrate, directly or inferentially, that he entered into the stipulation of facts through a palpable mistake.

"Thus, the court a quo erred when it entered a judgment inconsistent with the facts agreed upon by the parties. Where the parties submit the case on a stipulation of facts, the court should render judgment strictly in accordance therewith. Otherwise, the judgment is inefficacious.

"Furthermore, the explicit language of section 9 of Republic Act 65, as amended, leaves no room for doubt: it makes available full pension benefits only to those 'who are permanently incapacitated from work,' and only when the veteran is permanently disabled may his wife and minor children be entitled to receive the pensions specifically provided for them by law. The words 'permanently incapacitated' have a restrictive signification which cannot be conveniently disregarded. Application of the law according to its plain terms the court failed

to do, for, it extended to Abrera full pension benefits accorded only to those who fall within the ambit of the strict statutory qualification."

Following the pronouncement in the Agcaoili case that the court cannot as a rule deviate from the stipulation of facts entered into by the parties, We hold that the lower court erred in awarding full pension benefits to Estudillo and his minor children. It is evident from a perusal of the joint stipulation of facts in the case at bar that Estudillo is not permanently incapacitated. Not being permanently incapacitated, he and his minor children are not entitled to receive the full pension benefits provided by law.

Respondent Estudillo labors under a muddled and mistaken appreciation of the cases of Begosa and Teoxon upon which he predicates his claim. In both cases, the benefits awarded to the claimants therein were not based on physical disability ratings but on the findings of this Court that both Begosa and Teoxon suffered from permanent disability which rendered them permanently incapacitated for work. Such findings of permanent disability were even cited in the later case of Agcaoili.

On the issue of prescription, PVAO asserts that Estudillo's right of action to recover the alleged differential pensions under R.A. 65 and R.A. 1920 accrued on April 22, 1950 and June 22, 1957, respectively. PVAO maintains that under Article 1144 of the Civil Code, an action based upon an obligation created by law must be brought within ten (10) years from the time the right of action accrues. It is thus obvious, the PVAO alleges, that the said claims of Estudillo have already prescribed because the present case was filed before the lower court only on December 17, 1973.

As has been previously shown, Estudillo is not entitled to differential pensions and allowances for his minor children under R.A. 65 and R.A. 1920. Hence, it is no longer necessary to dwell into the issue of prescription.

Regarding Estudillo's claim under R.A. 5753, the PVAO does not dispute its validity but points out that there is no appropriated funds to satisfy the former's claim for differential pensions. It should be noted that R.A. 5753 took effect on June 22, 1969 increasing the monthly pension for permanently incapacitated veterans from P100.00 to P200.00. At that time, the disability rating of Estudillo was 60% and his monthly pension was P60.00.[5] The PVAO, instead of increasing the monthly pension of Estudillo from P60.00 to P120.00, which latter amount is 60% of P200.00, continued to give Estudillo a monthly pension of only P60.00. The question now is whether or not the payment of increased pension provided in the amendatory Act, R.A. 5753, could be ordered, even where there was no actual release of funds for the purpose. In Agcaoili, the same issue was treated in this wise:

"We note that the amount of the monthly pension given to him in the past was based on his physical disability rating multiplied by the amount of the monthly pension prescribed by the law. Thus, when section 9 of Republic Act 65, as originally passed, provided for a monthly pension of P50.00 for permanently incapacitated veterans and his disability rating was 50%, he was given a monthly pension of P25.00; when Republic Act 1920 increased the monthly pension for permanently disabled veterans from P50.00 to P100.00, and his disability rating was 75%, the monthly pension given to him was P75.00; subsequently, when his disability rating was reduced to 60%, his monthly pension was correspondingly reduced to P60.00. But from January 1, 1972, when the petitioner implemented Republic Act 5753 which increased the monthly pension for permanently incapacitated veterans from P100.00 to P200.00, instead of increasing the monthly pension of Abrera from P60.00 to P120.00, which latter amount is 60% of P200.00, the petitioner continued to give Abrera a monthly pension of only P60.00. The inability of the petitioner to pay Abrera the differential of P60.00 in monthly pension is attributed by it, in its own words, 'to the failure of Congress to appropriate the necessary funds to cover all claims for benefits, pensions and allowances.' And the petitioner states that it has 'no alternative but to suspend (full) implementation of said laws until such time as sufficient funds have been appropriated by Congress' to cover the total amount of all approved claims.

"We find the explanation of the petitioner satisfactory, but we nevertheless hold that as a matter of law Abrera is entitled to a monthly pension of P120.00 from January 1, 1972 when Republic Act 5753 was implemented up to the present, if his physical disability rating has continued and continues to be 60%. Payment to him of what is due him from January 1, 1972 must however remain subject to the availability of Government funds duly set aside for the purpose, and subject further to periodic re-rating of his physical disability.

"But even if we have thus defined the precise terms, nature and scope of the entitlement of the respondent Abrera, for the guidance of the petitioner, we nevertheless refrain from ordering the petitioner to pay the amount of P120.00 per month from January 1, 1972 that is due to the respondent by virtue of the mandate of section 9 of Republic Act 65, as amended by Republic Act 5753, because the Government has thus far not provided the necessary funds to pay all valid claims duly approved under the authority of the said statute."

Clearly, therefore, while Estudillo is entitled to a monthly pension of P120.00, payment to him of the afore-said pensions is subject to availability of government funds appropriated for the purpose.

On the last ground relied upon in support of this petition, We agree with the PVAO that the lower court committed an error in ordering the former to pay Estudillo the amount of P1,000.00 for attorney's fees and the costs of the suit. Settled is the rule that costs of suit are not recoverable against government entities and officers when they are sued purely in their official capacity as was petitioner in this case.[6] And there being no showing that PVAO acted in bad faith and disregarded in a wanton manner the rights of Estudillo, the award of attorney's fees is unjustified.

WHEREFORE, the questioned decision is hereby SET ASIDE and another one is entered ordering PVAO to pay Estudillo the amount of P120.00 from June 22, 1969, the date of effectivity of R.A. 5753, up to the present. Payment to Estudillo of what is due him from June 22, 1969 is hereby declared subject to the availability of Government funds appropriated for the purpose.

SO ORDERED.

Makasiar, (Chairman), Aquino, Concepcion, Jr., Abad Santos, and Escolin, JJ., concur.
De Castro, J., on leave.

[1] "Sec. 9. The persons mentioned in Sections one and two hereof who are permanently incapacitated from work owing to sickness, disease or injury sustained in line of duty shall be given a life pension of Fifty Pesos a month, unless they are actually receiving a similar pension from other Government funds and shall receive in addition, the necessary hospitalization and medical care."

[2] 32 SCRA 466 (1970).

[3] 33 SCRA 585 (1970).

[4] 58 SCRA 72 (1974).

[5] par. 7, Joint Stipulation of Facts, p. 21, Rollo.

[6] Tabuena vs. CA, 3 SCRA 413; Section 1, Rule 142, Rules of Court.

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