

BENJAMIN T. LIGOT, PETITIONER, VS. ISMAEL MATHAY, AUDITOR GENERAL AND JOSE V. VELASCO, AUDITOR, CONGRESS OF THE PHILIPPINES, RESPONDENTS.

G.R. NO. L-34676. April 30, 1974

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court dismisses the petition for review and thereby affirms the Auditor-General's decision that petitioner as a Congressman whose term of office expired on December 30, 1969 and qualified for retirement benefits by virtue of a minimum of twenty years of government service is entitled to a retirement gratuity based on the salary actually received by him as a member of Congress of P7,200.00 per annum. To grant petitioner's contention that the retirement gratuity of members of Congress such as himself whose terms expired on December 30, 1969 should be computed on the basis of an increased salary of P32,000.00 per annum under Republic Act 4134 which could only be operative with incoming members of Congress whose terms of office would commence on December 30, 1969, by virtue of the Constitutional mandate that such salary increases could take effect only upon the expiration of the full term of all members of Congress that approved on June 20, 1964 such increased salary, (since petitioner and other outgoing members of Congress were constitutionally prohibited from receiving such salary increase during their term of office) would be a subtle way of going around the constitutional prohibition and increasing in effect their compensation during their term of office and of doing indirectly what could not be done directly.

Petitioner served as a member of the House of Representatives of the Congress of the Philippines for three consecutive four-year terms covering a twelve-year span from December 30, 1957 to December 30, 1969.

During his second term in office (1961-1965), Republic Act No. 4134 "fixing the salaries of constitutional officials and certain other officials of the national government" was enacted into law and under section 7 thereof took effect on July 1, 1964. The salaries of members of Congress (senators and congressmen) were increased under said Act from P7,200.00 to P32,000.00 per annum, but the Act expressly provided that said increases "shall take effect in accordance with the provisions of the Constitution." (section 1)

Petitioner was reelected to a third term (December 30, 1965 to December 30, 1969) but was held not entitled to the salary increase of P32,000.00 during such third term by virtue of this Court's unanimous decision in *Philconsa vs. Mathay*[1] "that the increased compensation provided by Republic Act No. 4134 is not operative until December 30, 1969 when the full term of all members of the Senate and House that approved it on June 20, 1964 will have expired" by virtue of the constitutional mandate in Section 14, Article VI of the 1935 Constitution which provides that "No increase in said compensation shall take effect until after the expiration of the full term of all the members of the Senate and of the House of Representatives approving such increase."

Petitioner lost his bid for a consecutive fourth term in the 1969 elections and his term having expired on December 30, 1969, filed a claim for retirement under Commonwealth Act 186, section 12(c) as amended by

Republic Act 4968 which provided for retirement gratuity of any official or employee, appointive or elective, with a total of at least twenty years of service, the last three years of which are continuous on the basis therein provided "in case of employees based on the highest rate received and in case of elected officials on the rates of pay as provided by law."^[2]

On May 8, 1970, the House of Representatives issued a treasury warrant in the sum of P122,429.86 in petitioner's favor as his retirement gratuity, using the increased salary of P32,000.00 per annum of members of Congress which he never received during his incumbency and which under this Court's above-quoted decision in *Philconsa vs. Mathay* could become operative only on December 30, 1969 with the expiration of the full terms of all members of Congress that approved on June 20, 1964 such increased salary.

Respondent Velasco as Congress Auditor did not sign the warrant, however, pending resolution by the Auditor General of a similar claim filed by former Representative Melanio T. Singson, whose term as Congressman likewise expired on December 30, 1969.

On July 22, 1970, respondent auditor Velasco formally requested petitioner to return the warrant and its supporting papers for a recomputation of his retirement claim, enclosing therewith copy of the Auditor General's adverse decision on ex-Congressman Singson's claim for retirement gratuity as computed on the basis of the salary increase of P32,000.00 per annum for members of Congress under Republic Act No. 4134.

Petitioner's request for reconsideration was denied in due course on January 20, 1972, by the Auditor General through respondent Auditor who further advised petitioner and furnished him with copy of the 2nd indorsement of June 29, 1971, of the Office of the President, dismissing the appeal of Congressman Singson from the Auditor General's adverse decision disallowing the claim for retirement gratuity, computed on a salary basis of P32,000.00 per annum.

Hence the present petition for review by way of appeal from the adverse decision of the Auditor General.

The thrust of petitioner's appeal is that his claim for retirement gratuity computed on the basis of the increased salary of P32,000.00 per annum for members of Congress (which was not applied to him during incumbency which ended December 30, 1969, while the Court held in *Philconsa vs. Mathay* that such increases would become operative only for members of Congress elected to serve therein commencing December 30, 1969 should not have been disallowed, because at the time of his retirement, the increased salary for members of Congress "as provided by law" (under Republic Act 4134) was already (P32,000.00 per annum.

Petitioner's contention is untenable for the following reasons:

1. Since the salary increase to P32,000.00 per annum for members of Congress under Republic Act 4134 could be operative only from December 30, 1969 for incoming members of Congress when the full term of all members of Congress (House and Senate) that approved the increase (such as petitioner) will have expired, by virtue of the constitutional mandate of Article VI, section 14 of the 1935 Constitution, it is self-evident that the "rate of pay as provided by law" for members of Congress retiring on December 30, 1969 such as petitioner must necessarily be P7,200.00 per annum. The compensation they received "as provided by law" and the Constitution during their term of office.
2. To grant retirement gratuity to members of Congress whose terms expired on December 30, 1969 computed on the basis of an increased salary of P32,000.00 per annum (which they were prohibited by the Constitution from receiving during their term of office) would be to pay them prohibited emoluments which in effect increase the salary beyond that which they were permitted by the Constitution to receive during their incumbency. As stressed by the Auditor-General in his decision in the similar case of petitioner's colleague, ex-Congressman Singson,

"(S)uch a scheme would contravene the Constitution for it would lead to the same prohibited result by enabling administrative authorities to do indirectly what can not be done directly." [3]

The Auditor-General further aptly observed that "(I)t should not escape notice that during his entire tenure as Congressman (Dec. 30, 1965 to December 30, 1969) comprising the last four years of his government service, the herein claimant-retiree was unable to receive the increased salary of P32,000.00 per annum for Members of Congress precisely because of the constitutional ban. To allow him now to collect such amount in the guise of retirement gratuity defies logic. Nor does it stand to reason that while he could not legally receive such rate as salary while still in the service, he would now be allowed to enjoy it thereafter by virtue of his retirement." [4]

3. Petitioner's contention that since the increased salary of P32,000.00 per annum was already operative when his retirement took effect on December 30, 1969, his retirement gratuity should be based on such increased salary cannot be sustained as far as he and other members of Congress similarly situated whose term of office ended on December 30, 1969 are concerned for the simple reason that a retirement gratuity or benefit is a form of compensation within the purview of the Constitutional provision limiting their compensation and "other emoluments" to their salary as provided by law.

This was the clear teaching of *Philconsa vs. Jimenez*. [5] In striking down Republic Act No. 3836 as null and void insofar as it referred to the retirement of members of Congress and the elected officials thereof for being violative of the Constitution, this Court held that "it is evident that retirement benefit is a form or another species of emolument, because it is a part of compensation for services of one possessing any office" and that "Republic Act No. 3836 provides for an increase in the emoluments of Senators and Members of the House of Representatives, to take effect upon the approval of said Act, which was on June 22, 1963. Retirement benefits were immediately available thereunder, without awaiting the expiration of the full term of all the Members of the Senate and the House of Representatives approving such increase. Such provision clearly runs counter to the prohibition in Article VI, section 14 of the Constitution." [6]

It is thus correctly submitted by the Solicitor General that "(T)o allow petitioner a retirement gratuity computed on the basis of P32,000.00 per annum would be a subtle way of increasing his compensation during his term of office and of achieving indirectly what he could not obtain directly."

4. The other ancillary contentions of petitioner in pressing his claim were amply refuted by the Office of the President in dismissing the appeal in the similar case of ex-Congressman Singson and therefore likewise serve to show the untenability of petitioner's stand in this appeal, *mutatis mutandis*, as follows:

"It is evident, therefore, that the increased compensation of P32,000 is the rate of pay prescribed by Republic Act No. 4134 for Mr. Singson's successor in office, while Mr. Singson and his colleagues of the same term are limited to the annual compensation of P7,200 fixed in the Constitution. To compute his retirement gratuity at the rate of P32,000 per annum after the expiration of his term of office would effectively give him the benefits of increased compensation to which he was not entitled during his term, thereby violating the constitutional prohibition against increased compensation of legislators during their term of office (Sec. 14, Art. VI, Const.) which was presumably in the mind of Congress when it stated in Republic Act No. 4134 that 'the salary increases herein fixed shall be in accordance with the provisions of the Constitution.'

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"Neither an argument of logic nor a judicial pronouncement supports the proposition that, as Mr. Singson's retirement legally started simultaneously with the beginning of the term of his successor and the effective rate of pay of his successor and all incoming members of Congress was already the new rate of P32,000 per annum, it is this new rate of pay that should be made the basis in computing his retirement gratuity. Suffice it to say that P7,200 per annum is Mr. Singson's authorized compensation during his term of office and, therefore, the

rate of pay prescribed by law for him on his retirement, while P32,000 per annum is the allowable compensation of incoming members of Congress during their term and, hence, the rate of pay prescribed by law for them on their retirement. There is, then, no basis for equating a constitutionally prohibited compensation for Mr. Singson with a statutory prescribed rate of pay for his successor in computing his retirement gratuity.

"It is likewise contended by Mr. Singson that the new rate of pay P32,000 authorized in Republic Act No. 4134 would be used in the instant case, not to compensate him for services during the constitutionally prohibited period, but would simply serve as basis for computing his retirement gratuity for services rendered by him not only as a member of Congress but in other branches of the government as well. The foregoing contention carries its own refutation. Retirement benefit is compensation for services rendered (PHILCONSA VS. GIMENEZ, supra). Since Mr. Singson applied for retirement as an 'elected official,' it is evident that he seeks compensation not only for services rendered in other branches of the Government but also for his services as member of Congress using P32,000, an amount prohibited for him but allowed for his successor, in the computation of his retirement gratuity." [7]

ACCORDINGLY, the petition is hereby dismissed. No costs.

Makalintal, C.J., Castro, Esguerra, and Muñoz Palma, JJ., concur.

Makasiar, J., on leave.

[1] 18 SCRA 300, 312 (Oct. 4, 1966); italics supplied.

[2] The pertinent text of the cited retirement law reads:

"(c) Retirement is likewise allowed to any official or employee, appointive, or elective, regardless of age and employment status, who has rendered a total of at least twenty years of service, the last three years of which are continuous. The benefit shall, in addition to the return of his personal contributions with interest compounded monthly and the payment of the corresponding employer's premiums, described in subsection (a) of Section five hereof, without interest, be only a gratuity equivalent to one months' salary for every year of the first twenty years of service plus one and one-half month's salary for every year of service over twenty but below thirty years and two month's salary for every year over thirty years in case of employees based on the highest rate received and in case of elected officials on the rates of pay as provided by law. x x x"

[3] Rollo, p 21

[4] Idem.

[5] 15 SCRA 479, 490-491 (Dec. 18, 1965).

[6] Italics supplied.

[7] 2nd Indorsement of June 29, 1971, Rollo, pp. 35-36.

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