

OCA CIRCULAR NO. 59-2004, April 21, 2004

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TO:

ALL JUSTICES AND JUDGES AND OTHER JUDICIARY OFFICIALS WITH THE EQUIVALENT RANK, SALARY AND PRIVILEGES OF SUCH JUSTICES AND JUDGES

SUBJECT:

RESOLUTION GRANTING AUTOMATIC PERMANENT TOTAL DISABILITY BENEFITS TO HEIRS OF JUSTICES AND JUDGES WHO DIE IN ACTUAL SERVICE

For the information and guidance of all concerned, quoted hereunder is the resolution of the Court En Bane dated September 30, 2003 in A.M. No. 02- 12-01-SC, to wit:

"RESOLUTION GRANTING AUTOMATIC PERMANENT TOTAL DISABILITY BENEFITS TO HEIRS OF JUSTICES AND JUDGES WHO DIE IN ACTUAL SERVICE

WHEREAS, in the performance of their duties in the administration of justice, Justices and Judges of the Judiciary, hereafter referred to as Members of the Judiciary, are exposed to hazards engendered by a confluence of events or factors such as unstable peace and order conditions in the country and discontent or emotional outbursts of disgruntled litigants;

WHEREAS, the recent violent deaths of Members of the Judiciary underscore the perils that needlessly hound those who have sworn to administer and dispense justice;

WHEREAS, deaths of Members of the Judiciary while in service, however caused, have resulted in unquantifiable loss to the Government; for one, the deaths strike fear on the incumbent officials thereby affecting their effectiveness and efficiency; for another, deaths discourage lawyers from joining the Judiciary, even as the Government must again go through the difficult task of attracting lawyers to the judicial service considering the low pay that Members of the Judiciary receive and the stringent requirements for appointment to judicial positions;

WHEREAS, the demise of anyone, especially of a Member of the Judiciary, leaves much suffering to his family that must be content with meager and inadequate financial benefits prescribed by existing laws in such a case, thereby, ironically, rendering an injustice to the deceased and the pivotal role he played in the administration of justice;

WHEREAS, the Court, determined to address the injustice to the family of a deceased Member of the Judiciary disconsolately searching for financial alleviation arising from his death, a situation which is certainly not in keeping with the honor and dignity attached to judicial service, found a remedy thereto in the law and guidance from its previous resolutions;

WHEREAS, Section 2 of Republic Act No. 910, as amended, provides that Members of the Judiciary who,

"without having attained the length of service" of twenty years, shall have to retire upon reaching age 70 or upon such causes as "illness or permanent physical disability" shall be 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 received by him as such Justice or Judge" which should also entitle him to pension for the rest of his life as provided for by Section 1 of the same law;

WHEREAS, Section 3 of the same law provides for an automatic ten-year lump sum gratuity "with no further annuity payable monthly during the rest of the retiree's natural life" if the permanent disability was "contracted during his incumbency in office and prior to the date of retirement";

WHEREAS, in the Resolution of 28 June 1977 in A.M. No. 589-Ret (Re: Retirement benefits of the late District Judge Isaac S. Puno, Jr. of Branch XXXV, Court of First Instance of Manila), where Judge Isaac S. Puno, who was shot to death when he was only 41 years old and with only over two (2) years of judicial service, was granted the benefits of Section 2 of Republic Act No. 910, as amended, by the Court that construed his death while in the service " as [in] the nature of permanent physical disability";

WHEREAS, in Re: Alejandro Galang, Jr. (A.M. No. 1270-Ret., 31 August 1981, 107 SCRA 13), the Court approved the grant of a five-year lump sum gratuity to the heirs of the deceased judge who, after rendering a total of 13 years, 1 month and 1 day of government service with 7 years, 14 months and 11 days thereof in the Judiciary, died of "metastasis retroperitoneai angiosarcoma", on the theory that "there is no more permanent or total physical disability than death" expressed in the separate opinion therein of then Associate Justice Claudio Teehankee;

WHEREAS, while the ruling in the Puno case appears to disregard the length of service requirement, in the Galang case the Court granted only the five-year lump sum gratuity and not the ten-year lump sum gratuity requested on the ground that the length of service of the deceased fell short of the requisite length of service;

WHEREAS, the same rulings nonetheless manifest the intention of the Court to grant permanent physical disability benefits to the heirs of deceased Members of the Judiciary who die in the service regardless of cause of death and age of the deceased; and

WHEREAS, considering the foregoing and the pertinent provisions of Republic Act No. 910, as amended, the amount of permanent physical disability benefits that the heirs of a deceased Member of the Judiciary shall be entitled to receive shall depend on the length of service he rendered in government, including that in the Judiciary.

NOW THEREFORE, by virtue of and pursuant to its mandates of fiscal autonomy under Section 3 and of administrative supervision over all courts and personnel thereof under Section 6 of Article VIII of the Constitution, the Court RESOLVED, as it hereby RESOLVES, to grant lump sum Permanent Physical Disability benefits provided for in Sections 2 and 3 of Republic Act No. 910, as amended, to the heirs of Justices and Judges, including judiciary officials who have the rank, salary and privileges of such Justices and Judges, who die while in the service regardless of the cause of death, except suicide or when the Justice or Judge himself is the proximate cause of the attack or assault which resulted in or caused his death, subject to the following rules:

I. Amount:

- 1) A five-year lump sum gratuity if the deceased Justice or Judge, regardless of his age at the time of his death, failed to serve the government for twenty (20) years with five (5) years thereof continuously rendered in the judiciary.
- 2) A ten-year lump sum gratuity if the deceased Justice or Judge died, regardless of age, after rendering twenty (20) years or more government service with the last five (5) years thereof served in the judiciary.

II. How claim is made:

Claims for Permanent Physical Disability retirement benefit as provided for in this Resolution, with proof of death of the Justice or judge attached thereto, shall be filed with the proper Office of Administrative Services and shall be processed in the same manner as the ordinary claims for the same benefit.

II. Source of Funds:

Funds for the benefit herein granted shall be from savings of the Judiciary under the General Appropriations Act or the concerned Fiscal Autonomy Account until such time as such funds shall have been incorporated in the budget. The Fiscal Management and Budget Office shall ensure that funds are always available for the purpose.

As herein used, the words heirs shall mean those entitled to succeed to the estate or who are entitled to inherit the property of the deceased magistrate under the law on succession.

This Resolution shall take effect on 15 October 2003 after its publication in two (2) newspapers of general circulation.

At the discretion of the Supreme Court upon showing of justifiable and compelling reasons, this Resolution may apply to deaths which have occurred within three (3) years prior to its effectivity."

For the information and guidance of all concerned.

__21__ April 2004.

PRESBITERO J. VELASCO, JR.

Court Administrator

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