

UNIVERSITY OF THE PHILIPPINES BOARD OF REGENTS AND CRISTINO JAMIAS, PETITIONERS, VS. AUDITOR GENERAL AND THE GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

G.R. No. L-19617. October 31, 1969

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

The question of power this original action for prohibition presents is whether or not the Board of Regents of the University of the Philippines (U.P.) may extend the tenure of a professor beyond the retirement age by law fixed at 65 years. Respondents answered in the negative. Petitioners came to this Court.

Petitioner Cristino Jamias started service in U.P. on June 26, 1924. At the time the present petition was filed in this Court on April 3, 1962, he was a Professor of English Language and Literature and concurrently Head of the University Publications Department. His service had been unquestionably continuous for more than fifteen years before he reached the age of 65 years on July 20, 1961.

Prior thereto, on June 12, 1961, Dean (now Regent) Tomas S. Fonacier of the U.P. College of Arts and Sciences - the immediate superior of Prof. Jamias having first obtained the latter's consent, wrote U.P. President Vicente G. Sinco with the request that Jamias' service be extended for one academic year ending April 15, 1962. Fonacier's reasons were that Prof. Jamias was still quite healthy; that he had been commissioned to write the history of U.P. but had just finished half of it, i.e., from U.P.'s establishment to the Benton era; that he could continue to act as Head of the University Publications until the administration would find someone to take his place; that Dr. Dionisia Rola who would take over the courses of Prof. Jamias had been assigned to the U.P. College in Baguio; and that the extension would enable the discipline of English to adjust itself to the teaching of Prof. Jamias' courses.

On June 20, 1961, President Sinco favorably endorsed Dean Fonacier's request to the Board of Regents. On July 27, 1961, said board resolved to approve the extension of Prof. Jamias' services until April 15, 1962.

The present controversy started on December 28, 1961 when Auditor Alfredo Liboro, the Auditor General's representative at U.P., questioned the legality of the July 27, 1961 resolution of the Board of Regents just adverted to U.P. sought reconsideration by the Auditor General. On February 1, 1962, Auditor General Pedro M. Gimenez affirmed the U.P. Auditor's ruling. The Auditor General, citing Opinion 117, dated September 1, 1961, of the Secretary of Justice, held that the Board of Regents was without power to extend the services of U.P. professors beyond the compulsory limit of 65 years.

The Government Service Insurance System (GSIS) joined hands with the Auditor General. Accordingly, on January 5, 1962, GSIS wrote Prof. Jamias that his services rendered after the compulsory retirement age were illegal; and that he (Jamias) was not entitled to compensation. The GSIS letter to Prof. Jamias concluded: "Thus, if you were paid salary for services rendered after you became due for compulsory retirement, the same should be refunded to the University of the Philippines; otherwise, it will be deducted from the annuity due you under CA

186, as amended, pursuant to a ruling of the Auditor General in a similar case and turned over to the University of the Philippines." Prof. Jamias sought reconsideration. GSIS turned it down.

Then followed the directive of U.P. Auditor Alfredo Liboro that Prof. Jamias' salary be withheld beginning with the weekly salary due on March 7, 1962.

It was upon the foregoing backdrop that petitioners U.P. Board of Regents and Cristino Jamias came to this Court on an original petition for prohibition against respondents Auditor General and GSIS. They seek to stop the Auditor General and his men from withholding Prof. Jamias' salary and to restrain GSIS from deducting any amount from his five-year lump sum retirement annuity upon retirement on April 16, 1962. We declined to issue the preliminary injunctive writ prayed for in the petition.

As adverted to at the start of this opinion, the core of the case is this: May the U.P. Board of Regents extend the tenure of a professor beyond retirement age?

1. It is undisputed that U.P. employees, including its professors, are employees of the Government.

The U.P. charter entrusts the university with the duty "to provide advanced instruction in literature, philosophy, the sciences, and arts, and to give professional and technical training." [1] This is in line with the obligation expressly imposed upon the State by the Constitution of the Philippines. [2] Intrinsically valid then is the holding *University of the Philippines vs. Court of Industrial Relations*, 107 Phil. 848, 850, that U.P. performs a "legitimate governmental function, x x x is maintained by the Government, x x x declares no dividends, and is, obviously, not a corporation created for profit but an institution of higher education and therefore not an industrial or business organization."

As government employees, U.P. professors are compulsorily covered by the Retirement Law, Commonwealth Act 186, as amended, which creates a uniform retirement system for all members of the GSIS. It does not take much thought to come to this conclusion. The applicable retirement law at the time Prof. Jamias reached retirement age of 65 years on July 20, 1961 was Section 4(a), Commonwealth Act 186, as successively amended by Republic Acts 660 (approved June 16, 1951), 1573 (approved June 16, 1956) and 1820 (approved June 22, 1957). Section 4, as amended by said Acts, then read:

"SEC. 4. Scope of application of System. - (a) Membership in the System shall be compulsory upon all regularly and permanently appointed employees, including judges of the Courts of First Instance and those whose tenure of office is fixed or limited by law; upon all teachers except only those who are substitutes; upon all regular employees of the Philippine Tuberculosis Society, and upon all regular officers and enlisted men of the Armed Forces of the Philippines." [3]

The view that U.P. is definitely governed by Commonwealth Act 186, as amended, is not without support. A rundown of the genealogy of the law gives this thesis a lift. Originally, Section 4 of the law (Commonwealth Act 186, which took effect on November 14, 1936) read:

"Sec. 4. Scope of application of System. - Regular membership in the system shall be compulsory upon -

x x x

(f) Regular and permanent employees of other Government boards or agencies, except the University of the Philippines and the Government-owned or controlled business corporations; x x x."

To be noted is that in the early 1936 statute just quoted, Congress did expressly exclude U.P. from the operation of the Retirement Law. But then Section 4(g) of the same original law gave U.P. the option to join GSIS, viz:

"(g) x x x Provided, That any provincial, city or municipal government, or the University of the Philippines or

any other corporation owned or controlled by the Government, shall have the option of joining the System, and if it so joins, the membership shall be compulsory upon all its permanent and regular employees, and it shall pay its share of the contribution of three per centum per annum of its employees' basic annual salaries or compensation, x x x."

The option spoken of by the above-quoted provision was taken advantage of by U.P. when it chose to participate in the GSIS.[4]

But as the law stood in 1961, the provisions exempting U.P. from GSIS coverage and granting it the option to join GSIS were eliminated by Republic Act 660 which took effect on June 16, 1951 and succeeding acts. Section 4(a) of Republic Act 660 approved June 16, 1951 provided that:

"(a) Membership in the System shall be compulsory upon all regularly and permanently appointed employees, including those whose tenure of office is fixed or limited by law; upon all teachers except only those who are substitutes; and upon all regular officers and enlisted men of the Armed Forces of the Philippines."[5]

It makes eminent sense to say that the deletion of the University of the Philippines from the exception cannot be of de minimis effect. That omission is not elusive of exact comprehension either. The plain and natural impact thereof is that U.P. became covered by the System. Because, the option to join or not to join was left solely and exclusively to be exercised by "an elective official of the National Government or of a local government that is a member of the System" – and by no other.[6] The ineluctable conclusion that follows is that since U.P. is not within the limited limits of the exception, it is a compulsory member of the System.

2. Let us now take a look at the law decisive of the present question - the Board of Regents' power to extend appointment of U.P. professors. It may perhaps be conducive to better analysis if we go into the history of that law. Initially, the power to extend service was lodged solely with the President of the Philippines.

Section 12(c) of Commonwealth Act 186, as amended by Republic Act 660, read as follows:

"(c) Retirement shall be automatic and compulsory at the age of sixty-five years, if he has completed fifteen years of service, and if he has not, he shall be allowed to continue in the service until he shall have completed fifteen years unless he is otherwise eligible for disability retirement. This clause shall not apply to members of the judiciary and constitutional officers whose tenure of office is guaranteed. Upon specific approval of the President of the Philippines, an employee may be allowed to continue to serve after the age of sixty-five years if he possesses special qualifications and his services are needed. It shall be the duty of the employer concerned to notify each such employee under its direction of the date of his automatic separation from the service at least sixty days in advance thereof."

By Republic Act 728 (approved June 18, 1952) which amended Section 12(c), that power to extend service was expanded to include the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court, viz:

"(c) x x x Upon specific approval of the President of the Philippines, the President of the Senate, the Speaker of the House of Representatives, or the Chief Justice of the Supreme Court, as the case may be, an employee may be allowed to continue to serve in the Executive, Legislative, or Judicial Branch of the Government after the age of sixty-five years if he possesses special qualifications and his services are needed. x x x."

The above provision later became Section 12(e) because Republic Act 1616 (approved May 31, 1957) added paragraphs (b) and (c) to Section 12.

Then came Republic Act 3096, effective June 17, 1961, which displaced Section 12(e), thus -

"(e) Retirement shall be automatic and compulsory at the age of sixty-five years, and optional retirement at the

age of sixty-three shall be allowed with lump sum payment of present value of annuity for first five years, and future annuity to be paid monthly, and other benefits given to a compulsorily retired member as provided for in Republic Act Num-bered Six hundred sixty, as amended, if he has completed fifteen years of service and if he has not been separated from the service during the last three years of service prior to retirement; otherwise he shall be allowed to continue in the service until he shall have completed the required length of service unless he is otherwise eligible for disability retirement. This clause shall not apply to members of the judiciary and consti-tutional officers whose tenure of office is guaran-tee'd. It shall be the duty of the employer con-cerned to notify each such employee under its direction of the date of his automatic separa-tion from the service at least sixty days in advance thereof."

Not escaping notice is that the power to extend service of an employee beyond retirement age - previously given to the President of the Philippines, the Senate President, the Speaker, or the Chief Justice - was expressly deleted from the law. The directive that retirement "shall be automatic and compulsory" is imperative. The law does not admit of exception. Such was the legal provision actually in force at the time Prof. Jamias reached 65 years of age.[7]

In summary, it may be said that in accordance with Republic Act 660, retirement was automatically compulsory at age 65 if the employee had completed 15 years of service; except that upon specific approval by the President of the Philippines, an employee might be allowed to continue to serve after the age of 65 years if he possessed special qualifications and his services were needed. This power given to the Pre-sident by Republic Act 660 was granted also by Republic Act 728 to the President of the Senate, the Speaker of the House of Rep-resentatives and the Chief Justice of the Supreme Court. How-ever, when Republic Act 3096 (the law here applicable) took effect on June 17, 1961, this grant of power to extend the service of an employee beyond the age of 65 was eliminated. Such elimi-nation operates to repeal the eliminated provision.[8]

There can be no mistake as to this. Both the language of the statute (Republic Act 3096) and the express legislative intent deleted the power to grant extension a service. House Bill 1224 which became Republic Act 3096 specifically wrote off the power of the President of the Philippines, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court to extend services of government employees beyond the age of 65 years.[9] Need-less it is to deeply explore the underlying rationale of this parti-cular amendment. The explanatory note is there. It reads in part:

"In the course of operations of the Govern-ment Service Insurance System, it has been found that Commonwealth Act No. 186, as amended, still requires further improvement in order that the life and retirement insurance provided therein may be more responsive to the needs of govern-ment employees. To attain this end, the follow-ing changes are necessary.

x x x

3. To realize the purpose behind requiring that retirement be compulsory upon attainment of age 65, the continuance in the service of those who are already eligible to compulsory retire-ment should no longer be allowed."[10]

Taking stock of the prohibition in Republic Act 3096, the executive department of the government made the impact of the law - which bans extension of service after retirement age - clear to its different agencies. This was when the Office of the Pre-sident of the Philippines issued Memorandum Circular 30 dated September 15, 1961 "enjoining against the continuance in the ser-vice of officials and employees beyond the due date of their auto-matic and compulsory retirement." That circular called attention to the fact that Section 12(e) of Commonwealth Act 186, as amended by Republic Act 3096, "no longer contains the provisions empower-ing the President of the Philippines, the President of the Senate, the Speaker of the House of Representatives, and the

Chief Justice of the Supreme Court to continue an employee in the service in the Executive, Legislative or Judicial Branch of the Government, as the case may be, after reaching the automatic and compulsory retirement age of 65 years." The circular directed strict compliance with the last portion of said Section 12(e) which makes it a duty on the part of the employer concerned to notify the employee of the date of his automatic separation at least 60 days in advance thereof.

Prof. Cristino Jamias reached 65 years of age on July 20, 1961. At that time, Republic Act 3096 - enacted on June 17, 1961 - was in force. No power or authority there was then to extend the service of a government employee beyond 65 years of age. Prohibition to extend is patent and clear. The retirement of Prof. Jamias became automatic and compulsory. The Board of Regents is powerless to extend his service beyond July 20, 1961. And, its resolution now under consideration is null and void.

3. But petitioners would want to anchor the power of the Board of Regents to so extend upon Section 6(e) of the U.P. Charter, Act 1870, as amended, in which the language is -

"SEC. 6. The Board of Regents shall have the following powers and duties, in addition to its general powers of administration and the exercise of the powers of the corporation:

x x x

(e) To appoint, on the recommendation of the President of the University, professors, instructors, lecturers and other employees of the University; to fix their compensations, hours of service, and such other duties and conditions as it may deem proper; to grant to them in its discretion leave of absence under such regulations as it may promulgate, any other provisions of law to the contrary notwithstanding, and to remove them for cause after an investigation and hearing shall have been had." [11]

Petitioners' trenchant claim is that the foregoing gives the Board of Regents plenary power to deal with all aspects of service or employment in the university. Their position is that legislative intention there is to free U.P.'s academicians from control and interference by other bureaus and offices of the government. They aver that the board is with power to fix conditions of employment "as it may deem proper."

We are thus required to pit Section 6(e) of the U.P. Charter against Section 12(e) of the Retirement Law, as amended by Republic Act 3096. As we do so, we find that the Board of Regents' power to fix conditions of service "as it may deem proper" is but a general statement. It lacks that illuminating specific authority to place the Board of Regents beyond the reach of Republic Act 3096, which in letter and legislative intent proscribed extension of service. We are hard pressed to understand how the cited provision in the U.P. charter could give the Board of Regents power to extend where none was theretofore granted, and given the fact that even the President of the Philippines who previously had that authority was shorn of it by law. Absent an express congressional direction that the Board of Regents may so extend, we are unprepared to indulge in unbridled expansive construction and to say that U.P. is beyond the reach of that positive and unambiguous law, Commonwealth Act 186, as amended by Republic Act 3096, on the retirement of government employees which include U.P. professors.

The cited provisions of Act 1870 (the U.P. Charter) must be deemed restricted or limited by Commonwealth Act 186, as amended by Republic Act 3096, which makes 65 the automatic and compulsory age for retirement, the conditions set forth by the law being present. The Board of Regents was not, by the applicable statute, Republic Act 3096, singled out as an exception, one with sole authority to grant extension of service. In fact, even the President of the Philippines, to repeat, was divested of that power. It is because of this that we would rather adhere, than depart, from the rule that courts may not introduce exceptions or conditions by construction from considerations of convenience, public welfare, or for any other laudable purpose. [12]

This should dispose then of petitioners' contention that policy considerations behind compulsory retirement in the government service are not applicable to U.P. by the very nature of the conditions of the service rendered therein - and these conditions are even debatable - viz: U.P. faculty members for the most part lead sheltered, quiet lives; that owing to the leisurely pace of academic work the faculty members normally are spared the rigors of an eight-hour day, their duties being within their energies as a whole; that they perform their work with like efficiency as before the age of 65; and that unlike regular bureaus and offices of the government where old age decreases efficiency by the very nature of the work, U.P. calls for special services and qualifications, not necessarily affected by age. On the other side of the coin, of course, is the thought quite often expressed that no man - not even one with the learning and wisdom of a 65-year old - is indispensable. Anyway, whether or not as a rule the university professors maintain, increase or diminish their efficiency as they reach 65 years, is a consideration which would not give this Court a desirable approach to the problem before us. Policy that is proper for legislation is beyond the ambit of court powers. Suffice it to say that these suasions are best addressed to Congress. Because courts cannot simply melt and recast a statute.

4. Petitioners next assert that their theory that a retired employee may be retained in the government beyond 65 years of age finds support from Section 12(d) of Commonwealth Act 186, as amended. This section reads:

"(d) An employee separated from the service who is receiving an annuity described under section eleven shall not be eligible again to appointment to any appointive position or employment under any 'employer' unless the appointing authority determines that he is possessed of special qualifications and his medical examination has been approved by the System, in which event he shall not be entitled to payments of his annuity during the period of his new employment: Provided, however, That nothing in this Act shall be so construed as to affect the rights of the annuitant's beneficiary if the annuitant has been receiving or had elected, and was otherwise entitled to, a reduced annuity under subsection (a) of section eleven: Provided, further, That upon the termination of his new appointment, the payments of the annuity which were discontinued shall be resumed: And provided finally, That if the annuitant's salary in his new position is less than the annuity granted to him under this Act, he shall be entitled to receive the difference." [13]

To be observed is that under the above provision, an employee separated from the service who is receiving an annuity may be eligible again to another appointment in the government if the appointing authority determines that he is possessed of special qualifications and his medical examination has been approved by the GSIS. This provision of law must be viewed in the context of other provisions of Commonwealth Act 186 and in accordance with the history of the law.

Section 12(e), as we have seen, expressly exacts automatic and compulsory retirement at age 65 if the conditions therein stated are met; that while previous amendments have granted the power of extension of service of retireable employees to the four top officials of the government, Republic Act 3096 (the law which here governs) eliminated such power. To adopt petitioners' view then in reference to Section 12(d) above-quoted would be to make the provisions of Section 12(e) conflict with those of Section 12(d) of the law. The former would be rendered nugatory by the latter. This is an effect that should be avoided. Consistency in statutes is of prime importance. All laws are presumed to be consistent with each other. In interpreting laws, courts are hidebound by the rule that theirs is to reconcile and to harmonize; and, if possible, to avoid inconsistency and repugnancy; to give the laws a conjoint, not discordant, effect. As we said in a previous case, [14] "[w]e have to take the thought conveyed by the statute as a whole; construe the constituent parts together; ascertain the legislative intent from the whole act; consider each and every provision thereof in the light of the general purpose of the statute; and endeavour to make every part effective, harmonious, sensible."

To harmonize Section 12(d) with Section 12(e) - as it stood amended by Republic Act 3096 - is to hold that a retired employee who is receiving annuity from the GSIS may be reappointed to the government service only if he

has not yet reached the age of 65 years. The prohibition in Section 12(e) against the extension of the service of a retireable government employee where the conditions for automatic and compulsory retirement exist is so patent and so clear that it will not admit of any other construction that would violate legislative intent.

5. Petitioners bring in the concept of academic freedom. Their argument is that the law as we now interpret it would trench upon the academic freedom enjoyed by the university as guaranteed by the Constitution. Petitioners refer to Section 5, Article XIV of the Constitution, which provides that "[u]niversities established by the State shall enjoy academic freedom." Petitioners mention the concurring opinion of Justice Frankfurter, whom Justice Harlan joins, in *Sweezy vs. New Hampshire*. 354 U.S. 234, 1 L. ed. 2d. 1311, 1327, 1332. This concurring opinion quotes a passage from a report entitled "The Open Universities in South Africa" where statement was made that academic freedom of a university consists of four essential freedoms - "to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study." Petitioners insist that Commonwealth Act 186, as amended, would trample upon U.P.'s freedom to decide who may teach.

We do not discern in the statute just referred to a meaning violative of U.P.'s academic freedom. It does not erode the substance of the freedom in any way. It must be stressed that what we are concerned with here is retirement, not appointment. We hold that the law here involved is a reasonable regulation. It is an expression by Congress of sound judgment on when an employee shall, because of age, stop. The purpose was summed up in the explanatory note to the bill that "continuance in the service of those who are already eligible to compulsory retirement should no longer be allowed." [15] That law lays down the rule that at the age of 65, a person is ripe for retirement. There is no discrimination. All government employees who are members of the System and similarly situated are governed there by U.P. professors are not exempt therefrom.

Barenblatt vs. U.S. [16] is illuminating. It was there held that the academic freedom of a university has not been violated because the congressional investigation into communist infiltration into the field of education is not shown to be directed at controlling what has been taught at the university. Pertinent is the following passage found in said case: "The claims of academic freedom cannot be asserted unqualifiedly. The social interest it embodies is but one of the larger set, within which the interest in national self-preservation and enlightened and well-informed lawmaking also prominently appear. When two major interests collide, as they do in the present case, neither the one nor the other can claim a priori supremacy. But it is in the nature of our system of laws that there must be demonstrable justification for an action by the Government which endangers or denies the freedom guaranteed by the Constitution." [17]

We, accordingly, hold that the constitutionally-guaranteed academic freedom has not been here violated.

6. Having reached the conclusion that the Board of Regents was bereft of authority to extend Prof. Jamias' tenure for one school year, there remains for consideration this last question: Is Prof. Jamias to be compensated during the extended period in which he worked?

The obligation to compensate may not perhaps be fully comprehended unless we view the case in the environment in which Prof. Jamias' service was extended.

At the time Prof. Jamias reached 65 years, he was assigned a specific job, namely, to write the history of the University of the Philippines. Retirement age caught him half through with this undertaking. There is the desirability of having Prof. Jamias complete this assignment which he started. Besides, Prof. Jamias was then the head of the University Publications. Retirement would create a vacuum. U.P. had yet to find a qualified fillup. Then, also, Dr. Dionisia Rola, who was to relieve Prof. Jamias of his teaching courses, was still assigned to Baguio. The discipline of English had yet to adjust itself to the teaching of the courses he handled. Again, Prof.

Jamias had to stay. The interests of the students so demanded.

It is in this factual configuration that the university authorities took it upon themselves to engage the services of Prof. Jamias until the termination of the school year, which was April 15, 1962. The unique and peculiar circumstances under which Prof. Jamias' services were sought, engaged and harnessed anew, sufficiently justified a special contract of services up to April 15, 1962. This the Board of Regents had authority to do, even as it had no power to extend his original term. The questioned resolution must be viewed in this sense. He is thus entitled to payment of his salary up to the last named date.

Upon the view we take this case -

(1) We vote to grant the writ of prohibition prayed for by petitioners;

(2) Respondent Auditor General and his representatives are hereby permanently enjoined from withholding the salary of petitioner Cristino Jamias corresponding to the extended period of service from July 20, 1961 to April 15, 1962; and, in the event the Auditor General and his representatives have already done so, they are hereby directed to return to petitioner Jamias the compensation due the latter for the said period; and

(3) Respondent Government Service Insurance System is hereby permanently enjoined from deducting any amount from petitioner Jamias' five-year retirement annuity; and if said System has already done so, it is hereby directed to return to petitioner Jamias what it has already deducted.

No costs allowed.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, and Barredo, JJ., concur.

[1] Section 2, Act 1870.

[2] Section 5, Article XIV, Constitution.

[3] By Republic Act 4968, which took effect on June 17, 1967, said Section 4(a) of Commonwealth Act 186 now reads:

"(a) Membership in the System shall be compulsory upon all appointive officers and employees in the executive, legislative, and judicial branches of the government, including those whose tenure of office is fixed or limited by the Constitution or by law; upon all regular employees of the Philippine Tuberculosis Society and the Philippine National Red Cross, and other employees of the government-owned or controlled corporations; upon all regular officers and enlisted men of the Armed Forces of the Philippines; and upon all elective officials receiving compensation as defined in this Act: Provided, That casual, substitute, or temporary employees and substitute or temporary teachers shall be hereby covered for purposes of term insurance for two thousand seven hundred and fifty pesos if appointed for a period of not less than two months, the term insurance to be effective in the month next following the month in which the premium prescribed in Section five hereof has been paid: And provided, further, That said casual, substitute or temporary employees and substitute or temporary teachers shall not be covered by the retire-ment insurance plan provided for in this Act: Provided, finally, That the term 'appointive officer and employee' as used herein shall include those extended permanent appointments and provisional appointments as used in the civil service law but excluding those without any kind of civil service eligibility when so required."

[4] See: Articles 266-268, Revised Code of the U.P.

[5] The deletion of U.P. from the exceptions remained in subsequent statutes: Republic Act 1573 approved June 16, 1956; and Republic Act 1820, June 22, 1957.

[6] See: Section 4(b), Commonwealth Act 186, as amended by Republic Act 660.

[7] The newest amendment to Section 12(e) has been effected by Republic Act 4968, effective June 2, 1967. Said Section 12(e) as it is now composed in part reads:

"(e) Retirement shall be automatic and compulsory at the age of sixty-five years with lump-sum payment of present value of annuity for the first five years and future annuity to be paid monthly, and other benefits given to a compulsorily retired member as provided for in Republic Act Numbered Six hundred and sixty, as amended, if he has completed fifteen years of service and if he has not been separated from the service during the last three years of service prior to retirement; otherwise he shall be allowed to continue in the service until he shall have completed the required length of service, unless he is otherwise eligible for disability retirement. This paragraph shall not apply to elective officials and constitutional officers whose tenure of office is guaranteed. Upon specific approval of the President of the Philippines, the President of the Senate, the Speaker of the House of Representatives or the Chief Justice of the Supreme Court, as the case may be, an employee may be allowed to continue to serve in the executive, legislative or judicial branch of the government after the age of sixty-five years if he possesses special qualifications and the corresponding Department Secretary certifies in writing that his service(s) are needed."

[8] 50 Am. Jur. 556-557; Crawford, *The Construction of Statutes*, 1940 ed., pp. 621-622; 1 Sutherland, *Statutory Construction*, Third Ed., pp. 419-421.

[9] See: Congressional Record (House of Representatives), Fourth Congress, First Regular Session, May 7, 1958, Vol. I, No. 66, p. 2155.

[10] *Id.*, at p. 2154; emphasis supplied.

[11] As successively amended by Act 2759, effective February 23, 1918 and Act 3745, effective November 24, 1930.

[12] 50 Am. Jur., pp. 454-455.

[13] As successively amended by Republic Acts 660, effective June 16, 1951, and 1573, effective June 16, 1956.

[14] *Republic vs. Reyes* (1966), 17 SCRA 170, 173, citing Crawford, *Interpretation of Laws*, pp. 260-261.

[15] Congressional Record, *supra*, at p. 2154; emphasis supplied.

[16] (1959) 360 U.S. 109, 3 L. ed. 2d. 1115.

[17] At p. 1131, footnote 29, quoting the Amicus Brief of the American Association of University Professors.

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