

JOSEFA J. MANIAGO, PETITIONER, VS. CIVIL SERVICE COMMISSION (CSC), GUAGUA WATER DISTRICT AND ITS BOARD OF DIRECTORS, NAMELY LEONORA M. ROSARIO, RICARDO M. SAMPANG, TOMAS S. GAMB...

SP No. 112657, November 30, 2010

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Court of Appeals

Before Us is a Petition for Review under Rule 43 of the Rules of Court assailing the Resolution No. 08-0599[1] dated April 10, 2008 of the Civil Service Commission (CSC) dismissing herein petitioner's appeal thereby affirming the Resolution dated March 2, 2005 of herein private respondent Guagua

Water District (GWD) which denied petitioner's claim for retirement benefits; and, the Resolution No. 091557[2] dated November 19, 2009 denying the Motion³ for Reconsideration thereof.

THE FACTS

Respondent GWD was created in 1977 as a quasi-public corporation pursuant to the Sangguniang Bayan Resolution No. 31, Series of 1977. Petitioner Josefa J. Maniago, the former General Manager of respondent GWD, was among its pioneer employees having been hired on September 16, 1977.

On May 13, 1988, respondent GWD and the members of the GWD Employees Association (GWDEA), entered into a Collective Bargaining Agreement dated April 29, 1988 (1988 CBA). The said CBA provided for the implementation of a Retirement Plan for all its employees. The duration of the 1988 CBA was three (3) years and was made effective beginning January 1988. The same Retirement Plan was carried over-when respondent GWD and GWDEA again entered into a CBA⁴ on July 4, 1991 (1991 CBA), which was made effective from January 1, 1991 to December 31, 1995.

Meanwhile, the Supreme Court promulgated its Decision in *Davao City Water District, et al. vs. Civil Service Commission and Commission on Audit*[5] on September 13, 1991, which attained finality on March 12, 1992[6], declaring that water districts are classified as government owned and controlled corporations (GOCCs) by virtue of Presidential Decree (P.D.) No. 198, otherwise known as the "Provincial Water Utilities Act of 1973".

In view of the decision of the Supreme Court, the Board of Directors of respondent GWD issued on December 12, 1995, a Resolution[7] setting up a Welfare Fund to replace the CBA-mandated Retirement Plan. The Welfare Fund consisted of the amount of P561,402.91 intended for the retirement benefit of twenty-seven (27) employees as embodied in the 1991 CBA to be distributed pro-rata based on length of service, and that an additional amount of P500,000.00 was set aside by respondent GWD as seed money for the said Welfare Fund for the benefit of its forty-seven (47) employees. It was further provided that the said Welfare Fund was to be administered in accordance with the Department of Budget and Management (DBM) Memorandum Circular Rules and Regulations and that it shall be reverted back to respondent GWD's general fund in case the government finds the same to be in conflict with existing laws.

On November 24, 2004, petitioner Maniago compulsorily retired from her employment after having reached the age of sixty-five (65). She was paid P48,745.07 as her retirement benefit under the CBA-mandated Retirement Plan plus the contributions she paid together with the contributions paid by respondent GWD under the Welfare Fund, said amount covering the period from 1995 to 2004.[8]

Thereafter, petitioner Maniago manifested to respondent GWD's Board of Directors her intention to avail of the retirement benefits under the 1988 CBA apart from those provided under the Government Service Insurance System (GSIS) Law. She then wrote a letter to the DBM to inquire into her entitlement of the said retirement benefits. On December 23, 2004, the DBM Regional Office No. III informed respondent GWD that petitioner Maniago, may avail of both the Retirement Plan under the GSIS Law and the 1988 CBA, provided that she was still in the service as of December 31, 1989 and subject to the availability of funds. On April 14, 2005, the DBM modified its earlier opinion and stated that petitioner Maniago is entitled to retirement benefit under the 1988 CBA from 1977 of 1995, as well as, the retirement benefit under the Welfare Fund beginning 1996 onwards.

Respondent GWD referred the matter to the Office of the Government Corporate Counsel (OGCC) relative to the basis of computation of the rightful retirement benefits due petitioner. In its Opinion No. 036, series of 2005[9] dated February 11, 2005, the OGCC stated that petitioner Maniago may not avail of the retirement benefits provided for in respondent GWD's 1988 CBA for the following reasons, to wit: (1) The 1988 CBA has already expired, the same having been effective only until December 31, 1990. Similarly, the 1991 CBA was effective only until December 31, 1995. There is thus no basis to grant the retirement benefits provided for in both CBAs after December 31, 1995; (2) The 1988 CBA expressly excluded the General Manager of respondent GWD from its coverage, and the 1991 CBA covered only the rank and file employees of respondent GWD; and (3) With the finality of the Decision dated September 13, 1991 of the Supreme Court in *Davao City Water District, et al. vs. Civil Service Commission and Commission on Audit*[10] which classified local water districts as GOCCs, R.A. No. 4968 (An Act Amending the GSIS Law) became applicable such that retirement or pension plans other than those presently authorized by law are mandated to be discontinued.

In Resolution No. 07, Series of 2005[11] dated March 2, 2005, respondent GWD adopted the findings and recommendation of the OGCC in its Opinion No. 036, series of 2005 dated February 11, 2005 which denied petitioner Maniago's claim for retirement benefits under the CBA.

In a letter[12] dated April 5, 2005, petitioner Maniago claimed that respondent GWD should have instead adopted the opinion of DBM that she may avail of both the retirement plan under GSIS and under the 1988 CBA. In a letter[13] dated April 24, 2006, petitioner sought another reconsideration of the denial of her claim for retirement benefits. This was denied by respondent GWD in a letter[14] dated May 10, 2006.

Petitioner Maniago consequently filed before the CSC-Central Office a Notice of Appeal[15] dated May 29, 2006 seeking to nullify and set aside respondent GWD Resolution No. 07, Series of 2005 dated March 2, 2005 which denied her claim for the balance of her retirement benefits under the GWD Welfare Fund. She stressed that the DBM's opinion is more in accord with the liberal approach consistently held by the Supreme Court in interpreting the Constitution, labor laws, rules and regulations. The entire period of her employment must be compensated with retirement benefits from 1977 and 1995 as provided for in the 1988 CBA, and from 1996 onwards as provided for in the Welfare Fund.

In the assailed Resolution No. 080599[16] dated April 10, 2008, the CSC dismissed the appeal thereby affirming respondent GWD's Resolution No. 07, series of 2005 dated March 2, 2005 which denied petitioner's claim for retirement benefits under the 1988 CBA. It ratiocinated that in order for the right to retirement benefits to accrue, there must be actual severance of employment. Petitioner cannot invoke the 1988 CBA to claim retirement

benefits because at the time she retired on November 24, 2004, the 1988 CBA has long been considered inoperative or abolished in view of the Supreme Court's ruling in *Davao City Water District, et al. vs. Civil Service Commission and Commission on Audit*[17]. Accordingly, R.A. 4968 (An Act Amending the GSIS Law) became applicable to all local water districts, which states in its Section 10(b) that " * * * no insurance or retirement plan for officers or employees shall be created by any employer. All supplementary retirement or pension plans heretofore in force in any government office, agency, or instrumentality or corporation owned and controlled by the government, are hereby declared inoperative or abolished: Provided, the rights of those who are already eligible to retire thereunder shall not be affected".[18] The CSC further ruled that petitioner Maniago has other recourse which is to avail of the retirement benefits under the GSIS Law for the entire period of her employment. She is likewise entitled to retirement benefits under the Welfare Fund. The pertinent portions of the assailed Resolution are quoted:

* * * After an evaluation of the records of the case, the Commission finds the appeal without merit. Maniago can only claim retirement benefits under the applicable law at the time of actual retirement.

Noteworthy is that the right to retirement benefits accrues only upon the existence of certain prerequisites. First, the conditions imposed by the applicable law must be fulfilled. Second, there must be actual retirement.

Retirement means there is "a bilateral act of the parties, a voluntary agreement between the employer and the employees whereby the latter after reaching a certain age agrees and/or consents to sever his employment with the former." Severance of employment is a condition sine qua non for the release of retirement benefits. Retirement benefits are not meant to recompense employees who are still in the employ of the government. That is the function of salaries and other emoluments. Thus, retirement benefits or any portion thereof cannot be considered as "actually earned" or "outstanding" before retirement. (*Development Bank of the Philippines vs. Commission on Audit*, G.R. No. 144516, February 11, 2004).

Maniago cannot invoke the 1988 CBA to claim retirement benefits thereunder because at the time she retired on November 24, 2004, the same has long been considered inoperative or abolished by operation of law. It was correctly opined by the OGCC that with the promulgation of the *Davao Case*, with entry of judgment on March 12, 1992, Republic Act (R.A.) No. 4968 (An Act Amending the Government Service Insurance System (GSIS) Law which took effect on June 17, 1967) became applicable to all water districts. The pertinent provisions of R.A. No. 4968 are hereby reproduced and reiterated:

"Section 10. Subsection (b) of Section twenty-eight of the same Act, as amended is hereby further amended to read as follows:

"b. Hereafter no insurance or retirement plan for officers or employees shall be created by any employer. All supplementary retirement or pension plans heretofore in force in any government office, agency, or instrumentality or corporation owned or controlled by the government, are hereby declared inoperative or abolished: Provided, That the rights of those who are already eligible to retire thereunder shall not be affected."

* * *

Appellant imputed error to the OGCC alleging that the latter deviated from the time honored rule that "in interpreting the Constitution and labor laws or rules and regulations implementing the constitutional mandate, the Supreme Court has always adopted the liberal approach", This contention is likewise untenable. Interpretation is resorted to only when there is ambiguity. However, in the instant case, the governing law is clear and categorical. Moreover, interpretation of laws cannot be made in such manner that would contradict or violate other laws.

It is undisputed that Maniago actually retired only on November 24, 2004. Therefore, it is only on the said date that her right to retirement benefits vested in her.

However, Maniago is not left without relief. She undoubtedly can avail of the retirement benefits under the GSIS

Law of the period from her employment on September 16, 1977 to her retirement on November 24, 2004. Moreover, she is entitled to retirement benefits under the Welfare Fund.

* * *

WHEREFORE, the appeal of Maniago is hereby DISMISSED. According, the GWD Resolution No. 07, series of 2005 dated March 2, 2005 that denied her claim for retirement benefits under the 1988 CBA is AFFIRMED. Further, Maniago is deemed to be in the government service from September 16, 1977n to November 24, 2004 and credited with the corresponding length of government service for the said period.[19]

Petitioner moved[20] for a reconsideration thereof but the same was denied in Resolution No. 091557[21] dated November 19, 2009 of the CSC.

Hence, the instant petition for review in which petitioner Maniago raised the lone ground for its allowance, to wit:

WHETHER OR NOT PETITIONER MANIAGO IS ENTITLED TO THE RETIREMENT BENEFITS PROVIDED IN THE 1988 CBA FOR HER SERVICES RENDERED FROM SEPTEMBER 16, 1977 TO 1996. IF SHE IS, WHAT FORMULA SHOULD BE USED TO DETERMINE HER RETIREMENT BENEFITS FOR THE PERIOD BEING CLAIMED.[22]

THE ISSUE

The main issue in this case is whether or not the CSC correctly denied petitioner Maniago's claim for retirement benefits under the 1988 CBA.

THE COURT'S RULING

The petition must fail.

Petitioner Maniago contends that the GSC should have adopted the opinion of the DBM allowing her to claim retirement benefits under the 1988 CBA. The said opinion is more in consonance with the constitutional mandate and liberal approach in interpreting labor laws, rules and regulations, the same being more favorable to the exercise of labor rights. Petitioner Maniago insists that her employment must be compensated with retirement benefits from 1977 to 1995 to be computed based on the 1988 CBA Retirement Plan and from 1996 onwards based on the Welfare Fund. To rule otherwise would be tantamount to a diminution of her compensation. She is thus entitled to P354,834.00 computed pursuant to the method of computation provided under the 1988 CBA.

These fail to persuade.

The rule is well-settled that the right to retirement benefits only accrues when two conditions are met, first, when the conditions imposed by the applicable law are met; and second, when the actual retirement takes place.' The Supreme Court clearly recognized these prerequisites in the case of *Development Bank of the Philippines v. Commission on Audit*[23] holding that:

The right to retirement benefits accrues only upon certain prerequisites. First, the conditions imposed by the applicable law - in this case, RA 1616 - must be fulfilled. Second, there must be actual retirement. Retirement means there is "a bilateral act of the parties, a voluntary agreement between the employer and the employees whereby the latter after reaching a certain age agrees and/ or consents to sever his employment with the former."

Severance of employment is a condition sine qua non for the release of retirement benefits. Retirement benefits are not meant to recompense employees who are still in the employ of the government. That is the function of salaries and other emoluments. Retirement benefits are in the nature of a reward granted by the State To a

government employee who has given the best years of his life to the service of his country.

Clearly, retirement benefits can only be demanded and enjoyed upon the actual retirement and no portion of the retirement benefits could be considered as actually earned or outstanding prior to the actual retirement.[24]

In the case before Us, petitioner Maniago retired from the service on November 24, 2004. It is only then that her right to retirement benefits had accrued. Unfortunately, at the time of petitioner Maniago's actual retirement, the retirement benefits that she could have availed of under the 1988 CBA already ceased to exist not only because the CBA's effectivity was only until December 31, 1990 but more importantly because of the Supreme Court's Decision dated September 13, 1991 in *Davao City Water District, et al. vs. Civil Service Commission and Commission on Audit*,[25] which attained finality on March 12, 1992, declaring that all water districts, including respondent GWD, are classified as GOCC's pursuant to P.D. No. 198. With the promulgation of the said case, Section 10(b) of R.A. 4968 (An Act Amending the GSIS Law) which prohibits employers to create retirement plans and declares that all supplementary retirement plans in force in any GOCCs are considered inoperative, became applicable to respondent GWD. The said Section 10(b) of R.A. 4968 thus expressly provides:

Section 10. Subsection (b) of Section twenty-eight of the same Act, as amended, is hereby further amended to read as follows:

b. Hereafter no insurance or retirement plan for officers or employees shall be created by any employer. All supplementary retirement or pension plans heretofore in force in any government office, agency, or instrumentality or corporation owned and controlled by the government, are hereby declared inoperative or abolished: Provided, the rights of those who are already eligible to retire thereunder shall not be affected.

The above provision of law is clear and categorical in that it prohibits the creation of any insurance or retirement plan other than those provided by the GSIS for all government officers and employees. The CSC thus aptly held that:

It bears stressing that the Civil Service Commission as the central personnel agency of the government has the authority to render rulings on relevant issues involving or arising from the retirement of a government employee. This is because retirement presupposes and pertains to service in government. * * * However, in the performance of the said duty, the Commission cannot rule in favor of the grant of retirement benefits to the retiree when doing so would directly contravene a law.

In the case of Maniago, it would be illegal for her to claim retirement benefits under the GWD 1988 CBA due to the express prohibition of Section 10, of Republic Act No. 4968 (An Act Amending the Government Service Insurance System (GSIS) Law which took effect on June 17, 1967). Republic Act No. 4968 in no uncertain terms, bars the creation of any insurance or retirement plan other than the GSIS for government officers and employees in order to prevent the undue and iniquitous proliferation of such plans * * *. Compliance with the law is mandatory and beyond contractual stipulation by and between the parties * * *. Consequently, the provisions for retirement benefits under the GWD 1988 CBA, constituting a supplemental retirement plan, is deemed not written. Clearly, the reliance of Maniago on the DBM Opinion is misplaced. An opinion or interpretation of an administrative agency, regardless of whether it is persuasive, cannot prevail over the letter and intent of the law.

In fine, the courts generally accord great weight and even finality to factual findings of administrative bodies if substantial evidence supports such findings, as in this case. The exception to this rule is when the administrative agency arbitrarily disregarded evidence before it or misapprehended evidence to such an extent as to compel a contrary conclusion had it properly appreciated the evidence.[26] We do not find any reason, cause or justification to apply the exception in this case.

WHEREFORE, the instant Petition for Review is hereby DENIED.

SO ORDERED.

Bruselas, Jr.[*] and Barrios, JJ., concur.

[1] Rollo, pp. 24-35.

[2] Rollo, pp. 37-40.

[3] Rollo, pp. 82-84; Annex "F" of the petition.

[4] 1991 CBA not attached.

[5] G.R. Nos. 95237-38 September 13, 1991.

[6] Abanilla vs. COA, et al. G.R. No. 142347, August 25, 2005 citing COA Memorandum Circular No. 002-94.

[7] Resolution No. 28, series of 1995, Rollo, pp. 60-61.

[8] Rollo, p. 66.

[9] Rollo, pp. 68-72.

[10] G.R. Nos. 95237-38, September 13 1991.

[11] Rollo, p. 54.

[12] Rollo, pp. 64-65.

[13] Rollo, p. 66.

[14] Rollo, p. 55.

[15] Rollo, p. 42.

[16] Supra, at note 1.

[17] G.R. No. Nos. 95237-38, September 13, 1991

[18] Vide: Resolution No. 080599, Rollo, p. 33.

[19] Rollo, pp. 32-35; Emphasis and Italics not Ours.

[20] Supra, at note 3.

[21] Supra, at note 2.

[22] Rollo, p. 16.

[23] G.R. No. 144516, February 11, 2004.

[24] Development Bank of the Philippines v. Commission on Audit, supra.

[25] G.R. Nos. 95237-38, September 13, 1991.

[26] Batangas Laguna Tayabas Bus Co., Inc. v. Bitanga, G.R. No. 137934, August 10, 2001.

[*] Vice J. Carandang who is one leave per Office Order No. 357-10-ABR dated November 18, 2010

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