

RE: REQUEST OF JUSTICE JOSEFINA GUEVARA-SALONGA, COURT OF APPEALS, THAT HER SERVICES AS ASSISTANT PROVINCIAL FISCAL OF LAGUNA BE CREDITED AS PART OF HER SERVICES IN THE JUDICIAR...

A.M. No. 11-10-7-SC. February 14, 2012

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PER CURIAM:

For our consideration is the letter dated October 12, 2011 of Court of Appeals (CA) Justice Josefina Guevara-Salonga, indorsed to us on October 14, 2011 by CA Presiding Justice Andres B. Reyes, Jr. Justice Guevara-Salonga requests that her services as Assistant Provincial Fiscal of Laguna be credited as part of her services in the Judiciary, in line with her retirement on February 14, 2012.

By Resolution dated October 18, 2011, the Court noted the indorsement of CA Presiding Justice Reyes and the letter of Justice Guevara-Salonga. We referred the letter to the Office of Administrative Services (OAS) for evaluation, report and recommendation. The OAS reported:

Records show that prior to her appointment to the Court of Appeals on August 2, 2002, Justice Guevara-Salonga held the following positions:

Service Exclusive Dates

Position

Station/ Place of Assignment

FROM

TO

03-27-1972

03-31-1974

Legal Researcher

CFI-Laguna

04-01-1974

09-11-1975

Special Counsel

Office of the Provincial Fiscal Laguna

09-12-1975

08-06-1980

Acting Assistant Provincial Fiscal

08-07-1980

02-02-1987

3rd Assistant Provincial Fiscal

02-03-1987

07-01-1989

RTC Judge

RTC, Br. 32 San Pablo City

11-07-1991

08-21-2000

RTC Judge

RTC, Br. 149 Makati City

On April 8, 2010[,] Republic Act No. 10071[,] otherwise known as “An Act Strengthening and Rationalizing the National Prosecution Service[,]” was signed into law. It took effect fifteen (15) days after its publication in the Philippine Star on May 13, 2010. Under Section 16 thereof, it provides the qualifications, ranks and appointments of prosecutors and other prosecution offices, as follows:

“Sec. 16. Qualifications, Ranks and Appointments of Prosecutors and other Prosecution Officers. – x x x

Prosecutors with the rank of Prosecutor IV shall have the same qualifications for appointment, rank, category, prerogatives, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions, and disqualifications, and shall enjoy the same retirement and other benefits as those of a Judge of the Regional Trial Court.

Prosecutors with the rank of Prosecutor III shall have the same qualifications for appointment, rank, category, privileges, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefits as those of a Judge of the Metropolitan Trial Court.

Prosecutors with the rank of Prosecutor II shall have the same qualifications for appointment, rank, category, privileges, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefits as those of a Judge of the Municipal Trial Court in cities.

Prosecutors with the rank of Prosecutor I shall have the same qualifications for appointment, rank, category, privileges, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefits as those of a Judge of the Municipal Trial Court in municipalities.”

In relation to the above, Section 24 of the aforesaid Law reads:

“Sec. 24. Retroactivity – The benefits mentioned in Section[s] 14 and 16 hereof shall be granted to those who retired prior to the effectivity of this Act.”(underscoring supplied)

Prior to the enactment of R.A. No. 10071, Assistant Provincial Fiscals do not enjoy the same qualifications for appointment, rank and privileges as those of a Judge. While the law provided for a retroactive application specifically for the benefits under Sections 14 and 16 as mentioned above, the same are granted only to those who retired prior to the effectivity of R.A. [No.] 10071, which does not apply to the case of Justice [Guevara]-Salonga.

In Re: Adjustment of Longevity Pay of Hon. Justice Emilio A. Gancayco, the Court in its Resolution dated July 25, 1991, said

“The Court approved the request of Justice Emilio A. Gancayco for the adjustment of his longevity pay not only for purposes of his retirement but also for his entire judicial service by including as part thereof his period of service from August 9, 1963 to September 1, 1972 as Chief Prosecuting Attorney (Chief State Prosecutor) considering that under Republic Act No. 4140, the Chief State Prosecutor is given the same rank, qualification and salary of a Judge of the Court of First Instance.”

Further, the Court En Banc in its Resolution dated November 19, 1992 further resolved that:

“Re: Adjustment of Longevity Pay of former Associate Justice Buenaventura S. dela Fuente. – This refers to the letter of former Associate Justice Buenaventura S. dela Fuente, dated September 27, 1992, requesting a recomputation of his longevity pay. It appears that former Justice dela Fuente had been the Chief Legal Counsel, Department of Justice, since June 22, 1963 until his promotion to the Court of Appeals in 1974, the qualifications for the appointment to which position as well as its rank and salary, pursuant to R.A. 2705, as amended by R.A. 4152, shall be the same as those prescribed for the first and next ranking assistant solicitors general. Accordingly, in line with the rulings of this Court in Re: Adjustment of Longevity Pay of Hon. Justice Emilio A. Gancayco, dated July 25, 1991 and Administrative Matter No. 85-8-8334-RTC. – Request of Judge Fernando Santiago for the inclusion of his services as Agrarian Counsel in the computation of his longevity pay, dated September 12, 1985, the Court Resolved to (a) APPROVE the aforesaid request of former Associate Justice Buenaventura S. dela Fuente[, and] (b) AUTHORIZE the recomputation of his longevity pay from June 22, 1963, when he assumed office and began discharging the functions of Chief Legal Counsel.” [emphases supplied]

For lack of supporting legal basis, the OAS recommended the denial of Justice Guevara-Salonga’s request. The OAS explained:

CA Justice Guevara-Salonga has more than twenty-four (24) years of judicial service which qualify her for purposes of retirement. Her request to consider her service as Assistant Provincial [Fiscal] of Laguna as judicial service can be construed as intended to increase her longevity pay. In the aforesaid cases of Justices Gancayco and dela Fuente, the adjustments of their longevity pay were allowed by the Court because their previous positions as Chief Prosecuting Attorney and Chief Legal Counsel, respectively, are given the same rank, qualification and salary of a Judge. No such legal basis exists in the case of Justice [Guevara]-Salonga.

In view of the foregoing, this Office respectfully recommends the denial of the request of Court of Appeals Justice Josefina [Guevara]-Salonga, to consider her services as Assistant Provincial Fiscal of Laguna as judicial service.

The Court’s Ruling

We do not agree with the findings and recommendation of the OAS.

The OAS apparently misinterpreted the import and meaning of Section 24 of Republic Act No. 10071. It interpreted the section to mean that the law applied only to those who retired prior to its effectivity.

A law, as a general rule, is applicable prospectively; thus, it should apply only to those who are presently in the service, who had rendered service and who will retire in the Judiciary after the effectivity of the law. By its

express provision, however, it made itself applicable even to those who retired prior to its effectivity; thus, they should also benefit from the upgrading mandated by the law.

From this perspective, the law should clearly apply to the case of Justice Guevara-Salonga who rendered service as Assistant Provincial Fiscal of Laguna and who is yet to retire as Associate Justice of the CA. The law likewise validates the recognition of the services of Justice Emilio A. Gancayco, whom we credited for his service as Chief Prosecuting Attorney (Chief State Prosecutor), based on Republic Act No. 4140 which likewise grants his office (as Chief Prosecuting Attorney) the rank, qualification and salary of a Judge of the Court of First Instance.[1] In the same manner, the current law also validates the crediting of past service to Justice Buenaventura dela Fuente who was the Chief Legal Counsel of the Department of Justice.[2]

ACCORDINGLY, premises considered, we GRANT the letter- request dated October 12, 2011 of Court of Appeals Justice Josefina Guevara-Salonga that her services as Assistant Provincial Fiscal of Laguna be credited as part of her services in the Judiciary for retirement purposes.

SO ORDERED.

Corona, C.J., Carpio, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Villarama, Jr., Perez, Mendoza, Sereno, and Reyes, JJ., concur.

Velasco, Jr., and Perlas-Bernabe, JJ., on official leave.

Abad, J., no part.

[1] Resolution dated July 25, 1991.

[2] Resolution dated November 19, 1992.

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