

RE: APPLICATION FOR RETIREMENT/GRATUITY BENEFITS UNDER R.A. NO. 910 AS AMENDED BY R.A. NO. 5095 AND P.D. NO. 1438 FILED BY MRS. CECILIA BUTACAN, SURVIVING SPOUSE OF THE LATE HON...

A.M. No. 12535-Ret. April 22, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

May the heirs of a judge who was found guilty of gross neglect of duty and dismissed from the service with disqualification from holding public office for an offense committed before he was appointed judge, be entitled to gratuity benefits?

Jimmy R. Butacan was appointed as Presiding Judge of the Municipal Trial Court in Cities (MTCC), Branch 4, Tuguegarao City, on June 19, 1995.[1]

Prior to his appointment to the judiciary, i.e., on February 14, 1995, Butacan, as Chief of the Legal Division, Civil Service Commission (CSC) Regional Office No. 2 was charged with grave misconduct and gross neglect of duty by the CSC, in connection with the tampering of evidence in the custody of the Legal Division.[2]

In Resolution No. 96-2722 dated April 12, 1996, the CSC found Judge Butacan guilty of Gross Neglect of Duty and was imposed the penalty of "dismissal from the service with all the accessory penalties including disqualification from holding public office and forfeiture of benefits." [3] The CSC held that although it was not established that Butacan was responsible for the tampering of evidence, he was the Chief of the Legal Division and as such had the duty to supervise all areas of operation including the security and safekeeping of documents in their custody. Because of his gross negligence, the CSC held, that the Picture Seat Plan and application form, which were vital evidence in a case, were tampered with and the photographs originally attached thereto were substituted.[4]

Through a letter dated June 26, 1996, the CSC informed the Office of the Court Administrator (OCA) of its Resolution dismissing Butacan from the service.[5] The Court in a Resolution dated October 2, 1996, treated the CSC Resolution as an administrative complaint, docketed the same as A.M. No. MTJ-96-1101[6] and required Judge Butacan to comment thereon.[7] Judge Butacan filed his Comment[8] adopting the Petition for Review dated August 8, 1996 which he filed with the Court of Appeals (CA).[9] On July 2, 1997, the Court resolved to hold the administrative matter in abeyance, pending the resolution of the CA case.[10]

In its Decision[11] dated August 15, 2003, the CA affirmed the Resolution of the CSC. An entry of judgment was made and the CA decision became final and executory on September 11, 2004.[12]

Ten months thereafter, Judge Butacan died of acute myocardial infraction or heart attack on July 28, 2005, rendering a total of 10 years and 27 days of service in the judiciary.[13]

In a letter dated May 6, 2006, Cecilia L. Butacan, widow of Judge Butacan asked for the release of whatever benefits are due them.[14]

In a Resolution dated June 28, 2006, the Court resolved to consider A.M. No. MTJ-96-1101 as closed and terminated in view of the death of Judge Butacan.[15]

Meanwhile, the issue on whether the heirs of Judge Butacan are entitled to gratuity benefits was referred by the OCA to the OCA Legal Office.[16]

The OCA Legal Office, in its Memorandum dated October 27, 2006 opined that A.M. No. MTJ-96-1101 must be resolved on the merits notwithstanding the death of Judge Butacan in order to determine the rights of the heirs to gratuity benefits.[17] The then Court Administrator Christopher O. Lock, in his Report dated December 14, 2006 agreed with the OCA Legal Office and requested the Court to clarify the effects of the phrase "closed and terminated" in relation to the merits of the complaint filed by the OCA against the late Judge Butacan and the grant of gratuity benefits to his heirs under Republic Act (R.A.) No. 910 as amended.[18]

The Court does not agree with the OCA Legal Office and the OCA. The dismissal of the administrative case against Judge Butacan by reason of his demise is in accordance with *Bote v. Judge Eduardo*[19] where the Court held that in view of the death of Judge Escudero, for humanitarian reasons, it is inappropriate to impose any administrative liability of a punitive nature; and declared the administrative complaint against the respondent Judge, dismissed, closed and terminated.

What then is the effect of the final decision of the CA affirming the CSC Resolution dated April 12, 1996 finding Judge Butacan, as then Chief of the Legal Division of CSC Regional Office No. 2, guilty of grave misconduct and gross neglect of duty and imposing the penalty of dismissal from service with all the accessory penalties including disqualification from holding public office and forfeiture of benefits?

The Court resolves that upon the demise of Judge Butacan on July 28, 2005, his heirs are entitled to all gratuity benefits under R.A. No. 910, to be reckoned from June 19, 1995, the date of his appointment as MTCC Judge up to September 11, 2004 when the CA Decision affirming the CSC Resolution, became final and executory.

Judge Butacan was appointed as Presiding Judge of the MTCC while the administrative charge against him as Chief of the Legal Division, CSC Regional Office No. 2 was pending with the CSC. Records on hand do not show whether he divulged the administrative charge filed against him when he filed his application for judgeship with the Judicial and Bar Council. Neither could it be determined whether his application was made prior to the filing of the administrative charges against him in the CSC. In any event, his appointment to the judiciary does not erase any misfeasance which he may have committed while in the CSC.

In effect, his appointment as MTCC judge is conditional, that is, subject to the final determination of the administrative complaint against him. And this is where the role of the judiciary came in. Upon being notified by the CSC of the conviction of Judge Butacan for grave misconduct and gross neglect of duty, the OCA initiated the corresponding administrative complaint against Judge Butacan. This step finds support in *Heck v. Santos*[20] where the Court held that while the infraction was committed before the respondent's appointment as judge, the Court may still discipline him therefor.

However, upon his demise, the administrative complaint of the OCA had to be considered closed and terminated. As it stands therefore, there is no valid reason why the heirs of Judge Butacan should not be entitled to gratuity benefits for the period he rendered service as MTCC Judge up to the finality of the CSC Resolution on September 11, 2004 which imposed the penalty of "dismissal from service with all the accessory penalties including disqualification from holding public office and forfeiture of benefits."

Although the CSC Resolution is dated April 12, 1996, the penalty of disqualification from holding public office and forfeiture of benefits which became final only on September 11, 2004, may not be applied retroactively. Accordingly, Judge Butacan having rendered service in the judiciary from June 19, 1995 up to September 11, 2004, he is considered entitled to any benefits due him under the law. As of September 11, 2004, however, Judge Butacan should be considered terminated from service in the judiciary as his appointment as MTCC Judge is deemed conditional upon his exoneration of the CSC administrative charges against him.

Forfeiture of benefits under the CA Decision refers only to benefits arising in the CSC prior to his appointment in the Judiciary.

In fine, considering that Judge Butacan was in active service when he died on July 28, 1995, the Court finds that his heirs should be given the gratuity benefits provided for in Section 2 of R.A. No. 910. However, from such benefits should be deducted the amount of P10,000.00 which he was ordered to pay as fine by the Court in its Decision dated November

22, 2000 in A.M. No. MTJ-00-1320, entitled "Antonio Bangayan v. Judge Jimmy Butacan" for Gross Misconduct and Grave Abuse of Discretion which according to the OCA Docket and Clearance Division has not yet been paid.[21]

WHEREFORE, the Court RESOLVES to grant the heirs of the late Judge Jimmy R. Butacan, Presiding Judge of the Municipal Trial Court in Cities, Branch 4, Tuguegarao City, gratuity benefits under Section 2 of Republic Act No. 910 as amended, from which sum shall be deducted the amount of P10,000.00 as fine in A.M. No. MTJ-00-1320, entitled "Antonio Bangayan v. Judge Jimmy Butacan."

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Nachura, and Reyes, JJ., concur.

[1] Rollo, pp. 1, 215.

[2] Rollo, A.M. No. MTJ-96-1101, pp. 1, 3-18.

[3] Id.

[4] Id. at 3, 17.

[5] Id. at 1.

[6] Formerly OCA IPI No. 96-188-MTJ.

[7] Id. at 19.

[8] Id. at 22.

[9] Id. at 25.

[10] d. at 50.

[11] Penned by Associate Justice Godardo A. Jacinto and concurred in by Associate Justices Andres B. Reyes, Jr. and Danilo B. Pine; rollo, A.M. No. 12535-Ret., pp. 73-85.

[12] Rollo, p. 71.

[13] Id. at 1, 57.

[14] Id. at 19.

[15] Id. at 20.

[16] Id. at 12.

[17] Id. at 8-10.

[18] Id. at 4-5.

[19] A.M. No. MTJ-04-1524, February 11, 2005, 451 SCRA 9, 14.

[20] A.M. No. RTJ-01-1657, February 23 2004, 423 SCRA 329, 345.

[21] Rollo, A.M. No. 12535-Ret., p. 21.

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