RE: PETITION FOR UPGRADING OF COURT OF APPEALS POSITIONS

A.M. No. 99-5-18-SC. December 09, 1999

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Before the Court are the following:

(a) Motion for Reconsideration dated September 3, 1999 filed by the Chief of the Reporter's Division (Reporter II) of the Court of Appeals, Atty. Gemma Leticia F. Tablate, with regard to the Resolution dated August 25, 1999, which denied the petition to grant judicial rank and/or the upgrading/reclassification of her position;

(b) Manifestation and Motion filed by the CA Clerk of Court and Assistant Clerk of Court dated September 6, 1999 praying: (1) that the subject Resolution be modified to clarify that the denial of the request to grant judicial rank pertains only to the Court Reporter and that as regards the CA Clerk of Court and the CA Assistant Clerk of Court, the denial is only with respect to their request for the upgrading of their present judicial ranks; (2) that a categorical statement be made that the CA Clerk of Court's intention was merely to be at par with the SC Assistant Clerk of Court and Division Clerks of Court, and not to be in the same level with an Associate Justice of the CA or the SC Clerk of Court; (3) that a categorical statement be made that notwithstanding the same salary level of the Assistant Clerk of Court and the Division Clerks of Court, hierarchical order of positions shall be maintained and the circumstance that they have the same salary level is not to be construed as said officers exercising the same level of authority within the CA; and (4) that even if the salary grade be the same, the actual salary being received by the CA Assistant Clerk of Court at any given time should be at a salary step higher than that of the CA Division Clerks of Court; and

(c) Motion for Clarification and/or Reconsideration dated September 7, 1999, filed by the CA Division Clerks of Court, Chiefs of Division, and Assistant Chiefs of division, praying for a clarification and/or reconsideration of the effectivity date of the subject resolution of this Court.

The first motion was referred to Atty. Adelaida Cabe-Baumann, Deputy Clerk of Court and Chief Administrative Officer, whereas the last two motions were referred to Atty. Eden T. Candelaria, Officer-in-Charge, Office of Administrative Services. Both officials submitted memoranda addressed to the Chief Justice Hilario G. Davide, Jr., through Atty. Luzviminda D. Puno, Clerk of Court, wherein their respective recommendations were presented.

We cannot grant the first two motions.

First, in her motion for reconsideration, CA Reporter II, Atty. Gemma Leticia F. Tablate, argues that the Reporter's Division of the Court of Appeals cannot be compared, much less leveled with the support division of the different offices in this Court; and that the position of the CA Reporter II and Executive Clerk of Court II (which is the rank of a Division Clerk of Court of the CA) are of the same ranking and salary grade level.

As aptly explained in Atty. Baumann's memorandum, this Court's Resolution did not make a comparison, much less did it level, the CA Reporter's Division with the support divisions of this Court. If any, the comparison would only pertain to the higher salary being received by the Chief of the CA Reporter's Division, vis-à-vis that of the Division Chiefs in this Court (the CA Reporter already enjoys Salary Level of SG 27 which is higher by two grades than the upgraded level, SG 25, of this Court's divisions chiefs). Further, it is to be noted that while

there are divisions in this Court headed by non-lawyers, it is undeniable that there are divisions where the chiefs are required to be members of the Bar. And yet, none of them have been granted judicial ranks by the Court.

As to the second argument, it must be emphasized that the CA Reporter II and the Executive Clerk of Court II (Divisions Clerk of Court) are NOT of the same rank. That they are of the same salary grade (SG 27) is not determinative of their equal rank. It is their place in the hierarchical order of positions within the scheme of the organization that must be considered. As clearly shown in the 1998 organizational chart of the CA (prepared by Atty. Tessie L. Gatmaitan, Clerk of Court, and approved by then CA Acting Presiding Justice Arturo B. Buena), the 17 Division Clerks of Court are placed at the same level as that of the Assistant Clerk of Court, while the Reporters Division and rest of the CA divisions are placed below said Division Clerks.

The second pending incident is the manifestation and motion filed by the CA Clerk of Court and the CA Assistant Clerk of Court. We do take cognizance of the explanations contained therein regarding the absence of any ill motivation on the part of the movants in their request for upgrading of judicial ranking. Nevertheless, as fully explained by Atty. Candelaria of the Office of Administrative Services, the denial by this Court of the request for upgrading of salary levels of and/or the request for the grant of judicial rank to the movants and the Court Reporter logically signifies (a) the denial of the request only insofar as upgrading of the present judicial ranking of the movants is concerned, and certainly not a denial or revocation of their present rank, salary and privileges; and (b) the denial of the Reporter's request for judicial ranking. Further, the Court need not amplify that the CA Clerk of Court's intentions are merely to be given an equivalent rank as that of the SC Assistant Clerk of Court and SC Division Clerks of Court, and not to be at par with an Associate Justice of the CA or with the SC Clerk of Court. Since the CA Clerk of Court is already enjoying the rank, salary, and privileges of an RTC judge, her request for upgrading of her present rank, had it been granted, would have necessarily elevated her present salary to SG 30 which is the salary level of an Associate Justice of the Court of Appeals. This effect may not be intended but it is inevitably consequential. Significantly, by virtue of Republic Act 6758 (1989 Salary Standardization Law), the salaries of identical positions in the three branches of government were standardized and placed under the same salary levels in accordance with a salary schedule from SG 1 to SG 33 (the latter being exclusive to the President who is the highest official of the land). Because of the limited salary grades in said schedule, some of the top positions were lumped under the same salary grades notwithstanding the differences of levels of authority. Consequently, due to the reclassification of the different positions in the judiciary, the salaries of this Court's Clerk of Court, Assistant Clerk of Court, and the three Divisions Clerks of Court, all fall under the same salary grade (30) which is incidentally also the salary grade of a CA Associate Justice, an Associate Justice of the Sandiganbayan, as well as the Presiding Judge of the Court of Tax Appeals. Nevertheless, we found no need to define or clarify the levels of authority of the aforementioned SC officials since their respective levels of authority are already defined and determined by the character and nature of their duties and responsibilities. In this light, it is likewise unnecessary for the Court to categorically say that the CA Assistant Clerk of Court has a higher level of authority over the CA Division Clerks of Court notwithstanding the fact that they have the same salary levels, since the CA Division Clerks of Court, by the very nature of their duties and responsibilities, can never have the same level of authority as the CA Assistant Clerk of Court.

As regards the request that the actual salary of the Assistant Clerk of Court be at a salary step higher than that of any of the Division Clerks of Court, we are, however, afraid that we cannot grant the same in view of the absence of a clear-cut policy on the matter of granting step increments to officials who are entitled to longevity pay. While it appears that step increment through merit may be given simultaneously with longevity pay, it has never been implemented insofar as this Court and the lower courts are concerned. Rather, what is being implemented is the step increment through length of service. However, justices and judges are excluded therefrom on the ground that longevity pay, which is given on the same premise of length of service, is already being given to them. Based on

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Section 42 of Batas Pambansa Blg. 129 (the Judiciary Reorganization Act of 1980), a monthly longevity pay equivalent to 5% of the monthly basic pay shall be paid to justice and judges of the courts for every five years of continuous, efficient, and meritorious service rendered in the judiciary. Hence, the basic salary of a Justice of this Court, or of a judge in the lower courts, is fixed at Step 1 of their respective salary grade (1-step increment) and as such, longevity pay is also computed based on said salary step. Thus, should the prayer of the CA Assistant Clerk of Court be granted, her basic salary would in effect be higher than the basic salary of a Metropolitan Trial Court Judge. This cannot be allowed since the CA Assistant Clerk of Court has the same rank, salary and privileges as that of a Metropolitan Trial Court Judge.

Lastly, we pass upon the motion for clarification and/or reconsideration filed by the Division Clerks of Court, Chiefs of Division, and Assistant Chiefs of Division of the Court of Appeals, praying that the effectivity date of this Court's August 25, 1999 Resolution be retroactively fixed on January 1, 1999 considering that: (1) the subject resolution has the effect of improving the economic lot and professional status of said movants and thus may be deemed to have the nature of a remedial curative decree; (2) there are no vested rights which would be impaired by such course of action; and (3) as certified to by the Chief of the Fiscal Management and Budget Division of the CA, there are adequate savings to cover the retroactive implementation thereof.

The finding of Atty. Candelaria that there is no legal obstacle nor fiscal constraint to deny the instant motion is well-taken. While it is well-settled that a judicial ruling construing a law cannot be given retroactive effect if to do so will impair vested rights (Agpalo, Statutory Construction, 1986 ed., p. 48), we agree with the movants that there are no vested rights that will be unsettled nor are there legal effects of prior transactions that will be disturbed if we retroactively apply the August 25, 1999 Resolution. Hence, we hereby fix the effectivity date of the subject resolution on January 1, 1999.

WHEREFORE, the motion for clarification and/or reconsideration dated September 7, 1999, filed by the Division Clerks of Court, Chiefs of Division, and Assistant Chiefs of Division of the Court of Appeals, is hereby GRANTED and accordingly, the effectivity date of our August 25, 1999 Resolution is hereby set on January 1, 1999. The manifestation with motion dated September 6, 1999 filed by the CA Clerk of Court and the CA Assistant Clerk of Court is hereby NOTED WITHOUT ACTION. The motion for reconsideration dated September 3, 1999 filed by CA Court Reporter is hereby DENIED for lack of merit.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, JJ., concur.

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