

EDUARDO TAYLOR, PETITIONER, VS. PEDRO M. GIMENEZ, IN HIS CAPACITY AS AUDITOR GENERAL OF THE PHILIPPINES AND JUAN O. CHIOCO, IN HIS CAPACITY AS ADMINISTRATOR OF ECONOMIC COORDINA...

G. R. No. L-17656. May 30, 1962

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

The petitioner, after about 30 years of service in the government, the last being as manager, with an annual salary of P18,000.00, of the Cebu Portland Cement Company, (vulgarly known as CEPOC), a government corporation, was retired under the "Company Retirement Plan" on January 31, 1955. Prior to his retirement, the Board of Directors of the Company passed on January 21, 1965 Resolution No. 734, granting the petitioner a retirement pay under the said Plan equivalent to his one year salary, and Resolution No, 735, granting, "as a special gesture of appreciation for his long and efficient service, a bonus of P12,000.00 payable upon the effectivity of his retirement", and appropriating a sum for this purpose.

With the concurrence of the Auditor-General, the respondent Administrator of Economic Coordination disapproved the latter resolution (No. 735) on the following grounds:

- (1) that the grant of an appreciation bonus to petitioner would amount to a gratuity which is in excess of that allowed under Section 28(b) of Commonwealth Act No. 186, as amended; and
- (2) that it would be an injudicious and extravagant expenditure of corporate funds and would set a bad precedent for other government corporations.

Answering the first objection, petitioner claims that the grant to him of the appreciation bonus is not violative of Section 28(b) of Commonwealth Act No. 186, as amended, which provides:

"(b) Hereafter no insurance or retirement plan for employees shall be created by any employer without the prior approval of the System; no gratuity or benefit may be paid by an employer to an employee in excess of one month's salary for every year of service or in excess of one year's salary in the aggregate; and no gratuity or benefit shall be paid by an employer to an employee entitled to the retirement benefit of this Act."

because bonus, which is paid for some services or consideration, as distinguished from gratuity, which is freely given, is not within the prohibition of said section. As to the second objection, petitioner avers that the sum of P12,000.00 granted under Resolution No. 735 is a mere pittance compared with more than 13 million pesos realized by the company from 1947 to 1953, not to mention intangible profits in terms of employee morale, loyalty and discipline, goodwill and business stability, through his skill, competence and managerial capacity, and that the bonus would be an incentive for greater dedications to service in accordance with the modern trend of business.

The Solicitor General's Office, in representation of the respondents, admits the fact that the amount given the

petitioner under Resolution No. 735 is not a retirement pay, gratuity, or benefit, intended by the Board of Directors of the CEPOC to be a part of the petitioner's retirement gratuity or benefit, but a bonus; and that the indorsements of February 20, 1958 and July 28, 1960 of respondent Auditor General assumed that the bonus in question was a gratuity. The state contends that the two terms are not synonymous. But they maintain that the Administrator of Economic Coordination properly disapproved said Resolution No. 735 on the strength of Executive Order No. 386, dated December 22, 1950, which provides that the Administrator is "responsible to the President of the Philippines under whose control his functions * * * shall be exercised." The same Executive Order further empowers the Administrator to:

"(b) supervise, as a vigilant stockholder, corporations owned or controlled by the government—for the purpose of insuring efficiency and economy in their operation and effective accomplishments of the objectives for which they were created, and to this end:

* * * * *

(2) pass upon new development programs of activities and annual and supplemental budgets of income and expenditures approved" A by the respective boards of directors of the said corporations."

It is argued, further, that there being no showing that said administrator's disapproval of the resolution in question was altered or reversed by the President, and that the petitioner is not entitled as a matter of right to the appreciation bonus appropriated in said resolution, the disapproval should be respected, and this Court has no reason or justification for giving relief to the petitioner, said action of the Administrator being an executive matter involving policy that is beyond judicial competence to review. To these arguments, we agree.

By virtue of Republic Act No. 422 (Reorganization Act of 1950), the President of the Philippines issued Executive Order No. 386, dated December 22, 1950, creating the Office of Economic Coordination, and Executive Order No. 399, dated January 5, 1951, entitled "Uniform Charter for Government Corporations", wherein were defined the powers and duties of the Boards of Directors of government corporations, which specifically include the CEPOC. Among the powers of the Boards therein provided is—

"(c) To approve, subject to the final action of the Administrator of Economic Coordination, the annual and/or such supplemental budgets of the corporation which may be submitted to it by the General Manager from time to time." (*Italics supplied*)

The primary purpose of Republic Act 422 is to enhance efficiency and economy in the operation of the government, including government-owned corporations. The Administrator, having disapproved, on the grounds of in judiciousness and extravagance, Resolution No. 735 of the Board of Directors of the CEPOC, which is within his power to do, obviously to carry into effect the laudable purpose of the reorganization law, this Court has no authority to change, alter, or modify the course of action taken by him in the exercise of his discretion, there having been no showing of an abuse thereof.

Wherefore, the instant petition should be, as the same is hereby, dismissed. No costs.

Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, and Dizon, JJ., concur.

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