

VICTORIA GREFALDEO VDA, DE GILLEGO ET AL., PLAINTIFFS AND APPELLANTS, VS. THE GOVERNMENT SERVICE INSURANCE SYSTEM, DEFENDANT AND APPELLEE.

G. R. No. L-13211. October 16, 1959

Ponente: BARRERA, J.

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BARRERA, J.:

This is an appeal taken from the decision of the Court of First Instance of Manila (in Civil Case No. 30794) denying plaintiffs-appellants' claim for gratuity under Section 26 of Republic Act No. 660, as amended by Republic Acts Nos. 728 and 1123.

The record shows that Felix Gillego became Justice of the Peace of Bulan, Sorsogon, in 1908. He continued in this position until his death on June 9, 1944. At the time of his death, he was 71 years of age, and had rendered 36 years of continuous service to the Government.

The Government Service Insurance System (GSIS) which originally disapproved the claim presented by the herein appellants as the lawful heirs of the deceased justice of the peace, as well as the lower court in which the complaint was later filed, decided against the claimants on the ground that Republic Act No. 660 enacted on June 16, 1951 is essentially a prospective statute and the only instances wherein it can be given retroactive application are those specifically mentioned in section 26 thereof and that the late Felix Gillego does not fall under any of those exceptions.

Section 26 of Republic Act No. 660, as amended by Republic Acts Nos. 728 and 1123, reads as follows:

"SEC. 26. Notwithstanding the provisions of this Act to the contrary, any officer or employee who died in the service within three years before this Act went into effect and who had rendered at least thirty-five years of service and who was entitled to or who could have established his right to the retirement gratuity provided for in Act Numbered Twenty-five hundred and eighty-nine, as amended, or to any other retirement benefits from any pension fund created by law shall be considered retired under the provisions of this Act if his wife, or in her default, his other legal heirs shall so elect and notify the System to that effect Upon making such election, the wife or the legal heirs of the deceased officer or employee shall be paid the monthly annuity for five consecutive years or such other benefit as provided in this Act, in lieu of the retirement benefits already paid to his wife or other legal heirs shall be refunded to the System: Provided, That contributions corresponding to his last five years of service shall be deducted monthly from his annuity.

"Notwithstanding any provisions of this Act to the contrary, any member who was separated from the service as a consequence of the reorganization provided for in Republic Act Numbered Four hundred and twenty-two may be retired under the provisions of this Act if qualified: Provided, That any gratuity or retirement benefit already received by him shall be refunded to the System: Provided, further, That contributions corresponding to his last five years of service shall be paid as provided in section twelve of Commonwealth Act Numbered One hundred and eighty-six, as amended. This provision shall also apply to any member of the judiciary who, prior to the approval of this Act, was separated from the service after reaching seventy years of age and

rendering at least thirty years of service and who is, not entitled to retirement benefit under any law." (Italics supplied.)

Under the above-quoted provision of the statute, a member of the judiciary is entitled to gratuity therein provided, if he satisfies the following requisites: (1) that he was separated from the service after reaching the age of 70 years prior to the approval of the statute; (2) that he had rendered at least 30 years of service to the government; and (3) that he is not entitled to retirement benefit under any law.

It is not disputed that the late Felix Gillego had satisfied the last two mentioned requisites, for it appears that he had rendered 36 years of continuous service to the Government at the time of his death on June 9, 1944, and that he was not granted any retirement benefit under any law.

As to the first requisite, the defendant-appellee contends and the trial court sustains, that the late Felix Gillego failed to satisfy the same, inasmuch as he was not separated from the service by reason of his having reached the age of 70 years, but by reason of his death in 1944 while still in the service.

This, we believe, is a very strict interpretation of the law. If the late Felix Gillego was not separated from the service upon reaching the age of 70 years in 1943 but continued therein until his death in 1944 when he was 71 years of age, it is because the Constitution was not then in force. (*Cabauatan, et al. vs. Uy Hoo, et al.*, 88 Phil., 103.) There can be no doubt that had the Constitution been operative at the time, he would have been separated from the service in 1943 when he was 70 years of age, pursuant to the preemptory provisions of section 9, Article VIII of the Constitution, on the tenure of the members of the judiciary. That the Constitution was not effective in 1943, is a contingency which could hardly justly be blamed on the deceased, to the extent of depriving him of the benefits under the Retirement Law. To hold otherwise, would amount to penalizing him for a circumstance which happened entirely without his intervention and beyond his control, thereby frustrating the purpose of the said law, which is to reward those officers and employees who have devoted the best years of their lives in faithful service to the Government.

We, therefore, hold that the late Felix Gillego had satisfied all the requisites to be entitled to gratuity under section 26 of Republic Act No. 660, as amended by Republic Acts Nos. 728 and 1123, and hereby declare his lawful and compulsory heirs, the plaintiffs-appellants herein, entitled to receive the said gratuity pursuant thereto.

Wherefore, the decision of the court a quo is hereby reversed. The defendant-appellee Government Service Insurance System is ordered to pay to the plaintiffs-appellants herein the gratuity they are entitled under the provisions of said Act 660, as amended. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia, and Gutierrez David, JJ., concur.

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