

FELIX V. VALENCIA, PETITIONER, VS. THE AUDITOR GENERAL, AND THE GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

G.R. No. 10184. February 29, 1960

Ponente: BENGZON, J.

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BENGZON, J.:

Felix V. Valencia has appealed from the ruling of the Auditor-General approving the deductions made by the Government Service Insurance System from his retirement gratuity.

On November 16, 1950, Valencia was dismissed from the service of the Cebu Portland Cement Co., as general superintendent. He immediately complained to the Court of Industrial Relations, which court, after hearing, ordered his reinstatement with back pay. Such order was, on appeal, confirmed by this Court in March 1954. However, upon motion for reconsideration which asked a modification of the decision so as to require reinstatement with back pay only up to June 17, 1951, when Valencia could be considered retired under Republic Acts 660 and 728, this Court modified its affirmance by adding,

"* * * subject to the provisions of such law or laws or regulations as may have been promulgated since the institution of the case and which may be applicable to the respondent."

It appears that on June 17, 1951, when Republic Act 660 was enacted, Felix V. Valencia had reached the 65-year compulsory retirement age fixed by such law. Accordingly, in compliance with our decision, he received back salary up to June 17, 1951 and was declared automatically separated from the service as of that date under Republic Act 660, with its retirement benefits.

Whereupon, the Government Service Insurance System, charged with the implementation of Republic Act 660, paid Valencia his 5-year lump sum retirement annuity, but deducted therefrom the amount of P2,250.00 representing unpaid retirement premiums (contributions) for five, years. He questioned this deduction before the Auditor-General's Office. There the deduction was upheld.

The Government Service Insurance System holds that under section 12 (a) of Republic Act 660, any member who retires or is retired, must have made contributions (premiums) to the retirement fund for at least five years, and if he has not, such contributions (5-year or less as the case may be) will have to be deducted from the retirement annuity in such manner as may be approved by the Board, at the request of the member. This section reads as follows:

"SEC. 12. Conditions for retirement.—(a) On completion of thirty years of total service and attainment of age fifty-seven years, a member shall have the option to retire. In all cases, the last three years of service before retirement must be continuous, and he has made contributions for at least five years, which contributions may, upon his request approved by the Board, be deducted from his life annuity under such terms and conditions as the Board may prescribe. * * *" (Italics Ours.)

We think the Government Service Insurance System has read the section properly. The underlined portion is not

very explicit and clear; but reading it in connection with sec. 26, specially the provisos thereof,[1] one gets the definite idea that to enjoy the retirement benefits of the Act, a person must pay contributions for at least five years.

There is no question that Felix V. Valencia has made no contributions (premiums) to the retirement fund because such contributions were for the first time required in June 17, 1951—the day he retired. Here he makes no serious effort to question the interpretation given above to section 12(a). However, his main contention is that his case falls under sec. 12(c)—a paragraph that does not mention five-year contributions. In *Espejo vs. Auditor-General*, 97 Phil., 216; 51 Off. Gaz., 2862, this matter was discussed and through Mr. Justice J. B. L. Reyes, this Court held that the expression "in all cases" in paragraph (a) means it is also applicable to paragraph (c). Here again, a reading of sec. 26 of the law[2] will convince any one of the legislators' intention to require contributions for at least five years from beneficiaries of the retirement fund.

Petitioner points out that sec. 5 of Republic Act 728 amending Republic Act 660 provides that "there shall be no discount from the annuity for the first five years of those who are sixty-five years of age or more on the date of approval of Republic Act 660." It is significant that this amends section 11; whereas the deductions are mentioned in section 12. And it seems to refer to the 5% discount which the Government Service Insurance System used to charge for advancing the five-year annuity payments. We know this from *Espejo vs. Auditor-General*, supra, and *Bautista vs. Auditor-General*, 104 Phil., 428. Furthermore, there is no reason to exempt the class of retirees under sec. 11 from the burdens imposed on the classes specified in sec. 26.

Wherefore, the ruling under review is sustained with costs against petitioner. So ordered.

Paras, C. J., Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Endencia, Barrera and Gutierrez David, JJ., concur.

Padilla, J., took no part.

[1] * * * Provided, That contributions corresponding to his last five years of service shall lie deducted monthly from his life annuity. * * * Provided further, That contributions corresponding to his last five years of service shall be paid as provided in section twelve of this Act. * * *.

[2] See footnote 1.

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