

FLAVIANO BAUTISTA, PETITIONER, VS. THE AUDITOR GENERAL OF THE REPUBLIC OF THE PHILIPPINES AND THE GENERAL MANAGER OF THE GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

G. R. No. 10859. August 29, 1958

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for review of a decision rendered by the Auditor General.

Flaviano Bautista was an Auditor in the General Auditing Office who was "automatically and compulsorily retired on June 16, 1952, at the age of 65 years, 5 months and 21 days with a creditable service of 46 years, 6 months and 2 days." He chose to receive a lump sum payment of the present value of his annuity for the first five years, as provided for in article II, section 11, paragraph (a), No. 3, of Commonwealth Act No. 186, as amended by Republic Act No. 660, the law in force at the time he was retired. The Government Service Insurance System paid to the petitioner the sum of P14,853.61, based upon the following computation:

Amount of annuity, 1st 5 years P18,007.80

Less: Discount at 6% per annum, compounded annually 2,060.75

Present value of annuity, 1st 5 years P5,947.05

Less: Premium account 1,093.44

Net annuity paid..... P14,853.61

The petitioner objected to the deduction of the sum of P2,060.75 and requested that the same be paid to him, invoking the rule laid down in *Espejo vs. Auditor General*, 51 Off. Gaz. 2862; 97 Phil., 216. The System denied his request for the following reasons:

* * * In advancing to you your first 5 years annuity under the said Act which, otherwise would have been paid to you monthly for 60 months, the System paid to you only the "present value" of said first 5 years annuity. This is pursuant to section 11 (a), paragraph (3) of C. A. No. 186, as inserted by section 8 of R. A. No. 660, which was the law then in force on the date of your retirement, which reads:

"(3) For those who are at least sixty-five years of age, lump sum payment of present value of annuity for first five years and future annuity to be paid monthly; or...." (*Italics supplied.*)

The term "present value" as used in the law has a technical meaning. It is that amount which, if invested now to

earn a fixed rate of interest, will be equivalent to a specified amount due on a specific date in the future. In other words, to pay the present value of the annuity for first 5 years is synonymous to discounting said annuity. In computing the present value of annuity under C. A. No. 186, as amended, the System, pursuant to section 17(d) thereof, is authorized to charge interest at the rate of 5% per annum, compounded annually, as was done in your case.

With the enactment of R.A. No. 728, which was made effective on June 18, 1952, section 11 (a), paragraph (3) above-quoted, was amended to read:

"(3) For those who are at least sixty-five years of age, lump sum payment of present value of annuity for first five years and future annuity to be paid monthly: Provided, however, That there shall be no discount from the annuity for the first five years of those who are sixty-five years of age or over on the date of approval of Republic Act Numbered Six hundred sixty."

Even granting, therefore, for the sake of argument that this law has retroactive effect, still you are not covered by the exemption thereunder as to be paid in lump sum the annuity for first 5 years without discount inasmuch as you did not attain the age of 65 years on June 16, 1951, the date of approval of R. A. No. 660, your date of birth being December 25, 1886. This provision was again further amended on June 16, 1954 by R.A. No. 1123, in which the law now stands as was originally enacted. (Annex C.)

He appealed to the Auditor General. The latter upheld the decision of the System. Hence this petition.

A similar question was passed upon by this Court in *Espejo vs. Auditor General*, supra, in favor of the retired employee. This Court said—

The last issue posed by petitioner-appellant is whether the Government Service Insurance System had the right "to subject the lump payment of the first five years of his gratuity to a discount of 5 per cent compounded annually, amounting in this case to P1,436.18 The appellee Auditor General defends the action of the Insurance System by invoking Section 11 (a) (3), Republic Act No. 728, amendatory to Commonwealth Act 186 and Republic Act No. 660, to the effect that employees retiring are entitled;

"(3) For those who are at least sixty-five years of age, lump sum payment of present value of annuity for first five years and future annuity to be paid monthly: Provided, however, That there shall be no discount from the annuity for the first five years of those who are sixty-five years of age or over on the date of approval of Republic Act Numbered Six Hundred sixty".

and it is not denied that when Republic Act 660 was approved on June 16, 1951, petitioner Espejo was not yet 65 years old.

It is a fact, however, that Espejo did reach the age of compulsory retirement before Republic Act 728 was enacted, and that at such time, Republic Act 660 merely provided for lump sum payment of the annuity for the first five years, without any mention whatsoever of discounts. When the retirement rights of petitioner became vested, therefore, he became entitled to a full payment of the first five years of his annuity, and the proviso inserted by Republic Act No. 728 (restricting no discount privileges) could not operate retroactively to the prejudice of the vested rights of petitioner herein. Hence, this appeal from the order imposing the discount should be sustained.

There is no cogent reason for abandoning the foregoing rule. Republic Act No. 660, which took effect on 16 June 1951, amending Commonwealth Act No. 186, the law in force at the time the petitioner was automatically and compulsorily retired on 16 June 1952, establishes a retirement system for officers and employees of the Government, "designed primarily to provide for old age and disability." [1] It sets the optional retirement age at 57 years provided the retiring officer or employee has rendered thirty years of service, and the automatic and compulsory retirement age at 65 years provided the retiring officer or employee has rendered fifteen years of

service. To those who are automatically and compulsorily retired the law grants the choice of receiving a lump sum payment of the present value of their annuity for the first five years or an annuity to be paid monthly. The law grants this benefit only to those who are automatically and compulsorily retired, because one who reaches that age is generally disabled and approaching the end of his natural life. If he is disabled or sick, he needs medical care and attention. Unlike an officer or employee who is a member of the System and retires at 57 years, he may no longer engage in another occupation to supplement his income that has been greatly reduced by his retirement, since the monthly annuity a retired officer or employee gets is much lower than the monthly salary he used to receive. It is during these remaining days that the law grants to a retired officer or employee a substantial sum which he may spend for his sustenance. To adopt the respondents' reasoning and allow the deduction made from the petitioner's lump sum annuity for the first five years would run counter to the spirit of the law.

Moreover, the term "present value" is used in its ordinary and not in its technical and restrictive sense. Furthermore, in the subsequent amendatory acts, Republic Act No. 1123, approved on 16 June 1954, and Republic Act No. 1573, approved on 16 June 1956, the proviso in Republic Act No. 728 relied upon by the respondents has been stricken out, thereby removing whatever doubt there might have been in the intent and meaning of the term "present value" of the lump sum annuity for the first five years to which the petitioner is entitled. The striking out of such proviso only means that no such deduction may be made. Finally, Commonwealth Act No. 186, as amended, has been enacted for the benefit of the officer or employee and all doubts as to the intent of the law should be resolved in his favor.

The decision of the Auditor General under review, sustaining that of the General Manager of the Government Service Insurance System, is reversed, and the latter ordered to pay to the petitioner the sum of P2,060.75, without pronouncement as to costs.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

[1]Peralta vs. Auditor General, 53 Off. Gaz., 4454; 100 Phil., 1051.

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