

LUCIANO DE LA ROSA, PETITIONER AND APPELLEE, VS. THE GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENT AND APPELLANT.

G.R. No. 13493. April 30, 1960

Ponente: CONCEPCION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-13493/>

CONCEPCION, J.:

The Government Service Insurance System (GSIS) seeks a review of a decision of the Court of First Instance of Manila, the dispositive part of which reads as follows:

"Wherefore, judgment is hereby rendered in favor of Petitioner and against Respondent. The Court hereby orders Respondent Government Service Insurance System to immediately return and pay to Petitioner Luciano de la Rosa, the amount of P3,045.00 which was deducted from his retirement annuity granted him under Republic Act No. 660, as amended, with legal interests thereon from the filing of the Petition (July 9, 1957), with costs against Respondent."

The facts are undisputed. Petitioner Luciano de la Rosa was Chief of Section in the Legal Aid Office of the Department of Justice. Owing to the abolition of said office and of his aforementioned position therein, petitioner was laid off on January 1, 1951, and given a gratuity of P3,045, pursuant to Executive Order No. 392, and Republic Act No. 422. On December 14, 1951, he applied for, and on June 20, 1952, he was granted, retirement under Republic Act No. 660. Pursuant thereto, he was entitled, for the first five years, to a lump sum payment of P6,787.80, from which the aforementioned gratuity of P3,045 was deducted by respondent herein, which paid him the balance only of P2,864.40, upon the authority of section 26, paragraph 2, of said Republic Act No. 660. Hence, this action for mandamus for the purpose of compelling respondent to pay the aforementioned sum of P3,045 thus withheld by it, with interest and costs. In due course, the lower court rendered the decision above referred to.

The issue in this case hinges on the interpretation of said section 26, paragraph 2, of Republic Act No. 660, which reads:

"Notwithstanding any provisions of this Act to the contrary, any officer or employee whose position was abolished or 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 this Act. 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."

Petitioner maintains, and the lower court held, that Executive Order No. 392—issued pursuant to Republic Act No. 422—under which he had been laid off, and Republic Act No. 673, which appropriated the funds from which petitioner's gratuity of P3,045 was paid, provide that said gratuity shall be refunded only if its recipient is

reinstated in the service, and that, not having been so reinstated, he is not bound to refund said amount. The same issue was raised in *Gabriel vs. GSIS*, 103 Phil., 651; 55 Off. Gaz. (10) 1756, in which we said:

"Petitioner insists, however, that Executive Order No. 392 and Republic Act No. 422 intended to give, to those separated from the service under the provisions of both, a legal right to the gratuity therein granted, 'without any condition of refund requirement, nor any string attached to it, in the words of petitioner; that there is no incompatibility between the gratuity under Republic Act No. 422 and the retirement insurance benefit under Republic Act No. 660; and that Congress intended to give both to those retired under Republic Act No. 422.

"The question for us to determine is not whether Republic Act No. 422 and Executive Order 392 impose any qualifications upon the gratuity therein provided. We are here concerned with the intent of the lawmaker in the enactment of Republic Act No. 660. The second paragraph of section 26 thereof provides:

'Notwithstanding any provisions of this Act to the contrary, any officer or employee whose position was abolished or 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. * * *.'

"It is clear from this paragraph, not only that Congress did, not propose to give to those separated from the service under Executive Order No. 392, in relation to Republic Act No. 422, the benefits of the retirement insurance benefits under Republic Act No. 660, in addition, to the gratuity received under said Executive Order No. 392 and Republic Act No. 422, but, also, that our lawmakers intended this gratuity to be excluded by the enjoyment of said retirement insurance benefits.

"Again, said Republic Act No. 660 does not seek to deprive anybody of his vested rights. However, one separated from the service under Republic Act No. 422 is given in Republic Act No. 660 the option to avail of the benefits of the retirement insurance provided in the latter, subject to the condition that 'any gratuity or retirement benefits already received by him should be refunded to the System.' Petitioner necessarily accepted this condition when he applied for the benefits of Republic Act No. 660. In other words, it is he, by voluntarily choosing, to be under Republic Act No. 660, who divested himself of his right to said gratuity."

This view was reiterated in *Lacson vs. Auditor General*, (supra, p. 921), and we find no cogent reason to depart therefrom.

Invoking the provisions of section 26, paragraph 2 of said Republic Act No. 660, as amended by Republic Act No. 1123, petitioner-appellee insists that the amount of his gratuity is not deductible from his retirement benefits.

Said paragraph, as thus amended, provides:

"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 or as a consequence of the elimination of his position and salary in Republic Act Numbered Five hundred sixty-three, known as the General Appropriation Law for the fiscal year nineteen hundred and fifty-one, or by operation of any future Reorganization Act, may be retired under the provisions of this Act if qualified: Provided, That the period during which such an officer or employee had been out of the service as a result of said reorganization, from the date of his separation to the date of his reinstatement or re appointment on or before December thirty-one, nineteen hundred and fifty-one, shall be considered as leave of absence: Provided, further, That any gratuity or retirement benefit already received by him shall be refunded to the System: Provided, furthermore, 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."

Petitioner-appellee specifically relies upon the first proviso, to the effect that the employee separated from the service, as a consequence of a reorganization, shall be considered as being on leave of absence from the date he has been out of the service, as a result of said reorganization, to his reinstatement or reappointment on or before December 31, 1951. This proviso has nothing to do, however, with the matter of refund of gratuity to the System. Besides, petitioner applied for the benefits of Republic Act No. 660 on December 14, 1951, and he received his retirement benefits under the provisions thereof on June 20, 1952, or long before the approval of Republic Act No. 1123, on June 16, 1954, which took effect only "upon its approval (Section 10), and, hence, had no retroactive effect. Assuming, for the sake of argument only, that the effect of said proviso was to require a refund only in case of reinstatement of the employee therein alluded to—on which we do not express any opinion—the aforementioned amendment by Republic Act No. 1128, would, at best, tend to show that, prior thereto, the refund would be compulsory even without such reinstatement. In short, the proviso tends to defeat petitioner's pretense.

Wherefore, the decision appealed from is reversed and the petition in this case hereby dismissed, with costs against the petitioner. It is so ordered.

Paras, C. J., Montemayor, Bautista Angelo, Labrador, and Endencia, JJ., concur.
Reyes, J.B.L., J., took no part.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.