

EPIFANIO S. CESE, PETITIONER AND APPELLANT, VS. GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENT AND APPELLEE.

G.R. No. 13581. August 31, 1960

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

This is an appeal from an order of the Court of First Instance of Manila.

Epifanio S. Cese had been a member of the police force of the municipality of San Isidro, province of Nueva Ecija, from March 10, 1927 to January 31, 1956. After his separation from the government service on the date last mentioned, he filed with the Government Service Insurance System an application for retirement benefits under Commonwealth Act No. 186, as amended, which application was however, disapproved by the said office.

On July 12, 1957, the said Epifanio Cese filed with the Court of First Instance of Manila a petition for "Certiorari and Mandamus" praying that the Government Service Insurance System be required to pay him retirement benefits under the aforementioned law.

The Government Service Insurance System, as party respondent, answered the petition, claiming that the petitioner had no right to retirement benefits for the reason that his employer, the municipality of San Isidro, Nueva Ecija, had already withdrawn its membership from the System because of its inability to shoulder the premium obligations of its insured and retirable employees and that the petitioner failed to exercise his right of option to retire while his employer was still a member.

After the issues had thus been joined, the Government Service Insurance System filed a motion to require the petitioner to amend his complaint so as to include the municipality of San Isidro province of Nueva Ecija, as respondent in the action. Finding merit in the motion, the lower court, on December 21, 1957, issued an order requiring the petitioner to implead the said municipality as party respondent. Motion for reconsideration of this order having been denied, the petitioner appealed directly to this Court.

It is not disputed that although membership with the Government Service Insurance System is not compulsory for municipalities below first class, like the municipality of San Isidro, the latter had been a member thereof from November 30, 1937 to December 12, 1952. Neither is there any dispute that the herein petitioner then an employee of that municipality had also become a member of the System. For this reason the petitioner claims that he is entitled to the benefits of Commonwealth Act No. 186, as amended.

The sole question at issue is whether the said municipality of San Isidro, province of Nueva Ecija, should be included as party respondent so as to completely adjudicate petitioner's claim for retirement benefits.

Section 5 of Commonwealth Act No. 186, as amended, provides that in the retirement insurance of an employee of the Government, the monthly contributions are not to be borne by the employee concerned alone but by both the employer and the employee, the percentage rate depending upon the employees amount of salary. This section likewise provides that it is the employer who deducts and withholds from the monthly salary of every employee in

its service the premiums payable by him and to remit the same, together with its corresponding share, to the Government Service Insurance System. In the disposition of petitioner's claim, therefore, it is important to determine whether or not his former employer, the municipality of San Isidro, had paid all the premiums due from it to the System during its membership therewith. And inasmuch as it had already withdrawn such membership, a further question to be resolved is whether or not, despite its withdrawal, the said municipality must still be required to pay all the premium obligations concomitant with the payment to petitioner of the said benefits. For a complete adjudication of the case, it is then necessary that the municipality of San Isidro, province of Nueva Ecija, be impleaded in the action. We thus find that the court a quo has committed no error in ordering the herein petitioner to amend his complaint so as to include as party respondent the said municipality. It is a general rule that amendments to pleadings are favored and should be liberally allowed in furtherance of justice, in order that every case may so far as possible be determined on its real facts, and in order to speed the trial of causes or prevent the circuity of action and unnecessary expense, unless there are circumstances such as inexcusable delay, or the taking of the adverse party by surprise or the like, which might justify a refusal of permission to amend. (41 Am. Jur. pp. 490-491.) These circumstances do not obtain in these proceedings.

In view of the foregoing, the order appealed from is hereby affirmed, without special pronouncement as to costs.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Barrera, JJ., concur.

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