ANTONIO P. BELICENA, PETITIONER, VS. SECRETARY OF FINANCE, RESPONDENT.

G.R. No. 143190. October 17, 2001

Ponente: PARDO, J.

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PARDO, J.:

The Case

Appeal via certiorari from the decision of the Court of Appeals[1] affirming the ruling of the Civil Service Commission that, in the computation of petitioner's terminal leave pay, the basis therefor would be the highest monthly salary he received as Undersecretary of the Department of Finance, not the rate corresponding to the position of Secretary of Finance, even if he had been designated as, and assumed the position of Acting Secretary of Finance for one (1) working day on May 22, 1997, until May 25, 1997.

The Fact

The facts, as found by the Court of Appeals, are as follows:

> "Antonio P. Belicena, the Petitioner in the present recourse, was appointed Acting Undersecretary, in the Department of Finance, on February 12, 1997 and forthwith assumed office. While still acting as Acting Undersecretary of Finance, the president designated him, on May 20, 1997, as Acting Secretary of Finance, effective May 22, 1997 until May 27, 1997, while the Secretary of Finance, Roberto de Ocampo, was in Hongkong, on official business for the government (Annex "E", Petition [with the Court of Appeals]). The Petitioner took his oath of office, on May 22, 1997, as Acting Secretary of Finance. In a letter-Memorandum, Acting Secretary Executive Luis C. Liwanag III confirmed the designation of the Petitioner as Acting Secretary of Finance. The petitioner received his one (1) days salary as Acting Secretary of Finance. (p. 1, Annex "A", Petition).
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> "On October 8, 1997, the Petitioner reached the compulsory retirement age of 65 years old, by which time, he had rendered forty-four (44) years of continuous service with the Department of Finance. However, the President extended his services, as Acting Undersecretary of Finance, until April 8, 1998 and extended the same anew until June 30, 1998. In anticipation of his impending compulsory retirement, the Petitioner submitted, on May 18, 1998, his application for terminal leave to the then Secretary of Finance Salvador Enriquez but the latter did not act on said application. When Secretary of Finance Edgardo Espiritu assumed office, he approved the application of Petitioner. Accordingly, a Disbursement Voucher for Land Bank of the Philippines Check No. 0000083217-B1, in the aggregate amount of P2,506,464.21, inclusive of the terminal leave pay of the Petitioner, in the amount of P2,521,568.21, were processed and submitted, on July 21, 1998, to Assistant Secretary Ma. Eleanor F. dela Cruz for her signature (Annex "I", Petitioner [with the Court of Appeals]). However, the latter refused to sign the voucher, claiming that, in the computation of Petitioner's terminal leave pay, his one-day salary as Acting Secretary of Finance should not be considered as his last monthly salary. The same should be based on his salary as Acting Undersecretary of Finance. Despite petitioner's request for the reconsideration of the decision of Assistant Secretary dela Cruz, the latter refused to budge. In the meantime, conformably with the opinion of Assistant Secretary Ma. Eleanor dela Cruz, a

Disbursement Voucher and Land Bank of the Philippines [Check] No. 00009141-B1, in the aggregate amount of P2,072,900.46 were prepared and signed by Assistant Secretary Ma. Eleanor F. dela Cruz (Annex "M", Petition [with the Court of Appeals]). There was thus a difference of P418,243.50 between the amount claimed by the Petitioner and the amount approved under the latter voucher. The Petitioner accepted the amount without prejudice to his right to assail the position of the Assistant Secretary. To settle the matter, Solomon S. Cua, the Officer-in-Charge of the Office of the Secretary of Finance, sought on August 22, 1998, the resolution of the Civil Service Commission on the salary of the Petitioner to be used as correct basis for the computation of the monetary value of his terminal leave (Annex "O", Petition [with the Court of Appeals]). On October 1, 1998, the Commission found and declared that "since the one-day salary received by the petitioner, as Acting Secretary of Finance, was by virtue of a valid designation, by the President, of the Petitioner as Acting Secretary of Finance, the monetary value of his terminal leave should be computed on the basis of his highest salary, that is, corresponding to his salary as Acting Secretary of Finance (Annex "P", Petition [with the Court of Appeals]).

"Solomon S. Cua, the Officer-in-Charge of the Office of the Secretary of Finance, filed a motion, with the Commission, for the reconsideration of its ruling (Annex "O", Petition [with the Court of Appeals]). He averred that, since the Secretary of Finance Roberto de Ocampo was in Hongkong, on official business, for the government, the Petitioner, when designated as Acting Secretary of Finance, was merely given additional duties and responsibilities. Hence, the Petitioner was not entitled to the salary of a Secretary of Finance. Only one person was entitled to receive the salary for said position since there was only one salary appropriated by Congress for the position of Secretary of Finance. A salary differential can only be paid out of the amount appropriated for the salary of the Secretary of Finance, but if the incumbent Secretary of Finance was receiving his salary at the time the Petitioner was designated as Acting Secretary of Finance, then there was no legal source of fund from which the salary differential may be paid to the Petitioner. On January 7, 1999, the Civil Service Commission issued resolution No. 990046 granting the motion of Solomon S. Cua and thus reconsidered its resolution rendered on October 1, 1998 (Annex "A", Petition [with the Court of Appeals]). The petitioner, this time, filed a "Motion for Reconsideration" of the Resolution of the Respondent. The Petitioner ratiocinated that, under Section 17, Chapter 5, Title I, Book III of the 1987 Revised Administrative Code, the president of the Philippines may designate temporarily an officer already in the government service to perform the functions of an office in the Executive Branch when the officer regularly appointed to the office is unable to perform his duties by reason of illness, absence or any other cause and the person so designated shall receive the compensation attached to the position unless he is already in the government service, in which case, he shall receive only such additional compensation as, with his existing salary, shall not exceed the salary authorized by law for the position filled. The Department of Finance should have, in its computation, included his COLA and RATA conformably with the Decision of the Supreme Court in "Jesus N. Borromeo, versus Civil Service Commission, 199 SCRA 911" (Annex "Q", Petition [with the Court of Appeals].

"However, on July 8, 1999, the Respondent issued Resolution No. 991507 denying Petitioner's motion for reconsideration, declaring that the Petitioner cannot find solace in Section 17, Chapter 5, Title I, Book III of the 1987 Revised Administrative Code because the same applies only when the incumbent Secretary of Finance was unable to perform his duties by reason of illness, absence or any other cause analogous thereto. Applying the doctrine of ejusdem generis in statutory construction, the petitioner cannot justifiably claim that Secretary of Finance Roberto de Ocampo was unable to perform his duties as, in fact, he was in Hongkong on official business for the government. The Petitioner cannot likewise invoke the Decision of the Supreme Court in "Jesus N. Borromeo versus Civil Service Commission, supra," because the principle enunciated therein applied only to qualified members of the Judiciary and Constitutional Commissions and not to officials of the Executive Department. (Annex "B", Petition [with the Court of Appeals]).

"The Petitioner forthwith filed his "Petition for Review" with th[e] Court [of Appeals], under Rule 43 of the 1997 Rules of Civil Procedure, for the nullification of the Resolutions of the Civil Service Commission, Annexes "A" and "B" of the Petition [with the Court of Appeals], and for the affirmation of the ruling of the

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> Civil Service Commission in his favor, dated October 1, 1998, Annex "P" of the Petition [with the Court of Appeals]. (pp. 1-4, Annex "A", Petition).[2]

On January 28, 2000, the Court of Appeals promulgated a decision dismissing the petition, in effect upholding the resolutions of the Civil Service Commission.[3]

On February 22, 1999, petitioner filed with the Court of Appeals a motion for reconsideration[4] of the decision. However, on April 28, 2000, the Court of Appeals denied the motion.[5]

Hence, this appeal.[6]

The Issue

The sole issue for resolution is whether in the commutation of petitioner's terminal leave credits, his highest monthly salary shall be that corresponding to the position of Secretary of Finance.[7]

The Court's Ruling

President Fidel V. Ramos designated petitioner as Acting Secretary of Finance effective May 22, 1997, for the duration of the trip to Hongkong of Secretary of Finance Robert F. de Ocampo.[8] He took his oath of office as Acting Secretary on May 22, 1997.[9]

The issue of whether petitioner's highest monthly salary for purposes of computing his terminal leave pay shall be that corresponding to the position of Secretary of Finance, which he received as Acting Secretary of Finance is dependent on the statutory basis of the President when he designated petitioner as Acting Secretary of Finance on May 22, 1997. Petitioner asserts that his designation as Acting Secretary was based on Section 17, Chapter 5, Title 1, Book III, of the Administrative Code of 1987 (Executive Order No. 292), which provides that:

"(1) The President may temporarily designate an officer already in the government service or any other competent person to perform the functions of an office in the executive branch, appointment to which is vested in him by law, when:

> "(a) The officer regularly appointed to the office is unable to perform his duties by reason of illness, absence or any other cause; or
>
> "(b) There exists a vacancy.
>
> "(2) The person designated shall receive the compensation attached to the position, unless he is already in the government service in which case he shall receive only such additional compensation as with his existing salary, shall not exceed the salary authorized by law for the position filled. The compensation hereby authorized shall be paid out of the funds appropriated for the office or agency concerned.
>
> "(3) In no case shall a temporary designation exceed one (1) year."

When the President designated the petitioner as Acting Secretary on May 22, 1997, he did so under a well considered opinion that the absence of Secretary de Ocampo was of such an extent that the latter would be unable to perform his duties and, by reason of such opinion, the President extended a temporary designation to petitioner under Section 17 of the Administrative Code of 1987.

The Commission on Audit, the Constitutional office tasked with the duty to "examine, audit and settle all accounts pertaining to the revenue, and receipts of and expenditures or uses of funds and property, owned or held in trust by or pertaining to the government or any of its subdivisions x x x" (Article IX-D, Section 2[1], 1987 Constitution), has held that a government official appointed or designated in an acting capacity pursuant to Section 17, Chapter 5, Title 1, Book III of the 1987 Administrative Code is entitled to salary differential and that

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his highest monthly salary for purposes of computing his terminal leave pay shall include such salary differential.

The well-settled rule is that the money value of the terminal leave of a retiring government official shall be computed at the retiree's highest monthly salary. In Paredes v. Acting Chairman,[10] the Court had occasion to interpret Subsection (c), Section 12, Commonwealth Act No. 186, the law authorizing the grant of terminal leave pay, as follows:

> "The foregoing legal provision requires the computation of the money value of the terminal leave to be based on the retiree's "highest rate received." And a reading of the entire provision shows that "highest rate received" refers to the retirees' highest "monthly salary."

What was petitioner's highest monthly salary upon which the commutation of his terminal leave credit shall be based?

His highest monthly salary is that corresponding to position of Secretary of Finance which petitioner received while he was Acting Secretary from May 22 to 25, 1997, during the travel abroad of the Secretary.

Petitioner was due to retire as Undersecretary of Finance upon reaching the compulsory retirement age of 65 years on October 8, 1997, at which time he would have served the government for forty-four (44) years. However, President Ramos saw the need to extend petitioner's services with the Department of Finance and, hence, extended his term twice until June 30, 1998.

The Fallo

WHEREFORE, the Court REVERSES the decision of the Court of Appeals in CA-G. R. SP No. 54434. In lieu thereof, the Court REVIVES and AFFIRMS the ruling of the Civil Service Commission that the highest monthly salary of petitioner, which shall be the basis for the commutation of his terminal leave credits, is that corresponding to the position of Secretary of Finance, excluding COLA and RATA.[11]

No costs.

SO ORDERED.
Davide, Jr., C.J., (Chairman), Puno, and Ynares-Santiago, JJ., concur.
Kapunan, J., on official leave.

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[1] In CA-G.R. SP No. 54434, promulgated on January 28, 2000. Callejo, Sr., J., ponente, Garcia and Velasco, Jr., JJ., concurring. Petition, Annex "A", Rollo, pp. 26-38.

[2] Petition, Annex "A", Rollo, pp. 26-38, at pp. 26-29.

[3] Ibid.

[4] Petition, Annex "D", Rollo, pp. 100-109.

[5] Petition, Annex "B", Rollo, p. 39.

[6] Petition filed on May 30, 2000, Rollo, pp. 3-25. On October 2, 2000, we gave due course to the petition (Rollo, pp. 151-152).

[7] Petition, Rollo, pp. 3-24, at p. 8.

[8] Petition, Annex "E" of Annex "C", Rollo, p. 72.

[9] Petition, Annex "F", Rollo, p. 73.

[10] 201 Phil. 644 [1982].

[11] Borromeo v. Civil Service Commission, 199 SCRA 911, 925-926 [1991].

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