

ELENA P. DYCAICO, PETITIONER, VS. SOCIAL SECURITY SYSTEM AND SOCIAL SECURITY COMMISSION, RESPONDENTS.

G.R. NO. 161357. November 30, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before the Court is the petition for review under Rule 45 of the Rules of Court filed by Elena P. Dycaico which seeks to reverse and set aside the Decision[1] dated April 15, 2003 of the Court of Appeals (CA) in CA-G.R. SP

No. 69632. The assailed decision affirmed the Resolution dated February 6, 2002 of the Social Security Commission (SSC), denying the petitioner's claim for survivor's pension accruing from the death of her husband Bonifacio S. Dycaico, a Social Security System (SSS) member-pensioner. Likewise sought to be reversed and set aside is the appellate court's Resolution dated December 15, 2003, denying the petitioner's motion for reconsideration.

The case arose from the following undisputed facts:

Bonifacio S. Dycaico became a member of the SSS on January 24, 1980. In his self-employed data record (SSS Form RS-1), he named the petitioner, Elena P. Dycaico, and their eight children as his beneficiaries. At that time, Bonifacio and Elena lived together as husband and wife without the benefit of marriage.

In June 1989, Bonifacio was considered retired and began receiving his monthly pension from the SSS. He continued to receive the monthly pension until he passed away on June 19, 1997. A few months prior to his death, however, Bonifacio married the petitioner on January 6, 1997.

Shortly after Bonifacio's death, the petitioner filed with the SSS an application for survivor's pension. Her application, however, was denied on the ground that under Section 12-B(d) of Republic Act (Rep. Act) No. 8282 or the Social Security Law[2] she could not be considered a primary beneficiary of Bonifacio as of the date of his retirement. The said proviso reads:

Sec. 12-B. Retirement Benefits. –

...

(d) Upon the death of the retired member, his primary beneficiaries as of the date of his retirement shall be entitled to receive the monthly pension.

Applying this proviso, the petitioner was informed that the –

Records show that the member [referring to Bonifacio] was considered retired on June 5, 1989 and monthly pension was cancelled upon our receipt of a report on his death on June 19, 1997. In your death claim application, submitted marriage contract with the deceased member shows that you were married in 1997 or after his retirement date; hence, you could not be considered his primary beneficiary.

In view of this, we regret that there is no other benefit due you. However, if you do not conform with us, you may file a formal petition with our Social Security Commission to determine your benefit eligibility.[3]

On July 9, 2001, the petitioner filed with the SSC a petition alleging that the denial of her survivor's pension was unjustified. She contended that Bonifacio designated her and their children as primary beneficiaries in his SSS Form RS-1 and that it was not indicated therein that only legitimate family members could be made beneficiaries. Section 12-B(d) of Rep. Act No. 8282 does not, likewise, require that the primary beneficiaries be legitimate relatives of the member to be entitled to the survivor's pension. The SSS is legally bound to respect Bonifacio's designation of them as his beneficiaries. Further, Rep. Act No. 8282 should be interpreted to promote social justice.

On February 6, 2002, the SSC promulgated its Resolution affirming the denial of the petitioner's claim. The SSC refuted the petitioner's contention that primary beneficiaries need not be legitimate family members by citing the definitions of "primary beneficiaries" and "dependents" in Section 8 of Rep. Act No. 8282. Under paragraph (k) of the said provision, "primary beneficiaries" are "[t]he dependent spouse until he or she remarries, the dependent legitimate, legitimated or legally adopted, and illegitimate children ..." Paragraph (e) of the same provision, on the other hand, defines "dependents" as the following: "(1) [t]he legal spouse entitled by law to receive support from the member; (2) [t]he legitimate, legitimated or legally adopted, and illegitimate child who is unmarried, not gainfully employed and has not reached twenty-one (21) years of age, or if over twenty-one (21) years of age, he is congenitally or while still a minor has been permanently incapacitated and incapable of self-support, physically or mentally; and (3) [t]he parent who is receiving regular support from the member." Based on the foregoing, according to the SSC, it has consistently ruled that entitlement to the survivor's pension in one's capacity as primary beneficiary is premised on the legitimacy of relationship with and dependency for support upon the deceased SSS member during his lifetime.

Under Section 12-B(d) of Rep. Act No. 8282, the primary beneficiaries who are entitled to survivor's pension are those who qualify as such as of the date of retirement of the deceased member. Hence, the petitioner, who was not then the legitimate spouse of Bonifacio as of the date of his retirement, could not be considered his primary beneficiary. The SSC further opined that Bonifacio's designation of the petitioner as one of his primary beneficiaries in his SSS Form RS-1 is void, not only on moral considerations but also for misrepresentation. Accordingly, the petitioner is not entitled to claim the survivor's pension under Section 12-B(d) of Rep. Act No. 8282.

Aggrieved, the petitioner filed with the CA a petition for review of the SSC's February 6, 2002 Resolution. In the assailed Decision, dated April 15, 2003, the appellate court dismissed the petition. Citing the same provisions in Rep. Act No. 8282 as those cited by the SSC, the CA declared that since the petitioner was merely the common-law wife of Bonifacio at the time of his retirement in 1989, his designation of the petitioner as one of his beneficiaries in the SSS Form RS-1 in 1980 is void. The CA further observed that Bonifacio's children with the petitioner could no longer qualify as primary beneficiaries because they have all reached twenty-one (21) years of age. The decretal portion of the assailed decision reads:

WHEREFORE, premises considered, the Petition is DISMISSED and the assailed 06 February 2002 Resolution of respondent Commission is hereby AFFIRMED in toto. No costs.

SO ORDERED.[4]

The petitioner sought reconsideration of the said decision but in the assailed Resolution dated December 15, 2003, the appellate court denied her motion. Hence, the petitioner's recourse to this Court.

The petitioner points out that the term "primary beneficiaries" as used in Section 12-B(d) of Rep. Act No. 8282

does not have any qualification. She thus theorizes that regardless of whether the primary beneficiary designated by the member as such is legitimate or not, he or she is entitled to the survivor's pension. Reliance by the appellate court and the SSC on the definitions of "primary beneficiaries" and "dependents" in Section 8 of Rep. Act No. 8282 is allegedly unwarranted because these definitions cannot modify Section 12-B(d) thereof.

The petitioner maintains that when she and Bonifacio got married in January 1997, a few months before he passed away, they merely intended to legalize their relationship and had no intention to commit any fraud. Further, since Rep. Act No. 8282 is a social legislation, it should be construed liberally in favor of claimants like the petitioner. She cites the Court's pronouncement that "the sympathy of the law on social security is toward its beneficiaries, and the law, by its own terms, requires a construction of utmost liberality in their favor." [5]

The SSS, on the other hand, contends that Section 12-B(d) of Rep. Act No. 8282 should be read in conjunction with the definition of the terms "dependents" and "primary beneficiaries" in Section 8 thereof. Since the petitioner was not as yet the legal spouse of Bonifacio at the time of his retirement in 1989, she is not entitled to claim the survivor's pension accruing at the time of his death. The SSS insists that the designation by Bonifacio of the petitioner and their illegitimate children in his SSS Form RS-1 is void.

According to the SSS, there is nothing in Rep. Act No. 8282 which provides that "should there be no primary or secondary beneficiaries, the benefit accruing from the death of a member should go to his designated common-law spouse" and that "to rule otherwise would be to condone the designation of common-law spouses as beneficiaries, a clear case of circumventing the SS Law and a violation of public policy and morals." [6] Finally, the SSS is of the opinion that Section 12-B(d) of Rep. Act No. 8282 is clear and explicit; hence, there is no room for its interpretation, only for application.

In the Resolution dated July 19, 2005, the Court required the parties, as well as the Office of the Solicitor General, to file their respective comments on the issue of whether or not the proviso "as of the date of his retirement" in Section 12-B(d) of Rep. Act No. 8282 violates the equal protection and due process clauses of the Constitution. The Court believes that this issue is intertwined with and indispensable to the resolution of the merits of the petition.

In compliance therewith, in its comment, the SSC argues that the proviso "as of the date of his retirement" in Section 12-B(d) of Rep. Act No. 8282 does not run afoul of the equal protection clause of the Constitution as it merely determines the reckoning date of qualification and entitlement of beneficiaries to the survivorship pension. It asserts that this classification of beneficiaries is based on valid and substantial distinctions that are germane to the legislative purpose of Rep. Act No. 8282.

The SSC also impugns the marriage of the petitioner to Bonifacio after his retirement stating that it was contracted as an afterthought to enable her to qualify for the survivorship pension upon the latter's death. It further alleges that there is no violation of the due process clause as the petitioner was given her day in court and was able to present her side.

The SSS filed its separate comment and therein insists that the petitioner was not the legitimate spouse of the deceased member at the time when the contingency occurred (his retirement) and, therefore, she could not be considered a primary beneficiary within the contemplation of Rep. Act No. 8282. The SSS posits that the statute's intent is to give survivorship pension only to primary beneficiaries at the time of the retirement of the deceased member. Rep. Act No. 8282 itself ordains the persons entitled thereto and cannot be subject of change by the SSS.

The Solicitor General agrees with the stance taken by the SSS that the proviso "as of the date of his retirement" merely marks the period when the primary beneficiary must be so to be entitled to the benefits. It does not violate

the equal protection clause because the classification resulting therefrom rests on substantial distinctions. Moreover, the condition as to the period for entitlement, i.e., as of the date of the member's retirement, is relevant as it set the parameters for those availing of the benefits and it applies to all those similarly situated. The Solicitor General is also of the view that the said proviso does not offend the due process clause because claimants are given the opportunity to file their claims and to prove their case before the Commission.

For clarity, Section 12-B(d) of Rep. Act No. 8282 is quoted anew below:

Sec. 12-B. Retirement Benefits. –

...

(d) Upon the death of the retired member, his primary beneficiaries as of the date of his retirement shall be entitled to receive the monthly pension. ...

Under Section 8(k) of the same law, the "primary beneficiaries" are:

- The dependent spouse until he or she remarries; and
- The dependent legitimate, legitimated or legally adopted, and illegitimate children.

Further, the "dependent spouse" and "dependent children" are qualified under paragraph (e) of the same section as follows:

- The legal spouse entitled by law to receive support until he or she remarries; and
- The dependent legitimate, legitimated or legally adopted, and illegitimate child who is unmarried, not gainfully employed and has not reached twenty-one (21) years of age, or if over twenty-one years of age, he is congenitally or while still a minor has been permanently incapacitated and incapable of self-support, physically or mentally.

The SSS denied the petitioner's application for survivor's pension on the sole ground that she was not the legal spouse of Bonifacio "as of the date of his retirement;" hence, she could not be considered as his primary beneficiary under Section 12-B(d) of Rep. Act No. 8282.

The Court holds that the proviso "as of the date of his retirement" in Section 12-B(d) of Rep. Act No. 8282, which qualifies the term "primary beneficiaries," is unconstitutional for it violates the due process and equal protection clauses of the Constitution.[7]

In an analogous case, *Government Service Insurance System v. Montesclaros*,[8] the Court invalidated the proviso in Presidential Decree (P.D.) No. 1146[9] which stated that "the dependent spouse shall not be entitled to said pension if his marriage with the pensioner is contracted within three years before the pensioner qualified for the pension." In the said case, the Court characterized retirement benefits as property interest of the pensioner as well as his or her surviving spouse. The proviso, which denied a dependent spouse's claim for survivorship pension if the dependent spouse contracted marriage to the pensioner within the three-year prohibited period, was declared offensive to the due process clause. There was outright confiscation of benefits due the surviving spouse without giving him or her an opportunity to be heard. The proviso was also held to infringe the equal protection clause as it discriminated against dependent spouses who contracted their respective marriages to pensioners within three years before they qualified for their pension.

For reasons which shall be discussed shortly, the proviso "as of the date of his retirement" in Section 12-B(d) of Rep. Act No. 8282 similarly violates the due process and equal protection clauses of the Constitution.

The proviso infringes the equal protection clause

As illustrated by the petitioner's case, the proviso "as of the date of his retirement" in Section 12-B(d) of Rep. Act No. 8282 which qualifies the term "primary beneficiaries" results in the classification of dependent spouses as primary beneficiaries into two groups:

(1)

Those dependent spouses whose respective marriages to SSS members were contracted prior to the latter's retirement; and

(2)

Those dependent spouses whose respective marriages to SSS members were contracted after the latter's retirement.

Underlying these two classifications of dependent spouses is that their respective marriages are valid. In other words, both groups are legitimate or legal spouses. The distinction between them lies solely on the date the marriage was contracted. The petitioner belongs to the second group of dependent spouses, i.e., her marriage to Bonifacio was contracted after his retirement. As such, she and those similarly situated do not qualify as "primary beneficiaries" under Section 12-B(d) of Rep. Act No. 8282 and, therefore, are not entitled to survivor's pension under the same provision by reason of the subject proviso.

It is noted that the eligibility of "dependent children" who are biological offsprings of a retired SSS member to be considered as his primary beneficiaries under Section 12-B(d) of Rep. Act No. 8282 is not substantially affected by the proviso "as of the date of his retirement." A biological child, whether legitimate, legitimated or illegitimate, is entitled to survivor's pension upon the death of a retired SSS member so long as the said child is unmarried, not gainfully employed and has not reached twenty-one (21) years of age, or if over twenty-one (21) years of age, he or she is congenitally or while still a minor has been permanently incapacitated and incapable of self-support, physically or mentally.

On the other hand, the eligibility of legally adopted children to be considered "primary beneficiaries" under Section 12-B(d) of Rep. Act No. 8282 is affected by the proviso "as of the date of his retirement" in the same manner as the dependent spouses. A legally adopted child who satisfies the requirements in Section 8(e)(2)[10] thereof is considered a primary beneficiary of a retired SSS member upon the latter's death only if the said child had been legally adopted prior to the member's retirement. One who was legally adopted by the SSS member after his or her retirement does not qualify as a primary beneficiary for the purpose of entitlement to survivor's pension under Section 12-B(d) of Rep. Act No. 8282.

In any case, the issue that now confronts the Court involves a dependent spouse who claims to have been unjustly deprived of her survivor's pension under Section 12-B(d) of Rep. Act No. 8282. Hence, the subsequent discussion will focus on the resultant classification of the dependent spouses as primary beneficiaries under the said provision.

As earlier stated, the petitioner belongs to the second group of dependent spouses, i.e., her marriage to Bonifacio was contracted after his retirement. She and those similarly situated are undoubtedly discriminated against as the proviso "as of the date of his retirement" disqualifies them from being considered "primary beneficiaries" for the purpose of entitlement to survivor's pension.

Generally, a statute based on reasonable classification does not violate the constitutional guaranty of the equal protection clause of the law.[11] With respect to Rep. Act No. 8282, in particular, as a social security law, it is

recognized that it "is permeated with provisions that draw lines in classifying those who are to receive benefits. Congressional decisions in this regard are entitled to deference as those of the institution charged under our scheme of government with the primary responsibility for making such judgments in light of competing policies and interests." [12]

However, as in other statutes, the classification in Rep. Act No. 8282 with respect to entitlement to benefits, to be valid and reasonable, must satisfy the following requirements: (1) it must rest on substantial distinctions; (2) it must be germane to the purpose of the law; (3) it must not be limited to existing conditions only; and (4) it must apply equally to all members of the same class. [13]

The legislative history of Rep. Act No. 8282 does not bear out the purpose of Congress in inserting the proviso "as of the date of his retirement" to qualify the term "primary beneficiaries" in Section 12-B(d) thereof. To the Court's mind, however, it reflects congressional concern with the possibility of relationships entered after retirement for the purpose of obtaining benefits. In particular, the proviso was apparently intended to prevent sham marriages or those contracted by persons solely to enable one spouse to claim benefits upon the anticipated death of the other spouse.

This concern is concededly valid. However, classifying dependent spouses and determining their entitlement to survivor's pension based on whether the marriage was contracted before or after the retirement of the other spouse, regardless of the duration of the said marriage, bears no relation to the achievement of the policy objective of the law, i.e., "provide meaningful protection to members and their beneficiaries against the hazard of disability, sickness, maternity, old age, death and other contingencies resulting in loss of income or financial burden." [14] The nexus of the classification to the policy objective is vague and flimsy. Put differently, such classification of dependent spouses is not germane to the aforesaid policy objective.

For if it were the intention of Congress to prevent sham marriages or those entered in contemplation of imminent death, then it should have prescribed a definite "duration-of-relationship" or durational period of relationship as one of the requirements for entitlement to survivor's pension. For example, in the United States, a provision in their social security law which excludes from social security benefits the surviving wife and stepchild of a deceased wage earner who had their respective relationships to the wage earner for less than nine months prior to his death, was declared valid. [15] Thus, nine months is recognized in the United States as the minimum duration of a marriage to consider it as having been contracted in good faith for the purpose of entitlement to survivorship pension.

In contrast, the proviso "as of the date of his retirement" in Section 12-B(d) in Rep. Act No. 8282 effectively disqualifies from entitlement to survivor's pension all those dependent spouses whose respective marriages to retired SSS members were contracted after the latter's retirement. The duration of the marriage is not even considered. It is observed that, in certain instances, the retirement age under Rep. Act No. 8282 is sixty (60) years old. [16] A marriage contracted by a retired SSS member after the said age may still last for more than ten years, assuming the member lives up to over seventy (70) years old. In such a case, it cannot be said that the marriage was a sham or was entered into solely for the purpose of enabling one spouse to obtain the financial benefits due upon the death of the other spouse. Nonetheless, the said surviving spouse is not entitled to survivor's pension because he or she is not a primary beneficiary as of the date of retirement of the SSS member following Section 12-B(d) of Rep. Act No. 8282.

Further, the classification of dependent spouses on the basis of whether their respective marriages to the SSS member were contracted prior to or after the latter's retirement for the purpose of entitlement to survivor's pension does not rest on real and substantial distinctions. It is arbitrary and discriminatory. It is too sweeping because the

proviso "as of the date of his retirement," which effectively disqualifies the dependent spouses whose respective marriages to the retired SSS member were contracted after the latter's retirement as primary beneficiaries, unfairly lumps all these marriages as sham relationships or were contracted solely for the purpose of acquiring benefits accruing upon the death of the other spouse. The proviso thus unduly prejudices the rights of the legal surviving spouse, like the petitioner, and defeats the avowed policy of the law "to provide meaningful protection to members and their beneficiaries against the hazards of disability, sickness, maternity, old age, death, and other contingencies resulting in loss of income or financial burden." [17]

The proviso infringes the due process clause

As earlier opined, in *Government Service Insurance System v. Montesclaros*, [18] the Court characterized retirement benefits as a property interest of a retiree. We held therein that "[i]n a pension plan where employee participation is mandatory, the prevailing view is that employees have contractual or vested rights in the pension where the pension is part of the terms of employment." [19] Thus, it was ruled that, "where the employee retires and meets the eligibility requirements, he acquires a vested right to benefits that is protected by the due process clause" and "[r]etirees enjoy a protected property interest whenever they acquire a right to immediate payment under pre-existing law." [20] Further, since pursuant to the pertinent law therein, the dependent spouse is entitled to survivorship pension, "a widow's right to receive pension following the demise of her husband is also part of the husband's contractual compensation." [21]

Although the subject matter in the above-cited case involved the retirement benefits under P.D. No. 1146 or the Revised Government Service Insurance Act of 1977 [22] covering government employees, the pronouncement therein that retirees enjoy a protected property interest in their retirement benefits applies squarely to those in the private sector under Rep. Act No. 8282. This is so because the mandatory contributions of both the employers [23] and the employees [24] to the SSS do not, likewise, make the retirement benefits under Rep. Act No. 8282 mere gratuity but form part of the latter's compensation. Even the retirement benefits of self-employed individuals, like Bonifacio, who have been included in the compulsory coverage of Rep. Act No. 8282 [25] are not mere gratuity because they are required to pay both the employer and employee contributions. [26] Further, under Rep. Act No. 8282, the surviving spouse is entitled to survivor's pension accruing on the death of the member; hence, the surviving spouse's right to receive such benefit following the demise of the wife or husband, as the case may be, is also part of the latter's contractual compensation.

The proviso "as of the date of his retirement" in Section 12-B(d) of Rep. Act No. 8282 runs afoul of the due process clause as it outrightly deprives the surviving spouses whose respective marriages to the retired SSS members were contracted after the latter's retirement of their survivor's benefits. There is outright confiscation of benefits due such surviving spouses without giving them an opportunity to be heard.

By this outright disqualification of the surviving spouses whose respective marriages to SSS members were contracted after the latter's retirement, the proviso "as of the date of his retirement" qualifying the term "primary beneficiaries" for the purpose of entitlement to survivor's pension has created the presumption that marriages contracted after the retirement date of SSS members were entered into for the purpose of securing the benefits under Rep. Act No. 8282. This presumption, moreover, is conclusive because the said surviving spouses are not afforded any opportunity to disprove the presence of the illicit purpose. The proviso, as it creates this conclusive presumption, is unconstitutional because it presumes a fact which is not necessarily or universally true. In the United States, this kind of presumption is characterized as an "irrebuttable presumption" and statutes creating permanent and irrebuttable presumptions have long been disfavored under the due process clause. [27]

In the petitioner's case, for example, she asserted that when she and Bonifacio got married in 1997, it was merely

to legalize their relationship and not to commit fraud. This claim is quite believable. After all, they had been living together since 1980 and, in fact, during that time their eldest child was already twenty-four (24) years old. However, the petitioner was not given any opportunity to prove her claim that she was Bonifacio's bona fide legal spouse as she was automatically disqualified from being considered as his primary beneficiary. In effect, the petitioner was deprived of the survivor's benefits, a property interest, accruing from the death of Bonifacio without any opportunity to be heard. Standards of due process require that the petitioner be allowed to present evidence to prove that her marriage to Bonifacio was contracted in good faith and as his bona fide spouse she is entitled to the survivor's pension accruing upon his death.[28] Hence, the proviso "as of the date of his retirement" in Section 12-B(d) which deprives the petitioner and those similarly situated dependent spouses of retired SSS members this opportunity to be heard must be struck down.

Conclusion

Even as the proviso "as of the date of his retirement" in Section 12-B(d) is nullified, the enumeration of primary beneficiaries for the purpose of entitlement to survivor's pension is not substantially affected since the following persons are considered as such under Section 8(k) of Rep. Act No. 8282:

- (1) The dependent spouse until he or she remarries; and
- (2) The dependent legitimate, legitimated or legally adopted, and illegitimate children.

In relation thereto, Section 8(e) thereof qualifies the dependent spouse and dependent children as follows:

- (1) The legal spouse entitled by law to receive support from the member;
- (2)

The legitimate, legitimated or legally adopted, and illegitimate child who is unmarried, not gainfully employed and has not reached twenty-one years (21) of age, or if over twenty-one (21) years of age, he is congenitally or while still a minor has been permanently incapacitated and incapable of self-support, physically or mentally.

Finally, the Court concedes that the petitioner did not raise the issue of the validity of the proviso "as of the date of his retirement" in Section 12-B(d) of Rep. Act No. 8282. The rule is that the Court does not decide questions of a constitutional nature unless absolutely necessary to a decision of the case.[29] However, the question of the constitutionality of the proviso is absolutely necessary for the proper resolution of the present case. Accordingly, the Court required the parties to present their arguments on this issue and proceeded to pass upon the same in the exercise of its equity jurisdiction and in order to render substantial justice to the petitioner who, presumably in her advanced age by now, deserves to receive forthwith the survivor's pension accruing upon the death of her husband.

WHEREFORE, the petition is GRANTED. The Decision dated April 15, 2003 and Resolution dated December 15, 2003 of the Court of Appeals in CA-G.R. SP No. 69632 are REVERSED and SET ASIDE. The proviso "as of the date of his retirement" in Section 12-B(d) of Rep. Act No. 8282 is declared VOID for being contrary to the due process and equal protection clauses of the Constitution. The Social Security System cannot deny the claim of petitioner Elena P. Dycaico for survivor's pension on the basis of this invalid proviso.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, and Garcia, JJ., concur.
Chico-Nazario, J., on leave.

[1] Penned by Associate Justice Rebecca De Guia-Salvador, with Associate Justices Marina L. Buzon and Rosmari D. Carandang, concurring; Rollo, pp. 22-28.

[2] An Act Further Strengthening the Social Security System Thereby Amending for this Purpose Republic Act No. 1161, as Amended, Otherwise Known as the Social Security Law. The law took effect on May 23, 1997.

[3] CA Rollo, p. 26.

[4] Rollo, p. 28.

[5] Employees Compensation Commission v. Court of Appeals, G.R. No. 115858, 28 July 1996, 257 SCRA 717.

[6] Comment, p. 5; Rollo, p. 37.

[7] SECTION 1, ARTICLE III, CONSTITUTION reads:

Sec. 1. No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws.

[8] G.R. No. 146494, 14 July 2004, 434 SCRA 441.

[9] Entitled The Revised Government Service Insurance Act of 1977. This law has been superseded by Republic Act No. 8291 of the Government Service Insurance Act of 1997.

[10] Supra.

[11] Fariñas v. The Executive Secretary, G.R. No. 147387, 10 December 2003, 417 SCRA 503.

[12] Califano, Jr. v. Goldfarb, 430 US 199, 51 L.Ed.2d 270 (1977).

[13] Government Service Insurance System v. Montesclaros, supra.

[14] Section 2 of Rep. Act No. 1161, as amended by Rep. Act No. 8282.

[15] Weinberger v. Salfi, 422 US 749, 45 L.Ed.2d 522.

[16] Section 12-B reads in part:

Sec. 12-B. Retirement Benefits. – (a) A member who has paid at least one hundred twenty (120) monthly contributions prior to the semester of retirement and who (1) has reached the age of sixty (60) years and is already separated from employment or has ceased to be self-employed or (2) has reached the age of sixty-five (65) years, shall be entitled for as long as he lives to the monthly pension: Provided, That he shall have the option to receive his first eighteen (18) monthly pensions in lump sum discounted at a preferential rate of interest to be determined by the SSS.

[17] Supra.

[18] Supra.

[19] Id. at 448.

[20] Id. at 449.

[21] Id.

[22] This has been superseded by Rep. Act No. 8291 otherwise known as The Government Service Insurance Act of 1997.

[23] Section 19 reads in part:

Sec. 19. Employer's Contributions. – (a) Beginning as of the last day of the month when an employee's compulsory coverage takes effect and every month thereafter during his employment, his employer shall pay, with respect to such covered employee, the employer's contribution in accordance with the schedule indicated in Section Eighteen of this Act. Notwithstanding any contract to the contrary, an employer shall not deduct, directly or indirectly, from the compensation of his employees covered by the SSS or otherwise recover from them the employer's contributions with respect to such employees.

[24] Section 18 reads in part:

Sec. 18. Employee's Contribution. – (a) Beginning as of the last day of the calendar month when an employee's compulsory coverage takes effect and every month thereafter during his employment, the employer shall deduct and withhold from such employee's monthly salary, wage, compensation or earnings, the employee's contribution in an amount corresponding to his salary, wage, compensation or earnings during the month in accordance with the following schedule.

[25] Section 9-A reads:

Sec. 9-A. Compulsory Coverage of the Self-employed. – Coverage in the SSS shall be compulsory upon such self-employed persons as may be determined by the Commission under such rules and regulations as it may prescribe, including but not limited to the following:

- All self-employed professionals;
- Partners and single proprietors of businesses;
- Actors and actresses, directors, scriptwriters and news correspondents who do not fall within the definition of the term "employee" in Sec. 8(d) of this Act;
- Professional athletes, coaches, trainers and jockeys; and
- Individual farmers and fishermen.

Unless otherwise specified herein, all provisions of this Act applicable to covered employees shall also be applicable to the covered self-employed persons.

[26] Section 19-A reads:

Sec. 19-A. Contribution of the Self-employed Member. – The contributions to the SSS of the self-employed member shall be determined in accordance with Section Eighteen of this Act; Provided, That the monthly earnings declared by the self-employed member at the time of his registration with the SSS shall be considered as his monthly compensation and he shall pay both the employer and employee contributions; Provided, further, That the contributions of self-employed persons earning One Thousand Pesos (P1,000.00) monthly or below may be reduced by the Commission.

The monthly earnings declared by the self-employed member at the time of his registration shall remain the basis of his monthly salary credit, unless he makes another declaration of his monthly earnings, in which case such latest declaration becomes the new basis of his monthly salary credit.

[27] See, for example, *Jimenez v. Weinberger*, 417 US 628, 41 L.Ed.2d 363; *U.S. Department of Agriculture v. Murry*, 413 US 508, 37 L.Ed.2d 767; *Vlandis v. Kline*, 412 US 441, 37 L.Ed.2d 63.

[28] In this connection, it is well to note that, as discussed in *Government Service Insurance System v. Montesclaros*, *supra*, under Section 10.4.1 of the Implementing Rules and Regulations of Rep. Act No. 8291 (the present GSIS Law), the surviving spouse who married the member immediately before the member's death is still qualified to receive survivorship pension unless the GSIS proves that the surviving spouse contracted the marriage solely to receive the benefit. The said Rules acknowledge that whether the surviving spouse contracted the marriage mainly to receive survivorship benefits is a matter of evidence. The said Section reads:

Sec. 10.4. Allocation of the Survivorship Pension Among Beneficiaries. – The survivorship pension shall be paid as follows:

10.4.1. – When the dependent spouse is the only survivor, he/she shall receive the basic survivorship pension for life or until he/she remarries. For purposes of this section, the marriage of the surviving spouse immediately prior to the death of the member or pensioner shall be acceptable, unless it is proven that the marriage was solemnized solely for purposes of receiving the benefit.

[29] *Alger Electric, Inc. v. Court of Appeals*, G.R. No. L-34298, 28 February 1985, 135 SCRA 37.

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