

**ZENAIDA R. LARAÑO, IN HER OWN BEHALF AND AS
ATTORNEY-IN-FACT OF METROPOLITAN WATERWORKS AND
SEWERAGE SYSTEM RETIREES, PETITIONER, VS. COMMISSION ON
AUDIT, RESPONDENT.**

G.R. No. 164542. December 18, 2007

Ponente: PUNO, CJ.

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PUNO, CJ.:

This petition on certiorari assails Decision No. 2003-082 dated May 22, 2003[1] and Resolution No. 2004-015 dated June 24, 2004[2] of respondent Commission on Audit (COA) that denied the claim for retirement benefits under Republic Act No. 1616[3] (RA No. 1616) of petitioners Zenaida R. Laraño and other Metropolitan Waterworks and Sewerage System (MWSS) retirees after receiving their benefits under the Revised Early Retirement Incentive Package (Revised ERIP) of MWSS.

The facts of the case are not disputed.

On June 7, 1995, Republic Act No. 8041 (RA No. 8041), otherwise known as the "National Water Crisis Act of 1995," was signed into law. It provided, inter alia -

Section 7. Reorganization of the Metropolitan Waterworks and Sewerage System (MWSS) and the Local Waterworks and Utilities Administration (LWUA). – Within six (6) months from the approval of this Act, the President of the Republic is hereby empowered to revamp the executive leadership and reorganize the MWSS and the LWUA, including the privatization of any or all segments of these agencies, operations or facilities if necessary, to make them more effective and innovative to address the looming water crisis. For this purpose, the President may abolish or create offices, transfer functions, equipment, properties, records and personnel; institute drastic cost-cutting and other related measures to carry out the said objectives. Moreover, in the implementation of this provision, the prescriptions of Republic Act No. 7430, otherwise known as the "Attrition Law," shall not apply. Nothing in this section shall result in the diminution of the present salaries and benefits of the personnel of the MWSS and the LWUA: Provided, That any official or employee of the said agencies who may be phased out by reason of the reorganization authorized herein shall be entitled to such benefits as may be determined by existing laws. x x x

On December 6, 1995, then President Fidel V. Ramos, issued Executive Order No. 286 (EO No. 286), reorganizing the MWSS and the LWUA. Section 6 thereof provides, thus:

Section 6. Separation Pay. - Any official or employee of the MWSS and LWUA who may be phased out by reason of the reorganization shall be entitled to such benefits as may be determined by existing laws. For this purpose, the MWSS, LWUA and DBM are hereby directed to study and propose schemes or measures to provide personnel who shall voluntarily retire from the service incentives and other benefits, including the possibility of accelerating the application of the revised compensation package under the Salary Standardization Law, Republic Act No. 6758. The recommendation should be submitted to the President not later than thirty (30) days from the date hereof.

On April 17, 1996, MWSS submitted to then Executive Secretary Ruben Torres the following Revised ERIP[4] for approval by the President.

April 17, 1996

Hon. RUBEN D. TORRES
Executive Secretary
Office of the President
Malacanang, Manila

Dear Secretary Torres:

After consultations with the Department of Budget and Management required under Executive Order No. 286 (Reorganization of MWSS and LWUA and pursuant to the National Water Crisis Act of 1995 (RA 8041), we are submitting for your approval the following revisions of the previously submitted MWSS Early Retirement Incentive Package (ERIP) with corresponding justifications to wit:

- Officials and employees who may be affected by the Reorganization shall be paid the ERIP on the basis of the monthly basic salary at the designated salary step as of December 31, 1995 based on the full implementation of the salary rates authorized under Joint Senate and House of Representatives Resolution (JR) No. 1, s. 1994 (SSL II), computed in accordance with existing retirement laws as follows:

- 1-20 years = 1.0 x Basic Pay

- 21-30 years = 1.5 x Basic Pay

- 31 and above = 2 x Basic Pay

The National Water Crisis Act expressly provides for payment of separation pay benefits as may be determined by existing laws to any official or employee who may be affected by the Reorganization

Full implementation of the Salary Standardization Law II (SSL II) on the designated salary step as of December 31, 1995 under JR No. 1 is hereby proposed as the basis of the ERIP. The National Power Corporation (NPC) was allowed to adopt its own separation package based on its new pay plan, way ahead of the SSL II implementation.

- Regular employees who shall be affected by the reorganization and not qualified to retire under any of the existing retirement laws, shall be entitled to one (1) month basic salary for every year of service at the designated salary step as of December 31, 1995 based on the full implementation of the SSL II.

This is consistent with Sec. 9 of RA 6656 otherwise known as the Reorganization Law, which provides that:

"xxx Unless also separated for cause, all officers and employees, including casuals and temporary employees, who have been separated pursuant to reorganization shall, if entitled thereto, be paid the appropriate separation pay and retirement benefit and other benefits under existing laws. Those who are not entitled to said benefits shall be paid a separation gratuity in the amount equivalent to one (1) month salary for every year of serv[ice]. xxx"

- Additional premium of 0.50 month p[er] year of service based on standardized salary rate at the designated salary step as of December 31, 1995 shall be granted to affected regular officials and employees.

To ensure smooth implementation of their respective reorganization, other GOCCs and GFIs such as the National Power Corporation (NPC), Development Bank of the Philippines (DBP), Bangko Sentral ng Pilipinas (BSP), and Philippine National Bank (PNB) were earlier allowed to adopt their own separation packages with incentives and premium over and above the existing retirement benefits. (Copy of matrix attached).

- Casual employees who shall be affected by the Reorganization shall be entitled to one (1) month basic salary

for every year of service, at the designated salary step as of December 31, 1995 based on the full implementation of the SSL II salary rates.

This is also consistent with Section 9 of RA 6656 (Reorganization Law), which specifically provides a separation gratuity for casual and temporary employees in the amount equivalent to one (1) month salary for every year of service.

- All allowances and benefits previously received with "subject to refund" colatilla shall not be deducted from the ERIP gratuity and other valid claims of affected officials and employees.

Sec. 7 of RA 8041 (National Water Crisis Act) provides that "Nothing in this section shall result in the diminution of the present salaries and benefits of the personnel of the MWSS (and the LWUA).

To deduct such benefits from the separation and compensation packages will be in violation of the aforementioned provision.

Further, pursuant to Executive Order No. 311 which revokes the listing of MWSS as a GOCC, and paves the way towards its privatization, we request the waiver of the provisions of DBM-Corporate Compensation Circular No. 11, s. of 1996, covering the implementation of the Revised Compensation and Classification Plan in Government Owned and/or Controlled Corporation[s] (GOCCs) and Government Financial Institutions (GFIs). The waiver shall enable the accelerated implementation of SSL II for MWSS, in conjunction with its reorganization.

In view thereof, the MWSS seeks authority to implement the new/revised rates of the Salary Schedule contained in Senate [and] House of Representatives Joint Resolution No. 1 (SSL II), in two tranches as follows:

First – effective not earlier than July 1, 1995, an amount as may be determined by the governing Board of the MWSS, provided such amount shall in no case exceed 30% of the unimplemented balance of said Salary Schedule;

Second – the remaining balance to be implemented not earlier than May 1, 1996 for personnel availing of the ERIP and upon reappointment for those to be retained in the reorganization.

We hope for your utmost support and priority attention on the above recommendations considering the timetable set forth in Executive Order No. 286, and to ensure the successful implementation of the MWSS Reorganization.

Very truly yours,

(signed)

ANGEL L. LAZARO III, Ph.D.

Administrator

In his Memorandum of July 10, 1996,[5] Executive Secretary Torres recommended to President Ramos the approval of the Revised ERIP of MWSS, viz.:

MEMORANDUM FOR THE PRESIDENT

SUBJECT : Revised Early Retirement Incentive Package (ERIP) of the Metropolitan Waterworks and Sewerage System (MWSS)

DATE : 10 July 1996

- MWSS Administrator Angel L. Lazaro III submits for the President's approval, the within revised ERIP of the agency's employees.

- The said revised MWSS ERIP proposal has the following features:

The basic salary, for purposes of computing separation/retirement benefits shall be based on the equivalent salary grade/step assignment of the employee in the Salary Schedule prescribed under Joint Resolution (JR) No. 1;

Service credit shall be in accordance with "Existing Retirement Laws;"

On top of the above regular benefits, MWSS proposes a premium equivalent to 0.50 MONTH per year of service, based on salary rates per JR No. 1;

Casual personnel who will be affected by said reorganization shall also be entitled to separation benefits;

All allowances and benefits granted without appropriate legal basis and "subject to refund" shall not be deducted from the benefits due the employee;

That the MWSS will be allowed to accelerate the full implementation of the Salary Schedule under JR No. 1 similar to what was authorized for other government financial institutions.

- On the proposed premium equivalent to 0.50 month per year of service, DBM Secretary Enriquez opines that the same is not legally feasible adding that "the consequences of seeming adhocism in matters as sensitive and as far reaching as separation benefits does not reflect well on government's overall sense of direction and fairness."

- Similarly, on the issue of "non-deduction" or "non-refund" of all allowances and benefits previously granted to employees without legal basis, DBM is of the view that this will be a classic case of government corporation blatantly violating existing laws and regulation thereby causing irreparable doubt on government's enforcement ability. Worse, it would be totally unfair to those who have diligently followed the rules.

- On the acceleration of the full implementation of Salary Schedule under JR No. 1, the DBM says that the MWSS failed to pass almost all of the conditions sine qua non prescribed therefor.

- In view of the foregoing observations, the DBM, recommends the following:

6.1

The computation of separation benefits may be allowed on the basis of the fully accelerated salary rates and only for those who will be separated from the corporation as a result of the reorganization.

6.2

Illegal benefits and allowances granted by management may not be deducted from the benefits of those who will be separated from the service by virtue of the reorganization.

6.3

In the case of those who choose to leave the service but those positions have been retained in the reorganized plantilla, they may be entitled to the same benefits as those reorganized out.

- On the above objection of the DBM on the proposal to grant a premium equivalent of 0.50 month per year of service, we wish to inform the President that the following government corporations granted incentive/separation benefits to their employees who were affected by reorganization as follows:

NPC –

maximum of 1.5 months salary for every year of service

DBP –

maximum of 1.75 month salary for every year of service plus P2,000.00 or service award for every year of service on top of regular retirement gratuity/annuity under existing laws.

CB –

maximum of 1.22 months salary for every year of service plus 10% premium if availed within reckoning period

PNB –

maximum of 1.75 months salary plus P2,000.00 for every year of service on top of regular retirement gratuity.

- After review, taking into consideration the similar incentive/separation benefits granted by the NPC, DBP, CB and PNB, we find the within ERIP proposal of MWSS to be in order. Hence, we recommend its approval by the President.

(signed)
TORRES

On July 19, 1996, President Ramos approved the recommendation of Executive Secretary Torres.[6]

On July 24, 1996, Executive Secretary Torres informed the Secretary of Budget and Management, the Secretary of Public Works and Highways and the Administrator of MWSS of the approval by the President of the Revised ERIP of the MWSS.[7]

On July 25, 1996, MWSS issued its Guidelines[8] for the Implementation of the Revised ERIP pursuant to EO No. 286. The Guidelines provided, inter alia, that the Revised ERIP for affected permanent officials and employees of the MWSS who had served at least one (1) year shall be computed as follows:

Years of Service Equivalent ERIP Gratuity

First 20 years 1.5 per year x Basic Monthly Pay

20 to 30 years 2.0 per year x Basic Monthly Pay

Over 30 years 2.5 per year x Basic Monthly Pay

On August 21, 1996, the MWSS issued Memorandum Circular No. 26-96B[9] providing for the payment of the Revised ERIP and Terminal Leave with detailed procedure[10] in processing the claims.

MWSS was thereafter reorganized and affected employees were paid their corresponding benefits under the Revised ERIP.

Subsequently, petitioner Zenaida Laraño and other retirees who had availed themselves of the benefits under the

Revised ERIP and who had rendered more than twenty (20) years of service filed their claims for payment of retirement benefits under RA No. 1616.

MWSS referred the matter of their claims to the Office of the Government Corporate Counsel (OGCC) for legal opinion. In its Opinion No. 224, Series of 2000, and Opinion No. 113, Series of 2001 dated October 11, 2000 and June 25, 2001, respectively, the OGCC advised MWSS that petitioner and other retirees were entitled to the payment of gratuity benefits under RA No. 1616 over and above the benefits granted under the Revised ERIP. It submitted that the benefits under the Revised ERIP received by the affected officials and employees were pure and simple separation pay, totally different and distinct from the retirement gratuity under RA No. 1616.

Relying on the OGCC legal opinions and after due deliberations between MWSS Management and its Board of Trustees, MWSS approved the initial payment under RA No. 1616 of gratuity benefits equivalent to fifteen percent (15%) to petitioner and other retirees who had previously availed themselves of the benefits under the Revised ERIP.[11]

On March 4, 2002, the COA Resident Auditor of MWSS disallowed[12] the payments of gratuity benefits on the following grounds:

- (1) The MWSS-ERIP is the retirement plan at the time of the separation/retirement of affected employees as a result of the MWSS privatization pursuant to Section 6 of Executive Order No. 286 dated December 16, 1995 and such includes an incentive over and above the gratuity benefits under RA 1616;
- (2) The affected MWSS employees could not invoke the principle of "equal protection clause" citing the double gratuity granted by the GSIS to its retiring employees;
- (3) There were no available funds for the purpose since the payment of gratuity benefits was not included in the approved Corporate Operating Budget (COB) for 2002, thus the payment would run counter to Section 4 of Presidential Decree No. 1445 (State Audit Code of the Philippines) and Section 1 (c) of RA 1616 which require that such retirement benefits shall be paid out of appropriation or of its savings;
- (4) Utilizing the P380 Million short-term loan with PNB and LBP for the payment of the disallowed benefits constitutes technical malversation; and
- (5) The deduction equivalent to ten percent (10%) of the gross claim representing administrative/legal expenses incurred in favor of one Mrs. Zenaida Larano, by virtue of special power of attorney, is illegal

On May 15, 2002, MWSS moved for reconsideration[13] of the Notice of Disallowance arguing that (1) there was no double payment of the gratuity benefits under RA No. 1616 to concerned MWSS officers and employees; (2) there were available funds for the purpose and charging the same against the P380 million short-term loan with the PNB and LBP was not technical malversation; (3) the deduction of 10% from each gross claim as administrative/legal expenses was with proper legal basis, and its propriety or legality was beyond the powers and functions of the COA; and (4) it was fully convinced of the legality of subject payments after due consultation with the OGCC, its statutory counsel.

On May 22, 2002, the COA Resident Auditor of MWSS referred the motion for reconsideration to the COA Director, Corporate Audit Office II, reiterating her bases for the disallowance and recommending that the motion be denied for lack of merit.[14]

In his letter of June 10, 2002, Government Corporate Counsel Amado D. Valdez informed the COA Resident Auditor that the OGCC considered the latter's referral of MWSS' motion for reconsideration to the COA Director, Corporate Audit Office II, as denial of the motion and as an appeal before the Office of the Director; thus, it was filing its Notice of Appeal to obviate any technicality.[15]

On June 28, 2002, COA Director Gloria S. Cornejo, Corporate Audit Office II, denied the motion for reconsideration/appeal and affirmed the disallowance by the COA Resident Auditor.[16]

On September 27, 2002, MWSS appealed the decision of COA Director Cornejo before respondent COA, by way of petition for review.[17]

In its May 22, 2003 Decision No. 2203-082,[18] respondent COA denied the appeal on the basis of a cursory examination of EO No. 286 and MWSS Memorandum Circular No. 26-96 dated July 25, 1996 that "clearly indicate that the MWSS – Early Retirement Incentive Package was intended to supplement the benefits the separated employee may receive from the GSIS." Respondent COA emphasized the provisions of Sec. 6 of EO No. 286:

Sec. 6. Separation pay. – Any official and employee of the MWSS and LWUA who may be phased out by reason of the reorganization shall be entitled to such benefits as may be determined by existing laws.

and MWSS Memorandum Circular No. 26-96:

The ERIP to be paid by MWSS to officials or employees qualified to retire shall be the difference between the incentive package and the retirement benefit under any existing retirement law (RA 1616, 1146 or 660).

Respondent COA held that taking the pertinent provisions together led to but one interpretation, i.e., affected employees had the option to retire under existing retirement laws or under the Revised ERIP of the MWSS. In addition, respondent COA stressed that retirement/separation benefits extended by MWSS to its separated employees were covered by the provision on Exclusiveness of Benefits under the GSIS law:

Whenever other laws provide similar benefits for the same contingencies covered by this Act, the member who qualifies to the benefits shall have the option to choose which benefits will be paid to him. However, if the benefits provided by the law chosen are less than the benefits provided under this Act, the GSIS shall pay only the difference.[19]

On June 30, 2003, MWSS moved for reconsideration.[20]

Meanwhile, on September 11, 2003, Genaro C. Bautista, and petitioner Zenaida Laraño in her personal capacity and in behalf of other claimants under RA No. 1616 moved for intervention as beneficiaries thereof.[21]

On June 24, 2004, respondent COA in its Resolution No. 2004-015[22] disposed:

WHEREFORE, premises considered, there being no new and material evidence that would warrant a reversal or modification of COA Decision No. 2003-082, the instant motion for reconsideration has to be, as it is hereby denied with FINALITY.

The motion for intervention filed was not acted upon.

On July 12, 2004, MWSS Administrator wrote petitioner Laraño,[23] thus:

Subject: COA Resolution No. 2004-015

Dear Ms. Larano:

Relative to the above mentioned case please be advised that we officially received copy of COA Resolution No. 2004-015 on July 8, 2004.

When the matter was brought to the attention of the MWSS Board of Trustees, the Board posed that, to wit: "the retirees concerned to secure their own counsel and file the necessary action/certiorari case in the Supreme Court if they are still interested to pursue the case"

With the said development, MWSS can no longer pursue the case. However, we are not unmindful of the repercussion of the said Resolution to you and your members' interests. It is for this reason that MWSS poses no objection to your bringing the matter to the Supreme Court for the final adjudication thereof. As your former employer, MWSS will assist in whatever way legally feasible under the circumstances.

Very truly yours,

(signed)

ORLANDO C. HONDRADE

Administrator

On August 6, 2004, petitioner Laraño, in her own behalf and as attorney-in-fact of the MWSS retirees, filed before the Court this petition assailing the decision and resolution of respondent COA that the payment by the MWSS of retirement benefits under RA No. 1616 to petitioner and other retirees who were previously paid their benefits under the Revised ERIP of MWSS constitutes double compensation.

Pertinent to the determination of petitioners' right or entitlement to their retirement benefits under RA No. 1616 over and above the benefits they already received from the Revised ERIP of MWSS are (1) Sec. 7 of RA No. 8041, (2) Sec. 6 of EO No. 286, (3) the April 17, 1996 Revised ERIP submitted by MWSS and (4) the July 10, 1996 Memorandum by then Executive Secretary Torres as approved by then President Ramos on July 19, 1996. It is emphasized here that what must be established are the rights of a specific class of claimants, i.e., officials and employees of MWSS who are qualified to retire under RA No. 1616.

Sec. 7 of RA No. 8041 authorized the President of the Republic to reorganize MWSS and LWUA. Pursuant to this mandate, then President Ramos issued EO No. 286 to reorganize MWSS and LWUA wherein Sec. 6 thereof provided for the payment of "such benefits as may be determined by existing laws" to any official or employee who may be phased out by reason of the reorganization. The same provision directed MWSS, LWUA and DBM "to study and propose schemes or measures to provide personnel who shall voluntarily resign from the service incentives and other benefits, including the possibility of accelerating the application of the revised compensation package under the Salary Standardization Law, Republic Act No. 6758."

Pursuant to the directive that included a provision that the recommendation be submitted to the President within thirty (30) days from the effectivity of EO No. 286, MWSS submitted to then Executive Secretary Torres on April 17, 1996 its Revised ERIP for approval of the President. The relevant provisions thereof state:

x x x x

- Officials and employees who may be affected by the Reorganization shall be paid the ERIP on the basis of the monthly basic salary at the designated salary step as of December 31, 1995 based on the full implementation of the salary rates authorized under Joint Senate and House of Representatives Resolution (JR) No. 1, s. 1994 (SSL II), computed in accordance with existing retirement laws as follows:

1-20 years = 1.0 x Basic Pay

21-30 years = 1.5 x Basic Pay

31 and above = 2 x Basic Pay

The National Water Crisis Act expressly provides for payment of separation pay benefits as may be determined by existing laws to any official or employee who may be affected by the Reorganization

Full implementation of the Salary Standardization Law II (SSL II) on the designated salary step as of December 31, 1995 under JR No. 1 is hereby proposed as the basis of the ERIP. The National Power

Corporation (NPC) was allowed to adopt its own separation package based on its new pay plan, way ahead of the SSL II implementation.

x x x x

- Additional premium of 0.50 month p[er] year of service based on standardized salary rate at the designated salary step as of December 31, 1995 shall be granted to affected regular officials and employees.

To ensure smooth implementation of their respective reorganization, other GOCCs and GFIs such as the National Power Corporation (NPC), Development Bank of the Philippines (DBP), Bangko Sentral ng Pilipinas (BSP), and Philippine National Bank (PNB) were earlier allowed to adopt their own separation packages with incentives and premium over and above the existing retirement benefits. (Copy of matrix attached).

Under item A of the proposed Revised ERIP, it is clear that separation pay shall be paid to officials and employees who may be affected by the reorganization at the rates of 1.0, 1.5 and 2.0 times basic pay for services rendered from the corresponding number of years: 1-20, 21-30, and 31 and above, respectively. In addition, Item C authorizes payment of premium of 0.5 month per year of service to affected regular officials and employees, with emphasis on allowance for other GOCCs and GFIs in adopting their own separation packages with incentives and premium over and above the existing retirement benefits.

Both premiums under Items A and C refer to separation pay for affected regular officials and employees.

This proposed Revised ERIP was recommended for approval by then Executive Secretary Torres on July 10, 1996 and approved by then President Ramos on July 19, 1996. The words of recommendation as approved were categorical, thus:

- After review, taking into consideration the similar incentive/separation benefits granted by the NPC, DBP, CB and PNB, we find the within ERIP proposal of MWSS to be in order. Hence, we recommend its approval by the President.

Indubitably, the proposed Revised ERIP of MWSS, as recommended by the Executive Secretary and approved by the President insofar as it concerned petitioners, referred only to separation benefits to affected officials and employees of MWSS. Consequently, officials and employees entitled to be paid their retirement benefits are those (1) affected by the reorganization of MWSS who had availed themselves of and paid the Revised ERIP and (2) qualified to retire under existing laws such as RA No. 1616.

That the guidelines implementing the Revised ERIP contained a provision that "[t]he ERIP to be paid by MWSS to officials and employees qualified to retire shall be the difference between the incentive package and the retirement benefit under any existing retirement law (RA 1616, 1146 or 660)" is not contrary to this pronouncement. The provision applies to MWSS officials and employees qualified to retire but not affected by the reorganization, in consonance with the directive in EO No. 286 "to study and propose schemes or measures to provide personnel who shall voluntarily resign from the service incentives and other benefits." Nevertheless, even assuming otherwise, it must be emphasized that, as guidelines, they should not and could not change the correct and clear import of the provisions of the law from which they are based. Well-settled is the rule that implementing guidelines cannot expand or limit the provision of the law it seeks to implement. Otherwise, it shall be considered ultra vires.

In fine, officials and employees of MWSS who were affected by its reorganization and qualified to retire under existing laws such as RA No. 1616 are entitled to claim retirement benefits, notwithstanding their receipt of benefits under the Revised ERIP of MWSS. Whereas, officials and employees of MWSS who were not affected by its reorganization but voluntarily retired, being qualified for retirement, are entitled to receive the incentive

under the Revised ERIP to the extent of its difference from the retirement benefit under any existing retirement law such as RA No. 1616. This does not run contrary to the provision on Exclusiveness of Benefits under the GSIS law:

Whenever other laws provide similar benefits for the same contingencies covered by this Act, the member who qualifies to the benefits shall have the option to choose which benefits will be paid to him. However, if the benefits provided by the law chosen are less than the benefits provided under this Act, the GSIS shall pay only the difference.[24]

The provision applies to the second category of MWSS officials and employees, i.e., those who were qualified to retire but not affected by its reorganization.

Petitioners herein alleged that they already received their benefits under the Revised ERIP of the MWSS. Necessarily, what must be determined now is what the records do not show -- who among them were affected by the reorganization of the MWSS, and who were not affected but nonetheless opted to retire. In other words, what must be shown through competent documents/evidence are the positions phased out by reason of the reorganization, and who among herein petitioners were holding the positions. This must be done, notwithstanding that subsequent to its reorganization, MWSS ceased to exist. Petitioners, at the time of the reorganization, acquired rights that had attained vested status – rights that may not be lawfully taken away from them.

Verily, petitioners affected by the reorganization who are claiming retirement benefits under RA No. 1616 must hereafter submit their claims to the GSIS with proper bases; i.e., that their positions in MWSS were phased out or otherwise affected by the reorganization and that, through the presentation of their service records, they are entitled to retirement benefits under RA No. 1616.

IN VIEW WHEREOF, the petition is partially GRANTED. Petitioners who were affected by the reorganization of Metropolitan Waterworks and Sewerage System and qualified to retire under Republic Act No. 1616 are entitled to receive their retirement benefits thereunder.

The Government Service Insurance Commission is DIRECTED (1) to EXPEDITE the payment of the claims of petitioners affected by the reorganization and qualified to retire under RA No. 1616; and (2) to SUBMIT to this Court its REPORT of compliance within ten (10) days therefrom.

SO ORDERED.

Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, and Leonardo-De Castro, JJ., concur.
Carpio, J., on leave.

[1] Penned by Chairman Guillermo N. Carague and concurred in by Commissioners Raul C. Flores and Emmanuel M. Dalman, Annex "A", rollo, pp. 29-34.

[2] Penned by Chairman Guillermo N. Carague and concurred in by Commissioner Emmanuel M. Dalman, Annex "B", *ibid.*, pp. 35-36.

[3] An Act Further Amending Section Twelve of Commonwealth Act Numbered One Hundred Eighty-Six, As Amended, By Prescribing Two Other Modes of Retirement And For Other Purposes.

[4] Annex "E", rollo, pp. 174-176.

[5] Annex "J", *ibid.*, pp. 126-128.

- [6] Id., see stamp of approval with signature of the President on p. 128.
- [7] Memorandum, rollo, p. 125.
- [8] Memorandum Circular No. 26-96, Annex "K", *ibid.*, p. 129.
- [9] Annex "L", *id.*, pp. 132-133.
- [10] Rollo, pp. 134-136.
- [11] MWSS Board of Trustees, Board Resolution No. 595-2001, dated November 30, 2001.
- [12] Notice of Disallowance No. 2002-001-05(02), Atty. Janet Dubaldo Nacion, State Auditor V.
- [13] Annex "B", *id.*, pp. 76-91.
- [14] 1st Indorsement, Atty. Janet Dubaldo Nacion, State Auditor V, Corporate Auditor, Annex "C", *id.*, pp. 92-98.
- [15] Sec. 2, Rule IV, 1997 Revised Rules of Procedure, Commission on Audit.
- [16] 2nd Indorsement, Gloria S. Cornejo, Director, Annex "G", rollo, pp. 102-107.
- [17] Annex "D", *id.*, pp. 47-69.
- [18] See note 1.
- [19] Sec. 45, Presidential Decree No. 1146, as amended by Republic Act No. 8291.
- [20] Annex "F", *id.*, pp. 160-168.
- [21] Annex "E", *id.*, pp. 156-159.
- [22] See note 2.
- [23] Annex "G", *id.*, p. 181.
- [24] See note 19.

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