

TEODORO J. SANTIAGO, PETITIONER, VS. THE COMMISSION ON AUDIT, AND THE GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

G.R. No. 92284. July 12, 1991

Ponente: CRUZ, J.

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CRUZ, J.:

The basic issue presented in this case is the correct interpretation of Executive Order No. 966, Section 9, providing as follows:

Sec. 9. Highest Basic Salary Rate. - The compensation of salary or pay which may be used in computing the retirement benefits shall be limited to the highest salary rate actually received by an official/employee as fixed by law and/or indicated in his duly approved appointment. This shall include salary adjustments duly authorized and implemented by the presidential issuance(s) and budget circular(s), additional basic compensation or salary indicated in an appointment duly approved as an exception to the prohibition on additional or double compensation, merit increases, and compensation for substitutionary services or in an acting capacity. For this purpose, all other compensation and/or fringe benefits such as per diems, allowances, bonuses, overtime pay, honoraria hazard pay, flying time fees, consultancy or contractual fees, or fees in correcting and/or releasing examination papers shall not be considered in the computation of the retirement benefits of an official/employee.

The question was raised by the petitioner in connection with the computation of his retirement benefits which he claims was not made in conformity to the above-quoted requirement.

The petitioner was employed in the Commission on Audit as State Auditor IV with a monthly salary of P7,219.00. In 1988, he was assigned to the COA Auditing Unit at the Department of Transportation and Communications and detailed to the Manila International Airport Authority. On July 1, 1988, the board of directors of the MIAA passed the following resolution:[1]

RESOLUTION NO. 88-70

RESOLVED, that, as recommended by Management, the designation of Mr. Teodoro J. Santiago, Jr., as Assistant General Manager for Finance and Administration, effective 15 August 1988, be approved, as it is hereby approved, subject to the following conditions:

1. He will retain his plantilla position in COA;
2. His compensation from MIAA, shall be the difference between the salary of AGM for Finance and Administration (MIAA) and that of State Auditor IV (COA); and
3. His retirement benefits shall be chargeable against COA.

This resolution was duly communicated to the COA on July 11, 1988, with a request for the petitioner's indefinite detail to the MIAA. In reply, Chairman Eufemio C. Domingo wrote MIAA on July 14, 1988, as follows:[2]

x x x please be informed that we are authorizing such detail through appropriate office order up to February 15, 1989. The order includes authority to collect representation and transportation allowances (RATA) of P1,200.00 each month and other allowances attendant to the position chargeable against the funds of the NAIAA.

As regards your proposal that Mr. Santiago be allowed to collect the difference in salary of his position in the COA as State Auditor IV and his designated position as Assistant General Manager thereat, likewise chargeable against the funds of that office, this Commission interposes no objection to the proposal to pay him the difference between his present monthly salary of P7,219.00 and that of Assistant General Manager which reportedly amounts to P13,068.00 a month or a monthly difference of P5,849.00, provided that he is formally designated (not appointed) Assistant General Manager by the Board of Directors, NAIAA, and that payment of his salary differential is approved by the same office. xxx xxx xxx.

On August 10, 1988, Secretary Reinerio O. Reyes, concurrently chairman of the MIAA board of directors, issued an office order formally designating the petitioner as Acting Assistant General Manager for Finance and Administration, effective August 16, 1988.[3]

The petitioner served in this capacity and collected the differential salary of P5,849.00 plus his salary of P7,219.00 for a total compensation of P13,068.00. He received this compensation until December 5, 1988, when he was transferred to the Presidential Management Staff under COA Office Order No. 88-11448 dated December 6, 1988.

On March 1, 1989, the petitioner retired after working in the government for 44 years.

In computing his retirement benefits, the Government Service Insurance System used as basis the amount of P13,068.00, considering this the highest basic salary rate received by the petitioner in the course of his employment.[4] The COA disagreed, however, and paid his retirement benefits on the basis of only his monthly salary of P7,219.00 as State Auditor IV.[5]

The petitioner requested recomputation based on what he claimed as his highest basic salary rate of P13,068.00. This was denied on December 8, 1989, and he was so notified on February 5, 1990. On March 7, 1990, he came to this Court to seek reversal of the decision of the COA on the ground of grave abuse of discretion.

We note at the outset that there is no dispute regarding the legality of the petitioner's occupying the second position in the MIAA and receiving additional compensation for his services therein. As the Solicitor General observed, "What the petitioner was receiving from the MIAA was the additional compensation allowed under Section 17 of Act No. 4187 which, in turn, is allowed under Section 8, Paragraph B, Article IX of the Constitution." [6]

In *Quimzon v. Ozaeta*, [7] this Court held that double appointments are not prohibited as long as the positions involved are not incompatible, except that the officer or employee appointed cannot receive additional or double compensation unless specifically authorized by law. The additional compensation received by the petitioners is not an issue in the case at bar because of its express approval by the COA and the admission of the Solicitor General that it is allowed under the cited provision.

More specifically, Section 17 of Act No. 4187 provides:

Any existing act, rule or order to the contrary notwithstanding, no full time officer or employee of the government shall hereafter receive directly or indirectly any kind of additional or extra compensation or salary including per diems and bonuses from any fund of the government, its dependencies, and semi-government entities or boards created by law except:

- (1) Officers serving as chairman or members of entities and enterprise organized, operated, owned or controlled by the government, who may be paid per diem for each meeting actually attended or when an official travel;
- (2) Auditors and accountants;
- (3) Provincial and municipal treasurers and their employees;
- (4) Employees serving as observers of the Weather Bureau; and
- (5) Those authorized to receive extra or additional compensation by virtue of the provision of this Act. (Underscoring supplied)

The Solicitor General argues, albeit not too strongly, that the additional compensation received by the petitioner was merely an honorarium and not a salary. As a mere honorarium, it would not fall under the provision of Section 9 and so should not be added to his salary in computing his retirement benefits.

We cannot accept this contention. An honorarium is defined as something given not as a matter of obligation but in appreciation for services rendered, a voluntary donation in consideration of services which admit of no compensation in money.[8] The additional compensation given to the petitioner was in the nature of a salary because it was received by him as a matter of right in recompense for services rendered by him as Acting Assistant General Manager for Finance and Administration. In fact, even Chairman Domingo referred to it in his letter dated July 14, 1988, as the petitioner's "salary differential."

The Solicitor General's main argument is that the petitioner cannot invoke Section 9 because he was not appointed to the second position in the MIAA but only designated thereto. It is stressed that under the said provision, "the compensation of salary or pay which may be used in computing the retirement benefits shall be received by an official employee as fixed by law and/or indicated in his duly approved appointment." The petitioner's additional salary was fixed not in a duly approved appointment but only in a designation.

Belittling this argument, the petitioner maintains that there is no substantial distinction between appointment and designation. He cites *Mechem*, who defines appointment as "the act of designation by the executive officer, board or body, to whom that power has been delegated, of the individual who is to exercise the functions of a given office." [9] He also invokes *Borromeo v. Mariano*, [10] where this Court said that "the term 'appoint,' whether regarded in its legal or in its ordinary acceptance, is applied to the nomination or designation of an individual."

Strictly speaking, there is an accepted legal distinction between appointment and designation. While appointment is the selection by the proper authority of an individual who is to exercise the functions of a given office, designation, on the other hand, connotes merely the imposition of additional duties, usually by law, upon a person already in the public service by virtue of an earlier appointment (or election). [11] Thus, the appointed Secretary of Trade and Industry is, by statutory designation, a member of the National Economic and Development Authority. [12] A person may also be designated in an acting capacity, as when he is called upon to fill a vacancy pending the selection of a permanent appointee thereto or, more usually, the return of the regular incumbent. In the absence of the permanent Secretary, for example, an undersecretary is designated acting head of the department. [13]

As the Court said in *Binamira v. Garrucho*: [14]

Appointment may be defined as the selection, by the authority vested with the power of an individual who is to exercise the functions of a given office. When completed, usually with its confirmation, the appointment results in security of tenure for the person chosen unless he is replaceable at pleasure because of the nature of his office. Designation, on the other hand, connotes merely the imposition by law of additional duties on an

incumbent official, as where, in the case before us, the Secretary of Tourism is designated Chairman of the Board of Directors of the Philippine Tourism Authority, or where, under the Constitution, three Justices of the Supreme Court are designated by the Chief Justice to sit in the Electoral Tribunal of the Senate or the House of Representatives. It is said that appointment is essentially executive while designation is legislative in nature.

Nevertheless, we agree with the petitioner that in the law in question, the term "appointment" was used in a general sense to include the term "designation." In other words, no distinction was intended between the two terms in Section 9 of Executive Order No. 966. We think this to be the more reasonable interpretation, especially considering that the provision includes in the highest salary rate "compensation for substitutionary services or in an acting capacity." This need not always be conferred by a permanent appointment. A contrary reading would, in our view, militate against the letter of the law, not to mention its spirit as we perceive it. That spirit seeks to extend the maximum benefits to the retiree as an additional if belated recognition of his many years of loyal and efficient service in the government.

As thus interpreted, Section 9 clearly covers the petitioner, who was designated Acting Assistant General Manager for Finance and Administration in the office order issued by Secretary Reyes on August 10, 1988. The position was then vacant and could be filled either by permanent appointment or by temporary designation. It cannot be said that the second position was only an extension of the petitioner's office as State Auditor IV in the Commission on Audit as otherwise there would have been no need for his designation thereto. The second office was distinct and separate from his position in the Commission on Audit. For the additional services he rendered for the MIAA, he was entitled to additional compensation which, following the letter and spirit of Section 9, should be included in his highest basic salary rate.

It is noteworthy that the petitioner occupied the second office not only for a few days or weeks but for more than three months. His designation as Acting Assistant General Manager for Finance and Administration was not a mere accommodation by the MIAA. On the contrary, in his letter to Chairman Domingo requesting the petitioner's services, MIAA General Manager Evergisto C. Macatulad said, "Considering his qualifications and work experience, we believe that a finance man of his stature and caliber can be of great help in the efficient and effective performance of the Airport's functions."

Retirement laws should be interpreted liberally in favor of the retiree because their intention is to provide for his sustenance, and hopefully even comfort, when he no longer has the stamina to continue earning his livelihood. After devoting the best years of his life to the public service, he deserves the appreciation of a grateful government as best concretely expressed in a generous retirement gratuity commensurate with the value and length of his services. That generosity is the least he should expect now that his work is done and his youth is gone. Even as he feels the weariness in his bones and glimpses the approach of the lengthening shadows, he should be able to luxuriate in the thought that he did his task well, and was rewarded for it.

WHEREFORE, the petition is GRANTED. The challenged resolution is SET ASIDE and judgment is hereby rendered DIRECTING the computation of the petitioner's retirement benefits on the basis of his Highest Basic Salary Rate of P13,068.00. It is so ordered.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Paras, Feliciano, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.
Gancayco, J., on leave.

[1] Rollo, p. 20.

[2] Ibid., p. 22.

[3] Id., p. 24.

[4] Id., p. 26.

[5] id., pp. 27-28.

[6] Id., p. 65.

[7] 98 Phil. 705.

[8] McDonald v. Napier, 14 Ga 89.

[9] Public Office and Officers, Sec. 102.

[10] 41 Phil. 322.

[11] Binamira v. Garrucho, 188 SCRA 188; Gonzales, Political Law Review (1969), pp. 184-185.

[12] Sec. 5, Chapter 2(C), Title II of Book V, Revised Administrative Code of 1987.

[13] Sec. 10(5), Chapter 2 of Book IV, Revised Administrative Code of 1987.

[14] 188 SCRA 158-159.

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