



Republic of the Philippines
SUPREME COURT
Manila

EN BANC

**In Re: Expiration of Fixed Term of
Office of Atty. Saaduddin A.
Alauya, Office of the Jurisconsult,
Zamboanga City**

A.M. No. 11238-Ret.

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
VILLARAMA, JR.,*
PEREZ,
MENDOZA,
REYES,**
PERLAS-BERNABE,
LEONEN, and
JARDELEZA, JJ.

Promulgated:

August 18, 2015

X-----*[Signature]*-----X

RESOLUTION

VELASCO, JR., J.:

Before the Court is an earnest request of Atty. Saaduddin A. Alauya for payment, pursuant to Section 3, Republic Act No. (RA) 910,¹ as amended,² for a lifetime monthly pension.

On August 12, 1996, then President Fidel V. Ramos appointed Atty. Alauya as Jurisconsult in Islamic Law for a term of seven (7) years.³ Prior to

* On official leave.

** On leave.

¹ AN ACT TO PROVIDE FOR THE RETIREMENT OF JUSTICES OF THE SUPREME COURT AND OF THE COURT OF APPEALS. FOR THE ENFORCEMENT OF THE PROVISIONS HEREOF BY THE GOVERNMENT SERVICE INSURANCE SYSTEM AND TO REPEAL COMMONWEALTH ACT [536].

² By RA Nos. 1057, 1797, 2614, 5095, 9227, 9946 and PD No. 1438.

³ Rollo, p. 22.

this appointment, Atty. Alauya had rendered government service in the following capacities: as Municipal Trial Court judge of Bubong, Lanao del Sur for a little over ten (10) years, or from March 16, 1971 to April 29, 1981; as professor of the Mindanao State University from March 1983 to November 1987; as vice-governor of Lanao del Sur from March 1988 to March 1992, followed by his March 1, 1994 to March 20, 1995 stint as Chairman of the Code of Commission on Muslim Laws-ARMM.⁴

On August 22, 1996, Atty. Alauya took his oath of office and then proceeded to discharge the functions of a Jurisconsult, with station in Zamboanga City, until his term of office expired on August 20, 2003.⁵ Earlier, however, he filed an application for retirement, indicating therein his intention to retire under the provisions of RA 910.⁶ As of August 20, 2003, the then 65-year-old Atty. Alauya had, in all, a total of a little over 33 years of government service behind him, the last seven (7) of which served as Jurisconsult. In terms then of the requirements on age and length of service in government, Atty. Alauya was qualified to retire under Section 1⁷ of that law, as amended.⁸

On the postulate that Sec. 1 of RA 910 applies only to justices or judges, the Office of the Court Administrator (OCA), per its Memorandum to the then Chief Justice dated August 6, 2003, recommended the denial of Atty. Alauya's application to so retire under that law. Before Atty. Alauya's retirement papers, as Jurisconsult, could be completely processed, however, the Court *en banc*, by Resolution dated February 3, 2004, conferred upon him the rank and privileges of a Regional Trial Court (RTC) judge effective October 1996.⁹ And in another *en banc* Resolution of March 2, 2004, the Court resolved to "(a) allow xxx Alauya to retire under [R.A. 910]; (b) direct the Financial Management Office [OCA] to compute [and release his] retirement benefits based on the salary he was receiving at the time of his retirement [subject to the withholding of the amount expended in his travel to Saudi Arabia] and (c) [d]eclare that "henceforth, the Jurisconsult shall have the rank, salary and privileges of a Judge of the [RTC]."¹⁰

In a letter of April 15, 2008,¹¹ Atty. Alauya reminded the Court that he was allowed to and did retire on August 21, 2003 under RA 910 – and thus was entitled to a lifetime monthly pension after August 2008, or five years after his retirement.¹² Hence, this request.

⁴ Id. at 4.

⁵ Id.

⁶ Id. at 23.

⁷ Sec. 1 of RA 910, as amended by RA 5095, *infra*, requires a minimum service requirement of 20 years, the last 5 years of which to have been served continuously in the judiciary.

⁸ RA 9946, approved on January 13, 2010, has since reduced the length of service requirement under RA 910, as amended, from twenty (20) years to fifteen (15) to be entitled to the retirement benefits with lifetime monthly pension or annuity.

⁹ *Supra* note 3 at 49.

¹⁰ Id. at 111.

¹¹ Id. at 133.

¹² As amended by RA 4627, Sec. 3 of RA 910, as amended, provides that upon retirement, a Justice of the Supreme Court, of the CA or a Judge of the CFI, among other judges, shall be "automatically entitled to a lump-sum payment of five years' salary based upon the last annual salary that said Justice or

In its Resolution dated December 16, 2008, the Court, in light of and citing its earlier Resolution¹³ in A.M. No. 11838-Ret. (Re: *Request of Retired Deputy Court Administrator [DCA] Bernardo T. Ponferrada for Automatic Adjustment of His Retirement Benefits to Include Special Allowance granted under [RA] No. 9227*), denied Atty. Alauya's above request.¹⁴

From the above adverse action, as subsequently reiterated,¹⁵ Atty. Alauya repeatedly sought reconsideration, the latest via a letter of January 21, 2014, which the Court referred to the OCA for evaluation, report and recommendation.¹⁶

Owing to the Court's previous denial resolutions, the OCA at first urged the denial of the desired reconsideration, but later changed its earlier stance and, this time, recommended the approval of Atty. Alauya's request for a lifetime monthly pension, for reasons detailed in a Memorandum dated June 17, 2014.¹⁷ In it, the OCA draws particular attention to the reality that Court officials with judicial ranks have retired under RA 910 and have received or are now receiving lifetime monthly pensions.¹⁸ The OCA also pushes for a revisit of the Court's underlying December 16, 2008 action denying Atty. Alauya's present request on the basis of its *Ponferrada* ruling in A.M. No. 11838-(Ret) denying retired DCA Ponferrada's request for automatic adjustment of his retirement benefits.

The recommendation of the OCA is well-taken, as shall be explained hereunder, but first some basic premises: (1) The Court has, by resolution, granted judicial ranks and privileges to certain court officials not exercising judicial functions; (2) The Muslim Code (PD 1083) which created the Office of the Jurisconsult does not provide for retirement benefits for a Jurisconsult; (3) The administrative supervision of the Court¹⁹ over the Office of the Jurisconsult has been delegated to the OCA;²⁰ and (4) A jurisconsult is neither a Justice or a judge in the Judiciary.

entitled to a lump-sum payment of five years' salary based upon the last annual salary that said Justice or Judge was receiving at the time of this retirement and thereafter **upon survival after the expiration of this period of five years**, to a further annuity equivalent to the amount of the monthly salary he was receiving on the date of his retirement."

¹³ Dated August 30, 2005, as reiterated in a Resolution dated December 9, 2008.

¹⁴ Supra note 3 at 190; reiterated in a Resolution dated March 17, 2009, supra at 196-197.

¹⁵ Per Resolutions dated March 17, 2009 (Id. at 196-197) and July 14, 2009 (Id. at 211), respectively.

¹⁶ Supra note 3 at 281; in a Resolution dated January 28, 2014.

¹⁷ Id. at 429-434.

¹⁸ As of April 2, 2012, the following SC officials with judicial rank retired under RA 910 and are now receiving their monthly pension: former court administrators Alfredo Benipayo and Christopher O. Lock, former DCAs Eutropio Migrino, Juanito Bernard and Reynaldo Suarez; former ACA Ismael Khan, division or deputy clerks of court Lourdes Ramirez, Adelaida Baumann, Erlinda Verzosa, Virginia Soriano Tomasita Dris, Julieta Carreon and Teresita Dimaisip and Director IV Celso Gabalones.

¹⁹ Art. 164 of Muslim Code provides: (2) The office of the Jurisconsult shall be under the administrative supervision of the Supreme Court of the Philippines xxx.

²⁰ Per Administrative Circular 1-98, dated January 27, 1998.

As earlier recited, the Court, in its February 3, 2004 Resolution, accorded Atty. Alauya the “rank and privileges” of a judge of the RTC. Thereafter, in a March 2, 2004 Resolution, it allowed Atty. Alauya to retire under RA 910, as amended by RA 5095, Section 1 of which states that:

Sec. 1. When a Justice of the Supreme Court, the Court of Appeals, [or] a judge of [the regional trial court] xxx who has rendered at least twenty (20) years of service in the judiciary or in any other branch of the Government, or in both (a) retires for having attained the age of seventy years, or resigns by reason of his incapacity to discharge the duties of his office, he shall receive during the residue of his natural life ... the salary xxxx And when a justice of the Supreme Court, the Court of Appeals, xxx [or] a **judge of [the regional trial court]**, xxx or a city or municipal judge has attained the age of **sixty years** and has **rendered at least twenty years service in the Government**, the last five of which shall have been continuously rendered in the judiciary, he shall likewise be entitled to retire and receive during the residue of his/her natural life also in the manner hereinafter provided, the salary he was then receiving. (Emphasis supplied and words in brackets added.)

The question that now comes to the fore is: does the term “privileges of a judge of the RTC” also include in context lifetime monthly pension? Or, put a bit differently, is the entitlement to such pension a privilege that comes within the coverage of the Court’s March 2, 2004 Resolution declaring that “henceforth, the Jurisconsult shall have the rank, salary and privileges of a Judge of the [RTC]”? The poser must be answered in the affirmative.

As it were, Atty. Alauya was qualified and allowed to retire, in fact retired, under the aforequoted Sec. 1 of RA 910. There is thus no rhyme or reason to deny him lifetime monthly pension, as provided in the succeeding Sec. 3, reproduced below, since the only requirement to be deserving of the pension, as aptly observed by the OCA, is that one retired under said Sec. 1.

Section 3. Upon retirement, a justice of the Supreme Court or of the Court of Appeals or a judge of the [RTC] xxx shall be automatically entitled to a lump-sum payment of five-years salary based upon the highest annual salary that said justice or judge has received and thereafter, upon survival after the expiration of this period of five years, to a further annuity payable monthly during the residue of his natural life equivalent to the amount of the monthly salary he was receiving on the date of his retirement.

Time and again, the Court has followed the practice of liberal treatment in passing upon retirement issues and claims,²¹ particularly of judges and justices, obviously in keeping with the beneficial intendment²² of retirement laws which is to reward satisfactory past services and at the same time provide the retiree with the means to support himself and his family in his remaining years.²³ In the recent case of *Re: Application for Survivorship*

²¹ *Re: Request of (Ret.) Chief Justice Artemio V. Panganiban for Recomputation of His Creditable Service for the Purpose of Recomputing His Retirement Benefits*, A.M. No. 10-9-15-SC, February 12, 2013, 690 SCRA 242, 259.

²² *Re: Ruperto G. Martin*, A.M. No. 747-Ret., July 13, 1990, 187 SCRA 477, 483.

²³ *Tantuico, Jr. v. Domingo*, G.R. No. 96422, February 28, 1994, 230 SCRA 391.

Pension Benefits under [RA] No. 9946 of Mrs. Pacita A. Gruba,²⁴ the Court restated the principle underlying such benign interpretation in favor of retired personnel, thus:

On several occasions, this Court has liberally interpreted retirement laws in keeping with its purpose. In *Government Service Insurance System v. De Leon*:

Retirement laws, in particular, are liberally construed in favor of the retiree because their objective is to provide for the retiree's sustenance and, hopefully, even comfort, when he no longer has the capability to earn a livelihood. The liberal approach aims to achieve the humanitarian purposes of the law in order that efficiency, security, and well-being of government employees may be enhanced. Indeed, retirement laws are liberally construed and administered in favor of the persons intended to be benefited, and all doubts are resolved in favor of the retiree to achieve their humanitarian purpose.

Upon the foregoing perspective, the term "privileges of an RTC judge" and the conferment thereof must be considered as covering the retirement benefits under RA 910, meaning a lump-sum payment of five years' salary and a monthly pension until death after the 5-year period contemplated in its aforementioned Section 3. Section 3 cannot be taken in abstract isolation and delinked from the rest of RA 910, particularly from Section 1; otherwise Section 1 would be of little meaning. As the OCA pointed out, said section "is inseparable from R.A. No. 910 and the only requirement to be entitled to [Sec.3] monthly pension is that the claimant should have retired under Section 1."²⁵ As a matter of record, certain officers of the Court, *i.e.*, assistant/deputy court administrators and clerks of court, who, although neither justices nor judges or have never served a day as judges, were, by Court Resolution, given judicial ranks and privileges and corollarily allowed to retire under RA 910. And, as in the case of CA justices or RTC judges, these retired Court officers had received the 5-year lump-sum benefit upon retirement²⁶ and monthly pension 5 years hence. Atty. Alauya has, therefore, a valid point in seeking to be placed on the same level as those officials.²⁷ Indeed dealing Atty. Alauya a treatment dissimilar to that extended to said officials would verily perpetuate a wrong, but, perhaps worse still, would lend plausibility to Atty. Alauya's outlandish suggestion about the existence of what he termed as "compartmentalized justice" in the Court and that he might be discriminated against "because he is a Muslim."²⁸

A final thought. The OCA has stated the observation that the adverted August 30, 2005 resolution in *Ponferrada*, as reiterated in a December 9,

²⁴ A.M. No. 14155-Ret., November 19, 2013, 709 SCRA 603.

²⁵ Supra note 3 at 432.

²⁶ At age 65, the compulsory retirement age for government employees in the Civil Service.

²⁷ Supra note 18. The list should now include Atty. Ma. Piedad Ferrer Campaña, DCC and reporter and DCA Ponferrada, among other SC officials.

²⁸ Letter to then Chief Justice Reynato S. Puno dated 21 April 2009, reiterated in another letter to the Court dated January 21, 2014.

2008 resolution, denying a certain claim of retired DCA Ponferrada, should not have been applied as basis to deny the request of Atty. Alauya.

The observation is well-taken. DCA Ponferrada retired in February 2001 under RA 910 and shortly thereafter received a 5-year lump-sum gratuity payment equivalent to an associate justice of the CA.²⁹ Then, **RA 9227**³⁰ took effect on November 11, 2003, or thereabouts, granting additional compensation in the form of special allowances to, among others, CA justices and RTC judges and all other positions in the judiciary with the equivalent rank of an Associate CA Justice and an RTC judge. He invoked Sec. 3-A of RA 910, as amended by RA 1797, providing that –

Sec. 3-A. In case the salary of Justices of the Supreme Court or of the [CA] is increased or decreased, such increased or decreased salary, shall for the purposes of this Act, be deemed to be the salary or the retirement pension which a Justice who as of June 12, [1954] had ceased to be such to accept another position in the Government or who retired at the time of his cessation in office xxx [.]

Ponferrada then sought the automatic adjustment of his retirement benefits to include the special allowance under RA 9227. In its Resolution of August 30, 2005,³¹ on the stated issue of whether Ponferrada “who received no appointment as Justice of any appellate court but who retired before the effectivity of RA 9227 ‘with the rank, salary and privileges of a [CA] associate justice,’ is entitled to the retirement benefits under RA 9227 in the same manner as retired Justices xxx of appellate courts,” the Court peremptorily declared that he was not so entitled, for the following reason:

The grant of special allowance and the special allowance’s inclusion in the computation of retirement benefits under RA 9227 apply not only to justices and judges but also to “all other positions in the Judiciary with equivalent rank of justices of the [CA] and judges of the [RTC].” **RA 9227 is a grant of special allowance to incumbents in the service as of the effectivity of RA 9227.** The retirement benefits of these incumbents are computed to include the special allowance they actually receive under RA 9227.

However, there is nothing in RA 9227 itself that makes the special allowance apply to justices and judges who retired before the effectivity of RA 9227. **The rule is that increases in salaries and allowances of incumbents do not benefit those who retired prior to the effectivity of the law granting the increase.**³² (emphasis added)


The key issue then in *Ponferrada* turns, in fine, **not** on Ponferrada’s entitlement to a monthly lifetime pension under RA 910, as in Atty.

²⁹ Under PD 828, the Deputy Court Administrator shall have the same rank, privileges and compensation equivalent to an Associate Justice of the CA.

³⁰ Section 2 of RA 9227 reads: “SEC 2. *Grant of Special Allowances.* – All justices, judges and all other positions in the judiciary with the equivalent rank of justices of the [CA] and judges of the [RTC] as authorized under existing laws shall be granted special allowances equivalent to one hundred percent (100%) of the basic monthly salary specified for their respective salary grades under [RA] 6758, as amended xxx.”

³¹ Supra note 3 at 316-324.

³² Id. at 319.




Alauya's case, but as to whether he deserves the desired retroactive upward adjustment of his 5-year lump-sum pay to include the special allowance granted under RA 9227 and, at the appropriate time, the adjustment of his monthly pension. Clearly then, it was not apropos to apply *Ponferrada* as a ground to deny Atty. Alauya's claim for this reason: The central issue in *Ponferrada* is not about Ponferrada's right to lifetime monthly pension as DCA; Atty. Alauya's present plea, on the other hand, revolves, no more, no less, around his right to a lifetime monthly pension based on the salary he was receiving when he retired in 2003 as Jurisconsult.

And if only to stress a point, Atty. Alauya, like former DCA Ponferrada, shall not, in the computation of his monthly annuity, be entitled to the special allowances provided under RA 9227 inasmuch as he was already retired when that law took effect in November 2003. Neither is he entitled to the additional wage and non-wage benefits/allowances granted under RA 9946³³ – *An Act Granting Additional Retirement, Survivorship and Other Benefits to Members of the Judiciary, Amending for the Purpose [RA] No. 910* – in light of the fact that, by express statutory command,³⁴ they shall, in context, inure only to retired “members of the Judiciary.” Nor, in line with the Court's *En Banc* Resolution issued on February 17, 2009 in A.M. No. 11383, shall he be allowed to receive adjustments in his monthly pension under Sec. 3-A of R.A. No. 910.

The grant of the claim of Atty. Alauya shall be treated as *pro hoc vice*.

WHEREFORE, premises considered, the request of Atty. Saaduddin A. Alauya for a lifetime monthly pension under R.A. No. 910, as amended, computed on the basis of the salary he received upon his retirement on August 20, 2003 is hereby **GRANTED, effective August 21, 2008** subject to the availability of funds and the usual accounting and audit requirements. It shall be strictly understood that Atty. Alauya's monthly pension shall not include the special allowances provided under RA 9227 and the additional wage and non-wage benefits granted under RA 9946. Nor shall he be entitled to receive adjustments in his monthly pension under Sec. 3-A of R.A. No. 910.

SO ORDERED.


PRESBITERO J. VELASCO, JR.
Associate Justice

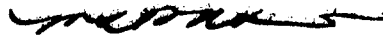
³³ Supra note 8.

³⁴ Sec. 4 Two (2) new sections are hereby inserted in [RA] 910, as amended, to read as Section 3-A and Section 3-B.

“Sec. 3-A. All pension benefits of retired members of the Judiciary shall be automatically increased whenever there is an increase in the salary of the same position from which he/shall retired.”

“Sec. 3-B The benefits under this Act shall be granted to all those who have retired prior to the effectivity of this Act: *Provided*, That the benefits shall be applicable only to members of the Judiciary: *Provided further*, That the benefits to be granted shall be prospective.”

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



ANTONIO T. CARPIO
Associate Justice



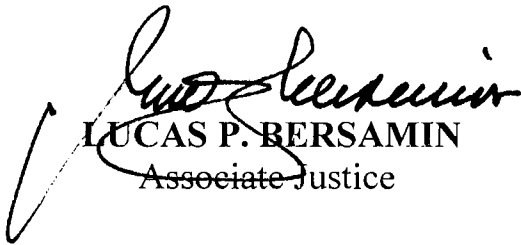
TERESITA J. LEONARDO-DE CASTRO
Associate Justice



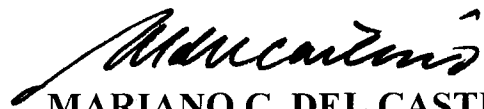
ARTURO D. BRION
Associate Justice



DIOSDADO M. PERALTA
Associate Justice



LUCAS P. BERSAMIN
Associate Justice





MARIANO C. DEL CASTILLO
Associate Justice

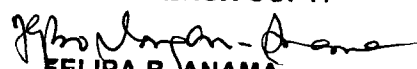
(On Official Leave)
MARTIN S. VILLARAMA, JR.
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice
JOSE CATRAL MENDOZA
Associate Justice

(On leave)
BIENVENIDO L. REYES
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice
MARVIC M.V.F. LEONEN
Associate Justice
FRANCIS H. JARDELEZA
Associate Justice

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CLERK OF COURT, EN BANC
SUPREME COURT