



Republic of the Philippines  
Supreme Court  
Manila

EN BANC

RE: APPLICATION FOR OPTIONAL  
RETIREMENT UNDER REPUBLIC  
ACT NO. 910, AS AMENDED BY  
REPUBLIC ACT NO. 5095 AND  
REPUBLIC ACT NO. 9946, OF  
ASSOCIATE JUSTICE MARTIN S.  
VILLARAMA, JR.

A.M. No. 15-11-01-SC

Present:

SERENO, C.J.,\*  
CARPIO,\*\*  
VELASCO, JR.,  
LEONARDO-DE CASTRO,  
PERALTA,  
BERSAMIN,  
DEL CASTILLO,  
PERLAS-BERNABE,  
LEONEN,  
JARDELEZA,  
CAGUIOA,  
MARTIRES,  
TIJAM,  
REYES, and  
GESMUNDO, JJ.

Promulgated:

March 6, 2018

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RESOLUTION

MARTIRES, J.:

The present matter concerns the computation of the longevity pay of Associate Justice Martin S. Villarama, Jr. (*Justice Villarama*), a former member of this Court.

Previously, Justice Villarama, in a letter<sup>1</sup> dated 2 November 2015, applied for optional retirement under Republic Act (R.A.) No. 910, as

\* On Leave.

\*\* Acting Chief Justice.

amended by R.A. No. 5095 and R.A. No. 9946, to be effective on 15 January 2016. In a Resolution<sup>2</sup> dated 10 November 2015, the Court granted Justice Villarama's request for optional retirement and approved the payment of Justice Villarama's retirement gratuity and terminal leave benefits, exclusive of the longevity pay component, pending the resolution of his requests for adjustments to his longevity.

We are tasked to determine the amount of longevity pay due to Justice Villarama.

## THE FACTS

### *Antecedents*

On 14 August 1981, *Batas Pambansa Bilang 129 (B.P. Blg. 129)*, known as "The Judiciary Reorganization Act of 1980," became effective and, by virtue thereof, created or established the Court of Appeals, Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts. Section 42 of the law granted to justices and judges of the said courts a monthly longevity pay equivalent to 5% of the monthly basic pay for each five-year period of continuous, efficient, and meritorious service in the judiciary.

Since the Supreme Court, the Sandiganbayan, and the Court of Tax Appeals were not covered by B.P. Blg. 129, the justices and judges of these courts were not entitled to the monthly longevity pay provided in Section 42 of B.P. Blg. 129. Presidential Decree No. 1927, approved on 2 May 1985, corrected the gap.

On 25 September 2003, Justice Josue N. Bellosillo (*Justice Bellosillo*), a former member of this Court who was then due to retire compulsorily, requested that his earned leave credits be tacked to his judicial service in order to increase his longevity pay. Justice Bellosillo's letter-request was docketed as A.M. No. 03-9-20-SC. He wrote:

In the past, the Court had allowed the tacking of earned leave credits to government service in order to enable retiring members of the judiciary to complete the age/service requirement under R.A. No. 910 or to increase their longevity pay for purposes of computing their retirement benefits.



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<sup>1</sup> *Rollo*, (no proper pagination); letter of Justice Villarama, pp. 1-4.

<sup>2</sup> *Id.* at (no proper pagination).

Invoking past judicial precedents, may I request that my earned leave credits be tacked to my judicial service to increase my longevity pay.

Tacking my earned leave credits to my judicial service I would have served, upon my retirement, for thirty-seven (37) years, six (6) months and twenty (20) days, that would entitle me to additional longevity pay in accordance with B.P. Blg.129.

While Sec. 42 provides for entitlement to longevity pay for every five (5)-year period of judicial service, fairness and justice dictate a liberal construction of the provision if the member of the judiciary concerned is retiring compulsorily and therefore is left with no option, unlike one who retires optionally, to complete the five (5)-year period requirement in order to be entitled to the whole five percent (5%) additional longevity pay.

In other words, even if he opts to extend his stay to complete at least another five (5)-year period, he cannot do so because of the constitutional limitation to his term of office.<sup>3</sup> (emphasis omitted)

In its resolution in A.M. No. 03-9-20-SC, the Court granted the request of Justice Bellosillo. The approved resolution became the basis of Administrative Circular (A.C.) No. 58-2003 which this Court approved on 11 November 2003. Entitled "*ALLOWING THE TACKING OF EARNED LEAVE CREDITS IN THE COMPUTATION OF LONGEVITY PAY UPON COMPULSORY RETIREMENT OF JUSTICES AND JUDGES,*" the circular reads:

WHEREAS, The Court has studied proposals to allow the tacking of earned leave credits to the length of judicial service for computation of the longevity pay.

WHEREAS, Section 42 of Batas Pambansa (BP) 129 provides for a monthly longevity pay equivalent to 5% of the monthly basic pay for every five years of service rendered in the judiciary;

WHEREAS, it is true that vacation and sick leave credits earned during the period of employment are, by their nature and purpose, generally enjoyed during employment; however, the law does not preclude the accumulation of these leave credits, not to be paid while one is working, but to be reserved for senior age;

WHEREAS, retirement laws are liberally interpreted 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 and the liberal approach aims to achieve the humanitarian purposes of the law in order that the efficiency, security, and well-being of government personnel may be enhanced;



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<sup>3</sup> Id. at (no proper pagination); memorandum of the Special Committee on Retirement Benefits and Civil Service Benefits dated 12 January 2017, p. 4.

WHEREAS, laws pertaining to retiring government personnel should be liberally construed to benefit retiring personnel, following an interpretation that rightly expresses the nation's gratitude towards the women and men who have tirelessly and faithfully served the government;

WHEREAS, earned leave credits, computed in accordance with Section 40, Rule XVI of the Omnibus Rules on Leave, should accordingly be allowed to increase the longevity pay of Justices and Judges reaching the age of compulsory retirement;

NOW, THEREFORE, the COURT RESOLVED, as it hereby RESOLVES, that earned leave credits shall be allowed to be tacked to the length of judicial service for the purpose of increasing the longevity pay of Justices and Judges who reach the age of *compulsory retirement*. The computation should also include the additional percentage of longevity pay that corresponds to any fraction of a five-year period in the total number of years of continuous, efficient and meritorious service rendered, considering that the retiree would no longer be able to complete the period because of his *compulsory retirement*.<sup>4</sup> (emphasis supplied)

Gleaned from the text of A.C. No. 58-2003, the benefits provided therein seemed to apply only to justices and judges who retire compulsorily.

Perhaps cognizant of the limitation, Justice Ma. Alicia Austria-Martinez (*Justice Austria-Martinez*), also a former member of this Court who was to retire *optionally*, requested that the tacking of leave credits under A.C. No. 58-2003 be applied in her favor. The Court, in a resolution dated 24 February 2009, approved the request of Justice Austria-Martinez but with a qualification that the ruling be only *pro hac vice*.

### ***The letter-request of Justice Villarama***

Like Justice Austria-Martinez, Justice Villarama also applied for optional retirement. In his 2 November 2015 letter, Justice Villarama requests that the benefits of A.C. No. 58-2003 be applied in computing his longevity pay in view of the following considerations:

1. He would have completed 28 years, 2 months and 8 days of judicial service by 6 January 2016, lacking only 2 months and 29 days to reach the mandatory age of 70 for compulsory retirement from the judiciary on 14 April 2016;
2. In its resolution adopted on 24 February 2009, the Court considered Administrative Circular No. 58-2003 applicable, *pro hac vice*, to Justice Ma. Alicia Austria-Martinez who optionally retired on 30 April 2009 and whose compulsory retirement date was on December 19, 2010 or 1 year and 8 months short of the mandatory date of compulsory retirement;

<sup>4</sup> *Rollo*, (no proper pagination); resolution dated 11 November 2003.

3. In its Resolution adopted on 3 February 2009, the Court allowed the service as bar examiner be credited as part of government service and be tacked in the computation of the longevity pay upon compulsory or optional retirement.<sup>5</sup>

Justice Villarama prays that, in the light of his attendant circumstances, A.C. No. 58-2003 should be applied to him, *pro hac vice*. He also prays that his earned leave credits and services as Bar Examiner in 2004 be tacked to the length of his judicial service for purposes of computing his longevity pay.

We referred the matter to the Special Committee on Retirement and Civil Service Benefits (*the committee*) for its recommendation.

***The recommendation of  
the committee***

Based on its 12 January 2017 memorandum, the committee recommended the denial of the requests of Justice Villarama.

The committee's recommendation is based on the consideration that A.C. No. 58-2003 was intended to apply only to those who retire compulsorily. Further, the committee believes that the *pro hac vice* ruling in the case of Justice Austria-Martinez cannot be considered a precedent to be applied in subsequent cases as in the case of Justice Villarama. The committee also adds that neither tacking of leave credits nor fractional longevity pay finds support in Section 42 of B.P. Blg. 129; thus, it recommends that A.C. No. 58-2003 be abandoned.

Anent Justice Villarama's service as bar examiner, the committee opines that it cannot also be tacked to his judicial service because at the time Justice Villarama served as such, he was an incumbent member of the Judiciary. A.M. No. 08-12-7-SC<sup>6</sup> adverted to by Justice Villarama, as the committee puts it, explicitly covers only service prior to appointment to the Judiciary.

**THE ISSUES**

At the outset, we note the letter-request of Justice Villarama seeking a *pro hac vice* ruling. However, in order to put to rest this lingering issue, our

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<sup>5</sup> Id. at (no proper pagination); letter of Justice Villarama, p. 2.

<sup>6</sup> *Re: Request of Associate Justice Dante O. Tinga that his service as Examiner in Mercantile Law be Credited as Part of his Government Service*, 3 February 2009.

disposition of the present matter should not bind Justice Villarama only but include other members of the judiciary who may be similarly situated in the present or will be so in the future.


Thus, the issues may be couched in broad terms to cast a general interpretative effect for the guidance of the Bar and the bench in future cases, *viz*:

- I. Whether the benefits under A.C. No. 58-2003 may be applied to optional retirees, particularly that: (a) earned leave credits are tacked to judicial service, thereby increasing longevity pay, and (b) the fraction of a five-year period is included in computing longevity pay; and
- II. Whether the service rendered by a member of the judiciary as bar examiner is credited as part of judicial service, thereby increasing longevity pay.

### OUR RULING

After careful deliberation, the Court rules to grant Justice Villarama's request to tack his earned leave credits, but not his services as Bar Examiner in 2004, to his years in judicial service for purposes of computing his longevity pay. The fraction of the five-year period immediately prior to Justice Villarama's optional retirement shall also be included in the computation.

#### ***On the application of A.C. No. 58-2003***

The committee insists that A.C. No. 58-2003 should not be construed liberally to extend its benefits to those who retire optionally. It explains that the circular was issued, through A.M. No. 03-9-20-SC,<sup>7</sup> in response to the request of Justice Bellosillo to adjust his longevity pay by tacking his earned leave credits to government service. Such issuance was already a liberal interpretation of Section 42 of B.P. Blg. 129 and must, accordingly, no longer be given further liberal interpretation without undermining the proscription against judicial legislation. The committee lengthily quotes this Court's discussion in *Re: Letter of Court of Appeals Justice Vicente S.E. Veloso for Entitlement to Longevity Pay for his Services as Commission Member III of the National Labor Relations Commission*<sup>8</sup> (*Veloso case*). 

<sup>7</sup> Dated 11 November 2003.

<sup>8</sup> 760 Phil. 62 (2015).

We are not persuaded. It is unnecessary even to treat whatever beclouds the committee's mind in suggesting that the Court is crossing the realm of judicial legislation when it (the Court) topped the exercise of liberal interpretation in Sec. 42 of B.P. Blg. 129 with another liberal interpretation, as was this Court's fear in *Veloso*. Incidentally, we would be amiss not to mention that whatever result was reached by this Court in *Veloso* was later reversed in our 26 July 2016 resolution on the motion for reconsideration in A.M. No. 12-8-07-CA.<sup>9</sup>

A.C. No. 58-2003 is an implementation of Section 42 of B.P. Blg. 129, or the basic provision on longevity pay granted by law to justices and judges in the judiciary.

Section 42 of B.P. Blg. 129 is intended to recompense justices and judges for each five-year period of continuous, efficient, and meritorious service rendered in the Judiciary.<sup>10</sup> The purpose of the law is to reward long service, from the lowest to the highest court in the land.<sup>11</sup>

A plain reading of Section 42 of B.P. Blg. 129 readily reveals that the longevity pay is given the justice or judge on a monthly basis together with his or her basic pay, provided that the justice or judge has completed at least five (5) years of continuous, efficient, and meritorious service in the Judiciary. The amount is equivalent to five percent (5%) of the monthly basic pay, and it increases by an increment of 5% for every additional cycle of five (5) years of continuous, efficient, and meritorious service. It is given while the justice or judge is still in active service *and* becomes part of the monthly pension benefit upon his or her retirement, or survivorship benefit upon his or her death after retirement.

In granting the longevity pay to the justice or judge still in active service, taking into consideration its salutary purpose, the law did not qualify whether the recipient is to subsequently retire compulsorily or optionally. Upon his or her retirement, whether compulsory or optional, the justice or judge continues to enjoy the longevity pay by receiving the same together with the monthly pension benefit. Thus, if a justice or judge has rendered long service in the judiciary, he or she must be rewarded even if the retirement is optional; and the purpose of the law is served no more than it would be in the case of one who is retired compulsorily. Hence, there is no rhyme or reason why the benevolent objective of the law should be limited to justices or judges who retire compulsorily.



<sup>9</sup> *Re: Letter of Court of Appeals Justice Vicente S.E. Veloso for Entitlement to Longevity Pay for his Services as Commission Member III of the National Labor Relations Commission*, A.M. No. 12-8-07-CA, 26 July 2016, 798 SCRA 179.

<sup>10</sup> *In Re: Request of Justice Bernardo P. Pardo for Adjustment of his Longevity Pay*, 547 Phil. 170, 173-174 (2007).

<sup>11</sup> *Id.* at 174.

On the other hand, A.C. No. 58-2003 was issued by this Court pursuant to its constitutional power to interpret laws and, as such, has the force and effect of law. In crafting the circular, the Court duly considered the long-standing policy of according liberal construction to retirement laws covering government personnel. The liberal approach in construing retirement laws, which are enacted as social legislations, is necessary in order to achieve the humanitarian considerations of promoting the physical and mental well-being of public servants.<sup>12</sup> Given this legal milieu, the Court allowed the tacking of earned leave credits to the length of judicial service in order to increase the longevity pay of justices and judges. Thus, the wisdom behind the issuance of A.C. No. 58-2003 is to ensure the comfort and security of *retired* justices and judges who had tirelessly and faithfully served the government.<sup>13</sup>

As noted above, A.C. No. 58-2003 was issued as the Court's response to the letter-request of Justice Bellosillo who sought the adjustment of his longevity pay by tacking his earned leave credits to the length of his judicial service *and* at the same time recognizing the fractional portion of the unexpired 5-year period of his service immediately prior to his *compulsory* retirement. In circularizing the tacking of earned leave credits and recognition of fractional longevity pay, however, the Court styled A.C. No. 58-2003 as "*ALLOWING THE TACKING OF EARNED LEAVE CREDITS IN THE COMPUTATION OF LONGEVITY PAY UPON COMPULSORY RETIREMENT OF JUSTICES AND JUDGES.*" Under the circular, all those who may be similarly situated with Justice Bellosillo can then be entitled to its benefits.

The seeming express limitation of the benefits of A.C. No. 58-2003 only to justices and judges who retire compulsorily apparently developed the view that the circular's benevolent provisions are beyond the reach of those who retire optionally. This is the same view advanced by the committee when it mentioned in its memorandum that on the face and articulated rationale of A.C. No. 58-2003, it applies to and is intended only for those who retire compulsorily.

Upon deeper reflection, no discernible reason exists to deny optional retirees the tacking of leave credits for purposes of computing their longevity pay. If the rationale of such longevity pay is to reward loyalty to the government, then it makes no sense to limit the tacking of earned leave credits to the service of compulsory retirees only. The question therefore arises:



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<sup>12</sup> See *Chua v. Civil Service Commission*, 282 Phil. 970, 989 (1992) citing Joint CSC-DBM Circular No. 1, series of 1991, 27 June 1991.

<sup>13</sup> *Re: Computation of Longevity Pay Upon Compulsory Retirement*, 561 Phil. 491, 499 (2007).



Are members of the judiciary who optionally retire necessarily considered less loyal, and therefore less deserving, than those who compulsorily retire?

An affirmative answer can hardly be justified. Otherwise, an absurd situation ensues when a justice or judge who had rendered, say, only 7 years of judicial service but is compulsorily retired because he entered the judiciary at a late stage in his professional career, is allowed to tack earned but relatively few leave credits to his judicial service thus gaining from an increase in his longevity pay; as compared to another justice or judge, who had rendered 30 long years of service in the judiciary and had opted to retire before reaching the compulsory retirement age, yet is precluded from tacking a possibly substantial amount of earned leave credits, and is thus denied the reward intended for long and loyal service to the public.

When juxtaposed with Section 42 of B.P. Blg. 129, the very same law sought to be implemented by A.C. No. 58-2003, it becomes evident that limiting its scope only to justices and judges who retire compulsorily cannot stand. As previously discussed, the longevity pay is paid to justices or judges who had proven their loyalty to the judiciary, regardless of the manner by which they retire.

Thus, for purposes of computing longevity pay, the tacking of leave credits to the length of judicial service rendered by qualified justices and judges should be applied to optional retirees as well.

What comes to the fore in our discussion is that allowing the tacking of leave credits only to compulsory retirees is simply wrong. To avoid this error, A.C. No. 58-2003, regardless of its title and the contents of its dispositive portion, should be read to likewise cover justices and judges who retire optionally.

We believe it a better policy to consider A.C. No. 58-2003 as complete in its scope, effectively covering both compulsory and optional retirees. Not only is it consistent with the moral fiber of B.P. Blg. 129, it makes unnecessary the issuance of a separate circular to cover optional retirees only.

***On the pro hac vice ruling in  
Austria-Martinez***

It is unfortunate that the ruling of this Court in the case of Justice Austria-Martinez was qualified as *pro hac vice*. As discussed herein, this

qualification could have been avoided and the result could have been just as persuasive.

To recall, Justice Villarama cites the ruling in *Austria-Martinez* wherein the Court, taking cognizance of the special circumstances of Justice Austria-Martinez, granted the magistrate's request to tack her earned leave credits to her judicial service even though she had not reached the compulsory retirement age. Justice Villarama, an optional retiree, also points to special circumstances that, according to him, justify a *pro hac vice* application of A.C. No. 58-2003.

The committee asserts that Justice Villarama may not benefit from the *pro hac vice* ruling in *Austria-Martinez*. As the committee has pointed out, the said ruling does not in any way detract from the prevailing ruling that A.C. No. 58-2003 applies only to those who retire compulsorily, nor should it be considered as an exception to nor a departure from it.

Concededly, the Court had, in not a few occasions, disposed of a matter before it on a *pro hac vice* basis.

From a survey of these cases, we have invariably imputed to the term *pro hac vice* the meaning of **"for this one particular occasion."**<sup>14</sup> We have also said that a ruling expressly qualified as such cannot be relied upon as a precedent to govern other cases.<sup>15</sup>

Yet, a *pro hac vice* ruling in favor of Justice Villarama in this case is decidedly pointless. As has already been presented, justices and judges who retire optionally are also entitled to the benefit of tacking their earned leave credits to their judicial service in order to increase the longevity pay due them.

To reiterate, the idea that the tacking of leave credits, as authorized by A.C. No. 58-2003, is for compulsory retirees only is erroneous. By consequence, the inference that A.C. No. 58-2003 may be applied to optional retirees *pro hac vice*, proceeding as it does from a wrong premise, must be rejected. The application of A.C. No. 58-2003 to justices and judges who optionally retire need not be on *pro hac vice* basis but on due consideration of the manifest intent of the law to make the longevity pay available to all types of retirees.

Thus, Justice Villarama's earned leave credits should be included in the computation of his longevity pay upon his optional retirement.



<sup>14</sup> *Partido Ng Manggagawa (PM) v. Commission on Elections*, 519 Phil. 644, 671 (2006).

<sup>15</sup> *Tadeja v. People*, 704 Phil. 260, 277 (2013).

***On the submission that the tacking  
of leave credits to judicial service  
has no legal basis***

In essence, the committee proposes that when Section 42 of B.P. Blg. 129 states that the grant of longevity pay is based on *continuous, efficient, and meritorious service* rendered in the judiciary, the law means **actual** service. Unused but earned leave credits, according to the committee, refer to commutable terminal leave. Following the prevailing treatment of terminal leave as excluded from “service,” unused leave credits cannot therefore be tacked to lengthen one’s actual years of service.

Such view is not novel.

In *Re: Computation of Longevity Pay Upon Compulsory Retirement*,<sup>16</sup> the question on whether the continuous, efficient, and meritorious service contemplated by A.C. No. 58-2003 is “actual” or not was squarely raised. The incident stemmed from the refusal by the Department of Budget and Management (*DBM*) to release Justice Bellosillo’s longevity pay, computed in accordance with A.C. No. 58-2003. It appeared that the *DBM*’s negative response to the application of the subject circular was rooted in its view that Section 42 of B.P. Blg. 129 covers actual service only. Then Secretary Emilia T. Boncodin (Secretary Boncodin) of the *DBM* expressed her observations on the tacking of leave credits in a letter, dated 6 May 2004, that was conveyed to the Court. To Secretary Boncodin, unused leave credit is not actual service and, thus, cannot be tacked to the length of service in computing longevity pay.

In no uncertain terms, the Court rejected the view of Secretary Boncodin. The Court emphasized that it had already sufficiently settled its position on the matter in the resolution of Justice Bellosillo’s request. Accordingly, A.C. No. 58-2003 explicitly dictates the tacking of earned leave credits.

***On the payment of fractional  
longevity pay***

We uphold the computation of the longevity pay to include the fractional percentage of the unexpired five-year period.

The position taken by the Committee against the payment of fractional longevity pay in favor of retired justices and judges was also taken up in *Re:*

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<sup>16</sup> Supra note 13 at 497.


*Computation of Longevity Pay Upon Compulsory Retirement.* Secretary Boncodin also held the view that the payment of longevity pay is conditioned on the full expiration of the five-year period; it cannot be granted before the expiration of the five-year period.

Such reasoning failed to convince us then; it fails to persuade us now.

We reiterate our reason for including any fraction of the five-year period in computing the longevity pay of retiring Justices and Judges. When the Court approved A.C. No. 58-2003, it was with due consideration of Justice Bellosillo's observation that despite the predilection to extend one's service in the judiciary in order to complete the five-year period, a retiring justice or judge is precluded from doing so because of the constitutional limitation to his term of office. In line with the liberal approach, we adopted Justice Bellosillo's viewpoint which has since been the norm.

We hasten to add that the fractional portion of the five-year period is actual service rendered, a fact that cannot be reversed. It would be a mockery of the liberal approach in the treatment of retirement laws for government personnel if such fractional portion is disregarded to the detriment of the retiring justice or judge. Going back to the rationale behind the grant of longevity pay, it cannot be gainsaid that service during such fractional portion of the five-year period is an eloquent manifestation as well of the justice's or judge's loyalty to the judiciary as the service rendered during the previously completed five-year periods.

### ***Rounding off the fractional period***

We are fully aware that the fractional portion of the unexpired five-year period immediately preceding retirement is the direct consequence of the tacking of leave credits to the judicial service of every retired justice or judge. However, we also recognize that Section 42 of B.P. Blg. 129 was crafted in such a way as to grant a full 5% adjustment of the longevity pay for every cycle of five years of judicial service. All attempts must be made in order to realize the granting of a full 5% as adjustment in the computation of the longevity pay. Thus, in order to align the tacking of leave credits under A.C. No. 58-2003 with the full 5% adjustment for every five-year expired period specified in Section 42 of B.P. Blg. 129, and in pursuance of our rule-making power under Section 10 of Rule XVI of the Omnibus Rules Implementing Book V of Executive Order No. 292,<sup>17</sup> we deem it appropriate 

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<sup>17</sup> Section 10. *Leave Credits of Officials and Employees Covered by Special Leave Law.* — The leave credits of the following officials and employees are covered by special laws:

(a) Justices of the Supreme Court, Court of Appeals and Sandiganbayan;

to consider a fraction of at least two (2) years and six (6) months as one whole 5-year cycle. In this instance, the additional percentage of monthly basic pay which is added to the monthly pension pay of a retired justice or judge as longevity pay is always divisible by five (5).

For those whose service (inclusive of the tacked-in leave credits) during the unexpired 5-year period immediately preceding retirement is below the threshold above, the adjustment of the computation of additional longevity pay shall be an additional one percent (1%) for every year of service in the judiciary.

Thus, in the case of Justice Villarama whose total judicial service is 28 years, 2 months, and 8 days, and whose total leave credits (1,386 days) is equivalent to 5 years and 3 months, his judicial service for purposes of the longevity pay is 33 years, 5 months and 8 days. The fraction of 3 years, 5 months and 8 days in the unexpired 5-year period immediately preceding Justice Villarama's optional retirement is well above the aforestated threshold. Thus, consistent with the foregoing formula, the longevity pay of Justice Villarama shall be thirty-five percent (35%) of his basic monthly pay.

***On Justice Villarama's service  
as bar examiner***

The committee likewise recommended the denial of Justice Villarama's request to count his service as bar examiner part of his judicial service. It explains that A.M. No. 08-12-7-SC, the basis of Justice Villarama's claim, is inapplicable because while the subject resolution of the Court covers service (as bar examiner) prior to one's appointment to the judiciary, Justice Villarama was already a member of the judiciary when he served as such.

We agree.



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- (b) Judges of Regional Trial Courts, Municipal Trial Courts, Metropolitan Trial Courts, Court of Tax Appeals and Shari'a Circuit Court; and Shari'a District Court;
  - (c) Heads of the Executive Departments, Heads of Departments, Undersecretaries;
  - (d) Chairmen and Commissioners of Constitutional Commissions;
  - (e) Filipino officers and employees in the Foreign Service;
  - (f) Faculty members of state universities and colleges including those teaching in universities and colleges created pursuant to ordinance of the LGUs; and
  - (g) Other officials and employees covered by special laws.

Hence, Justices and other government officials and employees covered by special laws should promulgate their own implementing rules relative thereto. Said implementing rules should be submitted to the Civil Service Commission for record purposes.


Indeed, by the express terms of A.M. No. 08-12-7-SC relied upon by Justice Villarama, we quote:

Henceforth, services rendered by all Justices of the Supreme Court as Bar Examiners prior to their appointment to the Judiciary shall be credited as part of their government service and be tacked in the computation of their longevity pay upon compulsory or optional retirement.<sup>18</sup>

Clearly, this does not apply to Justice Villarama since he was already a member of the judiciary when he was tasked to serve as bar examiner.

The reason for denying an incumbent member of the judiciary the inclusion of his or her service as bar examiner in the computation of the longevity pay is simple. At the time of his or her appointment as bar examiner, an incumbent justice or judge is already concurrently serving in the judiciary. The regular functions of the justice or judge and the service performed as bar examiner cannot appropriately be considered as two separable and finite judicial services *if they supposedly coincide at the same time or period*. It would be defying logic and sensible reasoning if one is to be tacked to the other, in effect extending the length of judicial service, *even if no additional time was really spent in the performance of the service as bar examiner outside of the time or period actually served as justice or judge*. Not even the liberal approach in the treatment of retirement laws could save the argument for tacking such service as bar examiner in favor of an incumbent justice or judge.

Thus, for purposes of computing longevity pay, we find no justifiable reason in tacking the service as bar examiner to the judicial service of one who is already a member of the judiciary. Accordingly, Justice Villarama's service as bar examiner could not be credited in the computation of his longevity pay.

In sum, a justice or judge who retires optionally, just like Justice Villarama, is entitled to the tacking of leave credits provided in A.C. No. 58-2003 for the purpose of computing the longevity pay as granted in Section 42 of B.P. 129; likewise, a fraction of the unexpired five-year period immediately prior to retirement is with sufficient basis. In the case of Justice Villarama, there remains a fraction of the 5-year period prior to his optional retirement on 6 January 2016 which must correspondingly be counted in computing his longevity pay. Lastly, service as bar examiner by a member of the judiciary is not to be factored in computing longevity pay. 

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<sup>18</sup> *Rollo*, (no proper pagination); memorandum of the Special Committee on Retirement and Civil Service Benefits dated 12 January 2017, p. 26.

It bears repeating that despite Justice Villarama's plea for a *pro hac vice* ruling, what we have forged today henceforth lays a precedent. Members of the judiciary who are similarly situated can find doctrinal value in this decision.

**WHEREFORE**, the request of Justice Martin S. Villarama, Jr. is hereby **PARTIALLY GRANTED**. The Court **DIRECTS** that Justice Martin S. Villarama be paid his longevity pay in accordance with Administrative Circular No. 58-2003, that is, to include his unused and earned leave credits, subject to adjustment in accordance with the "*Rounding off the Fractional Period*" portion of this resolution, but to exclude his service as Bar Examiner in 2004.


The 12 January 2017 Memorandum of the Special Committee on Retirement and Civil Service Benefits is **NOTED**.


**SO ORDERED.**

  
**SAMUEL R. MARTIRES**  
 Associate Justice

**WE CONCUR:**

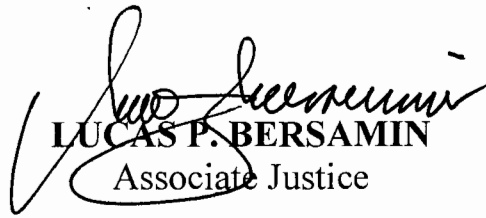
(On Leave)  
**MARIA LOURDES P.A. SERENO**  
 Chief Justice

  
**ANTONIO T. CARPIO**  
 Acting Chief Justice

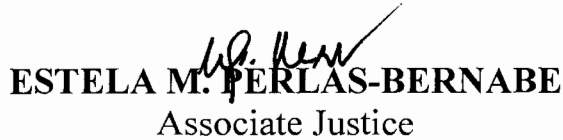
  
**PRESBITERO J. VELASCO, JR**  
 Associate Justice

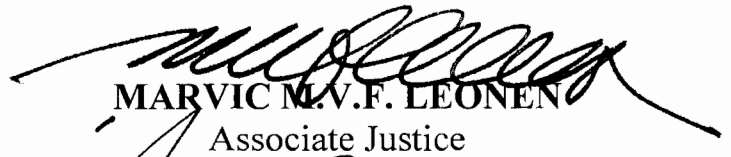
  
**TERESITA J. LEONARDO-DE CASTRO**  
 Associate Justice

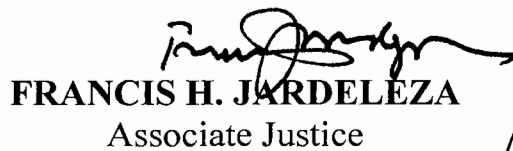
  
**DIOSDADO M. PERALTA**  
 Associate Justice

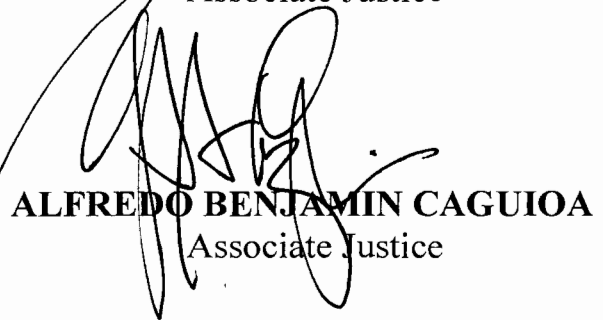
  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

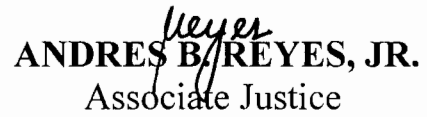
  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

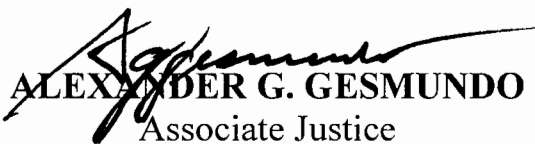
  
**MARVIC M.V.F. LEONEN**  
Associate Justice

  
**FRANCIS H. JARDELEZA**  
Associate Justice


  
**ALFREDO BENJAMIN CAGUIOA**  
Associate Justice

  
**NOEL GIMENEZ TIJAM**  
Associate Justice

  
**ANDRES B. REYES, JR.**  
Associate Justice

  
**ALEXANDER G. GESMUNDO**  
Associate Justice

CERTIFIED TRUE COPY

  
**EDGAR O. ARICHETA**  
Clerk of Court En Banc  
Supreme Court