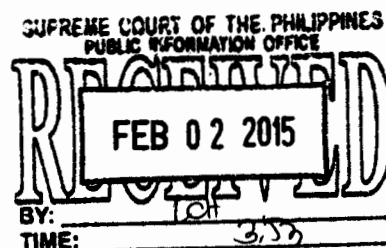




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **November 24, 2014** which reads as follows:*

“G.R. No. 214010 (Manila’s Finest Retirees Association, Inc. (MFRAI) as represented by its Chairman P/Col. Felicisimo Lazaro (Ret.), together with all other INP-retirees, *petitioners*, v. Department of Budget and Management headed by then Secretary Rolando Andaya, but represented by Ms. Lulu Vispo and the Philippine National Police, particularly its Budget Division and its Benefits and Pension Administration Division (BPAD-DPRM), headed by Chief, P/Supt. Tomas G. Rentoy III and Chief, P/Sr. Supt. Mansue N. Lukban, *respondents*)

The Petitioners’ motion for an extension of thirty (30) days within which to file a petition for review on certiorari is **GRANTED**, counted from the expiration of the reglementary period; and their manifestation/s submitting a compact disc containing a copy of the petition is **NOTED**.

Petitioners Manila’s Finest Retirees Association, Inc. (MFRAI) representing Integrated National Police (INP) retirees who retired prior to Republic Act No. 8551, the Philippine National Police (PNP) Reform and Reorganization Act of 1998. Petitioners, INP-retirees, received their pension and retirement gratuity in the sum of ₱121,786,803.00 by virtue of the enactment of Republic Act (R.A.) No. 9401, otherwise known as the General Appropriations Act for the Fiscal Year 2007.

- over – six (6) pages

In the case of *Dept. of Budget and Management v. Manila's Finest Retirees Association, Inc.*,¹ the Supreme Court declared that the rationalized retirement benefits schedule and program under the amendatory law RA 8551 "shall have retroactive effect in favor of PNP members and officers retired or separated from the time specified in the law," to wit:

Under the amendatory law (R.A. No. 8551), the application of rationalized retirement benefits to PNP members who have meanwhile retired before its (RA No. 8551) enactment was not prohibited. In fact, its Section 38 explicitly states that the rationalized retirement benefits schedule and program "*shall have retroactive effect in favor of PNP members and officers retired or separated from the time specified in the law.*" To us, the aforesaid provision should be made applicable to INP members who had retired prior to the effectivity of R.A. No. 6975. For, as afore-held, the INP was, in effect, merely absorbed by the PNP and not abolished.

Indeed, to bar payment of retirement pay differential to INP members who were already retired before R.A. No. 6975 became effective would even run counter to the purpose of NAPOLCOM Resolution No. 8 itself, as expressed in its preambulatory clause, which is to rationalize the retirement system of the PNP taking into consideration existing retirement and benefit systems (including R.A. No. 6975 and P.D. No. 1184) of the different components thereof "*to ensure that no member of the PNP shall suffer any diminution in the retirement benefits due them before the creation of the PNP.*"²

Respondents Department of Budget and Management (DBM) and PNP Budget Division and Benefits and Pension Administration Division (BPAD-DPRM) deducted the Government Service Insurance System (GSIS) retirement benefits, the same amount of ₱121,786,803.00 already paid out and released by the DBM to petitioners, as INP retirees, from the amount of ₱150,000,000.00 which was appropriated in the GAA of 2007 under item of the INP retirees' total claims.

As a result, and invoking our ruling in *Dept. of Budget and Management v. Manila's Finest Retirees Association, Inc.*,³ petitioners, on 4 November 2008, filed a petition for mandamus before the Regional Trial Court (RTC), Branch 1, Manila City docketed as SCA No. 08-120331 praying that respondents be ordered to reinstate the corresponding amounts deducted from their retirement gratuity.

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¹ 551 Phil. 90 (2007).

² *Id.* at 105-106.

³ *Supra.*

In refutation, respondents argued:

[T]he grant of GSIS pensions to petitioners was automatically deducted by the DBM from petitioners' overall claim, pursuant to the conditional implementation of the President on the said GAA, to wit:

It bears stressing that members of the Philippine Constabulary who retired prior to January 2, 1991 were paid their retirement benefits and pension under the military retirement package. On the other hand, members of the defunct Integrated National Police who retired prior to the effectivity of RA No. 6975 (PNP Law) dated January 2, 1991 should only be made in pursuance of a final and executory decision from the Supreme Court. More importantly, the amount to be paid shall be based on the reconciled computation of benefits, excluding previous retirement benefits received by claimant-retirees under other retirement laws consistent with the constitutional prohibition on additional compensation.⁴

After trial, the RTC issued a writ of *mandamus* ordering respondents to compute petitioners' pension adjustments by deducting only their corresponding GSIS pensions being received, as follows:

Supposed monthly pension based on 2007 salary rate (depending on rank of claimant) [LESS] GSIS pension received on said given month = additional monthly pension

x x x Respondents are likewise ordered to pay the petitioners the corresponding deficits, should there be any.

Supposed Monthly Pension (No. of Years x 12) [LESS] Total Pension Actually Received = Deficit⁵

Aggrieved, respondents appealed to the Court of Appeals arguing that: (1) the retirement benefits of PNP and INP retirees, herein petitioners, have been duly equated, and (2) the deduction of petitioners' GSIS pensions from their PNP pensions is lawful.

Preliminarily, the appellate court found that petitioners, INP retirees, had already received their pension and retirement gratuity in the sum of ₱121,786,803.00 by virtue of the GAA of 2007.

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⁴ *Rollo*, p. 366.

⁵ *Id.* at 425.

The Court of Appeals framed the issue, thus: “[Whether] the INP-retirees have a clear legal right to compel respondents to reinstate the amount [of ₱121,786,803.00] deducted from their retirement gratuity.”⁶ The appellate court reversed the RTC and granted the appeal of respondents. It ruled that *mandamus* did not apply in this case since petitioners failed to prove that they had a clear legal right for the recovery of the amount deducted from their retirement gratuities.

Hence, this appeal by *certiorari* raising error in the appellate court’s reversal of the RTC ruling, ultimately dismissing the INP-retirees’ petition for *mandamus*.

We do not find reversible error in the Decision⁷ of the Court of Appeals.

As ruled by the appellate court, first and foremost, petitioners must point to a clear legal right to the performance of the act to be compelled. The Court of Appeals quoted with approval the Office of the Solicitor General’s argument that petitioners failed to prove or point out any provision of law which would allow them to receive their GSIS pensions on top of the full amount of their pension from PNP.

We likewise agree that petitioners, INP-retirees, cannot compel the return of the deducted amount of ₱121,786,803.00 representing their GSIS pensions already received. Undisputed is the fact that petitioners have received retirement benefits and gratuities from the GSIS in the amount of ₱121,786,803.00. This amount was correctly deducted from the appropriated amount of ₱150,000,000.00 in the GAA of 2007 as petitioners’ total retirement claims. Having already received ₱121,786,803.00 as GSIS retirement benefits, petitioners no longer have a legal right to the return thereof despite the ruling in *DBM v. Manila’s Finest Retirees Association, Inc.*⁸

Our ruling in *DBM v. Manila’s Finest Retirees Association, Inc.* refers to the retroactive effect of R.A. No. 8551 in favor of PNP members and officers, including herein petitioners, INP-retirees, who were deemed as absorbed by the PNP under Republic Act No. 6975. The *DBM v. Manila’s Finest Retirees Association, Inc.* decision did not authorize the grant of double retirement benefits to petitioners.

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⁶ *Id.* at 430.

⁷ *Id.* at 424-435; Penned by Associate Justice Franchito N. Diamante with Associate Justices Cecilia C. Librea-Leagogo and Melchor Q.C. Sadang concurring.

⁸ *Supra* note 1.

The additional grant of retirement gratuity pay to petitioners on top of the GSIS pension and retirement benefits they have already received will amount to additional compensation prohibited by the Constitution.

Section 8,⁹ Article IX-B of the 1987 Constitution prohibits double compensation which includes receipt of double retirement benefits.¹⁰

Thus, we fully agree with the Court of Appeals' disquisition:

To allow INP-retirees to recover the amount deducted from their retirement gratuity despite the fact that they had received or had been receiving retirement benefits under applicable retirement laws of GSIS is tantamount to double compensation for exactly the same services. This is an antithesis to the policy that the Public Office is a Public Trust which this Court cannot and will not tolerate.

x x x x

It goes without saying therefore that the court *a quo* committed a grievous mistake in sustaining the petition for *mandamus* in the glaring absence of a clear legal right on the part of petitioners to recover the thing demanded. Moreover, the claim of other purported deductions made against the retirement gratuity is also unworthy of belief *sans* any showing of competent and documentary proofs. The party alleging a fact has the burden of proving it and a mere allegation is not evidence. **It is likewise noteworthy to cite the Judicial Affidavit of P/C Inspector Alejandra G. Silvio particularly to the admission thereto that PNP-retirees have no GSIS deductions because they are not receiving pensions from GSIS, as opposed to the INP-retirees. This clearly explains why no deductions had been made against the retirement gratuity owing to the PNP-retirees.**¹¹ (Emphasis supplied)

WHEREFORE, the petition is **DENIED** there being no reversible error in the Court of Appeal's Decision.

The petitioners are hereby directed to **SUBMIT** within five (5) days from notice hereof, a verified declaration of the petition for review on certiorari and its annexes pursuant to A.M. Nos. 10-3-7-SC and 11-9-4-SC; and the Court of Appeals is **DELETED** as party respondent in this case pursuant to Sec. 4, Rule 45, 1997 Rules of Civil Procedure, as amended.

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⁹ SECTION 8. No elective or appointive public officer or employee shall receive additional, double, or indirect compensation, unless specifically authorized by law, nor accept without the consent of the Congress, any present, emolument, office, or title of any kind from any foreign government.

¹⁰ *Melinda Ocampo v. Commission on Audit*, G.R. No. 188716, 10 June 2013, 698 SCRA 136.

¹¹ *Rollo*, pp. 432-433.

SO ORDERED.” PERLAS-BERNABE, J., on leave,
VILLARAMA, JR., J., Acting Member per Special Order No. 1885 dated
24 November 2014.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
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