

VALDEZ, Mercedes V.

Re: Retirement Benefits

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RESOLUTION NO. 011202

Carmen Valdez of Project 6, Quezon City, on behalf of her mother, Mercedes V. Valdez, former Sports and Games Regulation Officer III, Games and Amusement Board (GAB), requests an opinion on the legality of GAB's action, as contained in a letter dated January 28, 1998 of GAB Chairman Dominador Cepeda, Jr., denying GAB's liability to pay the latter's retirement gratuity adjustment.

Pertinent portions of Chairman Cepeda's letter addressed to Asuncion C. Sindac, Vice-President, GSIS, read, as follows:

X X X

"We are returning herewith the notice of Retirement Gratuity of Mrs. Mercedes V. Valdez effective July 1, 1996 charging GAB with the obligation to pay Mrs. Valdez' retirement gratuity x x x. We believe that the GAB should not be made to pay the alleged amount for the following reasons:

"1.) To explain GAB's position on this matter, it is necessary to provide a brief background on the employment history of Mrs. Valdez based on the available records. Mrs. Mercedes Valdez was first employed at the House of Representatives from October 1, 1952 up to January 17, 1973. Thereafter, she was hired at the Senate. During this time she was concurrently employed at the Games and Amusement Board from April 28, 1962 initially as Fiscal Clerk I moving up the

promotion ladder up to January 31, 1990 when she occupied the position of Sports and Games Regulation Officer III at the time when she was officially separated from the GAB. It is also necessary to state that during that time, double compensation in the GAB was allowed and approved by the Civil Service Commission and pursuant to the Special Provision in the GAB Personal Services Itemization in the General Appropriation Act, which provides, as follows:

“Extra Compensation. Any provision of law to the contrary notwithstanding, officials and employees of other government offices who are also employed in the GAB, including regular employees of the Board, are authorized to receive extra compensation when working on Saturdays, Sundays and legal holidays and/or during professional games authorized by the Board.

“This provision was the basis of Mrs. Valdez’ employment in the GAB, on a part-time basis, although she was concurrently also employed sequentially, first at the House of Representatives and then at the Senate on a permanent and regular basis.

“2.) However, during the incumbency of the late GAB Chairman Jose D. Macachor, the above quoted special provision in the PSI authorizing employees to receive pay when working during Saturdays, Sundays and legal holidays, was deleted under the GAA current at that time, leaving GAB no alternative but to terminate Mrs. Valdez together with other similarly situated GAB employees. After her termination, Mrs. Valdez did not signify any intention to remain with the GAB, thus, she was effectively separated from the GAB on February 1, 1990. At the time of her separation from the GAB, Mrs Valdez was receiving a monthly salary of Pph 4,091.00 from GAB.

“3.) It should also made clear that at the time of her separation from the GAB,

Mrs. Valdez was, and continued to be employed at the Senate where she was ultimately retired on July 1, 1996. It is very clear that GAB is not Mrs. Valdez last employer, and therefore, GAB is not liable for, and should not be made to pay her retirement gratuity.”

In support of her request, Valdez states, as follows:

X X X

“X x x I would like to request your good Office for opinion regarding the refusal of the Games and Amusement Board (GAB, for brevity) to comply with Retirement Gratuity IRG No. 027498, in the amount of P 299,048.58, as approved by the Government Service Insurance System (GSIS, for brevity). I have hereunder enumerated pertinent facts, to wit:

‘1. Mrs. Mercedes V. Valdez, was a permanent employee of the House of Representatives from Oct. 1952 to Jan. 17, 1973 ; the Dept. of Public Works and Highways, from Aug. 1974 to July 1987 ; and finally, the Philippine Senate, from Aug. 1987 to June 30, 1996, when she retired from government service under Sec. 12 © of CA 186, as amended by RA 1616, and as amended further by RA 4986. Consequently, in Oct. 1996, the Philippine Senate paid Mrs. Valdez a retirement gratuity in the amount of P 812,451.42.

‘2. Aside from her regular employment, Mrs. Valdez was also employed on part-time basis in the GAB, from April 28, 1962, initially as Fiscal Clerk, up to Jan. 31, 1990, when she occupied the position of Senior Betting Examiner. Her employment in the GAB was authorized pursuant to a Special Provision in the GAB Personnel Services Itemization in the General Appropriations Act, x x x.

X X X

‘3. On Jan. 19, 1990, Mrs. Valdez filed her application for retirement effective

Feb. 1, 1990 from the GAB, after the above-quoted provision in the GAB PSI was deleted in the GAA of 1990 x x x.

'4. Sometime in Jan. 1988, Mrs. Valdez was furnished a copy of a letter/notice dated 12 Dec. 1997 from Mrs. Asuncion C. Sindac, Vice Pres., S II, GSIS to Mr. Dominador Cepeda, GAB Chairman, informing the latter of the Retirement Gratuity No. IRG 0264098, as approved by the GSIS, in the amount of P 299,058.048 x x x.

'Conspicuously written at the lower portion of the same notice is the following: "NOTE : ADJUSTMENT DUE TO – ADDITIONAL SERVICES RENDERED."
Referring to the above-mentioned amount, and indicating the obligation of the GAB to Mrs. Valdez under RA 1616 x x x.

x x x

'6. On Jan. 28, 1998, Mr. Dominador Cepeda, GAB Chairman, in reply to the GSIS alleged that ' . . . GAB is no Mrs. Valdez' last employer, and therefore, GAB is not liable for and should not be made to pay her retirement gratuity' x x x.'

"This request for opinion is prompted by the apparent inaction of the GSIS to implement the same retirement gratuity subject of this letter which said body approved four years to date, to the disadvantage of retiree, Mrs. Valdez. The reason cited by the GAB takes the nature of a lame excuse. As far as her part-time employment is concerned, the GAB was in fact, her first and last employer." (Underscoring supplied)

Records show that the Commission, in an Order dated October 25, 2000, requested Chairman Cepeda to submit his comment within ten (10) days from receipt of the said Order. To date, the Commission did not receive any reply. Hence, the instant case shall be resolved on the basis of available records.

Records show that aside from her employment with the Philippine Senate as Supervising Legislative Staff

Officer II, Mercedes Valdez was also employed with GAB as Sports and Games Regulation Officer III where she renders service only during Saturdays, Sundays, legal holidays and/or during professional games.

In a letter dated December 14, 1989, then GAB Chairman Jose D. Macachor informed Valdez that GAB shall lose its authority to pay her services effective January 1, 1990 unless she terminates her service with other government office. Portions of Chairman Machachor's letter read, as follows:

“We regret to inform you that effective January 1, 1990 the Board will lose its authority to pay employees of other government offices who are also working in the Board's Racing field Personnel due to the amendment (deletion) of the special provision authorizing employees of other government offices to receive pay when working during Saturdays, Sundays and legal holiday races. Consequently, your continuance in your position and receiving salary would be violative of the constitutional provision prohibiting double compensation.

“However, if you wish to stay in your position you will be most welcomed, provided you terminate your employment with your other government office. Signify in writing your preference, furnishing this office with a certified copy of your resignation from your other position and acceptance thereof not later than December 29, 1989.”

Instead of terminating her service with the Philippine Senate, however, Valdez applied for retirement under Republic Act 1616 effective February 1, 1990. Nothing was heard of Valdez' application for retirement thereafter.

Aside from her employment at GAB, Valdez, who was also employed at the House of Representatives from October 1952 to January 17, 1973; the Department of Public Works and Highways (DPWH), from August 1974 to July 1987; and, finally, the Philippine Senate on August 1987, applied for retirement as Supervising Legislative Staff Officer II effective June 30, 1996. Subsequently, she was paid her retirement gratuity amounting to Php 812, 451.42 sometime in October 1996 for the service she rendered at the Philippine Senate.

In a letter dated December 12, 1997, Asuncion C. Sindac, Vice-President, GSIS, informed GAB that Mercedes Valdez' application for retirement under RA 1616 has been approved by the GSIS effective July 1, 1996 under Retirement Gratuity No. IRG 0274098 and, that, GAB should pay Valdez her retirement gratuity adjustment amounting to Php 299,048.58 for the services she rendered at the latter office. Pertinent portions of Sindac's letter read, as follows:

X X X

"THE CHAIRMAN

"GAMES AND AMUSEMENT BOARD

"LEGASPI TOWERS, MAKATI CITY

"Sir/Madam :

"RETIREMENT GRATUITY NO. IRG 0264098

"Having complied with all the requirements for retirement x x x, the retirement of Mercedes Valdez, formerly with GAB, Manila, is hereby approved effective July 1, 1996.

X X X

"5. AMOUNT OF GRATUITY:

"HIGHEST SALARY RECEIVED X NO. OF GRATUITY MONTHS:

| | | |
|--|----------|-----------------------|
| <i>"(P 17,784 . . .) X (. . . 62.50000 MOS.)</i> | <i>=</i> | <i>P 1,111,500.00</i> |
| <i>"LESS GRATUITY PREVIOUSLY RECEIVED</i> | <i>=</i> | <i>P 812,451.42</i> |
| <i>"NET PROCEEDS</i> | <i>=</i> | <i>P 299,048.58</i> |

"NOTE:

“ADJUSTMENT DUE TO ADDITIONAL SERVICES RENDERED” (Underscoring supplied)

Chairman Cepeda returned the aforementioned notice and denied GAB’s liability to pay Valdez’ retirement gratuity differential on the ground that latter’s service with GAB has already been terminated on February 1, 1990. Moreover, Valdez already retired from the service as an employee of the Senate.

The issues to be resolved in the instant controversy are, as follows: 1.) whether or not Valdez is entitled to retire separately from her positions as an employee of the Senate and the GAB ; and, 2.) whether or not the GSIS may obligate GAB to separately pay Valdez’ retirement gratuity adjustment for the service the latter has rendered at GAB.

On the first issue, it has been settled in this jurisdiction that employees holding two or more positions in the government who express their intention to retire separately from their respective positions are allowed to do so. As the Commission in **KANGLEON, Ciriaco (CSC Resolution No. 91-1322 dated November 6, 1999)**, has ruled:

“x x x it appears that Kangleon had already received the retirement pay he was entitled to under his DPWH employment as shown by the retirement voucher he submitted to this Commission for perusal. Besides, Kangleon expressed his willingness to retire from both positions separately and not by combining the salaries he received from both employments. It must be noted that M.C. 43, s. 1989 applies only to retirees who combine/aggregate the salaries of their positions, and not to those who retire separately from both employments. Thus, being so, equity may be appropriately appreciated in the situation at bar.

*“**WHEREFORE**, foregoing premises considered, this Commission rules that Ciriaco Kangleon is entitled to retire separately from his positions as employee of the DPWH and a Betting Examiner of the GAB.”*

Records show that Valdez is a holder of two (2) appointments, one with the GAB and the other with the Philippine Senate, both under a permanent status. She signified her intention to retire from GAB as early as February 1, 1990 and also applied for retirement at the Philippine Senate on a later date. Her application for retirement with the GAB, however, was acted upon by the GSIS only after receiving her retirement gratuity from the Philippine Senate sometime in October of 1996. It was only on December 12, 1997 that the GSIS notified GAB to pay Valdez of her retirement gratuity adjustment for the services she rendered with the latter office. Clearly, the retirement gratuity received by Valdez from the Philippine Senate does not include the retirement gratuity she is entitled to receive for the service she rendered at GAB. As shown in the above notice of retirement gratuity adjustment, the amount paid by the Philippine Senate as Valdez' retirement gratuity (P812,451.42) for the service she rendered thereat had been deducted from the total amount which Valdez should have received. It is precisely the reason why the GSIS notified GAB to pay Valdez of her retirement gratuity differential, separate and distinct from that which the latter received from the Philippine Senate.

On the second issue, we find no merit on GAB's contention that it is not liable to pay Valdez her retirement gratuity adjustment on the ground that the Philippine Senate, her last employer, has already paid her retirement gratuity ; and, that, GAB was not Valdez' last employer. It may be recalled that Valdez separately retired from both her employment and she already received her retirement gratuity for the services she rendered at the Philippine Senate. She did not however receive her retirement gratuity differential for the service she rendered at GAB as yet. Hence, the GSIS in the aforementioned notice directed GAB to pay her retirement gratuity adjustment. The Commission believes and so holds that GAB should be obligated.

WHEREFORE, premises considered, the Commission hereby rules and so holds that Mercedes V. Valdez is **ENTITLED** to retire separately from her position as Supervising Legislative Staff Officer II, Philippine Senate and Sports and Games Regulation Officer III, Games and Amusement Board (GAB). Accordingly, GAB is hereby directed to comply with the Government Service Insurance System's notice of retirement gratuity adjustment under retirement gratuity number 0274098 dated December 12, 1997 and to pay Mercedes V. Valdez of her retirement gratuity adjustment.

Quezon City, **JUL 16 2001**

Signed
J. WALDEMAR V. VALMORES
Commissioner

Signed
KARINA CONSTANTINO-DAVID
Chairperson

Signed
JOSE F. ERESTAIN, JR.
Commissioner

Attested by:

Signed
ARIEL G. RONQUILLO
Director III

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