

MILLAN, Carlito H.

Re: Gratuity Pay; MMDA Employees;
Section 11 of R.A. No. 7924

X-----X

RESOLUTION No. 01-1534

Carlito H. Millan, Pangulo, Kapisanan para sa Kagalingan ng mga Kawani sa Kalakhang Maynila-Metropolitan Manila Development Authority (KKK-MMDA), 1022 Betina St., Sampaloc, Manila, appeals the alleged non-payment of the gratuity pay of retiring employees of the said agency. Millan represents that this is due to the policy of the said agency of not counting the period of service rendered prior to their appointment in the MMDA in computing the gratuity pay due them.

The letter of Millan reads, in part, as follows:

“Kami ngayon ay binabagabag ng matinding suliranin para sa aming “SEPARATION GRATUITY PAY” sa ilalim ng RA 7924 (Creation of Metropolitan Manila Development Authority). Mula noong 1996 hanggang ngayon, ang pamahalaan ng MMDA ay nagbigay pahintulot sa mga kawanging nagnanais magretiro ng boluntaryo. Ito ay dahil sa hindi pa maimplementa ang Re-Organisasyon sa aming ahensya dahilan sa kakapusang pinansya ng pamahalaang Nasyunal.

“Noong una ay walang gaanong problema liban sa pagkaantala ng badyet para dito. Gayundin, sumulpot ang kasong petisyon para dito ni G. Antonio Santos, datng Director Traffic Operations Center. Nagbaba ang kataas-taasang Hukuman ng desisyon para dito . . . Pinawalang bisa ang kanyang petisyon na bayaran ang kanyang mga naunang serbisyo sa gobyerno dahil ito ay nabayaran na noong siya ay magretiro sa Hudikarya . . .

“Ngayon, ang mga Kawani ng MMDA na magreretiro sa unang pagkakataon sa gobyerno ay lubhang

naapektuhan ng atas na ito . . .

“Ito ang patakarang tuntunan ni Chairman Benjamin Abalos sa aming Separation Gratuity Pay RA 7924 upang hindi isama sa kabayaran sa aming serbisyo sa gobyerno ang mga panahong hindi nasasakupan ng MMA. Ibinawas sa amin ang kwentang kabayaran para dito. Maliit na halaga ng lamang ang natitira sa amin . . . ”

In lieu of the required comment, MMDA General Manager Jaime Z. Paz submitted the following documents:

- 1) Republic Act No. 7924 (AN ACT CREATING THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY DEFINING ITS POWERS AND FUNCTIONS, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES) dated March 1, 1995;
- 2) RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 7924, THE LAW CREATING THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY dated May 9, 1996;
- 3) Office of the President Memorandum Order No. 372 (APPROVING THE RULES AND REGULATIONS IMPLEMENTING R.A. NO. 7924, THE LAW CREATING THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY) dated May 16, 1996;
- 4) MMDA Metro Manila Council Resolution No. 16 (AUTHORIZING THE CHAIRMAN OF THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY TO PAY OFFICIALS AND EMPLOYEES WHO MAY BE SEPARATED AS A RESULT OF THE IMPLEMENTATION OF R.A. NO. 7924) dated July 18, 1996;
- 5) A copy of the case of Antonio P. Santos vs. Court of Appeals, G.R. No. 139792 dated November 22, 2000.

On March 1, 1995, **Republic Act No. 7924 (AN ACT CREATING THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY, DEFINING ITS POWERS AND FUNCTIONS, PROVIDING FUNDS THEREFOR**

AND FOR OTHER PURPOSES) was enacted. The said law abolished the Metropolitan Manila Authority (MMA) and thereafter created the Metropolitan Manila Development Authority (MMDA). On May 9, 1996, the Rules and Regulations implementing the said law were approved by the President. On May 16, 1996, the said law and its implementing rules and regulations provided that all officials and employees of the previous agency, the MMA, shall continue to exercise their duties and functions and receive their salaries and allowances until they shall have been given notice of change of duties and functions, and of their transfer to another office or position. Moreover, it established a fund which may be used to pay the benefits accruing to displaced employees by reason of the creation of the new agency, the MMDA, and/or those qualified for retirement under existing laws and who opted to avail of the benefits under the said law in which case the benefits they will receive shall include their previous employment in the other government agencies, if applicable. However, the MMDA officials/employees who opted to receive their benefits under R.A. No. 7924 claim that the said agency does not count the services they have rendered in the government prior to their appointment in the MMA, in the computation of their retirement pay.

Hence, this appeal.

The sole issue to be resolved is whether or not the refusal of the MMDA to count the services rendered by its officials/employees prior to their appointment in the said agency in computing their retirement pay is in order.

Relevant to the instant case is **Section 11 of Republic Act No. 7924 (AN ACT CREATING THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY, DEFINING ITS POWERS AND FUNCTIONS, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES)**, which provides:

“SEC. 11. Transitory Provisions. – To prevent disruption in the delivery of basic urban services pending the full implementation of the MMDA’s organizational structure and staffing pattern, all officials and employees of the interim MMA shall continue to exercise their duties and functions and receive their salaries and allowances until they shall have been given notice of change of duties and functions, and of being transferred to another office or position.

“All assets and properties presently in use or under the accountability of the interim MMA all its obligations, indebtedness, or liabilities shall be transferred to and assumed by the MMDA created under this

Act, subject to the conditions that may be established by the Department of Budget and Management, Office of the President, and Commission on Audit.

“The civil service laws, rules and regulations pertinent to the displacement of personnel affected by this Act shall be strictly enforced. The national government shall provide such amounts as may be necessary to pay the benefits accruing to displaced employees at the rate of one and one-fourth (1 ¼) month’s salary for every year of service: Provided, That, if qualified for retirement under existing laws, said employees may opt to receive the benefits thereunder.” (Underlining ours)

Section 34 of Rule VIII of the Rules and Regulations Implementing R.A. No. 7924 elaborates further, as follows:

*“Sec. 34. **Separation and Retirement Benefits.** All officials and employees, including casuals and temporary employees who have been separated pursuant to the approved reorganization and Civil Service Laws and rules under any of the valid causes, except those as a result of final disciplinary action, shall if entitled thereto, be paid the appropriate separation, retirement and other benefits under existing laws immediately. The payment of personnel benefits shall not exceed ninety [90] days from the date of the effectivity of their separation or from the date of the receipt of the resolution of their appeals as the case may be: Provided, that application for clearance has been filed and no action thereon has been made by proper authority.*

“Officials and employees who have been separated from the service as a result of the implementation of RA 7924 shall be paid separation gratuity in the amount equivalent to one and one fourth [1 – ¼] month’s salary for every year of service: Provided, that, if qualified for retirement under existing retirement laws, said employees may opt to receive the benefits thereunder.”

“Such separation pay and retirement benefits accruing to displaced or separated employees shall be provided by the national government, as may be necessary.”(Underlining ours)

From the foregoing, it is clear that two (2) situations may arise. Firstly, when the official/employee is separated by virtue of the reorganization of the said agency and he is not yet entitled to retirement benefits. Secondly, when an official/employee is separated from the said agency by virtue of reorganization but he is qualified to retire in which case he may opt for the separation gratuity benefits or the retirement benefits, whichever is more beneficial to him.

In the first case, the computation of an employee's separation pay shall be limited to the period of service he/she rendered. This means that he/she will receive one and one-fourth month's salary for every year of service he/she rendered whether in the MMA and/or other agencies (**Dario vs. Mison, 176 SCRA 85 dated August 8, 1989 and Domingo vs. Development Bank of the Philippines, 207 SCRA 766 dated April 7, 1992**).

On the other hand, if the official/employee who is retiring from the service opts to claim the benefits due him/her from the MMDA, he/she will receive his/her retirement pay for every year of government service.

The ruling of the Supreme Court in the case of **Santos vs. Court of Appeals, G.R. No. 139792 dated November 22, 2000**, is not applicable in the present case. This is so, since the petitioner therein opted to claim separation gratuity benefits while herein appellants who opted to avail of retirement benefits and second the petitioner therein already claimed his retirement pay from his previous agency before his appointment in the MMDA. The pertinent portions of the case read, as follows:

“ . . . the last paragraph of Section 11 of R.A. No. 7924 on the grant of separation pay at the rate of ‘one and one fourth (1 ¼) months of salary for every year of service’ cannot by any stretch of the imagination be interpreted to refer to the total length of service of an MMA employee in the government, i.e., to include such service in the government outside the MMA. Since it allows the grant of separation pay can be based only on the length of service in the MMA. The displacement amounted to an abolition of the office or position of the displaced employees, such as that of petitioner . . .

“Second, petitioner himself must have realized that Section 11 does not allow the tacking in of his previous government service. If he were convinced that it does he could have instead applied for retirement benefits, since by adding his years of service in the MMA to his previous years of service in the Government

he could have retired under the third paragraph of Section 11 . . .

“Third, after the approval of his optional retirement on 1 April 1992, petitioner was fully paid of his retirement gratuity under R.A. No. 910 . . .

“ . . . to credit his years of service in the Judiciary in the computation of his separation pay under R.A. 7924 notwithstanding the fact that he had received or has been receiving the retirement benefits under R.A. 910, as amended, would be to countenance double compensation for exactly the same services, i.e., his services as McTC Judge . . . “

In the present case, the official/employee of the MMDA would be retiring from the service for the first time. Therefore, they have not received any gratuity pay before.

The Supreme Court in the case of **Santiago vs. Commission on Audit, 199 SCRA 125 dated July 12, 1991**, expounded on the purpose and importance of retirement benefits in the following manner:

“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 appeal of Carlito H. Millan is hereby **GRANTED**. Accordingly, the Metropolitan Manila Development Authority (MMDA) is hereby ordered to include the services rendered by officials/employees in the Metropolitan Manila Authority (MMA) and other agencies in the computation of their retirement pay from the Metropolitan Manila Development Authority (MMDA) (created agency).

Quezon City, September 14, 2001

(SIGNED)

KARINA CONSTANTINO-DAVID

Chairman

(SIGNED)

JOSE F. ERESTAIN, JR.

Commissioner

(O.B.)

J. WALDEMAR V. VALMORES

Commissioner

Attested by:

(SIGNED)

ARIEL G. RONQUILLO

Director III

FPG/KPZ/X3/Y11(D18)jrl

Millan/NDC-01-0348