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[G.R. No. 139792. November 22, 2000]

ANTONIO P. SANTOS, *petitioner, vs.* **THE HONORABLE COURT OF APPEALS, METROPOLITAN AUTHORITY, now known as METROPOLITAN MANILA DEVELOPMENT AUTHORITY, and THE CIVIL SERVICE COMMISSION,** *respondents.*

SYNOPSIS

Petitioner was appointed Judge of the MeTC of Quezon City and thereafter assumed office. Subsequently, petitioner optionally retired from the Judiciary under R.A. 910, as amended, and received his retirement gratuity under the law for his entire years in the government service, and five years thereafter he has been regularly receiving a monthly pension. On 1 March 1995, Congress enacted R.A. No. 7924 which reorganized the Metropolitan Manila Authority (MMA) and renamed it as Metropolitan Manila Development Authority (MMDA). Subsequently, the MMDA issued a Resolution which authorized the payment of separation benefits to the officials and employees of the former MMA who would be separated as a result of the implementation of R.A. 7924. Petitioner was informed by the MMDA that having opted to be separated from the service, he would be entitled to separation benefits equivalent to one and one-fourth (1-¼) monthly salary for every year of service under Sec. 11 of the MMDA law. In his Position Paper, petitioner asserted that since the retirement gratuity he received under R.A. 910, as amended, is not an additional or double compensation, all the years of his government service, including those years in the Judiciary, should be credited in the computation of his separation benefits under R.A. No. 7924. The Civil Service Commission (CSC) held that petitioner cannot be paid retirement benefits twice — one under R.A. 910, as amended, and another under R.A. No. 7924 — for the same services he rendered as MeTC Judge. Petitioner then filed with the Court of Appeals a Petition to set aside the resolution of the CSC. The Court of Appeals ruled that the CSC was correct in dismissing petitioner's appeal from the opinion of the CSC-NCR Regional Office. Hence, this petition.

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The Supreme Court agreed with the Court of Appeals and the CSC that for the purpose of computing or determining petitoner's separation pay under Sec. 11 of R.A. No. 7924, his years of service in the Judiciary should be excluded and that his separation pay should be solely confined to his services in the MMA. The provision of Sec. 8, 2nd par. of Article IX-B of the Constitution which provides that pensions or gratuities shall not be considered as additional, double, or indirect compensation simply means that a retiree receiving pension or gratuity can continue to receive such pension or gratuity even if he accepts another government position to which another compensation is attached. However, to credit petitioner's years of service in the Judiciary in the computation of his retirement pay under R.A. No. 7924 despite having received the retirement benefits under R.A. No. 910, as amended, would be to countenance double compensation for exactly the same services, *i.e.*, his services as MeTC Judge. Sec. 11 of R.A. No. 7924 does not specifically authorize payment of additional compensation for years of government service outside of the MMA. The petition was denied and the decision of the Court of Appeals was affirmed.

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; REPUBLIC ACT NO. 7924; METROPOLITAN MANILA DEVELOPMENT AUTHORITY; SEPARATION PAY UNDER SECTION 11 OF R.A. 7924 SOLELY CONFINED TO SERVICES RENDERED IN THE MMA.** — In the first place, 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 (1¼) months of salary for every year of service" cannot by any stretch of logic or 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 to employees who were to be displaced thereby the 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. The rule is settled that Congress may abolish public offices. Such a power is a consequent prerogative of its power to create public offices. However, the power to abolish

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is subject to the condition that it be exercised in good faith. The separation partook of the nature of a disturbance of compensation; hence, the separation pay must relate only to the employment thus affected.

2. **ID.; ID.; ID.; DOUBLE COMPENSATION, CONCEPT; A RETIREE RECEIVING PENSION OR GRATUITY CAN CONTINUE TO RECEIVE IT EVEN IF HE ACCEPTS ANOTHER GOVERNMENT POSITION TO WHICH ANOTHER COMPENSATION IS ATTACHED.** — The petitioner cannot take refuge under the second paragraph of Section 8 of Article IX-B of the Constitution, which provides: Pensions or gratuities shall not be considered as additional, double, or indirect compensation. This provision simply means that a retiree receiving pension or gratuity can continue to receive such pension or gratuity even if he accepts another government position to which another compensation is attached. Indeed, the retirement benefits which petitioner had received or has been receiving under R.A. No. 910, as amended, do not constitute double compensation. He could continue receiving the same even if after his retirement he had been receiving salary from the defunct MMA as Director III thereof. This is but just because said retirement benefits are rewards for his services as MeTC Judge, while his salary was his compensation for his services as Director III of the MMA.

3. **ID.; ID.; ID.; ID.; CREDITING THE YEARS OF SERVICE IN THE JUDICIARY IN THE COMPUTATION OF SEPARATION PAY UNDER R.A. 7924 AND RECEIVING RETIREMENT BENEFITS UNDER R.A. NO. 910 CONSTITUTE DOUBLE COMPENSATION.** — [T]o credit his years of service in the Judiciary in the computation of his separation pay under R.A. No. 7924 notwithstanding the fact that he had received or has been receiving the retirement benefits under R.A. No. 910, as amended, would be to countenance double compensation for exactly the same services, *i.e.*, his services as MeTC Judge. Such would run counter to the policy of this Court against double compensation for exactly the same services. More important, it would be in violation of the first paragraph of Section 8 of Article IX-B of the Constitution, which proscribes additional, double, or indirect compensation.

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APPEARANCES OF COUNSEL

Antonio F. Navarrete for petitioner.
The Solicitor General for respondents.

D E C I S I O N

DAVIDE, JR., *C.J.*:

In this petition for review on *certiorari* petitioner assails the decision of 19 August 1999 of the Court of Appeals[1] in CA-G.R. SP No. 48301, which held that petitioner's separation pay under Section 11 of R.A. No. 7924 should be limited to the number of years of his service in the Metropolitan Manila Authority (MMA) only, excluding his years of service as judge of the Metropolitan Trial Court (MeTC) of Quezon City for which he has already been given retirement gratuity and pension.

The undisputed facts are as follows:

On 18 January 1983, petitioner was appointed Judge of the MeTC of Quezon City, and he thereafter assumed office. After the military-backed EDSA revolt, petitioner was reappointed to the same position.

On 1 April 1992, petitioner optionally retired from the Judiciary under R.A. No. 910,[2] as amended, and received his retirement gratuity under the law for his entire years in the government service; and five years thereafter he has been regularly receiving a monthly pension.

On 2 December 1993, petitioner re-entered the government service. He was appointed Director III of the Traffic Operation

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[1] *Rollo*, 31-41. Per Barcelona, R., *J.*, with Demetria, D., and Gozo-Dadole, M., *JJ.*, concurring.

[2] Not R.A. No. 901 as stated in the challenged decision of the Court of Appeals (*Rollo*, 31), or R.A. No. 601 as stated in Resolution No. 97-4266 of the Civil Service Commission (*Rollo*, 50 and 52). R.A. No. 910, as amended, was further amended by R.A. No. 5095 and P.D. No. 1438.

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Center of the MMA. His appointment was approved by the Civil Service Commission (CSC).

On 1 March 1995, Congress enacted R.A. No. 7924, which reorganized the MMA and renamed it as Metropolitan Manila Development Authority (MMDA). Section 11 thereof reads:

> Section 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.
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> xxx xxx xxx
>
> 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 (1¼) 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.

On 16 May 1996, the President of the Philippines issued Memorandum Order No. 372 approving the Rules and Regulations Implementing R.A. No. 7924. Pursuant thereto, the MMDA issued Resolution No. 16, series of 1996, which, *inter alia,* authorized the payment of separation benefits to the officials and employees of the former MMA who would be separated as a result of the implementation of R.A. No. 7924.

On 30 August 1996, the MMDA issued a Memorandum to petitioner informing him that in view of his "voluntary option to be separated from the service" his services would automatically cease effective at the close of office hours on 15 September 1996, and that he would be entitled to "separation benefits equivalent to one and one-fourth (1¼) monthly salary for every year of service as provided under Section 11 of the MMDA Law."

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In view of some doubt or confusion as to the extent of his separation benefits, petitioner submitted a Position Paper wherein he asserted that since the retirement gratuity he received under R.A. No. 910, as amended, is not an additional or double compensation, all the years of his government service, including those years in the Judiciary, should be credited in the computation of his separation benefits under R.A. No. 7924. The Assistant Manager for Finance of the MMDA referred the Position Paper to the Regional Office of the CSC-NCR.

On 7 October 1996, Director IV Nelson Acebedo of the CSC-NCR handed down an opinion that the payment of petitioner's separation pay must be in accordance with Civil Service Resolution No. 92-063, pertinent portions of which read:

> [T]he payment of separation/[retirement] benefits cannot be subject to the prohibition against the [*sic*] double compensation in cases when officers and employees who were previously granted said benefits are rehired or reemployed in another government Agency or Office. Thus, there is no need for separated employees to refund the separation/retirement benefits they received when subsequently reemployed in another government agency or office.
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> . . . This being so, while an employee who was paid separation/ retirement benefits is not required to refund the same once reemployed in the government service, as aforestated, for reasons of equity however, it would be proper and logical that said separation/retirement benefits should nevertheless be deducted from the retirement/ [separation] pay to be received by the employee concerned. Moreover, in this instance, the employee concerned has the option either to refund his separation/retirement benefits and claim his gross retirement/separation pay without any deduction corresponding to his separation pay received, or not [to] refund his separation/ retirement pay but suffer a deduction of his retirement/separation gratuity for the total amount representing his previous separation/ retirement pay received.

His motion for reconsideration having been denied, petitioner elevated the opinion of Director Acebedo to the CSC.

On 21 October 1997, the CSC promulgated Resolution No. 97-4266 affirming the opinion of Director Acebedo and dismissing

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petitioner's appeal. Citing *Chaves v. Mathay,*[3] it held that petitioner cannot be paid retirement benefits twice — one under R.A. No. 910, as amended, and another under R.A. No. 7924 — for the same services he rendered as MeTC Judge. He can only exercise one of two options in the computation of his separation pay under R.A. 7924. These options are (1) to refund the gratuity he received under R.A. No. 910, as amended, after he retired from the MeTC and get the full separation pay for his entire years in the government, that is 9 years and 2 months with the MeTC plus two (2) years and eight (8) months for his services as Director III in the defunct MMA, at the rate of one and one-fourth salary for every year of service pursuant to MMDA Memorandum dated 30 August 1996; or (2) to retain the gratuity pay he received for his services as MeTC Judge but an equivalent amount shall be deducted from the separation benefits due from the former MMA for his entire government service.

On 9 June 1998, the CSC promulgated Resolution No. 98-1422 denying petitioner's motion for reconsideration. Accordingly, petitioner filed with the Court of Appeals a petition to set aside these Resolutions.

On 19 August 1999, the Court of Appeals promulgated its decision, now challenged in this case. It held that the CSC was "correct in dismissing petitioner's appeal from the opinion of Director Acebedo." It ratiocinated as follows:

> There is no specific rule of law which applies to petitioner's case. Nevertheless, the Court finds it equitable to deny his claim for payment of separation pay at the rate of one and one-fourth (1¼) month's salary for every year of his service in government, that is, inclusive of the number of years he served as Judge of the Metropolitan Trial Court of Manila [*sic*].
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> Petitioner already received and is continually receiving gratuity for his years of service as a Metropolitan Trial Court Judge. Equity dictates that he should no longer be allowed to receive further gratuity for said years of service in the guise of separation pay.

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[3] 37 SCRA 776 [1971].

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Suffice it to state that upon his retirement from his office as a Judge, petitioner has already closed a chapter of his government service. The State has already shown its gratitude for his services when he was paid retirement benefits under Republic Act No. 901 [*sic*]. For that is what retirement benefits are for. Rewards [are] given to an employee who has given up the best years of his life to the service of his country (*Gov't. Service Insurance System v. Civil Service Commission*, 245 SCRA 179, 188).

Now, the state again wishes to show its gratitude to petitioner by awarding him separation pay for his services as a director of the Metro Manila Authority (MMA), another chapter of petitioner's government service which has come to a close by the reorganization of the MMA into the Metropolitan Manila Development Authority.

The Court, in limiting the computation of petitioner's separation pay to the number of years of his service at the MMA, merely is implementing the ruling in "*Chavez, Sr. vs. Mathay*" (37 SCRA 776), which ruling, if not actually in point, is nevertheless applicable owing to its "common-sense consideration." Said ruling reads:

> "The 'common-sense consideration' stated by Mr. Justice J.B.L. Reyes for the Court in *Espejo*, that if a retiree is being credited with his years of service under his *first* retirement in computing his gratuity under his *second* retirement, it is but just that the retirement gratuity received by him under his first retirement should also be charged to his account, manifestly govern the case at bar. It is but in accordance with the rule consistently enunciated by the Court as in *Anciano v. Otadoy*, affirming *Borromeo*, that claims for double retirement or pension such as petitioner's, 'would run roughshod over the well-settled rule that in the absence of an express legal exception, *pension and gratuity laws should be so construed as to preclude any person from receiving double pension.*'" (p. 780, italics supplied)

The case at bench is not, strictly speaking, about 'double pension.' It is, however, about the interpretation of a gratuity law, viz., Section 11 of Republic Act No. 7924 which awards separation pay to those government employees who were displaced by the reorganization of the MMA into the MMDA, which should be construed to preclude a government employee from receiving double gratuity for the same years of service.

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We affirm the assailed judgment. We agree with the Court of Appeals and the Civil Service Commission that for the purpose of computing or determining petitioner's separation pay under Section 11 of R.A. No. 7924, his years of service in the Judiciary should be excluded and that his separation pay should be solely confined to his services in the MMA.

In the first place, 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 (1¼) months of salary for every year of service" cannot by any stretch of logic or 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 to employees who were to be displaced thereby the 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. The rule is settled that Congress may abolish public offices. Such a power is a consequent prerogative of its power to create public offices.[4] However, the power to abolish is subject to the condition that it be exercised in good faith.[5] The separation partook of the nature of a disturbance of compensation; hence, the separation pay must relate only to the employment thus affected.

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, which pertinently reads:

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[4] *Manalang v. Quitoriano*, 94 Phil. 903 [1954]; *Rodriguez v. Montinola*, 94 Phil. 964 [1954]; *Castillo v. Pajo*, 103 Phil. 515 [1958]; *Ulep v. Carbonell*, 4 SCRA 375 [1962]; *Llanto v. Dimaporo*, 16 SCRA 599 [1966]; *Canonizado v. Aguirre*, G.R. No. 133132, 25 January 2000.

[5] *Cruz v. Primicias*, 23 SCRA 998 [1968]; *Canonizado v. Aguirre*, *supra*.

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Provided, That, if qualified for retirement under existing retirement laws, said employee may opt to receive the benefits thereunder.

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, as amended; and five years thereafter he has been receiving a monthly pension.

The petitioner cannot take refuge under the second paragraph of Section 8 of Article IX-B of the Constitution, which provides:

Pensions or gratuities shall not be considered as additional, double, or indirect compensation.

This provision simply means that a retiree receiving pension or gratuity can continue to receive such pension or gratuity even if he accepts another government position to which another compensation is attached.[6]

Indeed, the retirement benefits which petitioner had received or has been receiving under R.A. No. 910, as amended, do not constitute double compensation. He could continue receiving the same even if after his retirement he had been receiving salary from the defunct MMA as Director III thereof. This is but just because said retirement benefits are rewards for his services as MeTC Judge, while his salary was his compensation for his services as Director III of the MMA.

However, to credit his years of service in the Judiciary in the computation of his separation pay under R.A. No. 7924 notwithstanding the fact that he had received or has been receiving the retirement benefits under R.A. No. 910, as amended, would be to countenance double compensation for exactly the same services, *i.e.*, his services as MeTC Judge. Such would run counter to the policy of this Court against double compensation for exactly the same services.[7] More important, it would be in violation of the

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[6] II JOAQUIN BERNAS, *THE CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES (A Commentary)* 341 (1988 ed.).

[7] *Espejo v. Auditor General*, 97 Phil. 216 [1955]; *Borromeo v. GSIS*, 110 Phil. 1 [1960]; *Anciano v. Otadoy*, 27 SCRA 200 [1969]; *Chavez v. Mathay, supra,* note 3.

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first paragraph of Section 8 of Article IX-B of the Constitution, which proscribes additional, double, or indirect compensation. Said provision reads:

> No elective or appointive public officer or employee shall receive additional, double, or indirect compensation, unless specifically authorized by law . . .

Section 11 of R.A. No. 7924 does not specifically authorize payment of additional compensation for years of government service outside of the MMA.

WHEREFORE, finding no reversible error in the judgment appealed from, the petition in this case is *DENIED* for want of merit, and the decision of 19 August 1999 of the Court of Appeals in CA-G.R. SP No. 48301 is *AFFIRMED.*

Costs against petitioner.

SO ORDERED.

Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and *De Leon, Jr., JJ.*, concur.

THIRD DIVISION

[G.R. Nos. 139927 and 139936. November 22, 2000]

SALVADOR BIGLANG-AWA, REMEDIOS BIGLANG-AWA, *petitioners, vs.* **HON. JUDGE MARCIANO I. BACALLA in his capacity as Presiding Judge of Branch 216 — Regional Trial Court of Quezon City, REPUBLIC OF THE PHILIPPINES (DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS),** *respondents.*