



Republic of the Philippines  
**Supreme Court**  
 Baguio City  
**FIRST DIVISION**

SUPREME COURT OF THE PHILIPPINES  
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**QUIRICO D. ANIÑON,**  
 Petitioner,

**G.R. No. 190410**

Present:

- versus -

**BERSAMIN, C.J.,**  
**\*DEL CASTILLO,**  
**\*\*JARDELEZA,**  
**GESMUNDO, and**  
**CARANDANG, JJ.**

**GOVERNMENT SERVICE  
 INSURANCE SYSTEM,**  
 Respondent.

Promulgated:

**APR 10 2019**

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**DECISION**

**BERSAMIN, C.J.:**

Retirement laws are liberally construed in favor of the retiree-beneficiary.

**The Case**

We consider and resolve the appeal of Quirico D. Aniñon seeking to reverse and set aside the decision promulgated on August 7, 2009<sup>1</sup> and the resolution promulgated on November 18, 2009<sup>2</sup> (assailed issuances), whereby the Court of Appeals (CA) affirmed the decision rendered on December 12, 2007<sup>3</sup> and the resolution promulgated on March 5, 2009<sup>4</sup> by the Board of Trustees of the Government Service Insurance System (GSIS)

\* On Official Leave

\*\* On Official Leave

<sup>1</sup> *Rollo*, pp. 70-88; penned by Associate Justice Celia C. Librea-Leagogo, with Associate Justice Juan Q. Enriquez, Jr. and Associate Justice Antonio L. Villamor concurring.

<sup>2</sup> *Id.* at 93-94.

<sup>3</sup> *Id.* at 54-58.

<sup>4</sup> *Id.* at 62-65.

denying his request to allow him to refund retirement benefits previously received and to include the years of service rendered in his previous government employment.

### Antecedents

Aniñon rendered intermittent government service from 1969 until 1982, first, as an employee of the Bureau of Census and Statistics, then, of the Department of Justice, and then later, of the Supreme Court. In 1988, he returned to the civil service as an employee of the Supreme Court. He eventually resigned in 1989 to work abroad.<sup>5</sup>

During the time Aniñon was separated from the civil service, the prevailing law governing retirement benefits was Presidential Decree No. 1146 (*Revised Government Insurance Act of 1977*),<sup>6</sup> which amended and expanded Commonwealth Act (C.A.) No. 186.<sup>7</sup> Under said law, the retiree must have rendered at least 15 years of service to be entitled to retirement benefits.<sup>8</sup>

By the time he left in 1989 to work abroad, Aniñon had only been in government service for 12 years, and his service had been intermittent and not continuous. As the result of his voluntary separation from the service prior to obtaining the necessary eligibility, he received from the GSIS an amount of ₱16,345.12 representing the refund of his premiums,<sup>9</sup> to which he was entitled under Section 11(d) of C.A. No. 186, as amended by Republic Act (R.A.) No. 660 (*Return of Premiums*).<sup>10</sup>

On August 19, 1996,<sup>11</sup> Aniñon was reinstated in the civil service as an employee of the Professional Regulatory Commission. He later transferred to the CA on June 3, 1998,<sup>12</sup> and then again to the Supreme Court on January 19, 2001,<sup>13</sup> where he served until February 28, 2008.<sup>14</sup>

<sup>5</sup> Id. at 54, 189.

<sup>6</sup> *Amending, Expanding, Increasing and Integrating the Social Security and Insurance Benefits of Government Employees and Facilitating the Payment Thereof Under Commonwealth Act No. 186, As Amended, and for Other Purposes* (effectivity is May 31, 1977).

<sup>7</sup> Entitled *An Act, to Create and Establish a "Government Service Insurance System," to Provide for its Administration, and to Appropriate the Necessary Funds Therefor* (effective on November 14, 1936).

<sup>8</sup> Under Section 13 of P.D. No. 1146, retirees had the option to retire and avail of the benefits in accordance to either P.D. No. 1146 or C.A. No. 186 (See *Santos v. Committee on Claims Settlement and GSIS*, G.R. No. 158071, April 2, 2009, 583 SCRA 152). The required minimum number of years of service to be eligible for benefits under both retirement laws is 15 years (See Section 11 of P.D. No. 1146 and Section 12 of C.A. No. 186).

<sup>9</sup> *Rollo*, p. 54.

<sup>10</sup> SECTION 11 of R.A. No. 660 declares: (a) x x x (d) Upon dismissal for cause or on voluntary separation, he shall be entitled only to his own premiums and voluntary deposits, if any, plus interest of three per centum per annum, compounded monthly.

<sup>11</sup> *Rollo*, p. 189.

<sup>12</sup> Id. at 190.

<sup>13</sup> Id.

<sup>14</sup> Id. at 166.

Meanwhile, on May 30, 1997, R.A. No. 8291 (*GSIS Act of 1997*), amending P.D. No. 1146, took effect. Under R.A. No. 8291, the retiree must have served a minimum of 15 years in the government to be eligible for retirement benefits;<sup>15</sup> if the retiree was previously separated or retired from the Government but was reinstated or re-employed in the civil service, his length of service shall include the periods of service at different times under one or more employers<sup>16</sup> but shall exclude such number of years of service for which he already applied and was awarded benefits under earlier applicable retirement laws (*Previous Services*).<sup>17</sup>

The GSIS, through its Board of Trustees,<sup>18</sup> reiterated this rule on computing total service in its *Implementing Rules and Regulations of R.A. No. 8291 (Implementing Rules)*,<sup>19</sup> thereby making the previously retired or separated civil servant in effect a new entrant upon re-employment.<sup>20</sup>

In connection with the Implementing Rules, the GSIS issued an opinion barring full credit of service years to reinstated employees in case they retired prior to the effectivity of R.A. No. 8291 and collected the benefits therefrom, *viz.*:

An employee or member who, before Republic Act No. 8291 took effect, had retired and received gratuity benefit and refund of retirement premiums under the provisions of Republic Act No. 1616; and who re-entered government service a day after his retirement **cannot be allowed**

<sup>15</sup> Section 13-b, P.D. No. 1146, as amended by R.A. No. 8291 says:

Sec. 13. x x x x

(b) Unless the service is extended by appropriate authorities, retirement shall be compulsory for an employee of sixty-five (65) years of age with at least fifteen (15) years of service: Provided, That if he has less than fifteen (15) years of service, he may be allowed to continue in the service in accordance with existing civil service rules and regulations.

<sup>16</sup> Section 10(a), P.D. No. 1146, as amended by R.A. No. 8291 states:

Sec. 10. Computation of Service. (a) The computation of service for the purpose of determining the amount of benefits payable under this Act shall be from the date of original appointment/election, including periods of service at different times under one or more employers, x x x x.

<sup>17</sup> Section 10(b), P.D. No. 1146, as amended by R.A. No. 8291, recites:

Sec. 10. Computation of service. x x x

(b) All service credited for retirement, resignation or separation for which corresponding benefits have been awarded under this Act or other laws shall be excluded in the computation of service in case of reinstatement in the service of an employee and subsequent retirement or separation which is compensable under this Act. x x x

<sup>18</sup> Pursuant to the rule-making power defined and vested by Section 43(b) of R.A. No. 8291, to wit:

Sec. 43. Powers and Functions of the Board of Trustees.—The Board of Trustees shall have the following powers and functions:

x x x x

(b) to promulgate such rules and regulations as may be necessary or proper for the effective exercise of the powers and functions as well as the discharge of the duties and responsibilities of the GSIS, its officers and employees[.]

<sup>19</sup> Published on November 23, 1997.

<sup>20</sup> Section 8.6, Rule VIII, Implementing Rules and Regulations of R.A. No. 8291 provides:

Sec. 8.6. Effect of Re-employment.—When a retiree is re-employed, his/her previous services credited at the time of his/her retirement shall be excluded in the computation of future benefits. In effect, he/she shall be considered a new entrant.

**to retire under RA 8291**—with full credit of the service already paid pursuant to his previous retirement.<sup>21</sup> (bold emphasis supplied)

Subsequently, the GSIS requested the Department of Justice (DOJ) to confirm the opinion.<sup>22</sup> Acting on the request, DOJ Secretary Raul M. Gonzalez rendered DOJ Opinion No. 106 dated December 17, 2004,<sup>23</sup> holding thusly:

x x x R.A. 8291 is a social legislation which provides for, among others, the retirement and separation benefits of government employees. It is well-settled that retirement laws are liberally construed in favor of the retirees.

x x x x

Moreover, it appears that the issue discussed in the request for confirmatory opinion is not one of first impression. A reading of the Primer on the GSIS Act of 1997 issued by the GSIS seems to provide the answer therefor.<sup>24</sup> x x x

It appears that the GSIS had issued in 1997 the Primer adverted to in DOJ Opinion No. 106 in order to address frequently-asked questions concerning R.A. No. 8291. A portion of the Primer reads:

*Can services for which retirement contributions have been refunded be included in the computation of service in case of reinstatement?*

Yes, however, the corresponding contributions plus interests shall be deducted from benefits to be received. x x x

*Are the previous services of an employee credited if upon reinstatement to the service, he/she refunded all the retirement benefits he/she received?*

Yes, because technically the employee in this case has not received any retirement or separation benefits. Formerly, refund of retirement benefits received was a requirement upon reinstatement. Under R.A. 8291, there is no such requirement.<sup>25</sup>

However, DOJ Opinion No. 106 contained the following qualification, to wit:

With the foregoing provision in the Primer, **we believe that your opinion needs qualification**. In fine, the inclusion or exclusion of previous services of an employee in the computation of services for purposes of retirement under R.A. No. 8291 is dependent on whether said employee refunded his retirement benefits previously received anytime upon reinstatement to the service. Thus, if there was a **refund** of all

<sup>21</sup> *Rollo*, p. 47.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 47-50.

<sup>24</sup> *Id.* at 49

<sup>25</sup> *Id.* at 204.

retirement benefits he received, **all his previous services will be credited in the computation since technically said employee has not received any retirement or separation benefits.** If there was no refund, it goes without saying that his previous services will no longer be included in the computation of service for purposes of retirement under R.A. No. 8291.<sup>26</sup> (bold emphasis supplied)

To align with DOJ Opinion No. 106, the GSIS issued Policy and Procedural Guidelines No. (PPG) No. 183-06 on January 3, 2006,<sup>27</sup> which was published on January 28, 2006,<sup>28</sup> whereby the GSIS clarified that a reinstated employee should be allowed full credit of previous services provided he/she meanwhile complied with the refund requirement, that is, to refund all retirement benefits received from his/her previous retirement or separation from service within 30 days from the publication of PPG No. 183-06.

In his letter dated November 20, 2006 addressed to Mr. Robert M. Agustin, Vice President, Social Insurance Operations Office I, of the GSIS,<sup>29</sup> Aniñon expressed his intention to retire on March 24, 2007, his 63<sup>rd</sup> birthday. For the purpose, he requested the full credit of his 12-year government service rendered prior to his reinstatement in 1996. However, having just learned about the refund requirement, he requested to be exempt from the coverage of PPG No. 183-06, specifically asking that he be allowed to belatedly refund the premiums returned in 1989, or, alternatively, to have the amount of the premiums deducted from his future retirement proceeds by way of offsetting.

However, Agustin denied Aniñon's request by letter dated January 24, 2007.<sup>30</sup>

Aniñon then elevated his concern to the GSIS Board of Trustees. In his petition dated January 31, 2007,<sup>31</sup> he reiterated his request and argued that PPG No. 183-06 violated his right to due process;<sup>32</sup> that publication of PPG No. 183-06 in a newspaper of general circulation was insufficient; that he was entitled to personal prior notice of PPG No. 183-06 and to a public hearing properly informing him that failure to pay the refund by the deadline would amount to a waiver;<sup>33</sup> that as a result, he learned of PPG No. 183-06 only on November 7, 2006, or over eight months past the deadline set for the refund of retirement benefits previously received by reinstated government

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<sup>26</sup> Id. at 50.

<sup>27</sup> Id. at 46, 54.

<sup>28</sup> Adopted by the Board of Trustees in Resolution No. 1 dated January 4, 2006. See National Administrative Register, Vol. 17, pp. 299-300.

<sup>29</sup> *Rollo*, p. 184-187.

<sup>30</sup> Id. at 188.

<sup>31</sup> Id. at 164-178.

<sup>32</sup> Id. at 170.

<sup>33</sup> Id. at 170-171.

employees;<sup>34</sup> and that PPG No. 183-06 also infringed his right to equal protection<sup>35</sup> because prior to its effectivity, reinstated employees were allowed to comply with the refund requirement through a “post-payment” scheme recognized by the GSIS in its Primer on RA 8291,<sup>36</sup> whereby the corresponding contributions would instead be deducted or offset from benefits to be received.

### **Decision of the GSIS Board of Trustees**

In its decision rendered on December 12, 2007,<sup>37</sup> the GSIS Board of Trustees dismissed Aniñon’s petition, ruling that PPG No. 183-06 did not violate his right to due process because based on *Dadole v. Commission on Audit*,<sup>38</sup> “[t]he legal requirement of publication is met with publication in the Official [Gazette] or in a newspaper of general circulation in the Philippines;” that the GSIS was not legally required to notify its members via personal service;<sup>39</sup> and that the guidelines also did not violate Aniñon’s right to equal protection because “all members similarly situated will have to follow the same 30-day deadline” set under PPG No. 183-06.<sup>40</sup>

After the GSIS Board of Trustees denied Aniñon’s motion for reconsideration,<sup>41</sup> he appealed to the CA.

### **Decision of the CA**

In his appeal, Aniñon ascribed the following errors to the GSIS Board of Trustees, namely:

I. THE GSIS BOARD, WITH ALL DUE RESPECT, GROSSLY ERRED WHEN IT DENIED HEREIN PETITIONER’S PLEA/PETITION TO BE EXEMPTED FROM THE COVERAGE OF PPG NO. 183-06 UNDER BOARD RESOLUTION NO. 1, S. 1996 (SIC) DESPITE PETITIONER’S ARGUMENT SUPPORTED BY UNDISPUTED FACTS AND JURISPRUDENTIAL LAW THAT HIS PENSION RIGHT OR ELIGIBILITY TO RETIRE HAD BEEN VESTED ALREADY PRIOR TO THE COMING OF SAID PPG.

II. THE GSIS BOARD, WITH ALL DUE RESPECT, GROSSLY ERRED WHEN IT RULED THAT PUBLICATION OF PPG NO. 183-06 UNDER BOARD RESOLUTION NO. 1, S. 1996 (SIC) IN TWO

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<sup>34</sup> Id. at 168.

<sup>35</sup> Id. at 174.

<sup>36</sup> Id. at 194.

<sup>37</sup> Id. at 54-58.

<sup>38</sup> G.R. No. 125350, December 3, 2002, 393 SCRA 262.

<sup>39</sup> *Rollo*, p. 55.

<sup>40</sup> Id.

<sup>41</sup> Id. at 62-65.

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NEWSPAPERS OF GENERAL CIRCULATION, NAMELY: THE PHILIPPINE STAR AND THE MANILA BULLETIN, RESPECTIVELY ON JANUARY 31 AND 28, 2006, IS MORE THAN SUFFICIENT COMPLIANCE WITH THE REQUIREMENT OF DUE PROCESS.

III. THE GSIS BOARD, WITH ALL DUE RESPECT, GROSSLY ERRED WHEN IT RULED THAT TO REQUIRE PERSONAL SERVICE OF NOTICE OF THE POLICY (PPG No. 183-06 UNDER BOARD RESOLUTION NO. 1, S. 1996) TO HEREIN PETITIONER WOULD BE ASKING TOO MUCH FROM RESPONDENT GSIS AS THIS WOULD BE IMPOSING AN OBLIGATION WHICH IS MORE THAN WHAT THE LAW REQUIRES.

IV. THE GSIS BOARD, WITH ALL DUE RESPECT, GROSSLY ERRED WHEN IT RULED THAT THERE IS NO VIOLATION OF THE EQUAL PROTECTION CLAUSE SIMPLY BECAUSE ALL MEMBERS SIMILARLY SITUATED WILL HAVE TO FOLLOW THE SAME 30-DAY DEADLINE UNDER PPG. NO. 183-06 WHICH, AS IT CLAIMS, IS APPLIED PROSPECTIVELY.

V. THE GSIS BOARD, WITH ALL DUE RESPECT, GROSSLY ERRED WHEN IT RULED THAT THE PRINCIPLE OF LIBERAL CONSTRUCTION OF SOCIAL LEGISLATION ADMITS OF EXCEPTIONS; AND THAT RESPONDENT GSIS WAS ALLEGEDLY AFFORDING WITHIN THE 30-DAY PRESCRIPTIVE PERIOD UNDER PPG NO. 183-06 A "LIBERAL OPPORTUNITY TO MAKE THE REFUND," JUSTIFYING IT WITH "GSIS NEEDS TO MAKE THESE FUNDS EARN IF BIGGER BENEFITS WILL HAVE TO BE DISPENSED TO THE MEMBERS WHO INTEND TO RETIRE AGAIN."<sup>42</sup>

Through the assailed decision promulgated on August 7, 2009, however, the CA denied the appeal and decreed as follows:

**WHEREFORE**, premises considered, the Petition is **DENIED**. The Decision dated 12 December 2007 and Resolution dated 05 March 2009 of the Government Service Insurance System in *GSIS CASE No. 006-07* are hereby **AFFIRMED**. Costs against petitioner.

**SO ORDERED.**<sup>43</sup>

The CA opined that PPG No. 183-06 did not impair any vested rights or interests of Aniñon; that upon the effectivity of PPG No. 183-06, he was still in active service, and his retirement benefits at that time were only future benefits over which he did not have any vested right; that, on the other hand, his right would only vest upon retirement and after obtaining the necessary eligibility; that PPG No. 183-06's refund requirement was favorable to employees reinstated in the Government; that the GSIS remained liberal by allowing affected members to refund previously

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<sup>42</sup> Id. at 103.

<sup>43</sup> Id. at 88.

received benefits, albeit subject to a deadline;<sup>44</sup> that applying the ruling in *Tañada v. Tuvera*,<sup>45</sup> publication was indispensable for all statutes, including administrative rules, to attain binding force and effect; that the GSIS more than complied with the legal requirement of publication through its publication of PPG No. 183-06 in three newspapers of general circulation; that personal notice of PPG No. 183-06 to Aniñon was not necessary;<sup>46</sup> that PPG No. 183-06 did not violate Aniñon's right to equal protection of the laws because PPG No. 183-06 applied to all members who were similarly situated; and that all of reinstated employees who sought to avail of benefits under R.A. No. 8291 upon retirement must comply with the refund requirement.<sup>47</sup>

Aniñon moved for reconsideration,<sup>48</sup> but the CA denied his motion.<sup>49</sup>

Hence, this appeal.

### Issues

The issues being presented for consideration and resolution can be restated as follows: (1) whether or not PPG 183-06 impaired any of Aniñon's vested rights or interests; (2) whether or not mere publication of PPG 183-06, absent personal notice served upon him, sufficiently met the constitutional requirement of due process; (3) whether or not PPG 183-06 violated his right to equal protection of the laws; (4) whether or not he should be exempt from the application of PPG 183-06 pursuant to the principle of liberal construction of social legislation and retirement laws in favor of the retiree; and (5) whether or not he retired in 1989 and availed himself of the corresponding benefits under R.A. No. 1616.

### Ruling of the Court

The appeal is meritorious.

#### 1.

#### **PPG No. 183-06's publication met the constitutional requirement of due process**

Aniñon argues that the prior publication of PPG No. 183-06 was not sufficient compliance with the constitutional precept of due process; that

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<sup>44</sup> Id. at 84-87.

<sup>45</sup> G.R. No. L-63915, April 24, 1985, 136 SCRA 27, 41-42.

<sup>46</sup> *Rollo*, p. 85.

<sup>47</sup> Id. at 86.

<sup>48</sup> Id. at 128-162.

<sup>49</sup> Id. at 93-94.



even if PPG No. 183-06 had been published as required in *Tañada v. Tuvera*,<sup>50</sup> he was nonetheless entitled to procedural due process that consisted of being given personal notice of the rule before its enforcement and the opportunity to be heard during its implementation.

Before being bound by a law or a rule, indeed, a person must first be officially and specifically notified and informed of its contents.<sup>51</sup> Publication is considered adequate notice to the general public of the laws and rules that regulate their actions and conduct as citizens.<sup>52</sup> Accordingly, as the means to guarantee the constitutional rights to due process and to information on matters of public concern,<sup>53</sup> laws and rules are to be binding only when their existence and contents are confirmed by a valid publication.<sup>54</sup>

Specifically, PPG No. 183-06, which the GSIS Board of Trustees promulgated pursuant to its delegated rule-making power,<sup>55</sup> should take effect only after its publication either in the Official Gazette or in a newspaper of general circulation as required by Article 2 of the *Civil Code*.

The argument of Aniñon cannot be upheld. To start with, the CA found that the GSIS had caused the publication of PPG No. 183-06 in newspapers of general circulation, that is, in *Manila Bulletin* on January 28, 2006 and in *People's Journal* and *Philippine Star* simultaneously on January 31, 2006.<sup>56</sup> The fact of publication as required by law was not disputable. On the other hand, there was neither law, including R.A. No. 8291, nor jurisprudence that required the GSIS to serve personal notices to all of its members as a condition to the effectivity against them of guidelines like those set in PPG No. 183-06. Evidently, therefore, the publication of PPG No. 183-06 in the three newspapers of general circulation sufficiently complied with the requirements of due process under the Constitution.<sup>57</sup>

## 2.

### **To be entitled to full service credit, Aniñon as a reinstated employee must refund benefits previously received**

We next review and resolve the merits of Aniñon's submission.

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<sup>50</sup> *Supra*, note 45, at 38.

<sup>51</sup> *Id.* at 39.

<sup>52</sup> *Id.* at 38.

<sup>53</sup> *Republic v. Pilipinas Shell Petroleum Corporation*, G.R. No. 173918, April 8, 2008, 550 SCRA 680, 690-691.

<sup>54</sup> *Tañada v. Tuvera*, G.R. No. L-63915, December 29, 1986, 146 SCRA 446, 456.

<sup>55</sup> Under Section 43(b) of R.A. No. 8291, the GSIS Board of Trustees has the authority to promulgate such rules and regulations as may be necessary or proper for the effective exercise of the powers and functions as well as the discharge of the duties and responsibilities of the GSIS, its officers and employees.

<sup>56</sup> *Rollo*, p. 83.

<sup>57</sup> *Id.* at 85.

Section 10(b) of P.D. No. 1146, as amended by R.A. No. 8291, provides:

X X X X

(b) All service credited for retirement, resignation or separation for which corresponding benefits have been awarded under this Act or other laws shall be **excluded** in the computation of service in case of reinstatement in the service of an employer and subsequent retirement or separation which is compensable under this Act. (Emphasis Supplied)

X X X X

This provision contemplates the situation in which: (1) a government employee previously retired, resigned, or was otherwise separated from service; (2) he/she received benefits under R.A. No. 8291 or other applicable retirement laws by virtue of his/her first/previous retirement or separation; (3) he/she is reinstated to government service; (4) he/she subsequently retires or is separated from service; and (5) by virtue of his/her second/subsequent retirement or separation, he/she seeks to avail himself/herself of the benefits under R.A. No. 8291.

In such situation, years of service already counted and credited during his/her first/previous retirement shall not be creditable service for his/her second/subsequent retirement.

PPG No. 183-06 reiterates this general rule, and further classifies the reinstated government employee as a new entrant, *viz.*:

Section 8.6. Effect of Re-employment. — When a retiree is re-employed, his/her previous services credited at the time of his/her retirement shall be excluded in the computation of future benefits. In effect, he/she shall be considered a new entrant.

The exclusion of the previous service from the computation of creditable service for the second/subsequent retirement effectively bars the retiree from receiving benefits twice for the same period of service. This rule is consistent with the constitutional prohibition against double compensation embodied in Section 8, Article IX-B, of the 1987 Constitution, to wit:

Sec. 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.

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

On the other hand, PPG No. 183-06 stipulated as follows:

### III. COVERAGE

The Guidelines shall cover the following members who had previously retired and re-entered the government service before June 24, 1997:

1. Those who had previously resigned / retired and re-entered the government service prior to the effective date of R.A. 8291 on June 24, 1997 and had received the corresponding retirement benefits thereunder;
2. Those who had previously retired under RA 1616 but were paid only the refund of retirement premiums, both personal and government shares, by the GSIS without the gratuity benefit payable by the retirees' last employer due to the Agency's budgetary problems; and
3. **Those who were separated from the service without having qualified under RA 660, RA 1616, or PD 1146 and, therefore, became entitled only to the refund of the personal share of retirement contributions, with interest.**

### IV. IMPLEMENTING POLICIES

1. An employee or member under any of the following situations shall be allowed to retire again with full service credit provided he refunds whatever benefits he had previously received, to wit: xxxx

2. The requirement for the refund shall be subject to the following conditions:

**2.1 the affected member/s shall have thirty (30) days, counted from the date of publication of this Policy, within which to refund to the System the applicable retirement benefits received by him from his previous retirement/separation, as follows: xxx refund of retirement premiums, personal and/or government share/s paid by GSIS x x x**

2.2 with respect to the retirement/separation benefits actually paid by the GSIS to the retiree in his previous retirement / resignation, the gross amount thereof shall be assessed a corresponding simple interest at the rate of two percent (2%) per month, computed from the date the said benefits were paid to him up to the actual date of his refund to the GSIS of the said benefits;

2.3 x x x

**2.4 failure on the part of the employee/member to comply with the cash refund as required in the preceding paragraph shall be deemed a waiver on his part to claim for additional**

**retirement/separation benefits from the inclusion of his prior services already credited in previous retirement/resignation to his subsequent retirement;**

**2.5 off-setting or deduction of the retirement/resignation benefits previously received from accrued retirement/resignation benefits due to subsequent retirement shall not be allowed xxx<sup>58</sup>**

PPG No. 183-06 thus allowed the full credit of previous service in connection with the reinstated employee's second/subsequent retirement provided he/she refunded all the benefits received from his/her first/previous retirement on or before February 27, 2006.<sup>59</sup> However, PPG No. 183-06 disallowed the offsetting method (that is, to have benefits previously received deducted from proceeds to be received in the second/subsequent retirement). The refund requirement was consistent with the rule against unjust enrichment, and allowed the retiring employee to enjoy the benefits under R.A. No. 8291 in full, even those pertaining to his previous service, without violating the proscription against double compensation.

Herein, Aniñon has sought to include as creditable service his 12-year previous service for purposes of his subsequent retirement. The controversy arose only when he requested the GSIS for an exemption from the application of PPG 183-06, that is: (a) to allow him to comply with the refund requirement even beyond the deadline; or (b) to allow him to simply offset the amount of the refund against benefits he would subsequently receive.

### 3.

#### **PPG No. 183-06 did not impair Aniñon's vested rights**

Relying on *Parreño v. Commission on Audit*,<sup>60</sup> the CA concluded that PPG No. 183-06 did not impair Aniñon's vested rights because he was still in active service at the time of the approval of PPG No. 183-06.

Aniñon asserts that being in active service upon the effectivity of PPG No. 183-06 did not prevent the vesting of pension right or eligibility in his favor; that his pension eligibility vested in him not upon actual filing of his claim for retirement or separation from service but upon attaining the required length of service and years of age for retirement, without having received permanent total disability benefits.

The assertions of Aniñon are unfounded.

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<sup>58</sup> Id. at 181 (bold emphasis supplied).

<sup>59</sup> 30 days counted from January 28, 2006, the date of PPG 183-06's first publication.

<sup>60</sup> G.R. No. 162224, June 7, 2007, 523 SCRA 390, 400.

In *GSIS v. Montesclaros*,<sup>61</sup> the Court has ruled that the vested right to retirement benefits when the employee retired and met the eligibility requirements. In that regard, R.A. No. 8291 enumerates the eligibility requirements for the government employee to be entitled to retirement benefits, *viz.*:

SECTION 13-A. Conditions for Entitlement. — A member who retires from the service shall be entitled to the retirement benefits in paragraph (a) of Section 13 hereof: Provided, That:

- (1) he has rendered at least fifteen (15) years of service;
- (2) he is at least sixty (60) years of age at the time of retirement; and
- (3) he is not receiving a monthly pension benefit from permanent total disability.

On the other hand, PPG No. 183-06<sup>62</sup> relevantly stated:

Section 8.8 Filing and Processing.

8.8.1 – The following documents shall be filed in duplicate with the GSIS Head office or any Branch Office, as the case may be, at least Thirty (30) Days before the date of retirement for processing and payment of benefit:

(1) Application for Retirement/Old-age Benefits duly approved and endorsed by the head office who shall be responsible for compliance with all laws and legal requirements covering retirement;

(1) Service Record;

(2) Clearance from the Ombudsman; and,

(3) Such other documents as may be required by the GSIS.

8.8.2 – The GSIS shall pay the retirement benefits to the Employee on his/her last day of service in the government, **provided that all requirements enumerated in 8.8.1 are submitted to the GSIS at least Thirty (30) Days before the date of retirement xxx** (Emphasis Supplied)

For sure, meeting the requisite length of government service, years of age, and non-receipt of permanent total disability benefits did not *ipso facto* vest the government employee the right to the retirement benefits available under R.A. No. 8291. He/She must also have formally “retired” from service

<sup>61</sup> G.R. No. 146494, July 14, 2004, 434 SCRA 441, 449.

<sup>62</sup> Section 8.8, Rule VIII, Implementing Rules.

by filing an application for retirement and submitting the required documents to the GSIS.

The submission of the documentary requirements to the GSIS was as much a condition *sine qua non* to the vesting of one's right to the retirement benefits as the meeting of the eligibility requirements itself. The GSIS, being the statutorily-mandated body to process benefit claims under R.A. No. 8291,<sup>63</sup> was empowered to determine the employee's eligibility to receive retirement benefits based on his/her application and submission of corresponding requirements. Certainly, an individual's entitlement to retirement benefits cannot be left to his/her self-determination. We also cannot expect the GSIS to unilaterally pay retirement benefits *motu proprio* whenever a government employee attained the age of retirement.

Under the foregoing, the CA was correct in ruling that, at the time of the effectivity of PPG 183-06, Aniñon's retirement benefits *sans* his formal application for retirement and the determination by the GSIS of his eligibility and compliance with the documentary requirements were only future benefits over which he did not have any vested right. As such, the guidelines under PPG 183-06 could not have impaired what was then a mere expectancy.<sup>64</sup>

#### 4.

#### **PPG No. 183-06 did not apply to the petitioner**

Aniñon submits that prior to the effectivity of PPG No. 183-06, the GSIS allowed compliance with the refund requirement through the offsetting method, pursuant to which the benefits previously received would instead be deducted from the proceeds of the last retirement.

To recall, Aniñon had only accumulated 12 years of service in the government upon being separated from service in 1989. Hence, he was not yet eligible to receive benefits under prevailing retirement laws,<sup>65</sup> which required at least 15 years of government service.

Nevertheless, Aniñon collected ₱16,345.12 from the GSIS because Section 11(d) of C.A. No. 186, the law then in force, entitled him to the refund of his own premiums and voluntary deposits, to wit:

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<sup>63</sup> Section 40 of R.A. No. 8291 provides, that the GSIS as created under Commonwealth Act No. 186 shall implement the provisions of this Act. Section 41(y) of RA 8291 further stipulates that the GSIS has the power to exercise such powers and perform such other acts as may be necessary, useful, incidental or auxiliary to carry out the provisions of this Act, or to attain the purposes and objectives of this Act.

<sup>64</sup> *Rollo*, p. 84.

<sup>65</sup> C.A. No. 186, as amended by R.A. No. 660, and P.D. No. 1146.

## Section 11. (a) x x x

(d) Upon dismissal for cause or on voluntary separation, he shall be entitled only to his own premiums and voluntary deposits, if any, plus interest of three per centum per annum, compounded monthly.

At this point, we clarify and point out that Aniñon was voluntarily separated from service in 1989. He did not retire or receive retirement benefits<sup>66</sup> inasmuch as he did not possess the required eligibility at that time. Thus, when he collected the sum of his premiums or personal contributions, he received only the return of his premiums.

That no retirement benefit was paid pertaining to Aniñon's 12-year period of previous service leads to the inescapable conclusion that he would not be awarded retirement benefits twice for the same period. Obviating the danger of double compensation with respect to his subsequent retirement thus removes Aniñon from the application of Section 10(b) of P.D. No. 1146, as amended by R.A. No. 8291, as well as the requirements under PPG 183-06. On this basis, the GSIS plainly erred in disallowing outright his previous service for non-compliance with guidelines not even applicable to his situation.

However, this conclusion should not be construed as the *ipso facto* inclusion of his previous service in the computation of his creditable service. In order that his previous service may be appreciated for purposes of computing creditable service, Aniñon should pay back to the GSIS the premiums returned to him in 1989. Fairness demands that the corresponding premiums be paid for his prior years of service to enable him to receive retirement benefits pertaining to that period.

**5.****Aniñon could be allowed to refund amount  
through deduction from future retirement proceeds**

It is not disputed that the GSIS returned Aniñon's personal contributions pertaining to the period of his previous service. Thus, upon his subsequent retirement, the required contributions for said period remain unpaid.

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<sup>66</sup> In *GSIS v. De Leon*, G.R. No. 186560, November 17, 2010, 635 SCRA 321, 334, the Court ruled that:

Retirement benefits are a form of reward for an employees' loyalty and service to the employer, and are intended to help the employee enjoy the remaining years of his life, lessening the burden of having to worry about his financial support or upkeep. A pension partakes of the nature of retained wages of the retiree for a dual purpose: to entice competent people to enter the government service; and to permit them to retire from the service with relative security, not only for those who have retained their vigor, but more so for those who have been incapacitated by illness or accident.

The Revised Implementing Rules<sup>67</sup> allows any premiums in arrears to be *offset* against future retirement proceeds, *viz.*:

SECTION 16. Effects of Non-Remittance of Contributions and Other Amounts on the Eligibility to Benefits of Members. —

16.1. x x x

16.2. **Any unremitted premium contributions and loan amortizations and other amounts due the GSIS shall be deducted from the proceeds of the loans and claims that will be due the member.** (bold emphasis supplied)

The GSIS relies on member and employer contributions to properly administer social security and insurance benefits.<sup>68</sup> As such, it is only fair for Aniñon to remit the contributions covering the period of his previous service before he could derive retirement benefits therefrom.

However, we clarify that the GSIS cannot deprive Aniñon of the opportunity to make good his obligation through the offsetting method, which the law allowed under the particular circumstances of his case. As stated, Aniñon was separated from service in 1989 and received a return of his contributions but he continued to be a GSIS member and remained entitled to certain benefits.<sup>69</sup> Thus, his eligibility to receive retirement benefits should not be affected by a deficiency in his account.

This interpretation of the pertinent GSIS rules and regulations is supported by the basic principle that social legislation, such as retirement laws, must be liberally construed in the retiree-beneficiary's favor. C.A. No. 186, P.D. No. 1146, and R.A. No. 8291 and its Implementing Rules were enacted "to provide for the retirees sustenance and, hopefully, even comfort, when he no longer has the capability to earn a livelihood."<sup>70</sup> Thus, we must interpret these laws in a way that protects and enhances a government employee's quality of life after devoting his prime years to the civil service.

<sup>67</sup> Published July 1, 2010.

<sup>68</sup> Section 34 of R.A. No. 8291 provides:

SECTION 34. Funds. — All contributions payable under Section 5 of this Act together with the earnings and accruals thereon shall constitute the GSIS Social Insurance Fund. The said Fund shall be used to finance the benefits administered by the GSIS under this Act. In addition, the GSIS shall administer the optional insurance fund for the insurance coverage described in Section 26 hereof, the employees' Compensation Insurance Fund created under P.D. 626, as amended, the General Insurance Fund created under Act No. 656, as amended, and such other special funds existing or that may be created for special groups or persons rendering services to the government. The GSIS shall maintain the required reserves to guarantee the fulfillment of its obligations under this Act. (Government Service Insurance System Act of 1997, Republic Act No. 8291, [May 30, 1997])

<sup>69</sup> Section 4, R.A. No. 8291 and Section 2.5.2, Implementing Rules. Sec. 4 of R.A. No. 8291 provides:

A member separated from the service shall continue to be a member, and shall be entitled to whatever benefits he has qualified to in the event of any contingency compensable under this Act.

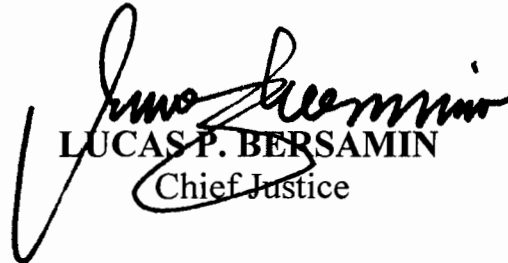
<sup>70</sup> *GSIS v. De Leon*, *supra*, note 66, at 330.



**WHEREFORE**, the Court **REVERSES** and **SETS ASIDE** the decision promulgated on August 7, 2009 and the resolution promulgated on November 18, 2009 by the Court of Appeals; and **DIRECTS** the Government Service Insurance System to forthwith process the petitioner's retirement benefits in accordance with this decision.

No pronouncement on costs of suit.

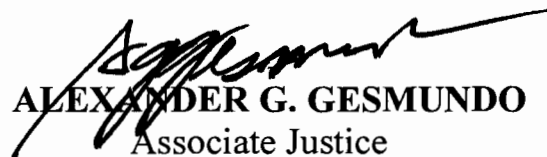
**SO ORDERED.**

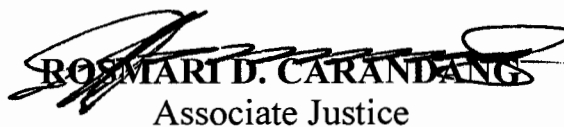
  
LUCAS P. BERSAMIN  
Chief Justice

**WE CONCUR:**

(On Official Leave)  
**MARIANO C. DEL CASTILLO**  
Associate Justice

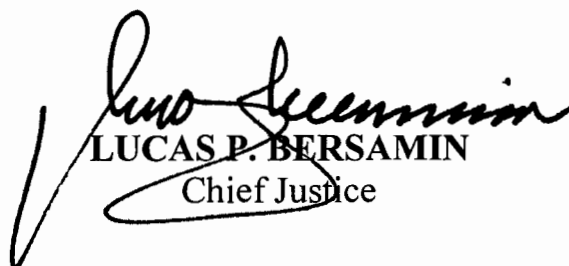
(On Official Leave)  
**FRANCIS H. JARDELEZA**  
Associate Justice

  
ALEXANDER G. GESMUNDO  
Associate Justice

  
ROSMARI D. CARANDANG  
Associate Justice

### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
LUCAS P. BERSAMIN  
Chief Justice