

Republic of the Philippines  
**Supreme Court**  
Manila

EN BANC

**RE: REQUEST OF ASSOCIATE  
JUSTICE ROBERTO A. ABAD  
FOR SALARY ADJUSTMENT  
DUE TO LONGEVITY OF  
SERVICE,**

**A.M. No. 13-05-04-SC**

Present:

BERSAMIN, *C.J.*,  
CARPIO,  
PERALTA,  
PERLAS-BERNABE,  
LEONEN,  
JARDELEZA,  
CAGUIOA,  
REYES, JR., A.,  
GESMUNDO,  
REYES, JR., J.,  
HERNANDO,  
CARANDANG,  
LAZARO-JAVIER,  
INTING, and  
ZALAMEDA, *J.J.*

Promulgated:

August 14, 2019

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A handwritten signature in black ink, written over a horizontal line. The signature is stylized and appears to be the name of a court official.

**RESOLUTION**

**BERSAMIN, *C.J.*;**

On May 3, 2013, then Associate Justice Roberto A. Abad of this Court requested the Chief of the Office of Administrative Services (OAS) to study whether or not he was entitled to salary adjustment due to longevity of service arising from his work in the Office of the Solicitor General (OSG) prior to joining the Court. Justice Abad had served the government in several capacities continuously from 1969 to 1986. He worked in the private sector subsequently, until he joined the Government again upon his

appointment to the Court in 2009, serving until his mandatory retirement in 2014.

The positions he had held in the civil service, and the periods relevant thereto, are as follows:

September 11, 1969 to October 23, 1975	- Technical Assistant, Supreme Court
October 24, 1975 to December 31, 1977	- Solicitor, OSG
January 1, 1978 to September 17, 1978	- Solicitor II, OSG
September 18, 1978 to April 17, 1980	- Solicitor III, OSG
April 18, 1980 to December 31, 1981	- Solicitor IV, OSG
January 1, 1982 to June 30, 1985	- Solicitor V, OSG
July 1, 1985 to July 31, 1986	- Assistant Solicitor General, OSG
August 7, 2009 to May 21, 2014	- Associate Justice, Supreme Court

The provision on longevity pay granted to Members of the Judiciary under Batas Pambansa (B.P.) Blg. 129, in relation to Presidential Decree (P.D.) No. 1927, states:

Section 42. *Longevity pay.* – A monthly longevity pay equivalent to five percent (5%) of the monthly basic pay shall be paid to the Justices and Judges of the courts herein created for each five years of continuous, efficient, and meritorious service rendered in the judiciary; *Provided*, That in no case shall the total salary of each Justice or Judge concerned, after this longevity pay is added, exceed the salary of the Justice or Judge next in rank.

In its memorandum dated May 8, 2013, the OAS opined that Justice Abad's service in the OSG could not be included in the computation of his longevity pay in order to adjust his salary in the active service because his years in the OSG were deemed service rendered outside of the Judiciary. Nonetheless, the OAS recommended that Justice Abad's OSG employment be included in the computation of his longevity pay upon retirement, or for retirement purposes only, consistently with prevailing jurisprudence and precedent. In making such recommendation, the OAS noted that Republic Act (R.A.) No. 9417<sup>1</sup> subsequently extended judicial ranks to various positions in the OSG; and deemed the same to be retroactively applied to Justice Abad. The dispositive portion of the memorandum stated:

In view of the foregoing, [the] Office recommends that your Honor's service in the Office of the Solicitor General be considered as judicial service and to be included in the computation of your Honor's longevity pay upon [his] retirement [or] for retirement purposes only.

In his letter dated May 30, 2013, Justice Abad formally requested the Court to approve the recommendation of the OAS.

<sup>1</sup> This took effect on March 30, 2007.

The matter was next referred to the Fiscal Management and Budget Office (FMBO) of the Court for comment.

In its July 5, 2013 comment, the FMBO concluded that Justice Abad's service in the OSG could not be considered for the purpose of entitlement to longevity pay during his incumbency, but recommended that such be considered as judicial service in computing his longevity pay for retirement purposes, and that his salary be adjusted accordingly effective upon his retirement.

Justice Abad retired upon reaching the age of 70 on May 22, 2014. His tenure as an Associate Justice of this Court was only for a period of four (4) years, eight (8) months, and sixteen (16) days, a few months short of the five years required by law to qualify for longevity pay. On September 30, 2014, the Court resolved to defer action on his request pending the resolution of A.M. No. 12-8-07-CA, which was consolidated with A.M. No. 12-9-5-SC and A.M. No. 13-02-07-SC, dealing with similar situations and involving the requests of Court of Appeals (CA) Justices Vicente S.E. Veloso, Angelita A. Gacutan, and Remedios A. Salazar-Fernando, respectively, to consider their government services rendered outside of the Judiciary in the computation of their longevity pay.

It is noted that Justices Veloso and Gacutan separately sought the crediting of their service as Commissioners of the National Labor Relations Commission (NLRC) for the purpose of computing their longevity pay; that Justice Salazar-Fernando sought her service as a Judge of the Municipal Trial Court (MTC) and as a Commissioner of the Commission on Elections (COMELEC) be considered as part of her judicial service; and that their longevity pay be adjusted accordingly.

A very closely divided Court resolved the consolidated matters in its June 16, 2015 resolution. The Court granted the request of Justice Salazar-Fernando with regard to her years of service as Presiding Judge of the MTC, but denied her request with regard to her service as COMELEC Commissioner because of breaks in the continuity of her government/judicial service. The Court denied the request of Justice Veloso due to the fact that RA No. 9347, which granted NLRC Commissioners the rank and salary equivalent to those of Associate Justices of the CA, only took effect in 2006, which was after Justice Veloso had already left the NLRC in 2004; and that given that the law did not provide for retroactivity, Justice Veloso could not claim that he had held the rank of a CA Justice during his stint at the NLRC.

Likewise, the Court initially denied Justice Gacutan's request through the June 16, 2015 resolution by observing that her service in the NLRC as Commissioner was not equivalent to service actually rendered in the Judiciary for the purpose of computing longevity pay under Section 42 of B.P. Blg. 129, which was the law in effect during her incumbency as a CA Justice. Furthermore, in the same resolution, the majority of the Members of the Court were of the view that Section 42 should be construed strictly to refer to actual service in the Judiciary. It was acknowledged in the resolution itself that this view was a departure from earlier rulings, which had allowed service in other government posts granted by law the rank-and-salary equivalent to counterparts in the Judiciary to be credited as judicial service for longevity pay purposes.

Justice Gacutan filed a motion for reconsideration.

The Court resolved the motion for reconsideration on July 26, 2016 by a vote of 10-4 in favor of granting it. In so resolving, the Court adopted the position taken by then Associate Justice (later Chief Justice) Teresita Leonardo-de Castro in her separate concurring and dissenting opinion submitted in relation to the ruling on the matter on June 16, 2015, and reversed itself by ordering that Justice Gacutan's tenure as NLRC Commissioner from August 26, 2006 (when R.A. No. 9347 took effect) until her departure from the NLRC be included in the computation of her longevity pay. The Court opined that longevity pay under Section 42 of B.P. Blg. 129 should be treated as part of salary, and extended the benefit to certain officials in the Executive Department who were, by law, granted the same rank and benefits as members of the Judiciary.

The following discourse by Associate Justice de Castro in A.M. No. 12-8-07-CA is worth reiterating herein, *viz.*:

As a rule, therefore, the grant of longevity pay under Section 42 of *Batas Pambansa Blg. 129* is premised on the rendition of continuous, efficient, and meritorious service in the Judiciary. That is the express language of the law.

Nonetheless, there are existing laws which expressly require the qualifications for appointment, confer the rank, and grant the salaries, privileges, and benefits of members of the Judiciary on other public officers in the Executive Department, such as the following:

(a) the Solicitor General and Assistant Solicitor Generals of the Office of the Solicitor General (OSG); and

(b) the Chief Legal Counsel and the Assistant Chief Legal Counsel, the Chief State Prosecutor, and the members of the National Prosecution Service (NPS) in the Department of Justice.

The intention of the above laws is to establish a parity in qualifications required, the rank conferred, and the salaries and benefits given to members of the Judiciary and the public officers covered by the said laws. The said laws seek to give equal treatment to the specific public officers in the executive department and the Judges and Justices who are covered by *Batas Pambansa Blg. 129*, as amended, and other relevant laws. In effect, these laws recognize that public officers who are expressly identified in the laws by the special nature of their official functions render services which are as important as the services rendered by the Judges and Justices. They acknowledge the respective roles of those public officers and of the members of the Judiciary in the promotion of justice and the proper functioning of our legal and judicial systems.

x x x x

Under Section 42 of *Batas Pambansa Blg. 129*, longevity pay is an amount equivalent to 5% of the monthly basic pay given to Judges and Justices for each five years of continuous, efficient, and meritorious service rendered in the Judiciary. It is not only an amount given as an addition to the basic monthly pay but, more importantly, **it forms part of the salary of the recipient thereof.**

**In other words, longevity pay is “salary” and it should not be confused with “rank.”**

That is how this Court has treated the longevity pay under Section 42 of *Batas Pambansa Blg. 129* since 1986, particularly in *Re: Longevity Pay of the Associate Justices of the Sandiganbayan*. It is a treatment which reflects the Court’s reading of the text of the law and its understanding of the law’s legislative intent.

x x x x

In conferring upon certain officials in the Executive the same salaries, aside from their rank, as those of their respective judicial counterparts, Congress intended to make the salaries of the former at par with the latter. The legislative records support this.

x x x x

Thus, Congress knew, or is presumed to have known, the concept of longevity pay under Section 42 of *Batas Pambansa Blg. 129*, **as part of the total salary** of members of the Judiciary when it enacted Republic Act Nos. 9417, 9347, and 10071, which granted certain officials of the OSG, the NLRC, and the NPS, respectively, the same salary as their respective counterparts in the Judiciary. Moreover, armed with that knowledge, Congress is presumed to have intended to adopt the definition of “salary” (as constituting basic monthly salary plus longevity pay) when it enacted Republic Act Nos. 9417, 9347, and 10071, which will be in keeping with the legislative intent to equalize the salary of certain executive officials with members of the Judiciary. To do otherwise will negate the express legislative intent.

As it is part of the salary of a member of the Judiciary, it should perforce be part of the salary of the public officers granted by law with the same rank and salary as their counterparts in the Judiciary. Accordingly,

the increase in the salary of Judges and Justices by virtue of the longevity pay should also result in the corresponding increase in the salary of the public officers who, under relevant laws, enjoy the same rank and salary as their judicial counterparts. Otherwise, the law's express language and its intention to grant the same rank and salary of a member of the Judiciary to the said public officers will be defeated.<sup>2</sup>

It is under the foregoing premise that we now determine whether or not Justice Abad's service in the OSG should be credited as judicial service for the purpose of computing longevity pay.

Upon thorough consideration of the relevant legislative and jurisprudential antecedents, the Court finds and considers Justice Abad's request to be meritorious.

As early as 1916, the Administrative Code of the Philippines provided that the qualifications for appointment to the position of Solicitor-General be the same as those prescribed for Judges of the Courts of First Instance.<sup>3</sup> The amendments<sup>4</sup> of the Administrative Code adjusted upward the judicial rank given to the Solicitor-General, First Assistant Solicitor-General, and Assistant Solicitors-General. The amendments made beginning in 1953 also added that the Solicitors would have the same qualifications for appointment and rank as those prescribed for Provincial Fiscals.<sup>5</sup>

P.D. No. 1347,<sup>6</sup> which took effect on January 1, 1978, extended to the Solicitor General the same rank, prerogatives, and privileges as those of the Presiding Justice of the CA, while the Assistant Solicitors General were given the same rank, prerogatives, and privileges as those granted of Judges

<sup>2</sup> *Re: Letter of Court of Appeals Justice Vicente S.E. Veloso for Entitlement to Longevity Pay for his Services as Commission Member III of the National Labor Relations Commission*, A.M. Nos. 12-8-07-CA, 12-9-5-SC and 13-02-07-SC (Resolution), July 26, 2016, 798 SCRA 179, 186-192.

<sup>3</sup> **Section 1278.** Chief Officials of Bureau of Justice. — The Bureau of Justice shall have one chief, and one assistant chief, to be known respectively as the Attorney-General and the Solicitor-General. There shall also be in this Bureau such number of assistant attorneys as may from time to time be available under current appropriations and as the conditions of the service shall require.

**The qualifications for appointment to the positions of chief and assistant chief of the Bureau of Justice shall be the same as those prescribed for judges of Courts of First Instance.**

<sup>4</sup> Republic Act 945 (approved: June 20, 1953), Republic Act 2068 (approved: June 13, 1958), Republic Act 3465 (approved: June 16, 1962), Republic Act 3596 (approved: June 22, 1963).

<sup>5</sup> **Sec. 1659.** *Chief Officials of the Office of the Solicitor General.* — The office of the Solicitor General shall have one chief to be known as the Solicitor General whose salary shall be the same as that of a justice of the court of appeals. He shall be assisted by one First Assistant Solicitor General who shall have the same salary as that of a judge of the court of first instance.

x x x x

“The rank and qualifications for appointment to the position of Solicitor General shall be the same as an Associate Justice of the Court of Appeals; the rank and qualifications for appointment to the position of the First Assistant Solicitor General and the Assistant Solicitors General shall be the same as those prescribed for Judges of Courts of First Instance, and those of Solicitors shall be the same as those prescribed for provincial fiscals.”

<sup>6</sup> **Section 3.** The Solicitor General and the Assistant Solicitor General shall also receive the same monthly allowances which are received by the Associate Justices of the Court of Appeals and the Judges of Courts of First Instance, respectively, under the regular budget of the judiciary.

of the Courts of First Instance. Although silent on the rank of the Solicitors, P.D. No. 1347 it did not repeal previous laws prescribing for the Solicitors the ranks and qualifications of Provincial Fiscals (now called Provincial Prosecutors).

P.D. No. 1726, effective September 26, 1980, upgraded the salaries of the legal positions in the OSG in a manner similar to those approved for the legal positions in the Ministry of Justice.<sup>7</sup>

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<sup>7</sup> Sections 3 and 4 of P.D. 1726 pertinently provide:

**Section 3. Ministry of Justice Positions.** The positions in the Ministry of Justice shall be upgraded in basic salary so as to reach ultimately at least the following levels, to be implemented on a gradual basis subject to the availability of funds and in conjunction with the program to similarly upgrade all judicial and legal positions in the government:

The Chief State Counsel, Chief State Prosecutor, Chief Financial Officer, Technical Staff Chief, and the heads of all bureaus/commissions/offices under this Ministry P55,536.00.

The Board of Pardons and Parole Executive Director, the Assistant Chief State Counsels, the Assistant Chief State Prosecutors, Regional State Prosecutors the officers next in rank to the abovementioned heads of bureaus/commissions offices under the Ministry, and the City Fiscal of Manila and Quezon City P52,848.00.

The NBI Deputy Directors, CID Executive Director, Senior State Counsels, Senior State Prosecutors, Assistant Regional State Prosecutors, CLAO and NBI Regional Directors, Technical Staff Assistant Chiefs, and **the Provincial/City Fiscals of First Class A Provinces/Cities** and First Assistant Fiscals of Manila and Quezon City P50,292.00.

The Senior Special Assistant to the Minister of Justice, Technical Staff Special Assistants, Board of Pardons and Parole Executive Director, CLAO Supervising Citizens Attorneys and Senior Citizens Attorneys, Boards of Special Inquiry Chairmen, Chief Legal Officers in the LRC, NBI, CID, and Probation Administration, Special Assistant to the LRC Commissioner, LRC Administrative Officer IV, LRC Chief Deeds Registry Inspector, LRC Clerk of Court Division Chief, Registers of Deeds III, First and Second Brackets of State Corporate Attorneys, State Counsels II, State Prosecutors III and IV, Second Assistant City Fiscals of Manila and Quezon City, First Assistant Provincial/City Fiscals of First Class A Provinces/Cities, **Provincial/City Fiscals of First Class B/C Provinces/Cities P47,856.00.**

The Special Assistants to the Minister of Justice, Boards of Special Inquiry Members, Third and Fourth Brackets of State Corporate Attorneys, LRC Senior Research Attorney, LRC Assistant Chief Deeds Registry Inspector, LRC Deputy Clerk of Court, Register of Deeds II, Deputy Registers of Deeds III, Land Registration Special Assistant, CID, and NBI Assistant Chief Legal Officers, NBI and CLAO Chief Research Attorneys, District Citizens Attorneys, Bureau of Prisons Legal Officer II, State Counsels I, State Prosecutors I and II, Third Assistant City Fiscals of Manila and Quezon City, Second Assistant Provincial/City Fiscals of First Class A Provinces/Cities, First Assistant Provincial/City Fiscals of First Class B/C Provinces/Cities, **Provincial/City Fiscals of Second Class Provinces/Cities P43,332.00.**

The First and Second Brackets of Trial Attorneys in the OGCC, Deputy Registers of Deeds II, Registers of Deeds I, Supervising Parole Officers, Probation Administration Senior Legal Officer, Fourth Assistant City Fiscals of Manila and Quezon City, Third Assistant Provincial/City Fiscals of First Class A Provinces/Cities, Second Assistant Provincial/City Fiscals of First Class B/C Provinces/Cities, First Assistant Provincial/City Fiscals of Second Class Provinces/Cities, **Provincial/City Fiscals of Third/Fourth Class Provinces/Cities P41,232.00.**

The Senior Parole Officers, Citizens Attorneys, Deputy Registers of Deeds I, Supervising Deeds Registry Inspector, Bureau of Prisons Legal Officer I, Legal Officer IV in the bureaus and offices under the Ministry of Justice, Senior Research Attorneys in the Office of the Minister and in the bureaus and offices under the Ministry of Justice, Assistant Fiscals of Manila and Quezon City, Fourth Assistant Provincial/City Fiscals of First Class A Provinces/Cities, Third Assistant Provincial/City Fiscals of First Class B/C Provinces/Cities, Second Assistant Provincial/City Fiscals of Second Class Provinces/Cities, First Assistant Provincial/City Fiscals of Third/Fourth Class Provinces/Cities, **Provincial/City Fiscals of Fifth Class Provinces/Cities P37,344.00**

Afterwards, the Whereas Clauses of Executive Order (EO) No. 780, Series of 1982, further reinforced the intention to align the salaries of the Solicitors and the lawyers in the OSG with those of the lawyers in the Ministry of Justice (now Department of Justice) in the light of new salary rates under P.D. No. 1726. This was because EO No. 780 expressly recognized the close relationship between the qualification requirements for Fiscals, State Prosecutors and State Counsels in the Ministry of Justice (Department of Justice) and Solicitors in the OSG.<sup>8</sup>

R.A. No. 9417,<sup>9</sup> amending P.D. No. 1347, elevated the ranks, prerogatives, salaries, allowances, benefits and privileges of Assistant Solicitors General to make them equivalent to those of the Associate Justices of the CA, while the positions of Senior State Solicitor, State Solicitor II, and State Solicitor I were given the same ranks, prerogatives, salaries, and privileges as the Judges of the Regional Trial Courts, Metropolitan Trial Courts, and Municipal Trial Courts in Cities, respectively.

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The CLAO Trial Attorneys II, CID Supervising Special Investigator, Legal Officers III in the bureaus and offices under the Ministry of Justice, Research Attorneys II in the Office of the Minister and in the bureaus and offices under the Ministry of Justice, Parole Officers, Assistant Fiscals of First Class A Provinces/Cities, Fourth Assistant Provincial/City Fiscals of First Class B/C Provinces/Cities, Third Assistant Provincial/City Fiscals of Second Class Provinces/Cities, Second Assistant Provincial/City Fiscals of Third/Fourth Class Provinces/Cities, First Assistant Provincial/City Fiscals of Fifth Class Provinces/Cities, Assistant Fiscals of First Class B/C Provinces/Cities, Prosecution Attorneys P32,184.00

The Legal Officers II in the bureaus and offices under the Ministry of Justice, Deeds Registry Inspectors, Research Attorneys I in the Office of the Minister and in the bureaus and offices under the Ministry of Justice, Legal Officers I in the bureaus and offices under the Ministry of Justice, CID Special Investigator, Bureau of Prisons Legal Officer I (New Bilibid Prison and Leyte Regional Prison) P20,580.00

**Section 4. *Office of the Solicitor General.* The salary of legal positions in the Office of the Solicitor General shall be upgraded in a manner similar to that approved for the Ministry of Justice under Sec. 3 hereof. (Emphasis supplied.)**

<sup>8</sup> For convenient reference, we reproduce the Whereas Clauses of Executive Order No. 780 here:

WHEREAS, P.D. No. 1726 provides for a new schedule of salaries for lawyers in the Ministry of Justice and its bureau and offices; and

WHEREAS, position in the Office of the Solicitor General did not come under the operation of said Decree; and

WHEREAS, there is a close relationship between the qualification requirements for Fiscals, State Prosecutors, State Counsels in the Ministry of Justice and Solicitors in the Office of the Solicitor General; and

WHEREAS, there is a need to align the salaries of Solicitors and lawyers in the Office of the Solicitor General with lawyers in the Ministry of Justice in the light of new salary rates under P.D. No. 1726;

<sup>9</sup> **SEC. 3. *Standards.*** - The Solicitor General shall have cabinet rank and the same qualifications for appointment, rank, prerogatives, salaries, allowances, benefits and privileges as the Presiding Justice of the Court of Appeals; an Assistant Solicitor General, those of an Associate Justice of the Court of Appeals.

The qualifications for appointment, rank, prerogatives, salaries, and privileges of Solicitors shall be the same as judges, specified as follows:

- |                        |   |
|------------------------|---|
| Senior State Solicitor | - Regional Trial Court Judge            |
| State Solicitor II     | - Metropolitan Trial Court Judge        |
| State Solicitor I      | - Municipal Trial Court in Cities Judge |



Later on, the Congress enacted R.A. No. 10071 to grant judicial rank to the lawyers in the Department of Justice's National Prosecution Service in a hierarchy similar to that statutorily prescribed for their counterparts in the OSG, and gave **retroactive** effect to such grant of judicial rank and alignment of benefits of Prosecutors with members of the Judiciary.<sup>10</sup>

<sup>10</sup> The relevant provisions of RA 10071 provide:

SECTION 14. *Qualifications, Rank and Appointment of the Prosecutor General.* — The Prosecutor General shall have the same qualifications for appointment, rank, category, prerogatives, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefits as those of the Presiding Justice of the Court of Appeals and shall be appointed by the President.

SECTION 15. *Ranks of Prosecutors.* — The Prosecutors in the National Prosecution Service shall have the following ranks:

<u>Rank</u>		<u>Position/Title</u>
Prosecutor V	(1)	Senior Deputy State Prosecutors;
	(2)	Regional Prosecutors; and
	(3)	<b>Provincial Prosecutors</b> or City Prosecutors of provinces or cities with at least twenty-five (25) prosecutors and City Prosecutors of cities within a metropolitan area established by law.
Prosecutor IV	(1)	Deputy State Prosecutors;
	(2)	Deputy Regional Prosecutors;
	(3)	<b>Provincial Prosecutors</b> or City Prosecutors of provinces or cities with less than twenty-five (25) prosecutors; and
	(4)	Deputy Provincial Prosecutors or Deputy City Prosecutors of provinces or cities with at least twenty-five (25) prosecutors; and Deputy City Prosecutors of cities within a metropolitan area established by law.
Prosecutor III	(1)	Senior Assistant State Prosecutors and Senior Assistant Regional Prosecutors;
	(2)	Deputy Provincial Prosecutors or Deputy City Prosecutors of provinces or cities with less than twenty-five (25) prosecutors; and
	(3)	Senior Assistant Provincial Prosecutors or Senior Assistant City Prosecutors.
Prosecutor II	(1)	Assistant State Prosecutors;
	(2)	Assistant Regional Prosecutors; and
	(3)	Assistant Provincial Prosecutors or Assistant City Prosecutors.
Prosecutor I	(1)	Associate Provincial Prosecutors or Associate City Prosecutors.

x x x x

SECTION 16. *Qualifications, Ranks and Appointments of Prosecutors and Other Prosecution Officers.* — Prosecutors with the rank of Prosecutor V shall have the same qualifications for appointment, rank, category, prerogatives, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefits as those of an Associate Justice of the Court of Appeals.

Prosecutors with the rank of Prosecutor IV shall have the same qualifications for appointment, rank, category, prerogatives, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefits as those of a Judge of the Regional Trial Court.

Prosecutors with the rank of Prosecutor III shall have the same qualifications for appointment, rank, category, privileges, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefits as those of a Judge of the Metropolitan Trial Court.

Prosecutor with the rank of Prosecutor II shall have the same qualifications for appointment, rank, category, privileges, salary grade and salaries, allowances, emoluments and other privileges, shall be

In *Re: Request of Justice Josefina Guevara-Salonga*,<sup>11</sup> the Court clarified that the retroactivity clause contained in R.A. No. 10071 could be availed of not only by the lawyers in the Prosecution Service who had retired prior to the effectivity of the law but also by former Prosecutors who had been appointed to the Judiciary, and who were yet to retire for purposes of computing their longevity pay. We quote the relevant discussion therein, to wit:

A law, as a general rule, is applicable prospectively; thus, it should apply only to those who are presently in the service, who had rendered service and who will retire in the Judiciary after the effectivity of the law. By its express provision, however, [RA 10071] made itself applicable even to those who retired prior to its effectivity; thus, they should also benefit from the upgrading mandated by the law.

From this perspective, the law should clearly apply to the case of Justice Guevara-Salonga who rendered service as Assistant Provincial Fiscal of Laguna and who is yet to retire as Associate Justice of the CA. x  
x x<sup>12</sup>

In the same ruling, we reiterated the enduring practice of including years served outside the Judiciary in positions statutorily given judicial rank in the computation of longevity pay for members of the Bench,<sup>13</sup> which was most recently reaffirmed in the Court's July 26, 2016 resolution promulgated in A.M. Nos. 12-8-07-CA, 12-9-5-SC and 13-02-07-SC.

The long history of aligned ranks, qualifications, and salaries among the members of the Bench, the members of the Prosecution Service, and the lawyers of the OSG is plainly evident in the various laws and jurisprudential precedents. The rationale for this treatment is not difficult to comprehend. Public officers who have served on the Bench, the Prosecution Service, and the OSG have consistently been acknowledged as integral pillars of our justice system. We fully agree with the OAS and the FMBO that Justice Abad's entire service in the OSG from his appointment as Solicitor until the end of his stint as Assistant Solicitor General could be credited in the

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subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefits as those of a Judge of the Municipal Trial Court in cities.

Prosecutor with the rank of Prosecutor I shall have the same qualifications for appointment, rank, category, privileges, salary grade and salaries, allowances, emoluments and other privileges, shall be subject to the same inhibitions and disqualifications, and shall enjoy the same retirement and other benefits as those of a Judge of the Municipal Trial Court in municipalities.

x x x x

SECTION 24. *Retroactivity*. — The benefits mentioned in Sections 14 and 16 hereof shall be granted to all those who retired prior to the effectivity of this Act. (Emphasis supplied.)

<sup>11</sup> A.M. No. 11-10-7-SC, February 14, 2012, 665 SCRA 646.

<sup>12</sup> *Id.* at 651.

<sup>13</sup> For example, *Request of Judge Fernando Santiago for the Inclusion of His Services as Agrarian Counsel in the Computation of His Longevity Pay* (September 12, 1985); *In Re: Adjustment of Longevity Pay of Hon. Justice Emilio A. Gancayco* (July 25, 1991); *Re: Adjustment of Longevity Pay of former Associate Justice Buenaventura S. dela Fuente* (November 19, 1992).

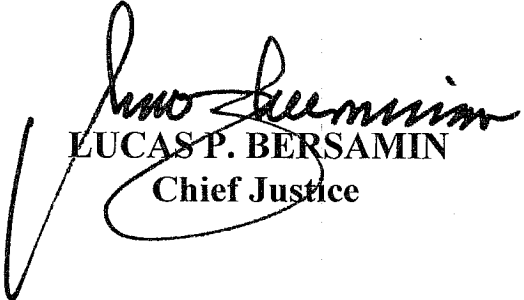
computation of his longevity pay through the application of P.D. No. 1347 and the various laws that accorded Solicitors the rank of Provincial Fiscals, which by virtue of the retroactivity provision in R.A. No. 10071 must be considered as a position with judicial rank and, consequently, appointment thereto must be deemed service in the Judiciary.

The Court cannot agree with the OAS and the FMBO's position that Justice Abad's service in the OSG could only be included in the computation of his longevity pay for retirement purposes. To recall, in the resolution promulgated on June 16, 2015 in A.M. Nos. 12-8-07-CA, 12-9-5-SC and 13-02-07-SC, the Court favorably ruled on Justice Salazar-Fernando's request to include her judicial service prior to her appointment to the CA in the computation of her current longevity pay despite the gap in the two periods of her judicial service. The Court later clarified through the resolution promulgated on July 26, 2016 in the same consolidated administrative matters that Justice Gacutan's service as NLRC Commissioner, a position accorded judicial rank by statute, was properly deemed judicial service from the time that the law granting NLRC Commissioners judicial rank became effective and should be considered in the computation of her longevity pay.

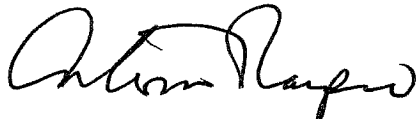
The combined application of the Court's rulings on the situations of Justice Salazar-Fernando and Justice Gacutan leads to the conclusion that Justice Abad's entire service in the OSG (as Solicitor from January 1, 1978 to June 30, 1985 and as Assistant Solicitor General from July 1, 1985 to July 31, 1986) should be included in the computation of his longevity pay not only for his retirement but for all intents and purposes.

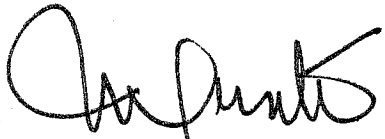
**WHEREFORE**, the Court **GRANTS** the request of Associate Justice Roberto A. Abad contained in his letters dated May 3, 2013 and May 30, 2013; and **DIRECTS** the Office of Administrative Services and the Fiscal Management and Budget Office to include Associate Justice Roberto A. Abad's service in the Office of the Solicitor General in the computation of his longevity pay.


**SO ORDERED.**


  
LUCAS P. BERSAMIN  
Chief Justice

**WE CONCUR:**

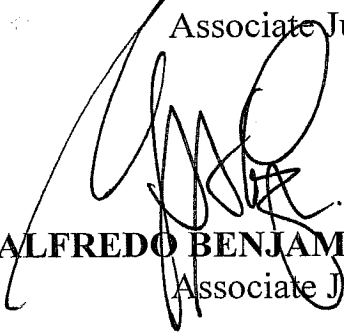
  
**ANTONIO T. CARPIO**  
 Senior Associate Justice

  
**DIOSDADO M. PERALTA**  
 Associate Justice

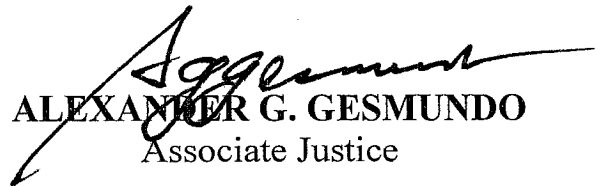
  
**ESTELA M. PERLAS-BERNABE**  
 Associate Justice

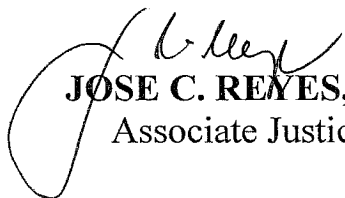
*see dissenting opinion in*  
  
**MARVIC M.V.F. LEONEN**  
 Associate Justice

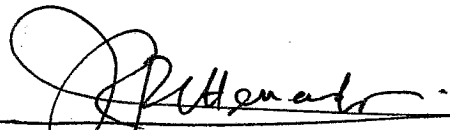
  
**FRANCIS H. JARDELEZA**  
 Associate Justice

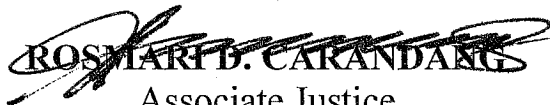
  
**ALFREDO BENJAMIN S. CAGUIOA**  
 Associate Justice

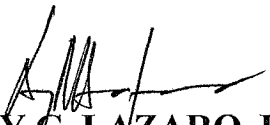
  
**ANDRES B. REYES, JR.**  
 Associate Justice

  
**ALEXANDER G. GESMUNDO**  
 Associate Justice

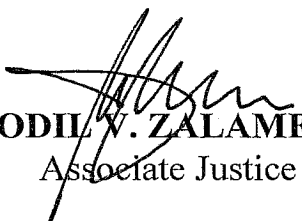
  
**JOSE C. REYES, JR.**  
 Associate Justice

  
**RAMON PAUL L. HERNANDO**  
 Associate Justice

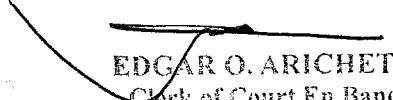
  
**ROSMARIE B. CARANDANG**  
 Associate Justice

  
**AMY C. LAZARO-JAVIER**  
 Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
 Associate Justice

  
**RODIL V. ZALAMEDA**  
 Associate Justice

CERTIFIED TRUE COPY

  
**EDGAR O. ARICHETA**  
 Clerk of Court En Banc  
 Supreme Court