



Supreme Court of the Philippines

Philippine Trial Judges League, Inc.

Manila



POSITION PAPER ON THE INCLUSION OF SPECIFIED DEPENDENTS AS BENEFICIARIES UNDER REPUBLIC ACT NO. 910, AS AMENDED BY REPUBLIC ACT NO. 9946

Background

The Philippine Trial Judges League, Inc. fully supports the initiatives of the Supreme Court to improve the administration of justice through the enhancement of our trial court operations. In this light, the League would like to raise the common concern of trial court magistrates as to the expansion of the coverage of Republic Act No. 910, as amended most recently by Republic Act No. 9946 or "*An Act Granting Additional Retirement, Survivorship and Other Benefits to Members of the Judiciary.*" In particular, the League begs the indulgence of the Supreme Court to revisit the qualified beneficiaries for death and survivorship claims.

Sections 2 and 3 of RA 9946 read:

Section 2. Section 2 of the same Republic Act, as amended, is hereby further amended to read as follows:

"SEC. 2. In case a Justice of the Supreme Court or Court of Appeals, the Sandiganbayan or of the Court of Tax Appeals, or a Judge of the regional trial court, metropolitan trial court, municipal trial court in cities, municipal trial court, municipal circuit trial court, shari'a district court, shari'a circuit court, or any other court hereafter established, dies while in actual service, regardless of his/her age and length of service as required in Section 1 hereof, **his/her heirs** shall receive a lump sum of five (5) years' gratuity computed on the basis of the highest monthly salary plus the highest monthly aggregate of transportation, representation and other allowances such as personal economic relief allowance (PERA) and additional compensation allowance received by him/her as such Justice or Judge: *Provided, however,* That where the deceased Justice or Judge has rendered at least fifteen (15) years either in the Judiciary or in any other branch of Government, or both, his/her heirs shall instead be entitled to a lump sum of ten (10) years gratuity computed on the same basis as indicated in this provision: *Provided, further,* That the lump sum of ten (10) years gratuity shall be received by the heirs of the Justice or the Judge who was killed because of his/her work as such: *Provided,* That the Justice or Judge has served in Government for at least five (5) years regardless of age at the time of death. When a Justice or Judge is killed intentionally while in service, the presumption is that the death is work-related."

Section 3. Section 3 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 3. Upon retirement, a Justice of the Supreme Court or of the Court of Appeals, the Sandiganbayan or of the Court of Tax Appeals, or a Judge of the regional trial court, metropolitan trial court, municipal trial court in cities, municipal trial court, municipal circuit trial court, shari'a district court," shari'a circuit court, or any other court hereafter established shall be automatically entitled to a lump sum of five (5) years' gratuity computed on the basis of the highest monthly salary plus the highest monthly aggregate of transportation, representation and other allowances such as personal economic relief allowance (PERA) and additional compensation allowance he/she was receiving on the date of his/her retirement and thereafter upon survival after the expiration of five (5) years, to further annuity payable monthly during the residue of his/her natural life pursuant to Section 1 hereof: Provided, however, That If the reason for the retirement be any permanent disability contracted during his/her incumbency in office and prior to the date of retirement, he/she shall receive a gratuity equivalent to ten (10) years' salary and the allowances aforementioned: Provided, further, That should the retirement under Section 1(a) hereof be with the attendance of any partial permanent disability contracted during his/her incumbency and prior to the date of retirement, he/she shall receive an additional gratuity equivalent to two (2) years lump sum that he/she is entitled to under this Act; Provided, furthermore, That if he/she survives after ten (10) years or seven (7) years, as the case may be, he/she shall continue to receive a monthly annuity as computed under this Act during the residue of his/her natural life pursuant to Section 1 hereof: Provided, finally, That those who have retired with the attendance of any partial permanent disability five (5) years prior to the effectivity of this Act shall be entitled to the same benefits provided herein.

"Upon the death of a Justice or Judge of any court in the Judiciary, if such Justice or Judge has retired, or was eligible to retire optionally at the time of death, **the surviving legitimate spouse** shall be entitled to receive all the retirement benefits that the deceased Justice or Judge would have received had the Justice or Judge not died. The surviving spouse shall continue to receive such retirement benefits until the surviving spouse's death or remarriage."

The League lauds the expansion of death (Section 2) and survivorship pension benefits (Section 3) as reflected in the foregoing provisions of the law. Indeed, these benefits not only "guarantee and preserve the independence of the

Judiciary,”¹ but likewise “attract intelligent members of the Bar to join the Judiciary.”² Specifically as to retirement benefits, these serve as compensation “for the opportunity cost of having profitable private practices.”³ As for retirement benefits, “[t]he law extends survivorship benefits to the surviving and qualified beneficiaries of the deceased member or pensioner to cushion the beneficiaries against the adverse economic effects resulting from the death of the wage earner or pensioner.”⁴

The League likewise lauds the wisdom and efforts of the Supreme Court in bridging palpable gaps in the law to achieve its salutary humanitarian purpose. In a number of cases, the Supreme Court has ruled in favor of surviving claimants, construing death, for instance, as a total and permanent liability, and therefore establishing the legal basis for the benefit applied for.⁵ It is in this same fashion that the League appeals to the Supreme Court to consider the extension of the applicability of the law beyond the surviving minor children for death benefits, and the surviving spouse for survivorship pension benefits.

Discussion

Death Benefits

Section 2 of RA 9946 explicitly states “his/her heirs,” pertaining to the surviving heirs of the deceased Judge or Justice, as qualified beneficiaries of the death benefit. In Supreme Court Revised Administrative Circular No. 81-10, or the “*Guidelines on the Implementation of Republic Act No. 9946*,” “heirs” was defined as “those entitled to succeed in the estate of the deceased Justice or Judge under the law on succession,” and under sub-section D on Death of *Who are Entitled, Qualifications and Benefits*, heirs of deceased Justices or Judges were explicitly identified as qualified recipients of death benefits. It is thus crystal clear that the surviving heirs are qualified claimants for death benefits under RA 9946.

In several sections of Annex A of the Guidelines, however, heirs are required to submit affidavits of guardianship only for minor children and/or children with mental incompetence of the deceased Justice or Judge. Consequentially, this requirement appears to preclude, or at least stir uncertainty, as to the death claims eligibility of children with physical disability of the deceased Justices or Judges who (1) although are of the age of majority, or are mentally sound, may be limited by their condition from performing tasks in general, and relative to the

¹ *Re: Application for Survivorship Pension Benefits under Republic Act No. 9946 of Mrs. Pacita A. Gruba, Surviving Spouse of the Late Manuel K. Gruba, Former CTA Associate Judge*, A.M. No. 14155-Ret., 19 November 2013, citing *Bengzon v. Drilon*, G.R. No. 103254, April 15, 1992, 208 SCRA 133, 153.

² *Id.*

³ *Id.*

⁴ *Id.*, citing *GSIS, Cebu City Branch v. Montesclaros*, 478 Phil. 573, 586 (2004) citing Rule VI, Sec. 1 of the Implementing Rules and Regulations of Presidential Decree No. 1146.

⁵ *In Re: Retirement Benefits of the late City Judge Alejandro Galang, Jr.*, 194 Phil. 156 (1981) and *Re: Resolution Granting Automatic Permanent Total Disability Benefits to Heirs of Justices and Judges*, A.M. No. 02-12-01-SC, 24 November 2004.

application, and (2) are under the deceased Justice's or Judge's care up to the time of death. It is in this regard that we seek the guidance of the Supreme Court, and if necessary, its support, in removing any doubt as to the qualification of surviving children who may be suffering from physical disability.

Survivorship Pension Benefits

In the Resolution in *Re: Requests For Survivorship Pension Benefits of Spouses of Justices and Judges Who Died Prior to the Effectivity of Republic Act No. 9946*,⁶ the Supreme Court directed the amendment of the text of RAC 81-2010 to incorporate the *Alvor*⁷ ruling, hence:

The legitimate surviving spouse of a Justice or Judge who (1) has retired or was eligible to retire optionally at the time of death, and (2) was receiving or would have been entitled to receive a monthly pension, shall be entitled to receive the said benefits that the deceased Justice or Judge would have received had the Justice or Judge not died; *Provided*, That the justice or judge who, regardless of age, died or was killed while in actual service shall be considered as retired due to permanent disability. ***Provided***, further, That the survivorship benefit shall be pro-rated if the deceased justice or judge had rendered government service for less than 15 years. The surviving spouse shall continue to receive such retirement benefits until the surviving spouse's death or remarriage.

From RA 9946 and the foregoing, only legitimate surviving spouses are qualified to avail of survivorship pension benefits, to the exclusion of other heirs, and regardless of the considerations for the succession rules under the New Civil Code. Otherwise put, when an eligible Justice or Judge dies, only their husband or wife may file an application for, and if approved, receive survivorship pension until their death or remarriage. In cases where the deceased Justice or Judge is survived by just their spouse, or where they are survived by their spouse and other heirs, this eligibility rule removes any confusion as to who may avail of the benefit, and adheres to the implicit and usual acknowledgment of the surviving spouse as the next-of-kin.

Unfortunately, the law does not take into consideration, and undeniably discriminates against Justices and Judges who are not married at the time of their demise, and who may be survived by other heirs whose welfare they were responsible for during their lifetime. From a gender perspective, the discrimination may work disproportionately against female Justices or Judges who have elected to remain single, are legally separated or divorced, or whose marriages have been declared null or were annulled. As women have been recognized as the primary caregivers in Filipino families, and a majority of our trial court judges are women, there is a good probability that the law may negatively affect their heirs, more than those who are comparably situated.

⁶ A.M. No. 17-08-01-SC, 19 September 2017.

⁷ A.M. No. 14231-Ret., 02 October 2013.

It is in light of these considerations that the League appeals to the wisdom of the Supreme Court for the inclusion of the following heirs as qualified death claims beneficiaries:

- (1) Children of the age of minority;
- (2) Children with mental incompetence;
- (3) Children with physical disability;
- (4) Parents of the age seniority;
- (5) Parents with mental incompetence; and
- (6) Parents with physical disability, or are suffering from chronic or degenerative conditions, which may potentially lead to disability (e.g., Parkinson's Disease, Muscular Dystrophy, Diabetes, etc.).

Conclusion

The extension of benefits is not unprecedented in government service. Section 1 of Republic Act No. 11643, or "*An Act Granting Survivorship Benefits to the Surviving Legitimate Spouse and Dependent Children of a Deceased Retired Member of the National Prosecution Service and Appropriating Funds Therefor,*" provides that:

Section 1. In case of death of a retired member of the National Prosecution Service (NPS) or a member thereof who is eligible to retire optionally at the time of death, the surviving legitimate spouse and dependent children of said deceased member shall be entitled to receive all the retirement benefits that the deceased was receiving or entitled to received.

Members of the NPS shall include all prosecution in the Office of the Secretary of Justice, the Regional Prosecution Office and the offices of the Provincial and City Prosecutors.

As used in this Act, "dependent" refers to a legitimate, illegitimate or legally adopted child who is chiefly dependent on the said deceased member of the NPS if such dependent is not more than twenty-one (21) years of age, unmarried and not gainfully employed, or if such dependent, regardless of age, is incapable of self-support because of any mental or physical defect or condition.

The surviving legitimate spouse shall continue to receive during his or her lifetime said retirement benefits until such spouse remarries: *Provided, That the surviving spouse and dependent children shall each equally share the retirement benefits.*

(Underscoring supplied.)

Beyond doubt, the performance of duties of prosecutors, Justices and Judges all carry occupational risks of disability and death. It can even be posited that Justices and Judges have a higher exposure to these risks, because they are the ones whose acts may ultimately be imbued or perceived to bear gravity and finality.

Owing to this reality, the League strongly advocates for placing our Justices and Judges at least at par in terms of retirement and survivorship benefits with our fellow civil servants in the National Prosecution Service.

Also, as mentioned earlier in this paper, the judicious review of our current retirement benefits system is imperative in order to remove ability and/or gender discrimination, and to better promote judicial independence and humanitarian purposes.

The League sincerely hopes that the Supreme Court will continue to extend its consideration and empathy towards our trial court judges, and that our retirement laws and rules will be developed and aligned with the objectives of encouraging competent and hardworking lawyers to become Judiciary frontliners, reinvigorating dedicated Justices and Judges within our ranks, and rewarding their faithful service with a sense of security, not only for themselves, but for their their closest loved ones.

-nothing follows-