SUPREME COURT
EN BANC

LYDIA O. CHUA,
***Petitioner*,**

-versus-

G.R. No. 88979
February 7, 1992

THE CIVIL SERVICE COMMISSION, THE NATIONAL IRRIGATION ADMINISTRATION, THE DEPARTMENT OF BUDGET AND MANAGEMENT,
***Respondent*.**
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D E C I S I O N

PADILLA, *J.*:

Pursuant to the policy of streamlining and trimming the bureaucracy, Republic Act No. 6683 was approved on 2 December 1988 providing for benefits for early retirement and voluntary separation from the

government service as well as for involuntary separation due to reorganization. Deemed qualified to avail of its benefits are those enumerated in Sec. 2 of the Act, as follows:

> "Sec. 2. Coverage. — This Act shall cover all appointive officials and employees of the National Government, including government-owned or controlled corporations with original charters, as well as the personnel of all local government units. The benefits authorized under this Act shall apply to all regular, temporary, casual and emergency employees, regardless of age, who have rendered at least a total of two (2) consecutive years of government service as of the date of separation. Uniformed personnel of the Armed Forces of the Philippines including those of the PC-INP are excluded from the coverage of this Act."

Petitioner Lydia Chua believing that she is qualified to avail of the benefits of the program, filed an application on 30 January 1989 with respondent National Irrigation Administration (NIA) which, however, denied the same; instead, she was offered separation benefits equivalent to one half (1/2) month basic pay for every years of service commencing from 1980. A recourse by petitioner to the Civil Service Commission yielded negative results.[1] Her letter for reconsideration dated 25 April 1989 pleaded thus:

x x x

> "With due respect, I think the interpretation of the Honorable Commissioner of RA 6683 does not conform with the beneficent purpose of the law. The law merely requires that a government employee whether regular, temporary, emergency, or casual, should have two consecutive years of government service in order to be entitled to its benefits. I more than meet the requirement. Persons who are not entitled are consultants, experts and contractual(s). As to the budget needed, the law provides that the Department of Budget and Management will shoulder a certain portion of the benefits to be allotted to government corporations. Moreover, personnel of these NIA special projects are entitled to the regular benefits, such (sic) leaves, compulsory retirement and the like. There is no reason why we should not be entitled to RA 6683.

x x x"[2]

Denying the plea for reconsideration, the Civil Service Commission (CSC) emphasized:

"x x x

> We regret to inform you that your request cannot be granted. The provision of Section 3.1 of Joint DBM-CSC Circular Letter No. 89-1 does not only require an application to have two years of satisfactory service on the date of separation/retirement but further requires said applicant to be on a casual, emergency, temporary or regular employment status as of December 2, 1988, the date of enactment of R.A. 6683. The law does not contemplate contractual employees in the coverage.
>
> Inasmuch as your employment as of December 31, 1988, the date of your separation from the service, is co-terminus with the NIA project which is contractual in nature, this Commission shall sustain its original decision.

x x x"[3]

In view of such denial, petitioner is before this Court by way of a special civil action for certiorari, insisting that she is entitled to the benefits granted under Republic Act No. 6683. Her arguments:

> "It is submitted that R.A. 6683, as well as Section 3.1 of the Joint DMB-CSC Circular Letter No. 89-1 requires an applicant to be on a casual, emergency, temporary or regular employment status. Likewise, the provisions of Section 23 (sic) of the Joint DBM-CSC Circular Letter No. 88-1, implementing guidelines of R.A. No. 6683, provides that:
>
> > '2.3 Excluded form the benefits under R.A. No. 6683 are the following:
> >
> > a) Experts and Consultants hired by agencies for a limited period to perform specific activities or

services with a definite expected output: i.e. membership in Task Force, Part-Time, Consultant/Employees.

b) Uniformed personnel of the Armed Forces of the Philippines including those of the Philippine Constabulary and Integrated National Police (PC-INP).

c) Appointive officials and employees who retire or elect to be separated from the service for optional retirement with gratuity under R.A. No. 1616, 4968 or with pension under R.A. No. 186, as amended by R.A. No. 6680 or P.D. No. 1146, as amended, or *vice-versa*.

d) Officials and employees who retired voluntarily prior to the enactment of this law and have received the corresponding benefits of that retirement/separation.

e) Officials and employees with pending cases punishable by mandatory separation from the service under existing civil service laws, rules and regulations; provided that if such officials and employees apply in writing within the prescriptive period for the availment of the benefits herein authorized, shall be allowed only if acquitted or cleared of all charges and their application accepted and approved by the head of office concerned.'

Based on the above exclusions, herein petitioner does not belong to any one of them. Ms. Chua is a full time employee of NIA entitled to all the regular benefits provided for by the Civil Service Commission. She had a permanent status as Personnel Assistant A, a position which belongs to the Administrative Service. If casuals and emergency employees were given the benefit of R.A. 6683 with more reason that this petitioner who was holding a permanent status as Personnel Assistant A and

has rendered almost 15 years of faithful, continuous service in the government should be similarly rewarded by the beneficent (sic) purpose of the law."[4]

The NIA and the Civil Service Commission reiterate in its comment petitioner's exclusion from the benefits of Republic Act No. 6683, because:

1. Petitioner's employment is co-terminus with the project per appointment papers kept by the Administrative Service in the head office of NIA (the service record was issued by the Watershed Management and Erosion Control Project (WMECP), Pantabangan, Nueva Ecija). The project, funded by the World Bank, was completed as of 31 December 1988, after which petitioner's position became *functus officio*.

2. Petition is not a regular and career employee of NIA — her position is not included in its regular plantilla. She belongs to the non-career service (Sec. 6, P.D. No. 807) which is inherently short-lived, temporary and transient; on the other hand, retirement presupposes employment for a long period. The most that a non-career personnel can expect upon the expiration of his employment is financial assistance. Petitioner is not even qualified to retire under the GSIS law.

3. Assuming arguendo that petitioner's appointment is permanent, security of tenure is available only for the term of office (i.e. duration of project).

4. The objective of Republic Act No. 6683 is not really to grant separation or retirement benefits but reorganization[5] to streamline government functions. The application of the law must be made consistent with the purpose for which it was enacted. Thus, as the expressed purpose of the law is to reorganize the government, it will not have any application to special projects such as the WMECP which exists only for a short and definite period. This being the nature of special projects, there is no necessity for offering its personnel early retirement benefits just to induce voluntary

separation as a step to reorganization. In fact, there is even no need for reorganizing the WMECP considering its short and limited life-span.[6]

5. The law applies only to employees of the national government, government-owned or controlled corporations with original charters and local government units.

Due to the impossibility of reconciling the conflicting interpretations of the parties, the Court is called upon to define the different classes of employees in the public sector (i.e. government civil servants).

Who are regular employees? The Labor Code in Art. 280 (P.D. No. 492, as amended) deems an employment regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer. No equivalent definition can be found in P.D. No. 807 (promulgated on 6 October 1975, which superseded the Civil Service Act of 1965 — R.A. No. 2260) or in the Administrative Code of 1987 (Executive Order No. 292 promulgated on 25 July 1987). The Early Retirement Law itself (Rep. Act No. 6683) merely includes such class of employees (regular employees) in its coverage, unmindful that no such specie is employed in the public sector.

The appointment status of government employees in the career service is classified as follows:

1. permanent — one issued to a person who has met the requirements of the position to which appointment is made, in accordance with the provisions of the Civil Service Act and the Rules and Standards promulgated in pursuance thereof;[7]

2. temporary — In the absence of appropriate eligibles and it becomes necessary in the public interest to fill a vacancy, a temporary appointment shall be issued to a person who meets all the requirements for the position to which he is being appointed except the appropriate civil service eligibility: Provided, That such temporary appointment shall

not exceed twelve months, but the appointee may be replaced sooner if a qualified civil service eligible becomes available.[8]

The Administrative Code of 1987 characterizes the Career Service as:

> "(1) Open Career positions for appointment to which prior qualification in an appropriate examination is required;
>
> (2) Closed Career positions which are scientific, or highly technical in nature; these include the faculty and academic staff of state colleges and universities, and scientific and technical positions in scientific or research institutions which shall establish and maintain their own merit systems;
>
> (3) Positions in the Career Executive Service; namely, Undersecretary, Assistant Secretary, Bureau Director, Assistant Bureau Director, Regional Director, Assistant Regional Director, Chief of Department Service and other officers of equivalent rank as may be identified by the Career Executive Service Board, all of whom are appointed by the President.
>
> (4) Career officers, other than those in the Career Executive Service, who are appointed by the President, such as the Foreign Service Officers in the Department of Foreign Affairs;
>
> (5) Commission officers and enlisted men of the Armed Forces which shall maintain a separate merit system;
>
> (6) Personnel of government-owned or controlled corporations, whether performing governmental or proprietary functions, who do not fall under the non-career service; and
>
> (7) Permanent laborers, whether skilled, semi-skilled, or unskilled."[9]

The Non-Career Service, on the other hand, is characterized by:

> "(1) entrance on bases other than those of the usual tests of merit and fitness utilized for the career service; and
>
> (2) tenure which is limited to a period specified by law, or which is coterminous with that of the appointing authority or subject to his pleasure, or which is limited to the duration of a particular project for which purpose employment was made."

Included in the non-career service are:

1. elective officials and their personal or confidential staff;

2. secretaries and other officials of Cabinet rank who hold their positions at the pleasure of the President and their personal confidential staff(s);

3. Chairman and Members of Commissions and boards with fixed terms of office and their personal or confidential staff;

4. contractual personnel or those whose employment in the government is in accordance with a special contract to undertake a specific work or job requiring special or technical skills not available in the employing agency, to be accomplished within a specific period, which in no case shall exceed one year and performs or accomplishes the specific work or job, under his own responsibility with a minimum of direction and supervision from the hiring agency.

5. emergency and seasonal personnel."[10]

There is another type of non-career employee:

> "Casual — where and when employment is not permanent but occasional, unpredictable, sporadic and brief in nature." (Caro vs. Rilloroza, 102 Phil. 70; Manuel vs. P.P. Gocheco Lumber Co., 96 Phil. 945).

Consider petitioner's record of service:

> "Service with the government commenced on 2 December 1974 designated as a laborer holding emergency status with the NIA — Upper Pampanga River Project, R & R Division.[11] From 24 March 1975 to 31 August 1975, she was a research aide with temporary status on the same project. On 1 September 1975 to 31 December 1976, she was with the NIA-FES III, R & R Division, then on 1 January 1977 to 31 May 1980, she was with NIA - UPR IIS (Upper Pampanga River Integrated Irrigation Systems) DRD. On 1 June 1980, she went to NIA-W.M.E.C.P. (Watershed Management & Erosion Control Project) retaining the status of temporary employee. While with this project, her designation was changed to personnel assistant on 5 November 1981, starting 9 July 1982, the status became permanent until the completion of the project on 31 December 1988. The appointment paper[12] attached to the OSG's comment lists her status as co-terminus with the Project."

The employment status of personnel hired under foreign - assisted projects is considered co-terminus, that is, they are considered employees for the duration of the project or until the completion or cessation of said project (CSC Memorandum Circular No. 39, S. 1990, 27 June 1990).

Republic Act No. 6683 seeks to cover and benefits regular, temporary, casual and emergency employees who have rendered at least a total of two (2) consecutive years of government service.

Resolution No. 87-104 of the CSC, 21 April 1987, provides:

> "WHEREAS, pursuant to Executive Order No. 966 dated June 22, 1984, the Civil Service Commission is charged with the function of determining creditable services for retiring officers and employees of the national government;
>
> WHEREAS, Section 4 (b) of the same Executive Order No. 966 provides that all previous services by an officer/employee pursuant to a duly approved appointment to a position in the

Civil Service are considered creditable services, while Section 6 (a) thereof states that services rendered on contractual, emergency or casual status are non-creditable services;

WHEREAS, there is a need to clarify the aforesaid provisions inasmuch as some contractual, emergency or casual employment are covered by contracts or appointments duly approved by the Commission.

NOW, therefore, the Commission resolved that services rendered on contractual, emergency or casual status, irrespective of the mode or manner of payment therefor shall be considered as creditable for retirement purposes subject to the following conditions: (emphasis provided).

'1. These services are supported by approved appointments, official records and/or other competent evidence. Parties/agencies concerned shall submit the necessary proof of said services;

2. Said services are on full time basis and rendered prior to June 22, 1984, the effectivity date of Executive Order No. 966; and

3. The services for the three (3) years period prior to retirement are continuous and fulfill the service requirement for retirement."

What substantial differences exist, if any, between casual, emergency, seasonal, project, co-terminus or contractual personnel? All are tenurial employees with no fixed term, non-career, and temporary. The 12 May 1989 CSC letter of denial[13] characterized herein petitioner's employment as co-terminus with the NIA project which in turn was contractual in nature. The OSG says petitioner's status is co-terminus with the Project. CSC Memorandum Circular No. 11, series of 1991 (5 April 1991) characterizes the status of a co-terminus employee —

"(3) Co-terminus status shall be issued to a person whose entrance in the service is characterized by confidentiality by the

appointing authority or that which is subject to his pleasure or co-existent with his tenure.

The foregoing status (co-terminus) may be further classified into the following:

'a) co-terminus with the project — when the appointment is co-existent with the duration of a particular project for which purpose employment was made or subject to the availability of funds for the same;

b) co-terminus with the appointing authority — when appointment is co-existent with the tenure of the appointing authority.

c) co-terminus with the incumbent — when appointment is co-existent with the appointee, in that after the resignation, separation or termination of the services of the incumbent the position shall be deemed automatically abolished; and d) co-terminus with a specific period, e.g. 'co-terminus for a period of 3 years' — the appointment is for a specific period and upon expiration thereof, the position is deemed abolished.'

It is stressed, however, that in the last two classification (c) and (d), what is termed co-terminus is the position, and not the appointee-employee. Further, in (c) the security of tenure of the appointee is guaranteed during his incumbency; in (d) the security of tenure is limited to a specific period."

A co-terminus employee is a non-career civil servant, like casual and emergency employees. We see no solid reason why the latter are extended benefits under the Early Retirement Law but the former are not. It will be noted that Rep. Act No. 6683 expressly extends its benefits for early retirement to regular, temporary, casual and emergency employees. But specifically excluded from the benefits are uniformed personnel of the AFP including those of the PC-INP. It can be argued that, *expressio unius est exclusio alterius*. The legislature would not have made a specific enumeration in a statute had not the intention been to restrict its meaning and confine its terms and

benefits to those expressly mentioned[14] *or casus omissus pro omisso habendus est* — A person, object or thing omitted from an enumeration must be held to have been omitted intentionally.[15] Yet adherence to these legal maxims can result in incongruities and in a violation of the equal protection clause of the Constitution.

The case of Fegurin, et al. vs. NLRC, et al.,[16] comes to mind where, workers belonging to a work pool, hired and re-hired continuously from one project to another were considered non-project-regular and permanent employees.

Petitioner Lydia Chua was hired and re-hired in four (4) successive projects during a span of fifteen (15) years. Although no proof of the existence of a work pool can be assumed, her service record cannot be disregarded.

Art. III, Sec. 1 of the 1987 Constitution guarantees: "No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."

> "In Felwa vs. Salas, L-26511, Oct. 29, 1966, We ruled that the equal protection clause applies only to persons or things identically situated and does not bar a reasonable classification of the subject of legislation, and a classification is reasonable where (1) it is based on substantial distinctions which make real differences; (2) these are germane to the purpose of the law; (3) the classification applies not only to present conditions but also to future conditions which are substantially identical to those of the present; (4) the classification applies only to those who belong to the same class."[17]

Applying the criteria set forth above, the Early Retirement Law would violate the equal protection clause were we to sustain respondents' submission that the benefits of said law are to be denied a class of government employees who are similarly situated as those covered by said law. The maxim of Expressio unius est exclusio alterius should not be the applicable maxim in this case but the doctrine of necessary implication which holds that:

> "No statute can be enacted that can provide all the details involved in its application. There is always an omission that may not meet a particular situation. What is thought, at the time of enactment, to be an all-embracing legislation may be inadequate to provide for the unfolding events of the future. So-called gaps in the law develop as the law is enforced. One of the rules of statutory construction used to fill in the gap is the doctrine of necessary implication. The doctrine states that what is implied in a statute is as much a part thereof as that which is expressed. Every statute is understood, by implication, to contain all such provisions as may be necessary to effectuate its object and purpose, or to make effective rights, powers, privileges or jurisdiction which it grants, including all such collateral and subsidiary consequences as may be fairly and logically inferred from its terms. Ex necessitate *legis*. And every statutory grant of power, right or privilege is deemed to include all incidental power, right or privilege. This is so because the greater includes the lesser, expressed in the maxim, *in eo plus sit, simper inest et minus*."[18]

During the sponsorship speech of Congressman Dragon (re: Early Retirement Law), in response to Congressman Dimaporo's interpellation on coverage of state university employees who are extended appointments for one (1) year, renewable for two (2) or three (3) years,[19] he explained:

> "This Bill covers only those who would like to go on early retirement and voluntary separation. It is irrespective of the actual status or nature of the appointment one received, but if he opts to retire under this, then he is covered."

It will be noted that, presently pending in Congress, is House Bill No. 33399 (a proposal to extend the scope of the Early Retirement Law). Its wording supports the submission that Rep. Act No. 6683 indeed overlooked a qualified group of civil servants, Sec. 3 of said House bill, on coverage of early retirement, would provide:

> "Sec. 3. Coverage. — It will cover all employees of the national government, including government-owned or controlled corporations, as well as the personnel of all local government units. The benefits authorized under this Act shall apply to all regular, temporary, casual, emergency and contractual employees, regardless of age, who have rendered at least a total of two (2) consecutive years government service as of the date of separation. The term 'contractual employees' as used in this Act does not include experts and consultants hired by agencies for a limited period to perform specific activities or services with definite expected output.
>
> "Uniformed personnel of the Armed Forces of the Philippines, including those of the PC-INP are excluded from the coverage of this Act." (Emphasis supplied).

The objective of the Early Retirement or Voluntary Separation Law is to trim the bureaucracy, hence, vacated positions are deemed abolished upon early/voluntary retirement of their occupants. Will the inclusion of co-terminus personnel (like the petitioner) defeat such objective? In their case, upon termination of the project and separation of the project personnel from the service, the term of employment is considered expired, the office functus officio. Casual, temporary and contractual personnel serve for shorter periods, and yet, they only have to establish two (2) years of continuous service to qualify. This, incidentally, negates the OSG's argument that co-terminus or project employment is inherently short-lived, temporary and transient, whereas, retirement presupposes employment for a long period. Here, violation of the equal protection clause of the Constitution becomes glaring because casuals are not even in the plantilla, and yet, they are entitled to the benefits of early retirement. How can the objective of the Early Retirement Law of trimming the bureaucracy be achieved by granting early retirement benefits to a group of employees (casuals) without plantilla positions? There would, in such a case, be no abolition of permanent positions or streamlining of functions; it would merely be a removal of excess personnel; but the positions remain, and future appointments can be made thereto.

Co-terminus or project personnel, on the other hand, who have rendered years of continuous service should be included in the coverage of the Early Retirement Law, as long as they file their application prior to the expiration of their term, and as long as they comply with CSC regulations promulgated for such purpose. In this connection, Memorandum Circular No. 14, Series of 1990 (5 March 1990) implementing Rep. Act No. 6850,[20] requires, as a condition to qualify for the grant of eligibility, an aggregate or total of seven (7) years of government service which need not be continuous, in the career or non-career service, whether appointive, elective, casual, emergency, seasonal, contractual or co-terminus, including military and police service, as evaluated and confirmed by the Civil Service Commission.[21] A similar regulation should be promulgated for the inclusion in Rep. Act No. 6683 of co-terminus personnel who survive the test of time. This would be in keeping with the coverage of "all social legislations enacted to promote the physical and mental well-being of public servants."[22] After all, co-terminus personnel are also obligated to the government for GSIS contributions, Medicare and income tax payments, with the general disadvantage of transience.

In fine, the Court believes, and so holds, that the denial by the respondents NIA and CSC of petitioner's application for early retirement benefits under Rep. Act No. 6683 is unreasonable, unjustified, and oppressive, as petitioner had filed an application for voluntary retirement within a reasonable period and she is entitled to the benefits of said law. While the application was filed after expiration of her term, we can give allowance for the fact that she originally filed the application on her own without the assistance of counsel. In the interest of substantial justice, her application must be granted; after all she served the government not only for two (2) years — the minimum requirement under the law but for almost fifteen (15) years in four (4) successive governmental projects.

WHEREFORE, the petition is **GRANTED**.

Let this case be remanded to the CSC-NIA for a favorable disposition of petitioner's application for early retirement benefits under Rep. Act No. 6683, in accordance with the pronouncements in this decision.

SO ORDERED.

Narvasa, *C.J.*, Melencio-Herrera, Cruz, Paras, Feliciano, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., Romero and Nocon, *JJ.*, concur.
Gutierrez, Jr., *J.*, concurs but only insofar as the rulings applied to RA 6683 applicants.

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[1] Letter of Commissioner Samilo Borlongay, 17 March 1989.
[2] Annex "E", Rollo, p. 13.
[3] Annex "F", Rollo, p. 14.
[4] Rollo, pp. 24-25.
[5] AN ACT PROVIDING BENEFITS FOR EARLY RETIREMENT AND VOLUNTARY SEPARATION FROM THE GOVERNMENT SERVICE, AS WELL AS INVOLUNTARY SEPARATION OF CIVIL SERVICE OFFICERS AND EMPLOYEES PURSUANT TO VARIOUS EXECUTIVE ORDERS AUTHORIZING GOVERNMENT REORGANIZATION AFTER THE RATIFICATION OF THE 1987 CONSTITUTION APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES.
[6] See Joint DBM-CSC Circular Letter No. 88-1, 12 December 1988, Rollo, p. 61.
[7] Sec. 25, a and b, P.D. No. 807; see also CSC Memorandum Circular No. 11, S. of 1991, 5 April 1991.
[8] Ibid., also Perez vs. City of San Carlos, G.R. No. L-48196-R, 11 July 1978; Alta vs. Namocatcat, G.R. No. L-35703, 30 October 1972, 47 SCRA 320.
[9] Executive Order No. 292, Section 7, 83 O.G. No. 39, 75 (September 1987).
[10] Ibid, Section 9, p. 77.
[11] Per Service Record, Rollo, p. 7.
[12] Rollo, p. 70.
[13] Page 3, this decision.
[14] See Agpalo, Ruben. Statutory Construction, 1986 ed., p. 161.
[15] People vs. Manantan, 115 Phil. 664.
[16] G.R. No. 54083, 28 February 1983, 120 SCRA 910.
[17] Ormoc Sugar Co. vs. Treasurer of Ormoc City, L-12794, 17 February 1968.
[18] Statutory Construction by Ruben E. Agpalo, 1986 ed., p. 118-119 citing In re Dick, 38 Phil. 41 (1918); City of Manila vs. Gomez, G.R. No. L-37251, August 31, 1981, 107 SCRA 98; Escribano vs. Ovila, G.R. No. L-30375, September 12, 1978, 85 SCRA 245 (1978), also Go Chico vs. Martinez, 45 Phil. 256 (1923); Gatchalian vs. COMELEC, G.R. No. L-32560, October 22, 1970, 35 SCRA 435 (1970); People vs. Uy Jui Pio, 102 Phil. 679 (1957) and People vs. Aquino, 83 Phil. 614 (1949).
[19] Deliberations House Bill No. 4942 - 8 March 1988, 6:30 p.m.
[20] An Act to Grant Civil Service Eligibility Under Certain Conditions to Government Employees Under Provisional or Temporary Status Who have

rendered a Total of Seven (7) Years of Efficient Service and for other Purposes.

[21] Rule 1, Sec. 2(c) as amended by Memorandum Circular No. 25, series of 1990, 21 May 1990.

[22] See Joint CSC-DBM Circular No. 1, series of 1991, 27 June 1991.