

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
EN BANC**

**MARIA U. ESPAÑOL,
*Petitioner-Appellee,***

-versus-

**G.R. No. L-44616
June 29, 1985**

**THE CHAIRMAN and MEMBERS OF
THE BOARD OF ADMINISTRATORS,
PHILIPPINE VETERANS
ADMINISTRATION,
*Respondents-Appellants.***

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DECISION

MAKASIAR, J.:

This is a Petition for Review on Certiorari to set aside and/or modify the Decision dated January 14, 1975, in Civil Case No. 93382 of the Court of First Instance of Manila, ordering by way of mandamus the Chairman and Members of the Board of Administrators, Philippine Veterans Administration to restore Maria U. Español's monthly pension.

Maria U. Español was the widow of the deceased veteran German Español, who died in the service during World War II. She applied for monthly pension under R.A. No. 65 with the Philippine Veterans

Administration (now Philippine Veterans Affairs Office). Her application was approved and she received her monthly pension and her minor children their monthly dependent's pension. But on November 1, 1951, the Philippine Veterans Administration (PVA), in pursuance of its administrative policy, providing that those beneficiaries of veterans receiving pensions from the U.S. Veterans Administration are no longer entitled to receive pension from the PVA, cancelled Maria U. Español's monthly pension and that of her then, minor children (p. 5, Appellant's Brief; p. 10, rec.).

On February 25, 1974, or after more than 22 years from the date when her monthly pension was cancelled, Maria U. Español filed with the CFI of Manila a petition for mandamus against PVA for the restoration and continued payment of her monthly pension including that of her dependents effective from the date of cancellation.

After PVA filed its answer, in which factual issues were admitted, judgment on the pleadings was rendered by the lower court, on January 14, 1975, the dispositive portion of which reads:

“WHEREFORE, finding merit in the petition, let mandamus issue, ordering the restoration of petitioner's monthly pension plus whatever increase are allowed by law except that of petitioner's children who are now above 18 years of age” (p 10, rec.).

The PVA appealed to the Court of Appeals, which elevated the appeal to this Court, as only errors or questions of law were involved (pp. 4-5, CA decision; pp. 38-39, rec.).

WE find the appeal to be without merit.

I

The contention of appellant PVA that the action of appellee Maria U. Español to compel the restoration of her monthly pension and that of her children, effective from the date of cancellation on November 1, 1951, has already prescribed, inasmuch as the same was filed more than 10 years from the date of cancellation, is without merit.

Article 1144 of the New Civil Code provides that actions based on an obligation created by law shall be brought within 10 years from the time the right of action accrues. It is important to reckon the date, when the right of action accrues, as the same is the beginning for counting the 10-year prescriptive period.

The right of action accrues when there exists a cause of action, which consists of 3 elements, namely: a) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; b) an obligation on the part of defendant to respect such right; and c) an act or omission on the part of such defendant violative of the right of the plaintiff (Cole vs. Vda. de Gregorio, 116 SCRA 670 [1982]; Mathay vs. Consolidated Bank & Trust Co., 58 SCRA 559 [1974]; Vda. de Enriquez vs. De la Cruz, 54 SCRA 1 [1973]). It is only when the last element occurs or takes place that it can be said in law that a cause of action has arisen (Cole vs. Vda. de Gregorio, *supra*).

The appellee cannot be said to have a cause of action, in compelling appellant to continue paying her monthly pension on November 1, 1951, because appellant's act of cancellation, being pursuant to an administrative policy, cannot be considered a violation of appellee's right to receive her monthly pension.

It is elementary rule in administrative law that administrative regulations and policies enacted by administrative bodies to interpret the law which they are entrusted to enforce, have the force of law, are entitled to great respect (Sierra Madre Trust vs. Secretary of Agriculture and Natural Resources, 121 SCRA 384 [1983]; Asturias Sugar Central Inc. vs. Commissioner of Customs, 29 SCRA 617 [1969]; Antique Sawmill Inc. vs. Zayco, et al., 17 SCRA 316 [1966]), and have in their favor a presumption of legality. Thus, appellant's act of cancelling appellee's monthly pension being presumed legal and valid, cannot be taken as a violation of appellee's right to receive her monthly pension under R.A. No. 65.

In the case of Del Mar vs. The Philippine Veterans Administration (51 SCRA 340 [1973]), this Court did not consider prescription in favor of PVA, even though the action of Del Mar was filed on June 20, 1964 or more than 10 years from the cancellation of his monthly pension in March, 1950; because the action of Del Mar was basically to declare the questioned administrative policy invalid, which action does not prescribe.

It is only when this Court declared invalid the questioned administrative policy in the case of Del Mar vs. The Philippine Veterans Administration, supra, promulgated on June 27, 1973, can the appellee be said to have a cause of action to compel appellant to resume her monthly pension; because it is at that point in time, when the presumption of legality of the questioned administrative policy had been rebutted and thus it can be said with certainty that appellant's act was in violation of appellee's right to receive her monthly pension.

The 10-year prescriptive period, therefore, should be counted from June 27, 1973 when the case of Del Mar vs. The Philippine Veterans Administration, supra, was promulgated, and not from November 1, 1951, the date of cancellation by appellant of appellee's pension. The action of appellee, which was brought on February 25, 1974, is therefore well within the 10-year prescriptive period.

II

Appellant's contention that appellee's action for mandamus cannot prosper because no prior exhaustion of administrative remedy was made, as appellee had not made any prior demand on appellant, is without merit.

It is a rule that when a case involves solely legal questions, the litigant need not exhaust all administrative remedies before judicial relief is sought (One Heart Sporting Club, Inc. vs. CA, 108 SCRA 416 [1981]; Bagatsing vs. Ramirez, 74 SCRA 306 [1976]; Del Mar vs. The Philippine Veterans Administration, supra, Mendoza vs. SSS, 44 SCRA 373 [1972]).

III

The contention of appellant that it cannot be ordered by mandamus to resume paying appellee's monthly pension because in the case of Board of Administrators, Philippine Veterans Administration vs. Hon. Maria Agcaoili and Mauro Abrera (58 SCRA 72 [1974]), it was held that disbursement of public funds must be covered by corresponding appropriation, is likewise untenable.

WE find the Agcaoili case inapplicable to appellee's claim. Since the action for mandamus filed by claimant Mauro Abrera in said case was to compel PVA to pay him the additional benefits provided for by R.A. No. 5753 (An Act further amending R.A. 65, as amended, by increasing the Pension of totally disabled Veterans of WWII and their Living Dependents), this Court rightly dismissed his action because Congress made no actual appropriations to cover all increased claims covered by R.A. No. 5753. In the case at bar, appellee does not seek to recover increased benefits under R.A. No. 5753, but for the restoration of her monthly pension and her children's monthly dependent's pension provided for by R.A. No. 65, as amended, the coverage of which Congress had already appropriated funds therefor. Besides, R.A. No. 5753 covering disabled veterans is alien to appellee's claim for benefits due to her as a surviving spouse of a deceased veteran. The action by appellee for mandamus against appellant, thus, exists.

WHEREFORE, THE DECISION OF THE COURT OF FIRST INSTANCE DATED JANUARY 14, 1975 IS HEREBY AMENDED, AND APPELLANT, CHAIRMAN AND MEMBERS OF THE BOARD, PHILIPPINE VETERANS ADMINISTRATION (NOW PHILIPPINE VETERANS AFFAIRS OFFICE) IS HEREBY ORDERED TO:

1. PAY APPELLEE, MARIA U. ESPAÑOL, HER MONTHLY PENSION PLUS WHATEVER INCREMENTS THAT MAY BE PROVIDED FOR BY LAW, EFFECTIVE NOVEMBER 1, 1951, AS LONG AS SHE QUALIFIES; AND

2. PAY APPELLEE'S QUALIFIED MINOR CHILDREN THEIR MONTHLY DEPENDENT'S PENSION PLUS WHATEVER INCREMENTS THAT MAY BE PROVIDED FOR BY LAW, EFFECTIVE NOVEMBER 1, 1951.

COSTS AGAINST RESPONDENT-APPELLANT.

SO ORDERED.

Fernando, C.J., Aquino, Concepcion Jr., Abad Santos, Escolin De la Fuente and Alampay, JJ., concur.

Melencio-Herrera, Relova and Gutierrez, Jr., JJ., took no part.

Plana, J., in the result.

Cuevas, J., I reserved my vote.

SEPARATE OPINIONS

TEEHANKEE, J., dissenting:

I dissent and vote to set aside the appealed decision on two grounds: (1) Petitioner's action prescribed upon the expiration on November 1, 1961 of the ten-year prescriptive period counted from date of respondents' cancellation on November 1, 1951 of her pension. This action was filed too late after over 22 years only on February 25, 1974; and (2) It is now 1985 and no actual appropriation to cover back pensions granted by the decision for over 33 1/2 years could possibly exist.