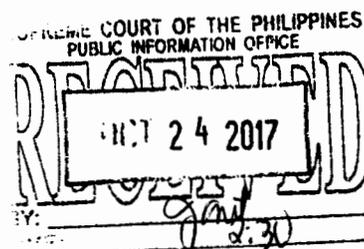




Republic of the Philippines  
**Supreme Court**  
 Manila

FIRST DIVISION



**MANILA PUBLIC SCHOOL  
 TEACHERS' ASSOCIATION  
 (MPSTA), TEACHERS' DIGNITY  
 COALITION (TDC), MELCHOR  
 V. CAYABYAB, EVA V. FERIA,  
 ELCIRA A. PONFERRADA, AND  
 NATIVIDAD P. TALASTAS, IN  
 THEIR BEHALF AND IN  
 BEHALF OF ALL GSIS  
 MEMBERS AND RETIREES  
 SIMILARLY SITUATED,**

**G.R. No. 192708**

Petitioners,

- versus -

**MR. WINSTON F. GARCIA, IN HIS  
 CAPACITY AS PRESIDENT AND  
 GENERAL MANAGER OF THE  
 GOVERNMENT SERVICE  
 INSURANCE SYSTEM (GSIS), GSIS  
 BOARD OF TRUSTEES, AND SEC.  
 ARMIN LUISTRO, IN HIS  
 CAPACITY AS SECRETARY OF  
 THE DEPARTMENT OF  
 EDUCATION,**

Present:

SERENO, *CJ*, Chairperson,  
 LEONARDO-DE CASTRO,  
 DEL CASTILLO,  
 JARDELEZA, and  
 TIJAM, *JJ*.

Promulgated:

**OCT 02 2017**

Respondents.

X -----X

**DECISION**

**SERENO, *CJ*:**

This is a Petition for Review on Certiorari<sup>1</sup> of the Court of Appeals (CA) Decision<sup>2</sup> rendered in CA-G.R. SP No. 105797. The CA issued a writ of Prohibition against the immediate and retroactive application of the

<sup>1</sup> *Rollo*, pp. 9-68.

<sup>2</sup> *Id.* at 81-101; dated 18 June 2010, penned by Associate Justice Apolinario D. Bruselas, Jr. and concurred in by Associate Justices Mario L. Guariña III and Rodil V. Zalameda.

Premium-Based Policy (PBP), Automatic Policy Loan and Policy Lapse (APL) and Claims and Loans Interdependency Policy (CLIP) to the teacher-petitioners' claims, without or prior to a complete determination and reconciliation of the employer-share liabilities of the Department of Education (DepEd).<sup>3</sup> The appellate court, however, did not grant the following prayers, which petitioners reiterate before this Court:

1. Nullify the PBP, APL and CLIP
2. Order the Government Service Insurance System (GSIS) to do the following:
  - a. Restore the creditable service of all GSIS members (not just teachers), reckoned simply from the date of their respective original appointments or elections;
  - b. Compute and grant the creditable service, benefits, and claims of GSIS members based on their period of service, regardless of any deficiency in the employer premium share contributions;
  - c. Account the automatic deduction of the employee premium share contributions from their salaries as conclusive compliance with their obligation of premium share payments, and thus entitle them to their full benefits and claims, regardless of the remittance thereof by the agency-employer to the GSIS;
  - d. Accept as proof of employee premium share payment and loan repayments the pay slips of the employees and/or remittance lists or certifications from the agency-employer, or other proof of payment as may be provided by the employee and/or the agency, and to update the employee's service records using these documents; and
  - e. Refund to the GSIS members those amounts that were deducted from their claims and benefits arising from the implementation of the PBP, APL, and CLIP, with interest at the legal rate of 12% per annum from the time of withholding of each such amount.
3. Order DepEd to procure the appropriation in the national budget of the amounts needed to keep current its employer premium share contributions, and to remit all payment deficiencies to the GSIS.<sup>4</sup>

### FACTS

On 14 November 1936, a government service insurance system was created by virtue of Commonwealth Act (C.A.) No. 186 in order to promote the efficiency and welfare of the employees of the government of the Philippines. On 31 May 1977, then President Marcos approved Presidential Decree (P.D.) No. 1146 amending, expanding, increasing, and integrating the social security and insurance benefits of government employees and

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<sup>3</sup> Id. at 100.

<sup>4</sup> Id. at 67-68.



facilitating the payment thereof under C.A. No. 186. More than 20 years later, P.D. 1146 was amended, and Republic Act (R.A.) No. 8291, or the “The GSIS Act of 1997,” took effect.

Under this Act, the employee-member and the employer-agency are required by law to pay monthly contributions to the system.<sup>5</sup> The share of the employer (“GS,” or government share) is sourced from the national budget, while that of the employee (“PS,” or personal share) is *automatically* deducted by the former from the employee’s salary.<sup>6</sup> The employer is mandated to remit the GS and PS directly to the GSIS within the first 10 days of the calendar month following the month to which the contributions apply.<sup>7</sup>

One of the changes made in R.A. 8291 was the increase in the employer’s contribution from 9.5% to 12%.<sup>8</sup> However, there was no concomitant increase in the budget appropriation.<sup>9</sup> As a result, DepEd was unable to pay GSIS the equivalent of the 2.5% increase in the employer’s share.<sup>10</sup>

Based on the figures provided in the Memorandum of Agreement (MOA)<sup>11</sup> executed by DBM, DepEd and GSIS on 11 September 2012, DepEd incurred premium deficiencies totalling ₱6,923,369,633.15 from 1 July 1997 to 31 December 2010 pertaining to the GS.<sup>12</sup> GSIS alleges that for the same period, DepEd personnel incurred premium deficiencies totalling ₱4,511,907,486.98 pertaining to the PS.<sup>13</sup>

In the meantime, GSIS issued the assailed Resolutions, to wit:

1. Resolution No. 238<sup>14</sup> - In 2002, the GSIS Board introduced **CLIP**, by which the arrears incurred by members from their overdue loans are deducted from the proceeds of their new loan or retirement benefits. CLIP also involves the collective suspension of the loan privileges of the member when a loan account is in default, except when its proceeds are used to pay for the arrearages.
2. Resolution No. 90<sup>15</sup> - In 2003, the GSIS Board adopted the **PBP** whereby for the purpose of computing GSIS benefits, the creditable service of a member is determined by the corresponding

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<sup>5</sup> R.A. 8291, Sec. 5(a).

<sup>6</sup> R.A. 8291, Secs. 5(b), 6(a).

<sup>7</sup> R.A. 8291, Sec. 6(b).

<sup>8</sup> *Rollo*, p. 84.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 24.

<sup>11</sup> *Id.* at 530-537.

<sup>12</sup> *Id.* at 531.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 125-134.

<sup>15</sup> *Id.* at 102-108.

monthly premium contributions that were timely and correctly remitted or paid to GSIS.

Petitioners claim that the policy shifted the basis for the claims and benefits of GSIS members from the actual length of service to the creditable years of service.<sup>16</sup> Section 10 of R.A. 8291, which provided for the computation of service, states:

SECTION 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, those performed overseas under the authority of the Republic of the Philippines, and those that may be prescribed by the GSIS in coordination with the Civil Service Commission.

(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.

For the purpose of this section the term service shall include full time service with compensation: Provided, That part time and other services with compensation may be included under such rules and regulations as may be prescribed by the GSIS.

It must be noted that neither DepEd nor GSIS denies that there is a problem with the reconciliation of their records, such that the GSIS database might reflect nonpayment of the PS despite its automatic deduction from the employee's salary and its remittance by DepEd. As for the GS, it is also possible that the database might reflect nonpayment despite remittance. In fact, GSIS itself admitted that "it is public knowledge that previous problems in the Information Technology infrastructure of GSIS have severely affected the efficient servicing of members['] claims."<sup>17</sup> Further, instead of denying that its nonposting may result in the nonpayment of benefits, GSIS merely offered an excuse:

x x x. The GSIS has around 1,500,000 member-employees. Continuous efforts to make its records accurate are being earnestly taken. The GSIS does not claim perfection and one hundred percent fool-proof precision in its database recording. When millions of entries are involved, a few mistakes due to human error cannot be avoided. What the GSIS assures this Honorable Court is that errors brought to its attention and shown to be existing are promptly rectified. Where benefits are concerned, expeditious corrections of records and payments are done.<sup>18</sup>

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<sup>16</sup> Id. at 18.

<sup>17</sup> Id. at 232.

<sup>18</sup> Id. at 238.

3. Resolution No. 179<sup>19</sup> - In 2007, the GSIS Board approved the **APL**, which is “a feature of a GSIS life insurance policy that keeps the policy in force in case of nonpayment of premiums by taking out a loan amount against the unrestricted portion of the policy’s accumulated cash value (CV) or the termination value (TV)”<sup>20</sup> until the total APL and policy loan balances exceed the CV of the Life Endowment Policy or the TV of the Enhanced Life Policy. A 6% interest per annum compounded monthly is imposed on the APL, which is independent of the 2% interest per month compounded annually charged to the agency for delayed remittances.<sup>21</sup>

These Resolutions were not published in a newspaper of general circulation and were enforced before they were even filed with the Office of the National Administrative Register.<sup>22</sup>

Petitioners seek to nullify the resolutions for being “*intrinsically unconstitutional, illegal, unjust, oppressive, arbitrary, confiscatory, immoral, ultra vires, and unconscionable.*”<sup>23</sup> They make the following factual allegations to demonstrate how the policies were applied:

1. **CLIP** – Petitioners Eva Feria, Elcira Ponferrada, and Natividad Talastas obtained policy and/or emergency loans, which they have fully paid for. The loan repayments have been automatically deducted from their salaries as certified by DepEd. Despite full payment, their vouchers indicate underpayment of the loans.<sup>24</sup>
2. **PBP** – Petitioner Melchor Cayabyab is also a public school teacher.<sup>25</sup> As of 11 June 2008, his Premium and Loan Accounts Balances Index showed that he had the following arrearages:

PS	₱ 44,206.73
GS	₱ 61,327.67
EC	₱ 3,411.70
<b>TOTAL</b>	<b>₱108,946.10</b>

On the other hand, DepEd certified that the monthly contributions for the GS, PS and EC had been deducted from Cayabyab’s salary from January 2001 to July 2006.<sup>26</sup>

<sup>19</sup> Id. at 109-124.

<sup>20</sup> Id. at 110.

<sup>21</sup> Id. at 113-114.

<sup>22</sup> Id. at 170; copy of a Certification from the National Printing Office dated 10 October 2008 stating that the office had no record of the receipt, estimate, payment and publication of the resolutions. Respondents do not dispute that the resolutions were not published.

<sup>23</sup> Id. at 600-601.

<sup>24</sup> Id. at 31-32.

<sup>25</sup> Id. at 12.

<sup>26</sup> Id. at 29

Because of the PBP, Cayabyab's creditable service was reduced as follows:

Total Length of Service	7.72678 years
Less: Equivalent Years of Service yet to be reconciled with Agency and Member's Records	4.15462 years
Provisional/Tentative Creditable Years of Service with Retirement Premium Payments	3.57216 years

3. **APL** - As of 6 June 2005, before the APL was approved, the cash surrender value of petitioner Talastas' policy amounted to ₱51,252.53. In 2008, she inquired about the cash surrender value of her policy and was apprised by GSIS that her policy had resulted in **zero** proceeds because of the following deductions:<sup>27</sup>

Cash Value as of 6/6/2005			₱51,252.53
Less:	Underpayments		
	Personal Share	₱9,045.48	
	Interests	₱11,737.88	
	Government Share	₱9,710.35	
	Interests	₱20,758.82	
	Policy Loan	₱0.00	
	Interests on Policy Loan	₱0.00	
Net Proceeds			₱0.00

Another case in point is petitioner Ponferrada, whose Life Insurance Claim Voucher showed that the premium in arrears was deducted from the face value of her policy despite DepEd's certification that she had paid the monthly contributions, including the GS and the EC, from January 2000 to December 2006.<sup>28</sup>

On 7 July 2008, respondent Garcia, who was then the president of GSIS, wrote a letter<sup>29</sup> to DepEd alleging that the agency's unpaid premiums, as of 30 June 2008, had reached ₱21.3 billion, to wit:

Unpaid premiums (GS)	₱ 4,451,361,535.55
Unpaid premium (PS)	₱ 2,946,674,455.57
Interest	₱13,926,610,685.47
Total Premium arrearages of DepEd	₱21,324,646,676.59

In its reply letter dated 15 July 2008,<sup>30</sup> DepEd asked the GSIS to break down the ₱21.3 billion lump sum by naming each and every one of the employees who supposedly had unpaid premiums and thereafter providing

<sup>27</sup> Id. at 30-31.

<sup>28</sup> Id. at 30.

<sup>29</sup> Id. at 136-137.

<sup>30</sup> Id. at 139.

the Service Records indicating the months or years in which the PS or the GS of these employees were not paid. DepEd also suggested that the official receipts issued to it by GSIS be reconciled with the latter's records.<sup>31</sup>

Petitioners claim that while DepEd was still discussing its alleged arrearages with GSIS, the latter converted the entire ₱21,324,646,676.59 into personal loans of the teachers through the APL, earning interest at 6% per annum compounded monthly, while also effectively reducing the teachers' creditable years of service through the PBP.<sup>32</sup>

In response to the alleged "chronic" non-remittance of premium contributions resulting in premium deficiencies based on the GSIS records of creditable service, the DBM, DepEd, and the GSIS executed a MOA on 11 September 2012.<sup>33</sup> The following terms and conditions were agreed upon:

1. The DBM will settle the government share in the premium arrearages of DepEd from 1 July 1997 to 31 December 2010 in the amount of ₱6,923,369,633.15, half of which shall be advanced upon submission by the GSIS of a billing statement, list of employees covered, and request letter;
2. The GSIS will condone, in its entirety, the interests due on the aforesaid premium deficiencies amounting to 14,041,029,495.73; and
3. Upon release of the advance payment, the GSIS will lift the suspension of loan privileges and other benefits applicable to the covered DepEd personnel and make the proportionate adjustment in their records of creditable service.

On 31 May 2013, respondents informed the Court of the developments in the reconciliation of membership records of DepEd personnel, the execution of the MOA, and the national appropriation for the settlement of DepEd's GSIS premium arrearages.

Petitioners asserted that regardless of the execution of the MOA, the Resolutions must still be nullified, because "most of the initiatives described in the GSIS Manifestation appeared to be merely operational x x x which do not amend, modify, or reverse any of the GSIS policies, and which are thus still in place."<sup>34</sup> Moreover, the MOA refers only to the DepEd, one of the many agency-employers in the government, without "similar reported endeavours to address the internal arrangements between the GSIS and the rest of the agency-employers in the Government."<sup>35</sup>

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<sup>31</sup> Id.

<sup>32</sup> Id. at 24

<sup>33</sup> Id. at 530-537.

<sup>34</sup> Id. at 599-605; Comment on the "Motion for Leave to File and to Admit Herein Manifestation of the GSIS" dated 31 May 2013.

<sup>35</sup> Id. at 601.



In a Resolution dated 17 June 2015,<sup>36</sup> the Court required the parties to submit their respective memoranda. All memoranda were received by 9 October 2015.

### OUR RULING

The policies are invalid due to lack of publication.

As early as 1986, the Court in *Tañada v. Tuvera*<sup>37</sup> already laid down a definitive interpretation of Article 2<sup>38</sup> of the Civil Code:

We hold therefore that *all* statutes, including those of local application and private laws, shall be published as a condition for their effectivity, which shall begin fifteen days after publication unless a different effectivity date is fixed by the legislature.

Covered by this rule are presidential decrees and executive orders promulgated by the President in the exercise of legislative powers whenever the same are validly delegated by the legislature or, at present, directly conferred by the Constitution. **Administrative rules and regulations must also be published if their purpose is to enforce or implement existing law pursuant also to a valid delegation.**

Interpretative regulations and those merely internal in nature, that is, regulating only the personnel of the administrative agency and not the public, need not be published. Neither is publication required of the so-called letters of instructions issued by administrative superiors concerning the rules or guidelines to be followed by their subordinates in the performance of their duties.<sup>39</sup>

After *Tañada*, the Administrative Code of 1987<sup>40</sup> was enacted, with Section 3(1) of Chapter 2, Book VII, specifically providing that:

*Filing.* (1) Every agency shall file with the University of the Philippines Law Center three (3) certified copies of every rule adopted by it. Rules in force on the date of effectivity of this Code which are not filed within three (3) months from the date shall not thereafter be the basis of any sanction against any party or persons.

In *Republic v. Pilipinas Shell Petroleum Corp.*,<sup>41</sup> this Court held that the requirements of publication and filing must be strictly complied with, as these were designed to safeguard against abuses on the part of lawmakers and to guarantee the constitutional right to due process and to information on matters of public concern. Even in cases where the parties participated in the

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<sup>36</sup> Id. at 611-614.

<sup>37</sup> 230 Phil. 528 (1986).

<sup>38</sup> The provision reads:

Art. 2. Laws shall take effect after fifteen days following the completion of their publication in the Official Gazette or in a newspaper of general circulation, unless it is otherwise provided. This Code shall take effect one year after such publication.

<sup>39</sup> Supra note 37, at 535.

<sup>40</sup> Executive Order No. 292 (1987).

<sup>41</sup> 574 Phil. 134 (2008).

public consultation and submitted their respective comments, strict compliance with the requirement of publication cannot be dispensed with.<sup>42</sup>

While GSIS filed copies of the subject resolutions with the Office of the National Administrative Register (ONAR), it only did so after the claims of the retirees and beneficiaries had already been lodged.<sup>43</sup> The resolutions were not published in either the *Official Gazette* or a newspaper of general circulation in the country.

GSIS maintains that the publication of the resolutions was unnecessary, because the policies were “just a mere reiteration of the time-honored principles of insurance law.”<sup>44</sup> According to GSIS, the PBP is actually contained in R.A. 8291, which allegedly contemplates the actual payment of premiums.<sup>45</sup> It alludes to the records of the Senate, which was supposedly clearly in support of its position that the payment of premium contributions is a precondition for the availment of benefits from the system.<sup>46</sup> The cited excerpt reads:

Senator Romulo: As I understand it, Mr. President, after they have served in their respective offices for three years, or after they have paid their contributions within a period of three years, they are entitled to the benefits under this proposed measure.

Senator Enrile: Yes, Mr. President, with certain limitations. My understanding is that there must be at least three years of service, which means three years of contributions to the system.<sup>47</sup>

Regarding the APL Policy and CLIP, respondent GSIS made a general statement that those are “part and parcel of the business of insurance.”<sup>48</sup>

The GSIS admits that the Certificate of Membership<sup>49</sup> contains the following provision:

4.3. *Creditable services*

For purposes of determining his length of service, all services with compensation rendered by the members from the date of his original employment whether full-time or part-time shall be credited.

However, the agency downplays its own words by adding that the certificate “does not discount Section 5 and 6 of R.A. 8291 which emphasize the need for the correct and prompt payment and remittance of the premium contributions.”<sup>50</sup>

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<sup>42</sup> *Id.*

<sup>43</sup> CA Decision, *rollo*, p. 98. Based on a copy of Resolution Nos. 90 and 238 attached to the Petition, it was received by the ONAR on 23 October 2003; *rollo*, pp. 102, 125. Based on a copy of Resolution No. 179 attached to the Petition, it was received by the ONAR on 15 February 2008; *rollo*, p. 109.

<sup>44</sup> *Rollo*, p. 299.

<sup>45</sup> *Id.* at 796.

<sup>46</sup> *Id.* at 298-299.

<sup>47</sup> Record of the Senate, Vol. IV No. 92, Interpellations and deliberations on Senate Bill No. 2013, p. 622.

<sup>48</sup> *Rollo*, p. 824.

<sup>49</sup> *Id.* at 300.

<sup>50</sup> *Id.*



A reading of the resolutions convinces us that these cannot be viewed simply as a construction of R.A. 8291, as they, in fact, substantially increase the burden of GSIS members. It must now be proven that the PS or GS for the PBP and the APL, and loan amortization payments for CLIP, have been remitted by DepEd and posted by GSIS.

GSIS cannot deny that it has made posting a prerequisite for the crediting of the period of service and loan repayments.<sup>51</sup> Specifically, the PBP guidelines provide:<sup>52</sup>

POLICIES:

x x x x

4. For services in government where the corresponding premium contributions were not paid, or if the amounts remitted or paid were less than what should be paid, such services can only be recognized as creditable services if the following conditions are observed:

Competent proof that the member actually rendered those services and received fixed basic compensation.

Actual payment or remittance of the unpaid premium balances, including the interest imposed above for their delayed payment, both for government and/or personal share.

PROCEDURAL GUIDELINE:

x x x x

6. The Record of Creditable Services shall be the member's record of services in government where the corresponding premium contributions, including interest, if any, have been duly paid or remitted to GSIS.

x x x x

9. The RCS shall be the basis for computing the GSIS benefits due the member x x x

In case of error in the Record of Creditable Service, GSIS says that the following documents are acceptable to correct the discrepancy.<sup>53</sup>

Conflict	Documentary Proof
Monthly premium payments or Salary	Statement of Account/Remittance List and Official Receipt
Years of Service	Statement of Account/Remittance List and Official Receipt/Monthly Premiums Posted

<sup>51</sup> Id. at 815.

<sup>52</sup> Id. at 105-107.

<sup>53</sup> Id. at 807.

GSIS does not consider the certifications issued by DepEd as substantial proof of payment, as these were “clearly self-serving.”<sup>54</sup>

In its Comment, the GSIS admits that employees are “momentarily made to pay for the unremitted and/or unposted government share in the premium obligation.”<sup>55</sup> The agency views this occurrence acceptable and even boasts that because of the APL, the unpaid period is still credited to employees. Note, however, that under the APL, any unpaid or unposted *government* share is considered a loan by the *employee*, and interests thereon will be charged to *both* the government and the employee.

According to the Court in *Veterans Federation of the Philippines v. Reyes*,<sup>56</sup> interpretative regulations that do not add anything to the law or affect substantial rights of any person do not entail publication. This is because “they give no real consequence more than what the law itself has already prescribed.”<sup>57</sup> However, “when xxx an administrative rule goes beyond merely providing for the means that can facilitate or render least cumbersome the implementation of the law but **substantially adds to or increases the burden of those governed**, it behooves the agency to accord at least to those directly affected a chance to be heard, and thereafter to be duly informed, before that new issuance is given the force and effect of law.”<sup>58</sup>

In this case, the resolutions additionally obligate member-employees to ensure that their employer-agency includes the GS in the budget, deducts the PS, as well as loan amortizations, and timely remits them; and that the GSIS receives, processes, and posts the payments. These processes are beyond the control of the employees; yet they are being made to bear the consequences of any misstep or delay by either their agency or GSIS. As aptly observed by the CA, “the fault lies with how the deficiencies in payment by the DepEd, real or imagined, are attributed to the employees-members.”<sup>59</sup>

Surely, this was not the scenario contemplated by law. The statutorily prescribed mechanism – through salary deduction – is a clear indication that the law’s intent is precisely to make contribution by members less cumbersome. Considering the heavy burden imposed, the requirements of notice, hearing, and publication should have been observed.

The Court has invalidated administrative issuances as a consequence of their non-publication. In *De Jesus v. COA*,<sup>60</sup> this Court declared DBM

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<sup>54</sup> Id. at 294.

<sup>55</sup> Id. at 810.

<sup>56</sup> 518 Phil. 668 (2006).

<sup>57</sup> *Association of Southern Tagalog Electric Cooperatives, Inc. v. Energy Regulatory Commission*, 695 Phil. 243 (2012) further citing *CF v. CA*, 329 Phil. 987 (1996).

<sup>58</sup> *CIR v. CA*, 329 Phil. 987 (1996) cited in *Michel J. Lhuiller Pawnshop Inc.*, 453 Phil. 1043 (2003); further cited in *Commissioner of Customs v. Hypermix Feeds Corp.*, 680 Phil. 681 (2012).

<sup>59</sup> *Rollo*, p. 96

<sup>60</sup> 355 Phil. 584 (1998).

Corporate Compensation Circular No. 10 ineffective. It may be recalled that in implementing Section 12 of R.A. 6758,<sup>61</sup> the DBM ordered the discontinuance of all allowances and fringe benefits granted on top of the basic salary beginning 1 November 1989. The circular was not published. This Court pointed out that since it was more than a mere interpretative or internal regulation, the circular should have been published to be effective and enforceable:

x x x And why not, when it tends to deprive government workers of their allowances and additional compensation sorely needed to keep body and soul together. At the very least, before the said circular under attack may be permitted to substantially reduce their income, the government officials and employees concerned should be apprised and alerted by the publication of subject circular in the Official Gazette or in a newspaper of general circulation in the Philippines — to the end that they be given amplest opportunity to voice out whatever opposition they may have, and to ventilate their stance on the matter. This approach is more in keeping with democratic precepts and rudiments of fairness and transparency.

Similarly in the present case, the resolutions effectively diminish, and in some instances, even absolutely deprive retirees of their retirement benefits – albeit “momentarily,” as GSIS claims – when these were meant as their reward for giving the best years of their lives in the service of their country. In *GSIS v. Montesclaros*,<sup>62</sup> this Court expounded on the nature of retirement benefits as property interest in this wise:

Under Section 5 of PD 1146, it is mandatory for the government employee to pay monthly contributions. PD 1146 mandates the government to include in its annual appropriation the necessary amounts for its share of the contributions. It is compulsory on the government employer to take off and withhold from the employees' monthly salaries their contributions and to remit the same to GSIS. The government employer must also remit its corresponding share to GSIS. Considering the mandatory salary deductions from the government employee, the government pensions do not constitute mere gratuity but form part of compensation.

In a pension plan where employee participation is mandatory, the prevailing view is that employees have contractual or vested rights in the pension where the pension is part of the terms of employment. The reason for providing retirement benefits is to compensate service to the government. Retirement benefits to government employees are part of emolument to encourage and retain qualified employees in the government service. Retirement benefits to government employees reward them for giving the best years of their lives in the service of their country.

Thus, where the employee retires and meets the eligibility requirements, he acquires a vested right to benefits that is protected by the due process clause. Retirees enjoy a protected property interest whenever they acquire a right to immediate payment under pre-existing law. Thus, a pensioner

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<sup>61</sup> The “Compensation and Position Classification Act of 1989.”

<sup>62</sup> 478 Phil. 573 (2004).

acquires a vested right to benefits that have become due as provided under the terms of the public employees' pension statute. **No law can deprive such person of his pension rights without due process of law, that is, without notice and opportunity to be heard.** (Citations omitted, emphasis supplied)

If presidential decrees that name a public place after a favored individual or exempt that individual from certain prohibitions or requirements must be published,<sup>63</sup> how much more these resolutions that involve vested property rights of public officers?

Aside from seeking the nullification of the Resolutions, petitioners are also praying that this Court order respondent GSIS to 1) restore the creditable service of all GSIS members (not just teachers), reckoned simply from the date of their respective original appointments or elections; 2) compute and grant the creditable service, benefits, and claims of GSIS members based on their periods of service and regardless of any deficiency in the GS; 3) account the automatic deduction of the PS from their salaries as conclusive compliance with their obligation of premium share payments, and thus entitle them to their full benefits and claims, regardless of the remittance thereof by the agency-employer to the GSIS; and 4) accept as proof of employee premium share payment and loan repayment the pay slips of the employees and/or remittance lists or certifications from the agency-employer, or other proof of payment as may be provided by the employee and/or the agency; and to update the employee's service records using these documents. Petitioners are also asking us to order the refund to GSIS members of those amounts that were deducted from their claims and benefits arising from the implementation of the PBP, APL, and CLIP, with interest at the legal rate of 12% per annum from the time of withholding of each of those amounts.

Much as we commiserate with the plight of petitioners, this Court is not in a position to intrude into the operational processes of respondents, which are under the control of the executive department. We are constrained to refrain from intruding upon purely executive and administrative matters, which are properly within the purview of other branches of government.

Petitioners themselves accurately trace the root of this controversy to "the internal logistical and administrative problems of the GSIS and the [DepEd], specifically, in their remittance, reconciliation, posting, and budgetary processes for premium payments, which are wreaking havoc upon the GSIS members."<sup>64</sup> On the other hand, respondents claim that they are in

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<sup>63</sup> The following is an excerpt from *Tanada v. Tuvera*, 230 Phil. 528 (1986):

Accordingly, even the charter of a city must be published notwithstanding that it applies to only a portion of the national territory and directly affects only the inhabitants of that place. **All presidential decrees must be published, including even, say, those naming a public place after a favored individual** or exempting him from certain prohibitions or requirements. The circulars issued by the Monetary Board must be published if they are meant not merely to interpret but to "fill in the details" of the Central Bank Act which that body is supposed to enforce.

<sup>64</sup> *Rollo*, pp. 599-600.



the process of updating and reconciling their records. It bears emphasis that this Court is one of law and, as such, tasked with resolving legal controversies.

The prayer to order the department to procure the appropriation in the national budget of the amounts needed to keep the employer's premium share contributions current must be denied on the ground of mootness. Petitioners do not dispute that DepEd executed a MOA with the DBM on 11 September 2012 for the settlement of premium deficiencies pertaining to the government share from 1 July 1997 to 31 December 2010.

On a last note, we forward the concerns of petitioners to Congress, which holds the power of the purse, for its consideration to fund the payment of premium deficiencies pertaining to the PS for the same period, July 1997 to 31 December 2010. We refer to those amounts that had been deducted from the salaries of the employees, but remain unremitted by their respective agencies.

We likewise forward a copy of this Decision to the Ombudsman for consideration to file the appropriate cases against the officials and persons responsible for the non-remittance or delayed remittance of premiums and loan repayment.

**WHEREFORE**, the Petition is **PARTIALLY GRANTED**. GSIS Resolutions Nos. 238, 90, and 179, which respectively embody the Claims and Loans Interdependency Policy, Premium-Based Policy, and Automatic Policy Loan and Policy Lapse, are declared **INVALID** and **OF NO FORCE AND EFFECT**.

Let a copy of this Decision be forwarded to the Senate, the House of Representatives, and the Department of Budget and Management for their consideration on the matter of funding the payment of the portion pertaining to the personal share of the employees. A copy should likewise be furnished the Office of the Ombudsman for its consideration on the matter of filing the appropriate cases against the officials and persons responsible for the non-remittance or delayed remittance of premiums and loan repayment.

**SO ORDERED.**



**MARIA LOURDES P. A. SERENO**  
Chief Justice, Chairperson

WE CONCUR:

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**FRANCIS H. JARDELEZA**  
Associate Justice

  
**NOEL GIMENEZ TIJAM**  
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.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice