



OPINION NO. 11 S. 2021

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KAGAWARAN NG KATARUNGAN
Department of Justice
Manila

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Honorable BERNARDO C. FLORECE, JR.
Officer-in-Charge
Department of the Interior and Local Government
DILG-NAPOLCOM Center
NAPOLCOM Bldg., EDSA cor. Quezon Avenue
West Triangle, Quezon City 1104

Dear *OIC Florece*:

This refers to your request for legal opinion on the legal basis for the continued grant by the National Police Commission (NAPOLCOM) of death and total permanent physical disability benefits to its pensioners.

The death and total permanent physical disability benefits being administered by the NAPOLCOM trace its statutory basis to Republic Act (RA) No. 4864¹ ("*Police Act of 1966*"). In 1974, Presidential Decree (PD) No. 448² amended Section 21 of RA No. 4864, among others, to provide compensation to the personnel of NAPOLCOM,³ aside from the members of the local police force or agency, who suffered disability in the line of duty and to their beneficiaries in case of death.

In 1977, PD No. 1184⁴ ("*Integrated National Police Personnel Professionalization Law of 1977*") was issued to establish the uniform Integrated National Police (INP) personnel development standards to maintain a superior safety force and grant death and permanent total disability benefits to the members of the INP. On 13 December 1990, RA No. 6975⁵ ("*Department of the Interior and Local Government Act of 1990*") was enacted to establish the Philippine National Police (PNP) under a reorganized Department of the Interior and Local Government (DILG). Section 76 of RA No. 6975 granted death and disability benefits to the uniformed personnel and their heirs.

¹ Entitled: "*An Act Creating the Police Commission, Amending and Revising the Laws Relative to the Local Police System, and for Other Purposes*", dated 08 August 1966.

² Entitled: "*Amending Certain Sections of Republic Act Numbered Four Thousand Eight Hundred and Sixty-Four, Otherwise Known as the 'Police Act of 1966,' and Presidential Decrees Numbered Twelve and Twelve-A, As Amended*".

³ In 1972, the Police Commission was reorganized as the NAPOLCOM.

⁴ Entitled: "*Integrated National Police Personnel Professionalization Law of 1977*", dated 26 August 1977.

⁵ Entitled: "*An Act Establishing the Philippine National Police under a Reorganized Department of*

In 1998, RA No. 8551⁶ ("*Philippine National Police Reform and Reorganization Act of 1998*") amended Section 73 of RA No. 6975, which relates to the grant of permanent physical disability benefits to the PNP uniformed personnel.

The instant request stemmed from the letter dated 19 November 2019 of the Department of Budget and Management (DBM) directing the DILG to ensure that there is no payment of double compensation in the form of death and disability benefits to the qualified PNP uniformed personnel and their beneficiaries and that the payment of all police benefits shall be administered by the PNP.

In its reply dated 27 December 2019, the DILG-NAPOLCOM expressed its view that the grant of death and disability benefits by the PNP is separate and distinct from the grant of the same benefits to PNP uniformed personnel by the NAPOLCOM pursuant to Section 41 of PD No. 1184, which, as alleged, was never expressly repealed in RA Nos. 6975 and 8551.

On 14 January 2020, the Commission on Audit (COA) issued Audit Observation Memorandum (AOM) No. 2020-003 finding that the payment by the NAPOLCOM of death and disability benefits to PNP uniformed personnel and the grant of the same benefits by the PNP to the same beneficiaries constitute double compensation that is contrary to Section 8, Article IX-B of the 1987 Constitution. The relevant parts of the said COA AOM are quoted as follows:

x x x

2. The uniformed personnel of the Integrated National Police (INP), now called Philippine National Police (PNP) who were injured, killed, or died while in the performance of their duties were given welfare benefits under Republic Act 4864 as amended by Presidential Decree 448 and 1184, thru PNP welfare benefits program administered by NAPOLCOM.

3. Verification disclosed the same benefits were granted and paid to same beneficiaries on the basis of Section 73 and 76 of Republic Act 6975 as amended by Republic Act 8551. Details on the benefits administered by the PNP and NAPOLCOM are as follows:

⁶ Entitled: "*An Act Providing for the Reform and Reorganization of the Philippine National Police and For Other Purposes, Amending Certain Provisions of Republic Act Numbered Sixty-Nine Hundred and Seventy-Five Entitled, 'An Act Establishing the Philippine National Police Under a Reorganized Department of the Interior and Local Government, and For Other Purposes'*", dated 25 February 1998.

Police Benefits	National Police Commission (RA 4864, as amended by PD 448 and PD 1184)	Philippine National Police (RA 6975, as amended by RA 8551)
Permanent Physical Disability		
Pension	Lifetime – 80% of the monthly basic salary	Lifetime – 80% of the monthly basic salary
Gratuity Pay	Lump sum – one year basic salary	Lump sum – one year basic salary
Death and Disability Benefits		
Pension	5 years - 80% of the monthly basic salary	5 years - 80% of the monthly basic salary
Gratuity Pay	Lump sum – one year basic salary	Lump sum – one year basic salary
Burial Pay	3-months basic salary	
Temporary Disability		
Medical Reimbursement	Actual medical expenses supported by receipts	

x x x

x x x

7. We remained firm in our view that the pension administer[ed] by NAPOLCOM constitutes double compensation contrary to existing laws, rules and regulations. The rule in construing or applying pension and gratuity laws is that, in the absence of express provision to the contrary, they will be so interpreted as to prevent any person from receiving a double compensation. There must be a provision, clear and unequivocal, to justify a double pension. Neither the provisions of RA 4864 as amended by PD 448 and 1184 and RA 6975 as amended by RA 8551 makes an express declaration allowing the grant of two pension to PNP uniformed personnel.

Thus, the COA recommended the immediate suspension of the payment of all the PNP welfare benefits in the Central Office and all Regional Offices of the NAPOLCOM.

On 20 February 2020, the DBM issued the corresponding Special Allotment Release Orders (SAROs) and Notice of Cash Allocations to NAPOLCOM to cover its death and disability benefits.

On 09 May 2020, the COA, in its reply to the DILG-NAPOLCOM's letter dated 28 April 2020, stated that with the issuance of a SARO, the decision to proceed with the payment to the PNP beneficiaries is a management prerogative. It further advised the DILG-NAPOLCOM to seek legal opinion from the Department of Justice (DOJ) on this matter as there is a legal issue as to whether the payment will result to double compensation.

On 04 June 2020, in the Auditor's Rejoinder, the COA remained firm on its stand that the second sentence of Article IX-B, Section 8 of the 1987 Constitution is not applicable in the case of death and disability benefits being received by PNP

beneficiaries from PNP and NAPOLCOM; rather it applies to a retiree receiving pension or gratuity and compensation for another government position. Likewise, COA reiterated that the two concerned laws cannot stand together without violating the constitutional prohibition on double compensation; thus, Section 41 of PD No. 1184 is deemed to have been repealed or amended by Section 73 of RA No. 6975, as amended by Section 35 of RA No. 8551.

On 24 July 2020, the DBM informed the DILG-NAPOLCOM that it had released the amount of Php143,017,092.00 to cover the benefits claims of the PNP uniformed personnel chargeable against the appropriations authorized for the purpose, with the *colatilla* that the Head of Agency shall assume responsibility and accountability for establishing the entitlement of the grantees to the benefit claims and the veracity and accuracy of the submitted documents, consistent with the pertinent budgeting, accounting and auditing laws, rules and regulations.

On 06 August 2020, COA informed the PNP Total Permanent Physical Disability Retirees and Survivors Association Inc. that it had advised the DILG-NAPOLCOM, in view of the divergent legal positions on the matter, to seek the DOJ's opinion.

In your request for opinion, you expressed the view that the absence of an express repealing clause, coupled with the existing provisions of the Implementing Rules and Regulations (IRR) of RA No. 8551, is sufficient basis for the continued grant by the NAPOLCOM of death and temporary and permanent physical disability benefits to its pensioners.

Hence, the instant request for opinion as to whether the grant of death and permanent physical disability benefits to the PNP uniformed personnel by the NAPOLCOM pursuant to PD No. 1184 under its Welfare Benefits Program, and the payment of the same benefits by the PNP pursuant to RA No. 6975, as amended by RA No. 8551, under its Retirement and Separation Benefits Program constitute double compensation as proscribed under Article IX-B, Section 8 of the 1987 Constitution.

DISCUSSION

As statutes in *pari materia*, Section 76 of RA No. 6975 must be construed and harmonized with Section 41 of PD No. 1184 regarding the grant of death benefits.

The pertinent provisions of PD No. 1184 and RA No. 6975 state as follows:

PD No. 1184	RA No. 6975
Section 41. Death and Permanent Total Disability Benefits. If a member of the Integrated National Police [is] killed or dies from injuries suffered or sickness contracted in the line of duty, the	SECTION 76. Death and Disability Benefits. — A uniformed personnel and/or his heirs shall be entitled to all

<p>surviving spouse or if there be none, the surviving dependent legitimate children, shall be entitled, in addition to the benefits provided for under the preceding section of this Article, to a gratuity equivalent to one year's salary which shall in no case be less than six thousand pesos, burial expenses equivalent to three month's salary, which in no case be less than one thousand pesos, and to a pension equivalent to eighty per cent of the salary of the deceased: Provided, That in no case shall the monthly pension exceed five years; Provided, further, That if the deceased employee has no primary beneficiary, the non-dependent legitimate children, together with illegitimate children, if any, or if there be none, the surviving parents, or in their absence, the surviving brothers and sisters shall be entitled to a lump sum benefit equivalent to one year's salary and burial expenses equivalent to three month's salary of the deceased, which shall be in no case be less than six thousand pesos and one thousand pesos, respectively. Dependent legitimate children shall include the legitimate, legitimated, or legally adopted child who is not gainfully employed and not over twenty-years of age, or over twenty-one years of age provided that such child is congenitally incapacitated and incapable of self-support physically or mentally.</p> <p>x x x x x x. (<i>Emphasis added</i>)</p>	<p>benefits relative to the death or permanent incapacity of said personnel, as provided for under this Act, and/or other existing laws. (<i>Emphasis added</i>)</p>
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Undeniably, PD No. 1184 is in *pari materia* with RA No. 6975 because they cover the same subject matter, which is the grant of death and disability benefits to the members of the PNP and their beneficiaries. Statutes are in *pari materia* when they relate to the same person or thing or to the same class of persons or things, or object, or cover the same specific or particular subject matter.⁷

It is axiomatic in statutory construction that a statute must be interpreted, not only to be consistent with itself, but also to harmonize with other laws on the same subject matter, as to form a complete, coherent and intelligible system. The rule is expressed in the maxim, "*interpretare et concordare legibus est optimus interpretandi*," or every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence.⁸

Verily, in the interpretation of Section 76 of RA No. 6975, Section 41 of PD No. 1184 must be taken into consideration.

⁷ The Office of the Solicitor General vs. The Court of Appeals, G.R. No. 199027, 09 June 2014

⁸ *Ibid*.

A careful scrutiny of Section 76 of RA No. 6975 shows that it was couched in general terms and the death and disability benefits granted therein were qualified by the phrase "as provided for under this Act, and/or other existing laws."

A further reading of RA No. 6975 reveals that nothing in the provisions of Chapter VII (Common Provisions for Uniformed Personnel) of RA No. 6975 specify the death benefits to which the beneficiaries of the PNP uniformed personnel are entitled.

The phrase "as provided for under this Act, and/or other existing laws" should be read and construed in relation to Section 41 of PD No. 1184. Section 76 of RA No. 6975 and Section 41 of PD No. 1184 are complementary to each other, while the former does not state with particularity the death benefits that the beneficiaries of the PNP uniformed personnel may recover, the latter, on the other hand, specifically enumerates such benefits.

Thus, pursuant to Section 76 of RA No. 6975 in relation to Section 41 of PD No. 1184, the beneficiaries of the PNP uniformed personnel are entitled to a gratuity equivalent to one year's salary, burial expenses, and 5-year pension equivalent to 80% of the salary of the deceased as death benefits.

A similar interpretation shall be applied relating to the grant of temporary disability benefits. A PNP member, who was injured while in the performance of duty or contracted sickness or disease from the performance of duty, shall be entitled to full pay during his absence because of such disability, payment of reasonable medicines, medical attendance, hospital fees, necessary transportation and subsistence, and a lump sum gratuity as provided for under Section 76 of RA No. 6975 in relation to Section 40 of PD No. 1184.

Section 73 of RA No. 6975, as amended by RA No. 8551, as the recent enactment, shall prevail over Section 41 of PD No. 1184, a prior law, with respect to the grant of permanent physical disability benefits to uniformed members of the PNP.

However, the grant of permanent physical disability benefits to the PNP pensioners is a different matter.

An examination of RA No. 6975 shows that it did not expressly repeal PD No. 1184. Its general repealing clause, as contained in Section 95 of RA No. 6975, reads:

Section 95. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations, and other issuances or parts thereof which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

The provisions of Executive Order No. 262 shall remain valid insofar as they are not inconsistent with the provisions of this Act. (*Emphasis added*)

The presence of this general repealing clause in RA No. 6975 indicates the intent of the legislature to repeal, amend or modify prior laws that are inconsistent with RA No. 6975 with respect to the subject matter.

Repeal by implication proceeds on the premise that where a statute of later date clearly reveals the intention of the legislature to abrogate a prior act on the subject, that intention must be given effect.⁹

Implied repeal by irreconcilable inconsistency takes place when the two statutes cover the same subject matter; they are so clearly inconsistent and incompatible with each other that they cannot be reconciled or harmonized; and **both cannot be given effect, that is, that one law cannot be enforced without nullifying the other.**¹⁰ (*Emphasis supplied.*)

Although Sections 41 of PD No. 1184 and Section 73 of RA No. 6975, as amended by Section 35 of RA No. 8551, relate to the same subject matter, these provisions cannot be read together and harmonized so as to give effect to both of them because of an irreconcilable inconsistency. The relevant provisions of the subject laws are quoted as follows:

PD No. 1184	RA No. 6975	RA No. 8551
<p>Section 41. Death and Permanent Total Disability Benefits. x x x.</p> <p>If such member of the Integrated National Police is permanently and totally disabled as a result of injuries suffered or sickness contracted or aggravated in line of duty, the Director General of the Integrated National Police shall cause the compulsory retirement of such member or employee upon certification of the appropriate medical officer that the extent of the disability or sickness renders such member unfit or unable to further perform the duties of his position, in which case he shall be entitled to a gratuity equivalent to one year's salary which shall in no case be less than six thousand pesos and</p>	<p>SECTION 76. Death and Disability Benefits. — A uniformed personnel and/or his heirs shall be entitled to all benefits relative to the death or permanent incapacity of said personnel, as provided for under this Act, and/or other existing laws. (<i>Emphasis added</i>)</p>	<p>SEC. 73. Permanent Physical Disability. — An officer or non-officer who is permanently and totally disabled as a result of injuries suffered or sickness contracted in the performance of his duty as duly certified by the National Police Commission, upon finding and certification by the appropriate medical officer, that the extent of the disability or sickness renders such member unfit or unable to further perform the duties of his</p>

⁹ Societal Justice Society vs. Hon. Jose L. Atienza, Jr., G.R. No. 156052, 13 February 2008.

¹⁰ Commissioner of Internal Revenue vs. Semirara Mining Corporation, G.R. No. 202922, 19 June 2017; citing *Mecano vs. Commission on Audit*, 290-A Phil. 272 (1992), at 280-281.

<p>to a lifetime pension equivalent to eighty per cent of his last salary.</p> <p>Should such member or employee who has been retired under permanent total disability under this Section die within five years from his retirement, his surviving spouse or if there be none his surviving dependent legitimate children shall be entitled to the pension for the remainder of the five-year guaranteed period.</p> <p style="text-align: center;">x x x x x x. (Emphasis added)</p>	<p>position, shall be entitled to one year's salary and to lifetime pension equivalent to eighty percent (80%) of his last salary, in addition to other benefits as provided under existing laws.</p> <p>Should such member who has been retired under permanent total disability under this section die within five (5) years from his retirement, his surviving legal spouse or if there be none, the surviving dependent legitimate children shall be entitled to the pension for the remainder of the five (5) year guaranteed period. (Emphasis added)</p>
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PD No. 1184 and RA No. 8551 grant the PNP members, who suffered permanent physical disability in the line of duty, to a lifetime pension equivalent to 80% of their last salary. The difference in the said laws lies in the payment of the lump sum gratuity. Under Section 41 of PD No. 1184, the PNP uniformed member can avail of a gratuity equivalent to one year's salary, which however shall not exceed six thousand pesos. On the other hand, Section 73 of RA No. 6975, as amended, does not provide a ceiling on the amount of the lump sum gratuity.

In addition, under RA No. 6975, it is the duty of the NAPOLCOM to duly certify that the permanent disability of an officer or non-officer of the PNP was a result of the injuries suffered or sickness contracted in the performance of his duty, which requirement is not found under PD No. 1184. Section 41 of PD No. 1184 merely requires the Director General of the INP to cause the compulsory retirement of the member of the INP upon certification of the appropriate medical officer that the extent of the disability or sickness renders such member unfit or unable to perform the duties of his position.

Consequently, due to such irreconcilable inconsistency, Section 41 of PD No. 1184 is deemed to have been amended or modified by Section 73 of RA No. 6975, as amended by RA No. 8551.

Section 73 of RA No. 6975, as amended by RA No. 8551, as the recent enactment, shall thus prevail over Section 41 of PD No. 1184, a prior law, with

respect to the grant of permanent physical disability benefits to uniformed members of the PNP.

The claim for separate payments of death and permanent physical disability benefits by the PNP and NAPOLCOM amounts to double compensation prohibited under the 1987 Constitution.

Article IX-B, Section 8 of the 1987 Constitution provides that:

Section 8. No elective or appointive public officer or employee shall receive additional, double, or indirect compensation, unless specifically authorized by law, nor accept without the consent of the Congress, any present, emolument, office, or title of any kind from any foreign government.

Pensions or gratuities shall not be considered as additional, double, or indirect compensation. (*Emphasis added*)

As held in the case of *Cajiuat v. Mathay*,¹¹ "there must be a provision, clear and unequivocal, to justify a double pension." A careful examination of PD No. 1184 and RA No. 6975 shows that there is no clear or express provision that would justify the PNP uniformed personnel and their beneficiaries to recover double compensation.

Moreover, the second paragraph of Article IX-B, Section 8 of the 1987 Constitution finds no application to the instant request.

The second paragraph refers "to compensation already earned, for instance, by a retiree. A retiree receiving pension or gratuity after retirement can continue to receive such pension or gratuity even if he accepts another government position to which another compensation is attached."¹²

In *Ocampo vs. Commission on Audit*,¹³ the constitutional prohibition against double compensation was interpreted to cover claims for double retirement benefits when these are based on the same services and for the same creditable period:

At the outset, it must be clarified that the claim of Ocampo for two (2) sets of retirement benefits under Republic Act No. 1568 is not, strictly speaking, a claim for double compensation prohibited under the first paragraph of Section 8, Article IX-B of the Constitution. Claims for double retirement benefits fall under the prohibition against the receipt of double compensation when they are based on exactly the

¹¹ 209 Phil. 579, 583 (1983).

¹² Bernas, Joaquin G., S.J., *The 1987 Constitution of the Republic of the Philippines: A Commentary*, 2009 edition; at page 1067.

¹³ G.R. No. 188716, 10 June 2013.

same services and on the same creditable period. This is not, however, the case herein.

In this case, Ocampo is not claiming two (2) sets of retirement benefits for one and the same creditable period. Rather, Ocampo is claiming a set of retirement benefits for each of her two (2) retirements from the ERB. In other words, each set of retirement benefits claimed by Ocampo is based on distinct creditable periods i.e., one for her term as member of the ERB and another for her term as chairman of the same agency.

What Ocampo is merely claiming, therefore, is that she is entitled to two (2) sets of retirement benefits for her two (2) retirements from the ERB under Republic Act No. 1568, as amended. x x x. (*Emphasis added*)

Although the circumstances in the *Ocampo* case are not similar to the situation contemplated in the instant request, the principle laid down therein is relevant and applicable.

Thus, claims for death and permanent physical disability benefits given by the PNP and NAPOLCOM fall within the constitutional proscription against double compensation as the payment of the said benefits is based on the same services rendered by the PNP uniformed personnel for the same creditable period.

The NAPOLCOM shall adjudicate and pay the claims for death and permanent physical disability benefits pursuant to Section 21 of RA No. 6975 and its IRR.

Following the conclusion that the grant of death and permanent physical disability benefits by both the PNP and the NAPOLCOM constitutes double compensation, it becomes relevant to determine which agency has the authority to adjudicate and pay the said benefits claims.

Section 21 of RA No. 6975 provides:

Section 21. Regional Offices. – The Commission shall establish, operate and maintain regional offices headed by regional directors who shall implement the policies and programs of the Commission in their respective regions. For administrative purposes, the regional offices of the Commission shall be attached to the general offices of the Department.

Subject to the standards that shall be prescribed by the Commission, the regional offices shall likewise perform the functions of adjudication of benefit claims. (*Emphasis added*)

Relative thereto, Section 10(c) of the IRR of RA No. 8551 expressly authorizes the NAPOLCOM Regional Offices to investigate, adjudicate and pay

PNP death and permanent disability benefits claims, subject to standards set by the NAPOLCOM:

c) Regional Offices. The Regional Office [of the NAPOLCOM] in regions I to 13, the National Capital Region (NCR), the Cordillera Administrative Region (CAR), and the Autonomous Region in Muslim Mindanao (ARMM) implement the policies and programs of the Commission in their respective regions. **The regional offices investigate, adjudicate and pay PNP death and permanent disability benefit claims** and grant scholarship benefits, subject to standards set by the Commission.

x x x

x x x (*Emphasis added*)

RA No. 6975 and the IRR of RA No. 8551 thus clearly and expressly grant to the NAPOLCOM the authority to adjudicate and pay PNP death and permanent physical disability benefits claims.

A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application. As the statute is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is what is known as the plain-meaning rule or *verba legis*. It is expressed in the maxim, *index animi sermo*, or "speech is the index of intention." Furthermore, there is the maxim *verba legis non est recedendum*, or "from the words of a statute there should be no departure."¹⁴

Conversely, the PNP is bereft of any authority to administer claims for death and disability benefits of the PNP uniformed personnel and their beneficiaries. In fact, the provisions of RA No. 6975 clearly state that the PNP shall be involved in police operations,¹⁵ while the NAPOLCOM shall exercise administrative control and operational supervision over the PNP.¹⁶

It should also be emphasized in this regard that Board Resolution No. 8 issued by the Board of Officers, which rationalized the retirement and separation benefits of PNP personnel to be administered by the PNP and directed the continued grant of death and disability benefits by the NAPOLCOM to police officers based on PD No. 1184, is inconsistent with the provisions found in Section 21 of RA No. 6975 and the IRR of RA No. 8551, as discussed above.

Conclusion

The separate grant of death and permanent physical disability benefits by the PNP and the NAPOLCOM to the PNP uniformed personnel and their beneficiaries violates the constitutional proscription against double compensation.

¹⁴ Bolos vs. Bolos, G.R. No. 186400, 20 October 2010.

¹⁵ Section 24 of RA No. 6975.

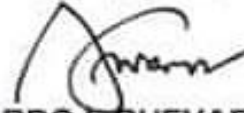
¹⁶ Section 14(a) of RA No. 6975, as amended by Section 5 of RA No. 8551.

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In view of the express provisions under RA No. 6975 and the IRR of RA No. 8551, the authority to investigate, adjudicate, and pay death and disability benefits to the PNP personnel and their beneficiaries is vested in the NAPOLCOM.

Please be guided accordingly.

Very truly yours,



MENARDO I. GUEVARRA
Secretary

Department of Justice
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