Jones v. Municipal Employees' Annuity and Benefit Fund of Chicago, 2016 IL 119618

Direct appeal from the Circuit Court of Cook County

JUSTICE THEIS delivered the judgment of the court, with opinion. Chief Justice Garman and Justices Thomas, Kilbride, and Karmeier concurred in the judgment and opinion.

Justices Freeman and Burke took no part in the decision.

The pension benefits of two groups of Chicago employees are at issue in this consolidated direct appeal from a ruling of statutory unconstitutionality by the circuit court of Cook County. Most civil servants and also nonteacher employees of the public schools participate in the Municipal Employees' Annuity and Benefit Fund, known as the MEABF. The Laborers' and Retirement Board Employees' Annuity and Benefit Fund, known as the LABF, includes primarily labor service workers. Two other major city pension funds that are not at issue here are the Firemen's Annuity and Benefit Fund and the Policemen's Annuity and Benefit Fund. As to the latter two pension funds, the General Assembly addressed concerns about underfunding in 2011 with a statute that required increased municipal contributions. However, no such legislation was then enacted as to the MEABF and the LABF. Instead, as to them, the General Assembly enacted Public Act 98-641 in 2014. Although this act did increase city funding, it also raised employee contribution rates and reduced the annual increases for current and future retirees. In the present litigation, Public Act 98-641 was challenged in the circuit court as invalid under the pension protection clause of the 1970 Illinois Constitution. On cross-motions for summary judgment, the circuit court declared the statute unconstitutional in its entirety and permanently enjoined its enforcement. What followed was this direct appeal to the Illinois Supreme Court, which consolidated five separate appeals.

The supreme court has dealt with this issue in two recent rulings, *Kanerva v. Weems*, 2014 IL 115811, and *In re Pension Reform Litigation*, 2015 IL 118585, which held that the pension protection clause guarantees that membership in a public pension system is an enforceable contractual relationship and that the clause prohibits the legislature from unilaterally reducing or eliminating benefits conferred by a public pension system. In this decision, the supreme court followed this precedent and upheld the circuit court's decision.

In addressing the theories advanced in support of the challenged legislation, the supreme court said that the fact that some of its provisions are directed at improved funding cannot overcome the fact that constitutional rights of employees and retirees would be violated. The pension protection clause does not guarantee any particular method of funding, but, rather, guarantees the right to be paid. The supreme court also said that, insofar as the involved unions worked with the legislature concerning this enactment, they were not acting as authorized agents

within a collective bargaining process.

Pursuant to its own severability clause, Public Act 98-641 is unenforceable in its entirety.

The circuit court was affirmed,