Republic of the Philippines
Supreme Court
Manila

EN BANC

TECHNICAL EDUCATION AND SKILLS DEVELOPMENT AUTHORITY (TESDA), Petitioner,	**G.R. No. 196418**
	Present:
	SERENO, *C.J.*
	CARPIO,
	VELASCO, JR.,
	LEONARDO-DE CASTRO,
	*BRION,
	PERALTA,
- versus -	BERSAMIN,
	DEL CASTILLO,
	VILLARAMA, JR.,
	PEREZ,
	MENDOZA,
	REYES,
THE COMMISSION ON AUDIT; CHAIRMAN REYNALDO A. VILLAR; COMMISSIONER JUANITO G. ESPINO, JR.; and COMMISSIONER EVELYN R. SAN BUENAVENTURA, Respondents.	PERLAS-BERNABE,
	LEONEN, and
	JARDELEZA, *JJ.:*
	Promulgated:
	February 10, 2015

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DECISION

BERSAMIN, *J.*:

Being assailed is the March 23, 2010 decision issued in COA Decision No. 2010-039,[1] whereby the Commission on Audit (COA) affirmed the findings of the COA Legal and Adjudication Office (LAO) as regards the issuance of Audit Observation Memorandum (AOM) No. 04-005

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* On leave.

1 *Rollo*, pp. 27-31.

(101) dated January 26, 2004[2] disallowing the payment by petitioner Technical Education and Skills Development Authority (TESDA) of the healthcare maintenance allowance of ₱5,000.00 to covered TESDA employees for the year 2003.

Antecedents

The TESDA, an instrumentality of the Government established under Republic Act No. 7796, is an attached agency of the Department of Labor and Employment (DOLE). In view of the inadequate policy on basic health and safety conditions of work experienced by government personnel, then DOLE Secretary Patricia Sto. Tomas issued Administrative Order (AO) No. 430, series of 2003, authorizing the payment of healthcare maintenance allowance of ₱5,000.00 to all officials and employees of the DOLE, including its bureaus and attached agencies.[3] AO No. 430 was purportedly based on Civil Service Commission (CSC) Memorandum Circular (MC) No. 33, series of 1997,[4] and Section 34 of the General Provisions of the 2003 General Appropriations Act.[5]

Upon post-audit, COA State Auditor IV Rosemarie A. Valenzuela issued AOM No. 04-005 on January 26, 2004, and later endorsed the matter to the COA Director of the LAO-National for appropriate legal action. AOM No. 04-005 stated in part:

> 2. The basis of payment made by management was CSC Memorandum Circular No. 33 series of 1997 and Section 34 of the General Provisions of the 2003 General Appropriations Act (GAA). Following these provisions, the Department of Labor and Employment issued DOLE Administrative Order No 430, series of 2003 authorizing payment of said medical allowance to all its personnel including those of its bureau and attached agencies at ₱5,000.00 each and pro rata equivalent for those employees who have less than four (4) months continuous service.
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> 3. CSC Director Imelda Laceras of Region VII, in her letter to DOLE Region VII Auditor, Ms. Damiana Pelino, informed the latter that there are no existing guidelines authorizing the grant of Health Care Maintenance Allowance and medical Allowance to all government officials and employees. In the absence therefore of specific legal authority, payment of said benefit cannot be allowed under existing rules. Hence, DOLE Administrative Order No. 430, series of 2003 is clearly without legal basis.[6]

Atty. Rebecca Mislang, Officer In-Charge of the COA LAO-National, subsequently issued Notice of Disallowance (ND) No. 2006-015 dated May

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2 Id. at 36-37.
3 Id. at 11.
4 Id. at 34-35.
5 Id. at 38.
6 Id. at 36-37.

26, 2006,[7] addressed to then TESDA Director General Augusto Syjuco, indicating that the payment of the allowance had no legal basis, it being contrary to Republic Act No. 6758 (*Salary Standardization Law of 1989*). ND No. 2006-015 identified the following persons as liable for the disallowance, namely:

> 1. Dante V. Liban, Director General, for allowing the payment of said allowance;
> 2. Sonia Lipio, Chief, HRMO, for having direct supervision over the transaction;
> 3. Raul K. Tanchico, OIC, Asst. Director OCSA, for approving the transaction;
> 4. Cariza A. Dacuma, Chief Accountant, for certifying to the completeness and propriety of the transaction; and
> 5. All TESDA officials and employees per attached payroll as recipients.[8]

The TESDA filed an appeal before the COA Commission Proper,[9] assailing the disallowance by the LAO-National.

However, the COA Commission Proper promulgated the now assailed decision dated March 23, 2010,[10] denying the appeal for lack of merit.

Hence, this petition.

Issues

The TESDA insists that:

> RESPONDENTS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING THE ASSAILED DECISION DISALLOWING THE PETITIONER'S PAYMENT OF HEALTH CARE MAINTENANCE ALLOWANCE TO ITS MAIN OFFICE EMPLOYEES.
>
> RESPONDENTS GRAVELY ERRED IN HOLDING THE AUTHORIZING OFFICERS OF PETITIONER PERSONALLY LIABLE FOR THE TOTAL DISALLOWED PAYMENT IN THE AMOUNT OF TWO MILLION TWO HUNDRED SEVEN THOUSAND PESOS (₱2,207,000.00).[11]

The TESDA maintains that there was sufficient legal basis for the release of the healthcare maintenance allowance of ₱5,000.00 to its employees; that such payment was only in compliance with the DOLE

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7 Id. at 40-41.
8 Id.
9 Id. at 42-45.
10 Supra note 1.
11 *Rollo*, p. 13.

directive issued pursuant to MC No. 33 to afford all government employees a health program that would include hospitalization services and/or annual mental, medical-physical examinations; and that such payment was also based on the authority granted by the 2003 GAA on the giving of personnel benefits to be charged against the corresponding fund from which basic salaries were drawn.

In contrast, the COA explains that MC No. 33 referred to the institutionalization of a health care program in the Government, and did not suggest the payment of direct allowances to the employees of the Government; that the TESDA should not have relied on the provisions of the GAA because the same were not self-executory; and that, as such, the healthcare maintenance allowance lacked statutory basis and must be disallowed.

Otherwise put, did the COA commit grave abuse of discretion in issuing ND No. 2006-015 pursuant to AOM No. 04-005?

Ruling of the Court

The petition has no merit.

To better appreciate the dispute between the parties, a review of the legal antecedents is in order.

On December 18, 1997, the CSC issued Resolution No. 97-4684 to provide an adequate policy on basic health and safety conditions of work in the Government. The resolution relevantly provides:

> **NOW THEREFORE,** the Commission resolved, as it hereby resolves to mandate the following policies as a way of reinventing the workplace of public sector employees:
>
> 1. All government offices shall provide the following:
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> | | |
> |---|---|
> | a. Health Program for Government Employees | Health program for employees shall include any or all of the following:
1. Hospitalization services
2. Annual mental, medical-physical examinations |

Subsequently, the CSC issued MC No. 33, which was a reiteration of Resolution No. 97-4684, concerning the policy on the working conditions at the workplace. In its pertinent part, MC No. 33 provides thus:[12]

> The Civil Service Commission, in partnership and in consultation with the Council of Personnel Officers and Human Resource Management Officers, recognizes the need to institutionalize viable programs to improve working conditions in the government.
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> Pursuant to Resolution No. 97-4684 dated December 18, 1997, the CSC promulgates and adopts the following policies:
>
> 1. All government offices shall provide the following:
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> | | |
> |---|---|
> | a. Health Program for Government Employees | Health program for employees shall include any or all of the following:
1. Hospitalization services
2. Annual mental, medical-physical examinations |

On the basis of the issuances by the CSC, the DOLE issued AO No 430 to authorize the release of the challenged healthcare maintenance allowance of ₱5,000.00 to all eligible DOLE employees, including the TESDA's workforce, to wit:

> In the interest of the service and in recognition of the DOLE officials' and employees' efforts to further improve delivery of services to clients and of the need to enhance the quality of their worklife, a Healthcare Maintenance Allowance of Five Thousand Pesos (₱5,000.00) is hereby authorized to all DOLE employees entitled to such benefit pursuant to CSC Memorandum Circular No. 33, S. 1997 and Section 34 of the General Provisions of the 2003 General Appropriations Act (GAA), subject to the following guidelines:[13]

In the context of the foregoing, we uphold the disallowance by the COA of the payment of the ₱5,000.00 as healthcare maintenance allowance. The COA did not act without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction because it properly exercised its powers and discretion in disallowing the payment of the ₱5,000.00 as healthcare maintenance allowance.

The COA is endowed with latitude to determine, prevent, and disallow irregular, unnecessary, excessive, extravagant, or unconscionable expenditures of government funds. It has the power to ascertain whether public funds were utilized for the purpose for which they had been intended by law. The Constitution has made the COA "the guardian of public funds,

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12 Id. at 34.
13 Id. at 32.

vesting it with broad powers over all accounts pertaining to government revenue and expenditures and the uses of public funds and property, including the exclusive authority to define the scope of its audit and examination, establish the techniques and methods for such review, and promulgate accounting and auditing rules and regulations."[14] Thus, the COA is generally accorded complete discretion in the exercise of its constitutional duty and responsibility to examine and audit expenditures of public funds, particularly those which are perceptibly beyond what is sanctioned by law.

Verily, the Court has sustained the decisions of administrative authorities like the COA as a matter of general policy, not only on the basis of the doctrine of separation of powers but also upon the recognition that such administrative authorities held the expertise as to the laws they are entrusted to enforce.[15] The Court has accorded not only respect but also finality to their findings especially when their decisions are not tainted with unfairness or arbitrariness that would amount to grave abuse of discretion.[16] Only when the COA acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, may this Court entertain and grant a petition for *certiorari* brought to assail its actions.[17] However, we find no grave abuse of discretion on the part of the COA in issuing the assailed decision.

MC No. 33 dealt with a health care program for government employees. A program is ordinarily understood as a system in place that will draw the desired benefits over a period of time. Its dictionary meaning includes "a plan of procedure: a schedule or system under which action may be taken toward a desired goal."[18] Ostensibly, MC No. 33 did not intend the health care program to be a single activity or endowment to achieve a fleeting goal, for it rightfully concerned the institutionalization of a system of healthcare for government employees. A careful perusal of MC No. 33 and its precursor reveals the unequivocal intent to afford government employees a sustainable health care program instead of an intermittent healthcare provision. MC No. 33 delineated the policy framework for working conditions at the workplace, which, aside from the health care program, included adequate office ventilation and lighting, clean and adequate restroom facilities, potable drinking water, first aid kit and facilities, and hazard insurance. The irrefutable attributes of such framework were perpetuity and sustainability.

The TESDA posits that giving the health care maintenance allowance of ₱5,000.00 was valid because MC No. 33 did not exclude other types of

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14 *Nazareth v. Villar*, G.R. No. 188635, January 29, 2013, 689 SCRA 385, 407; citing *Yap v. Commission on Audit*, G.R. No. 158562, 23 April 2010, 619 SCRA 154, 167-168.

15 Id., citing *Cuerdo v. Commission on Audit*, No. L-84592, October 27, 1988, 166 SCRA 657, 661; *Tagum Doctors Enterprises v. Apsay*, No.L- 81188, August 30, 1988, 165 SCRA 154, 155-156.

16 Id., citing *Sanchez v. Commission on Audit*, G.R. No. 127545, April 23, 2008, 552 SCRA 471, 489.

17 Id., citing *Reyes v. Commission on Audit*, G.R. No. 125129, March 29, 1999, 305 SCRA 512, 517.

18 Webster's Third New International Dictionary, 1993.

health-related services that were helpful in the furtherance of the government offices' health program; and that the payment of the health care maintenance allowance was a very practical compliance with MC No. 33 because such payment would allow a measure of flexibility on the part of the employee to choose the physician who would undertake the examination of the employee.

The position of the TESDA is untenable.

MC No. 33 and its precursor were worded in a plain and straightforward manner to the effect that the "(h)ealth program for employees shall include any or all of the following: 1) Hospitalization services, and 2) Annual mental, medical-physical examinations." Whatever latitude was afforded to a government agency extended only to the determination of which services to include in the program, not to the choice of an alternative to such health program or to authorizing the conversion of the benefits into cash. The giving of health care maintenance allowance of ₱5,000.00 to the TESDA's employees was not among any of the hospitalization services or examinations listed in the circular.

The TESDA also relied on Section 34 of the GAA for 2003 (Republic Act No. 9206), *viz*:

> Section 34. *Funding of Personnel Benefits.* The personnel benefits costs of government officials and employees shall be charged against the funds from which their compensations are paid. All authorized supplemental or additional compensation, fringe benefits and other personal services costs of officials and employees whose salaries are drawn from special accounts or special funds, such as salary increases, step increment for length of service, incentive and service fees, commutation of vacation and sick leaves, retirement and life insurance premiums, compensation insurance premiums, **health insurance premiums,** Home Development Mutual Fund (HDMF) contributions, **hospitalization and medical benefits,** scholarship and educational benefits, training and seminar expenses, all kinds of allowances, whether commutable or reimbursable, in cash or in kind, and other personnel benefits and privileges authorized by law, including the payment of retirement gratuities, separation pay and terminal leave benefits, shall similarly be charged against the corresponding fund from which their basic salaries are drawn and in no case shall such personnel benefits costs be charged against the General Fund of the National Government. Officials and employees on detail with other offices, including the representatives and support personnel of auditing units assigned to serve other offices or agencies, shall be paid their salaries, emoluments, allowances and the foregoing supplemental compensation, fringe benefits and other personal services costs from the appropriations of their parent agencies, and in no case shall such be charged against the appropriations of the agencies where they are assigned or detailed, except when authorized by law. (Bold underscoring supplied for emphasis)

The reliance is misplaced. Section 34 only reiterated the rule that the personnel benefits costs of government officials and employees should be

charged against the funds from which their compensations are paid. The provision was neither a source of right nor an authority to hastily fund any or all personnel benefits without the appropriation being made by law.

It bears reminding that pursuant to Article VI Section 29 (1) of the 1987 Constitution, no money shall be paid out of the Treasury except in pursuance of an appropriation made by law. Hence, the GAA should be purposeful, deliberate, and precise in its contents and stipulations. Also, the COA was correct when it held that the provisions of the GAA were not self-executory. This meant that the execution of the GAA was still subject to a program of expenditure to be approved by the President, and such approved program of expenditure was the basis for the release of funds. For that matter, Section 34, Chapter 5, Book VI of the Administrative Code (Executive Order No. 292) states that –

> Section 34. *Program of Expenditure* - The Secretary of Budget shall recommend to the President the year's program of expenditure for each agency of the government on the basis of authorized appropriations. **The approved expenditure program shall constitute the basis for fund release during the fiscal period, subject to such policies, rules and regulations as may be approved by the President.**

The rules on National Government Budgeting as prescribed by the Administrative Code are not idle or empty exercises. The mere approval by Congress of the GAA does not instantly make the funds available for spending by the Executive Department. The funds authorized for disbursement under the GAA are usually still to be collected during the fiscal year. The revenue collections of the Government, mainly from taxes, may fall short of the approved budget, as has been the normal occurrence almost every year.[19] Hence, it is important that the release of funds be duly authorized, identified, or sanctioned to avert putting the legitimate programs, projects, and activities of the Government in fiscal jeopardy.

Section 5 of Presidential Decree No. 1597 (*Further Rationalizing the System of Compensation and Position Classification in the National Government*) states that the authority to approve the grant of allowances, honoraria, and other fringe benefits to government employees, regardless of whether such endowment is payable by their respective offices or by other agencies of the Government, is vested in the President.[20] As such, the

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[19] *National Electrification Administration v. Commission on Audit*, G. R. No. 143481, February 15, 2002, 377 SCRA 223, 231.

[20] Section 5**.** *Allowances, Honoraria, and Other Fringe Benefits.* Allowances, honoraria and other fringe benefits which may be granted to government employees, whether payable by their respective offices or by other agencies of government, shall be subject to the approval of the President upon recommendation of the Commissioner of the Budget. For this purpose, the Budget Commission shall review on a continuing basis and shall prepare, for the consideration and approval of the President, policies and levels of allowances and other fringe benefits applicable to government personnel, including honoraria or other forms of compensation for participation in projects which are authorized to pay additional compensation.

precipitous release and payment of the healthcare maintenance allowance benefits without any authorization from the Office of the President is without basis and should be rightfully disallowed.

The Court agrees with the COA decision in holding that the recipients of the healthcare maintenance allowance benefits who received the allowance of ₱5,000.00 in good faith need not refund the sum received. The recipients accepted the benefits honestly believing that they were receiving what they were entitled to under the law. Similarly, the Court holds that the TESDA officials who granted the allowance to the covered personnel acted in good faith in the honest belief that there was lawful basis for such grant. In view of these considerations, the Court declares that the disallowed benefits approved and received in good faith need not be reimbursed to the Government. This finds support in the consistent pronouncements of the Court, such as that issued in *De Jesus v. Commission on Audit*,[21] to wit:

> Nevertheless, our pronouncement in *Blaquera v. Alcala* supports *petitioners*' position on the refund of the benefits they received. In *Blaquera*, the officials and employees of several government departments and agencies were paid incentive benefits which the COA disallowed on the ground that Administrative Order No. 29 dated 19 January 1993 prohibited payment of these benefits. While the Court sustained the COA on the disallowance, it nevertheless declared that:
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> > Considering, however, that all the parties here acted in good faith, we cannot countenance the refund of subject incentive benefits for the year 1992, which amounts the petitioners have already received. Indeed, no *indicia* of bad faith can be detected under the attendant facts and circumstances. The officials and chiefs of offices concerned disbursed such incentive benefits in the honest belief that the amounts given were due to the recipients and the latter accepted the same with gratitude, confident that they richly deserve such benefits.
>
> This ruling in *Blaquera* applies to the instant case. Petitioners here received the additional allowances and bonuses in good faith under the honest belief that LWUA Board Resolution No. 313 authorized such payment. At the time petitioners received the additional allowances and bonuses, the Court had not yet decided *Baybay Water District*, Petitioners had no knowledge that such payment was without legal basis. Thus, being in good faith, petitioners need not refund the allowances and bonuses they received but disallowed by the COA.

WHEREFORE, we **DISMISS** the petition for *certiorari*; and **AFFIRM** Decision No. 2010-039 dated March 23, 2010 of the Commission on Audit subject to the **MODIFICATION** that all the officials

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[21] G.R. No. 149154, June 10, 2003, 403 SCRA 666, 676-677.

of the petitioner who approved and all the employees of the petitioner who received the healthcare maintenance allowance of ₱5,000.00 need not refund the same.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR
Associate Justice

TERESITA J. LEONARDO DE CASTRO
Associate Justice

(On Leave)
ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ESTELA PERLAS-BERNABE
Associate Justice

MARIO VICTOR MARVIC F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MARIA LOURDES P. A. SERENO
Chief Justice