



Republic of the Philippines  
Supreme Court  
Manila

EN BANC

MARITIME  
AUTHORITY,

INDUSTRY G.R. No. 185812

Petitioner,

Present:

SERENO, C.J.,  
CARPIO,  
VELASCO, JR.,  
LEONARDO-DE CASTRO,  
BRION,\*  
PERALTA,  
BERSAMIN,  
DEL CASTILLO,  
VILLARAMA, JR.,  
PEREZ,  
MENDOZA,  
REYES,  
PERLAS- BERNABE,  
LEONEN, and  
JARDELEZA, JJ.

- versus -

COMMISSION ON AUDIT,  
Respondent.

Promulgated:  
January 13, 2015

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DECISION

LEONEN, J.:

This case involves the validity of the grant of allowance and incentives to the officers and employees of petitioner Maritime Industry Authority. We revisit the interpretation and application of Section 12 of the

\* On leave.

## Compensation and Position Classification Act of 1989.<sup>1</sup>

The Resident Auditor issued notices of disallowance on the allowances and incentives received by the officers and employees of Maritime Industry Authority.<sup>2</sup> The Legal and Adjudication Office of the Commission on Audit upheld the notices of disallowance issued.<sup>3</sup> The Commission on Audit affirmed the notices of disallowance.<sup>4</sup> Thus, this petition for certiorari was filed by Maritime Industry Authority.

Maritime Industry Authority is an attached agency of the Department of Transportation and Communication and created under Presidential Decree No. 474.<sup>5</sup>

On July 1, 1989, Republic Act No. 6758, otherwise known as “An Act Prescribing a Revised Compensation and Position Classification System in the Government and For Other Purposes” took effect. The law standardizes the salary rates of government officials and employees.

Section 12 of Republic Act No. 6758 provides:

**Section 12. Consolidation of Allowances and Compensation.** - All allowances, except for representation and transportation allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM, shall be deemed included in the standardized salary rates herein prescribed. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized.

Existing additional compensation of any national government official or employee paid from local funds of a local government unit shall be absorbed into the basic salary of said official or employee and shall be paid by the National Government.

On September 30, 1989, the Department of Budget and Management issued National Compensation Circular Nos. 56<sup>6</sup> and 59<sup>7</sup> implementing

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<sup>1</sup> Rep. Act No. 6758 (1989).

<sup>2</sup> *Rollo*, p. 14.

<sup>3</sup> Id. at 37. The decision was dated June 23, 2003 and was signed by Director Khem N. Inok.

<sup>4</sup> Id. at 28. The decision dated March 3, 2005 was signed by Commissioners Guillermo N. Carague (Chairman), Emmanuel M. Dalman, and Reynaldo A. Villar.

<sup>5</sup> Pres. Decree No. 474 (1974), Providing for the Reorganization of Maritime Functions in the Philippines, Creating the Maritime Industry Authority, and for Other Purposes.

<sup>6</sup> National Compensation Circular No. 56 (1989), Rules and Regulations on the Standardization of Compensation and Position Classification Plan in the Government.

Republic Act No. 6758.

Maritime Industry Authority discontinued the grant of several allowances and incentives to its officials and employees allegedly due to the issuance of National Compensation Circular Nos. 56 and 59.<sup>8</sup>

In the memorandum dated February 10, 2000, the Administrator of Maritime Industry Authority recommended to then President Joseph Ejercito Estrada the approval and/or restoration of financial incentives, benefits, or allowances to the officers and employees of Maritime Industry Authority.<sup>9</sup>

The allowances and incentives received by the employees and officers of Maritime Industry Authority as of the date of the memorandum and needing approval of the President are the following:<sup>10</sup>

- (1) Per diems and commutable allowance received by the members of the Board of Maritime Industry Authority;<sup>11</sup>
- (2) Rice subsidy allowance;<sup>12</sup> and
- (3) Medical allowance.<sup>13</sup>

The allowances and incentives sought to be restored are the following:<sup>14</sup>

- (1) Reimbursable representation allowance for members of the Board of Maritime Industry Authority;<sup>15</sup>
- (2) Performance incentives allowance;<sup>16</sup>
- (3) Economic/efficiency/financial assistance/benefit;<sup>17</sup>
- (4) Hearing allowance;<sup>18</sup> and
- (5) Birthday month/off month/employment date anniversary

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<sup>7</sup> National Compensation Circular No. 59 (1989), List of Allowances/Additional Compensation of Government Officials and Employees Which Shall Be Deemed Integrated Into the Basic Salary.

<sup>8</sup> *Rollo*, p. 14.

<sup>9</sup> *Id.* at 45.

<sup>10</sup> *Id.* at 46.

<sup>11</sup> *Id.* The amount granted for the per diems is ₱100.00 per meeting but not to exceed ₱500.00 per month, the commutable allowance is ₱500.00 per month.

<sup>12</sup> *Id.* at 45. The amount granted for rice subsidy allowance is ₱1,200.00.

<sup>13</sup> *Id.* The amount granted for medical allowance is ₱1,000.00 per month.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 46. The amount requested for reimbursable representation allowance is ₱5,000.00 for the Chairman, ₱4,000.00 for the Members, and ₱3,000.00 for the Board Secretary.

<sup>16</sup> *Id.* at 47. The amount requested for performance incentives allowance is 25% of the basic salary.

<sup>17</sup> *Id.* The amount requested for economic/efficiency/financial assistance benefit is ₱30,000.00.

<sup>18</sup> *Id.* at 48. The amount requested for hearing allowance is ₱1,000.00.

allowances.<sup>19</sup>

The request to restore these benefits or allowances was premised on “inflation-caused difficulties resulting to [sic] the exodus of technically/specially trained personnel into the private sector or abroad who shall carry on the delicate and unique functions of the agency and in consideration of the additional functions of the agency.”<sup>20</sup> The request to restore was also made to “further enhance/provide/promote employees’ welfare/productivity and deter graft and corruption activities.”<sup>21</sup>

The memorandum was then allegedly stamped with “approved” on October 16, 2000 with the signature of the President of the Philippines below the stamp.<sup>22</sup> Relying on the alleged approval of the President of the Philippines, Maritime Industry Authority granted the allowances and incentives to its officers and employees starting January 2001.<sup>23</sup>

The Resident Auditor<sup>24</sup> of Maritime Industry Authority then issued the following notices of disallowance with a total amount of ₱5,565,445.02 for the allowances or benefits received by the officers or employees from January to May 2001.<sup>25</sup>

Notice of Disallowance No.	Date	Amount Disallowed	Allowance/Benefit Disallowed
2002-002-101(01) <sup>26</sup>	April 9, 2002	₱586,500.00	Rice and Medical Allowance  Allowances of Board Members and Secretary
2002-005-101(01) <sup>27</sup>	April 9, 2002	₱30,800.00	Rice and Medical Allowance  Representation Allowance of Board Members and Secretary
2002-006-101(01) <sup>28</sup>	August 7, 2002	₱1,635,376.08	Rice and Medical Allowance  Performance Incentive

<sup>19</sup> Id. The amount requested for birthday month/off month/employment date anniversary allowances is ₱5,000.00.  
<sup>20</sup> Id. at 45.  
<sup>21</sup> Id.  
<sup>22</sup> Id.  
<sup>23</sup> Id. at 14.  
<sup>24</sup> The Resident Auditor who issued the notices of disallowance is Ms. Loida T. Andres, State Auditor III, Unit Head.  
<sup>25</sup> *Rollo*, p. 14.  
<sup>26</sup> Id. at 149–150.  
<sup>27</sup> Id. at 151–152.  
<sup>28</sup> Id. at 153–154.

			Allowance for February  Birthday and Employment Anniversary Bonus  Representation Allowance of Board Members and Secretary
2002-007- 101(01) <sup>29</sup>	August 8, 2002	□1,694,008.14	Rice and Medical Allowance  Performance Incentive Allowance  Birthday and Employment Anniversary Bonus
2002-008- 101(01) <sup>30</sup>	August 8, 2002	□1,618,760.80	Rice and Medical Allowance  Performance Incentive Allowance  Birthday and Employment Anniversary Bonus  Anniversary Allowance

The Resident Auditor disallowed the grant of the allowances on the ground that it constituted double compensation to public officers and employees proscribed by Article IX(b) of the 1987 Constitution, in relation to Section 229 of the Government Accounting and Auditing Manual or GAAM Volume 1.<sup>31</sup> Further, the President’s approval of the memorandum was not the law contemplated by the Constitution as an exception to the

<sup>29</sup> Id. at 155–156.  
<sup>30</sup> Id. at 157–158.  
<sup>31</sup> Section 229 of the GAAM Volume I provides that “Officials and employees who are duly appointed by competent authority to any position in another government office or agency, in a concurrent capacity, may, in the discretion of the President, be allowed to receive additional compensation in the form of allowances or honoraria at such rates he shall fix and subject to such conditions as he may prescribe. Such additional compensation shall be paid from the appropriations of the office or agency benefitting from the concurrent service (Sec. 59, Bk VI, 1987 Adm. Code).

However, under Sec. 13, Art. VII of the 1987 Constitution, the President, Vice-President, the members of the cabinet and their deputies and assistants, shall not, unless otherwise provided in the constitution, hold any other office or employment during their tenure.

Pensions or gratuities shall not be considered as additional, double or indirect compensation (Sec. 8, Art. IX(b), 1987 Const.).

The contemplation of the Constitutional provisions which authorizes additional or double compensation is construed to mean statutes passed by the national legislative body (this includes decrees issued by the President under the martial law regime); it does not include ordinances or resolutions passed by local legislative bodies or governing boards, as the case may be. (COA Dec. 77-110, June 21, 1977).”

prohibition on double compensation.<sup>32</sup>

On October 25, 2002, Maritime Industry Authority filed a request for reconsideration on the notices of disallowance before the Commission on Audit Director of the Legal and Adjudication Office.<sup>33</sup>

The request for reconsideration was denied in the decision dated June 23, 2003.<sup>34</sup> It was ruled that the incentives/allowances, except for medical allowance and per diems of the members of the Board, were integrated in the basic salary pursuant to the Salary Standardization Law and National Compensation Circular No. 59.<sup>35</sup> On the other hand, the grant of medical allowance and per diems to the members of the Board is proscribed by Article VII, Section 13 of the 1987 Constitution on double compensation.<sup>36</sup>

Maritime Industry Authority filed a petition for review before the Commission on Audit.<sup>37</sup>

In the decision<sup>38</sup> dated March 3, 2005, the Commission on Audit denied the petition for review except as to the per diem and monthly commutable allowance of the members of the Board of Maritime Industry Authority at the rate of ₱500.00 for each member per month.<sup>39</sup>

The Commission on Audit held that the disallowed allowances are integrated in the standardized salary rates under Section 12 of Republic Act No. 6758.<sup>40</sup>

Further, the alleged approval of the President for the restoration or grant of benefits falls short of a law, as required by the Constitution for the grant of additional allowance or incentive.<sup>41</sup> Even assuming that the approval of the President is sufficient to grant additional allowance to officers and employees of Maritime Industry Authority, the authenticity of the memorandum bearing the alleged approval of the President presented by Maritime Industry Authority was not established.<sup>42</sup> Only a photocopy of the memorandum was presented. A copy of the memorandum was also not on file in the Malacañang Records Office.<sup>43</sup>

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<sup>32</sup> *Rollo*, pp. 96 and 149–158.

<sup>33</sup> *Id.* at 51–70.

<sup>34</sup> *Id.* at 29–39. The decision was signed by Director Khem N. Inok.

<sup>35</sup> *Id.* at 32 and 97.

<sup>36</sup> *Id.* at 36–37.

<sup>37</sup> *Id.* at 25.

<sup>38</sup> *Id.* at 25–28. The decision was signed by Commissioners Guillermo N. Carague (Chairman), Emmanuel M. Dalman, and Reynaldo A. Villar.

<sup>39</sup> *Id.* at 28.

<sup>40</sup> *Id.* at 27.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at 27–28.

<sup>43</sup> *Id.* at 31 and 95.

Maritime Industry Authority's motion for reconsideration was denied in COA Resolution No. 2008-117 dated December 9, 2008.<sup>44</sup>

Thus, this petition for certiorari was filed by Maritime Industry Authority assailing the Commission on Audit's decision and resolution affirming the notices of disallowance.

In compliance with the orders<sup>45</sup> of this court, the Commission on Audit filed a comment on the petition for certiorari on June 22, 2009.<sup>46</sup> Maritime Industry Authority filed a reply to the comment on August 24, 2009.<sup>47</sup>

The sole issue in this case is whether the allowance or incentives granted to the officers and employees of Maritime Industry Authority have legal basis.

We deny the petition.

## I

### **Commission on Audit did not commit grave abuse of discretion**

The aggrieved party can assail the decision of the Commission on Audit through a petition for certiorari under Rule 64 before this court. A petition under Rule 64 may prosper only after a finding that the administrative agency committed grave abuse of discretion amounting to lack or excess of jurisdiction. Not all errors of the Commission on Audit is reviewable by this court. Thus,

A Rule 65 petition is a unique and special rule because it commands limited review of the question raised. As an *extraordinary remedy*, its purpose is simply to keep the public respondent within the bounds of its jurisdiction or to relieve the petitioner from the public respondent's arbitrary acts. In this review, the Court is confined *solely* to questions of jurisdiction whenever a tribunal, board or officer exercising judicial or quasi-judicial function acts without jurisdiction or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. . . .

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<sup>44</sup> Id. at 40–43.

<sup>45</sup> Id. at 78 and 180.

<sup>46</sup> Id. at 93–179.

<sup>47</sup> Id. at 184–194.

The limitation of the Court's power of review over COA rulings merely complements its nature as an *independent constitutional body* that is tasked to safeguard the proper use of the government and, ultimately, the people's property by vesting it with power to (i) determine whether the government entities comply with the law and the rules in disbursing public funds; and (ii) disallow legal disbursements of these funds.<sup>48</sup> (Emphasis in the original)

Reviewing the rationale for this standard of judicial review:

[t]his court has consistently held that findings of administrative agencies are generally respected, unless found to have been tainted with unfairness that amounted to grave abuse of discretion:

It is the general policy of the Court to sustain the decisions of administrative authorities, especially one which is constitutionally-created not only on the basis of the doctrine of separation of powers but also for their presumed expertise in the laws that they are entrusted to enforce. Findings of administrative agencies are accorded not only respect but also finality when the decision and order are not tainted with unfairness or arbitrariness that would amount to grave abuse of discretion. It is only when the COA has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, that this Court entertains a petition questioning its rulings. There is grave abuse of discretion when there is an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act in contemplation of law as when the judgment rendered is not based on law and evidence but on caprice, whim and despotism.<sup>49</sup>

We find that no grave abuse of discretion amounting to lack or excess of jurisdiction may be attributed to the Commission on Audit in this case.

## II

### Position of the parties

Petitioner Maritime Industry Authority argues that the allowances and incentives granted to its officers and employees are not integrated in the

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<sup>48</sup> J. Brion, concurring and dissenting opinion in *Technical Education and Skills Development Authority v. Commission on Audit*, G.R. No. 204869, March 11, 2014, <[http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/march2014/204869\\_brion.pdf](http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/march2014/204869_brion.pdf)> [Per J. Carpio, En Banc].

<sup>49</sup> *City of General Santos v. Commission on Audit*, G.R. No. 199439, April 22, 2014 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/april2014/199439.pdf>> [Per J. Leonen, En Banc].

standardized salary.<sup>50</sup> It relies on the last clause of the first sentence of Section 12 of Republic Act No. 6758:<sup>51</sup>

**Section 12. Consolidation of Allowances and Compensation.** - All allowances, except for representation and transportation allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and *such other additional compensation not otherwise specified herein as may be determined by the DBM*, shall be deemed included in the standardized salary rates herein prescribed. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized.

Existing additional compensation of any national government official or employee paid from local funds of a local government unit shall be absorbed into the basic salary of said official or employee and shall be paid by the National Government. (Emphasis supplied)

Petitioner Maritime Industry Authority understands the clause as requiring a subsequent issuance by the Department of Budget and Management so that other allowances or benefits not specifically enumerated in the provision will be excluded. It insists that a circular must be issued by the Department of Budget and Management for a specific allowance to be deemed integrated in the standardized salary pursuant to Section 12 of Republic Act No. 6758.

Since the National Compensation Circular No. 59, the circular issued by the Department of Budget and Management implementing Section 12, was not published, there can be no allowance deemed integrated in the standardized salary rates.<sup>52</sup> It relies on *Philippine Ports Authority hired after July 1, 1989 v. Commission on Audit*<sup>53</sup> where this court held the following:

However, because of its lack of publication in either the *Official Gazette* or in a newspaper of general circulation, DBM-CCC No. 10 was declared *ineffective* on August 12, 1998, in *De Jesus v. COA*, which we quote:

In the present case under scrutiny, it is decisively clear that D[B]M-CCC No. 10, which completely disallows payment of allowances and other additional compensation to government officials and employees, starting November 1, 1989, is not a mere interpretative or internal regulation.

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<sup>50</sup> *Rollo*, p. 15.

<sup>51</sup> *Id.* at 16.

<sup>52</sup> *Id.* at 18 and 188.

<sup>53</sup> 506 Phil. 382 (2005) [Per Acting C.J. Panganiban, En Banc].

It is something more than that. 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 the 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 subject matter. This approach is more in keeping with democratic precepts and rudiments of fairness and transparency.

In other words, during the period that DBM-CCC No. 10 was in legal limbo, the COLA and the amelioration allowance were not effectively integrated into the standardized salaries.

Hence, it would be incorrect to contend that because those allowances were not effectively integrated under the first sentence, then they were “non-integrated benefits” falling under the second sentence of Section 12 of RA 6758. Their characterization must be deemed to have also been in legal limbo, pending the effectivity of DBM-CCC No. 10. Consequently, contrary to the ruling of the COA, the second sentence does not apply to the present case. By the same token, the policy embodied in the provision — the non-diminution of benefits in favour of incumbents as of July 1, 1989 — is also inapplicable.

The parties fail to cite any law barring the continuation of the grant of the COLA and the amelioration allowance during the period when DBM-CCC No. 10 was in legal limbo.<sup>54</sup>

On the other hand, respondent Commission on Audit interprets Section 12 of Republic Act No. 6758 differently. It considers all allowances as deemed included in the standardized salary except those specifically enumerated in Section 12 of Republic Act No. 6758.<sup>55</sup> The issuance of a circular by the Department of Budget and Management is necessary only for the grant of allowance other than those enumerated under Section 12 of Republic Act No. 6758 in addition to the standardized salary.<sup>56</sup> Respondent Commission on Audit relies on *PPA Employees Hired After 01 July 1989 v. COA*<sup>57</sup> and *NAPOCOR Employees Consolidated Union v. National Power Corporation*.<sup>58</sup>

In *PPA Employees Hired After 01 July 1989 v. COA, et al.*,<sup>59</sup> this court held that the Department of Budget and Management’s issuance is only for

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<sup>54</sup> Id. at 388–389.

<sup>55</sup> *Rollo*, p. 105.

<sup>56</sup> Id. at 108.

<sup>57</sup> 506 Phil. 382 (2005) [Per Acting C.J. Panganiban, En Banc].

<sup>58</sup> 519 Phil. 372 (2006) [Per J. Garcia, En Banc].

<sup>59</sup> 506 Phil. 382 (2005) [Per Acting C.J. Panganiban, En Banc].

the purpose of identifying additional non-integrated benefits, over and above the standardized salary rates.

Then in *NAPOCOR Employees Consolidated Union v. National Power Corporation*,<sup>60</sup> this court stated:

Section 12 of Rep. Act No. 6758 lays down the general rule that all allowances of state workers are to be included in their standardized salary rates. Exempted from integration to the standardized salary rates, as specified in the aforequoted provision of Section 12 of Rep. Act No. 6758, are only the following allowances:

- (1) representation and transportation allowances (RATA);
- (2) clothing and laundry allowances;
- (3) subsistence allowances of marine officers and crew on board government vessels;
- (4) subsistence allowance of hospital personnel;
- (5) hazard pay;
- (6) allowance of foreign service personnel stationed abroad; and
- (7) such other additional compensation not otherwise specified herein as may be determined by the DBM.

Otherwise stated, the foregoing are the only allowances which government employees can continue to receive in addition to their standardized salary rates. The employee welfare allowance of NPC personnel is clearly not among the allowances listed above which State workers can continue to receive under Rep. Act No. 6758 over and above their standardized salary rates. We must emphasize that Rep. Act No. 6758 does not require that DBM should first define those allowances that are to be integrated with the standardized salary rates of government employees before NPC could integrate the employee welfare allowance into its employees' salaries. Thus, despite our ruling in *De Jesus* which thwarted the attempt of DBM in DBM-CCC No. 10 to complete the list of allowances exempted from integration, NPC is allowed under Rep. Act No. 6758 to integrate employee welfare allowance into the employees' standardized salary rates.<sup>61</sup>

Respondent Commission on Audit argues that the alleged lack of publication of National Compensation Circular No. 59 does not affect the integration of allowances into the standardized salary.<sup>62</sup> Section 12 of Republic Act No. 6758 is in itself executory in that allowances and benefits are deemed integrated in the standardized salary except those specifically exempted.

Further, the nature of the allowances and incentives in this case is not similar to that of the enumerated exceptions in Section 12 of Republic Act

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<sup>60</sup> 519 Phil. 372 (2006) [Per J. Garcia, En Banc].

<sup>61</sup> Id. at 383–384.

<sup>62</sup> *Rollo*, p. 110.

No. 6758.<sup>63</sup> As held in *Bureau of Fisheries and Aquatic Resources Employees Union v. Commission on Audit*,<sup>64</sup> the “benefits excluded from the standardized salary rates are the ‘allowances’ or those which are usually granted to officials and employees of the government to defray or reimburse the expenses incurred in the performance of their official functions.”<sup>65</sup>

Finally, respondent Commission on Audit points out that there is no law that authorizes the grant of the allowances and incentives in addition to the salaries of the officers and employees of petitioner Maritime Industry Authority.<sup>66</sup>

Respondent Commission on Audit points out that the alleged approval of the President was contained in a mere photocopy of the memorandum dated February 10, 2000. It purportedly bears the approval and signature of the President for the grant of the allowances and incentives.<sup>67</sup> The original was not presented during the proceedings.

### III

#### **The concept of integration of allowances**

The consolidation of allowances in the standardized salary in Section 12 of Republic Act No. 6758 is a new rule in the Philippine position classification and compensation system. The previous laws<sup>68</sup> on standardization of compensation of government officials and employees do not have this provision.

Presidential Decree No. 985,<sup>69</sup> as amended by Presidential Decree No. 1597,<sup>70</sup> the law prior to Republic Act No. 6758, repealed all laws, decrees, executive orders, and other issuances or parts thereof that authorize the grant of allowances of certain positions and employees.<sup>71</sup> Under Presidential

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<sup>63</sup> Id. at 111.

<sup>64</sup> 584 Phil. 132 (2008) [Per C.J. Puno, En Banc].

<sup>65</sup> *Rollo*, pp. 110–111.

<sup>66</sup> Id. at 111.

<sup>67</sup> Id.

<sup>68</sup> Act No. 102 (1901), An Act Regulating the Salaries of Officers and Employees in the Philippine Civil Service; Commonwealth Act No. 402 (1938), An Act to Provide for the Classification of Civilian Positions and Standardization of Salaries in the Government; Pres. Decree No. 985 (1976), The Budgetary Reform Decree on Compensation and Position Classification of 1976; Pres. Decree No. 1597 (1978), Further Rationalizing the System of Compensation and Position Classification in the National Government.

<sup>69</sup> Pres. Decree No. 985 (1976), The Budgetary Reform Decree on Compensation and Position Classification of 1976.

<sup>70</sup> Pres. Decree No. 1597 (1978), Further Rationalizing the System of Compensation and Position Classification in the National Government.

<sup>71</sup> Pres. Decree No. 1597 (1978), sec. 3. *Repeal of special salary laws and regulations*. All laws, decrees, executive orders and other issuances or parts thereof are hereby repealed that exempt agencies from the

Decree No. 985, allowances, honoraria, and other fringe benefits may only be granted to government employees upon approval of the President with the recommendation of the Commissioner of the Budget Commission.<sup>72</sup>

Being a new rule, Section 12 of Republic Act No. 6758 raised several questions among government employees. Petitions were filed before this court involving the Commission on Audit's disallowance of the grant of allowances and incentives to government employees. This court already settled the issues and matters raised by petitioner Maritime Industry Authority.

The clear policy of Section 12 is "to standardize salary rates among government personnel and do away with multiple allowances and other incentive packages and the resulting differences in compensation among them."<sup>73</sup> Thus, the general rule is that all allowances are deemed included in the standardized salary.<sup>74</sup> However, there are allowances that may be given in addition to the standardized salary. These non-integrated allowances are specifically identified in Section 12, to wit:

1. representation and transportation allowances;
2. clothing and laundry allowances;
3. subsistence allowance of marine officers and crew on board government vessels;
4. subsistence allowance of hospital personnel;
5. hazard pay; and
6. allowances of foreign service personnel stationed abroad.<sup>75</sup>

In addition to the non-integrated allowances specified in Section 12, the Department of Budget and Management is delegated the authority to identify other allowances that may be given to government employees in addition to the standardized salary.<sup>76</sup>

Action by the Department of Budget and Management is not required

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coverage of the National Compensation and Position Classification System as established by P.D. 985 and P.D. 1285, or which authorize and fix position classification, salaries, pay rates/ranges or allowances for specified positions to groups of officials and employees or to agencies that are inconsistent with the position classification or rates in the National Compensation and Position Classification Plan are hereby repealed.

<sup>72</sup> Pres. Decree No. 1597 (1978), sec. 5. *Allowances, honoraria and other fringe benefits*. [These] which may be granted to government employees, whether payable by their 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 continuously review and shall prepare . . . 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.

<sup>73</sup> *Ambros v. Commission on Audit*, 501 Phil. 255 (2005) [Per J. Callejo, Sr., En Banc].

<sup>74</sup> Rep. Act No. 6758 (1989), sec. 12.

<sup>75</sup> Rep. Act No. 6758 (1989), sec. 12.

<sup>76</sup> Rep. Act No. 6758 (1989), sec. 12.

to implement Section 12 integrating allowances into the standardized salary.<sup>77</sup> Rather, an issuance by the Department of Budget and Management is required only if additional non-integrated allowances will be identified. Without this issuance from the Department of Budget and Management, the enumerated non-integrated allowances in Section 12 remain exclusive.<sup>78</sup>

This court has repeatedly clarified the last clause of the first sentence of Section 12: “*and such other additional compensation not otherwise specified herein as may be determined by the DBM.*”

In *Abellanos v. Commission on Audit*,<sup>79</sup> this court held that:

R.A. 6758 further reinforced this policy by expressly decreeing that all allowances not specifically mentioned therein, or as may be determined by the DBM, shall be deemed included in the standardized salary rates prescribed.<sup>80</sup>

In *Napocor Employees Consolidation Union v. The National Power Corporation*,<sup>81</sup> this court held that Section 12 of Republic Act No. 6758 is self-executing. It is not required that allowances must be listed for these to be considered integrated in the standardized salary. This court said:

Otherwise stated, the foregoing are the only allowances which government employees can continue to receive in addition to their standardized salary rates. The employee welfare allowance of NPC personnel is clearly not among the allowances listed above which State workers can continue to receive under Rep. Act No. 6758 over and above their standardized salary rates. **We must emphasize that Rep. Act No. 6758 does not require that DBM should first define those allowances that are to be integrated in the standardized salary rates of government employees before NPC could integrate the employee welfare allowance into its employees' salaries.** Thus, despite our ruling in *De Jesus* which thwarted the attempt of DBM-CCC No. 10 to complete the list of allowances exempted from integration, NPC is allowed under Rep. Act No. 6758 to integrate the employee welfare allowance into the employees' standardized salary rates.<sup>82</sup> (Emphasis supplied)

In *Benguet State University v. Commission on Audit*,<sup>83</sup> this court held that the rice subsidy and health care allowance “were not among the allowances listed in Section 12 which State workers can continue to receive

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<sup>77</sup> *NAPOCOR Employees Consolidated Union v. National Power Corporation*, 519 Phil. 372 (2006) [Per J. Garcia, En Banc].

<sup>78</sup> *Gutierrez v. Department of Budget and Management*, 630 Phil. 1 (2010) [Per J. Abad, En Banc].

<sup>79</sup> G.R. No. 185806, July 24, 2012, <<http://sc.judiciary.gov.ph/jurisprudence/2012/july2012/185806.pdf>> [Per J. Sereno, En Banc].

<sup>80</sup> Id.

<sup>81</sup> 519 Phil. 372 (2006) [Per J. Garcia, En Banc].

<sup>82</sup> Id. at 384.

<sup>83</sup> 551 Phil. 878 (2007) [Per J. Nachura, En Banc].

under R.A. No. 6758 over and above their standardized salary rates.”<sup>84</sup>

We cannot subscribe to petitioner Maritime Industry Authority’s contention that due to the non-publication of the Department of Budget and Management’s National Compensation Circular No. 59, it is considered invalid that results in the non-integration of allowances in the standardized salary.

The Department of Budget and Management’s National Compensation Circular No. 59 issued on September 30, 1989 enumerates the allowances/additional compensation of government employees that are deemed integrated into the basic salary. It does not identify an allowance that should not be deemed as integrated in the basic salary of government employees.

As held in *Philippine International Trading Corporation v. Commission on Audit*,<sup>85</sup> the non-publication of the Department of Budget and Management’s issuance enumerating allowances that are deemed integrated in the standardized salary will not affect the execution of Section 12 of Republic Act No. 6758. Thus:

There is no merit in the claim of PITC that R.A. No. 6758, particularly Section 12 thereof is void because DBM-Corporate Compensation Circular No. 10, its implementing rules, was nullified in the case of *De Jesus v. Commission on Audit*, for lack of publication. The basis of COA in disallowing the grant of SFI was Section 12 of R.A. No. 6758 and not DBM-CCC No. 10. Moreover, the nullity of DBM-CCC No. 10 will not affect the validity of R.A. No. 6758. It is a cardinal rule in statutory construction that statutory provisions control the rules and regulations which may be issued pursuant thereto. Such rules and regulations must be consistent with and must not defeat the purpose of the statute. The validity of R.A. No. 6758 should not be made to depend on the validity of its implementing rules.<sup>86</sup>

In *Gutierrez v. Department of Budget and Management*,<sup>87</sup> this court held that:

“**all allowances**” were deemed integrated into the standardized salary rates except the following:

- (1) representation and transportation allowances;
- (2) clothing and laundry allowances;

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<sup>84</sup> Id. at 888.

<sup>85</sup> 461 Phil. 737 (2003) [Per J. Ynares-Santiago, En Banc].

<sup>86</sup> Id. at 749–750.

<sup>87</sup> 630 Phil. 1 (2010) [Per J. Abad, En Banc].

- (3) subsistence allowances of marine officers and crew on board government vessels;
- (4) subsistence allowances of hospital personnel;
- (5) hazard pay;
- (6) allowances of foreign service personnel stationed abroad; and
- (7) such other additional compensation not otherwise specified in Section 12 as may be determined by the DBM.

But, while the provision enumerated certain exclusions, it also authorized the DBM to identify such other additional compensation that may be granted over and above the standardized salary rates. In *Philippine Ports Authority Employees Hired After July 1, 1989 v. Commission on Audit*, the Court has ruled that while Section 12 could be considered self-executing in regard to items (1) to (6), it was not so in regard to item (7). The DBM still needed to amplify item (7) since one cannot simply assume what other allowances were excluded from the standardized salary rates. It was only upon the issuance and effectivity of the corresponding implementing rules and regulations that item (7) could be deemed legally completed.

....

In this case, the DBM promulgated NCC 59 [and CCC 10]. But, instead of identifying some of the additional exclusions that Section 12 of R.A. 6758 permits it to make, the DBM made a list of what allowances and benefits are deemed integrated into the standardized salary rates. More specifically, NCC 59 identified the following allowances/additional compensation that are deemed integrated:

....

The drawing up of the above list is consistent with Section 12 above. R.A. 6758 did not prohibit the DBM from identifying for the purpose of implementation what fell into the class of “all allowances.” With respect to what employees’ benefits fell outside the term apart from those that the law specified, the DBM, said this Court in a case, needed to promulgate rules and regulations identifying those excluded benefits. This leads to the inevitable conclusion that until and unless the DBM issues such rules and regulations, the enumerated exclusions in items (1) to (6) remain exclusive. Thus so, not being an enumerated exclusion, COLA is deemed already incorporated in the standardized salary rates of government employees under the general rule of integration.<sup>88</sup>

Petitioner Maritime Industry Authority’s reliance on *Philippine Ports Authority Employees Hired After July 1, 1989 v. Commission on Audit* is misplaced. As this court clarified in *Napocor Employees Consolidated Union v. National Power Corporation*,<sup>89</sup> the ruling in *Philippine Ports Authority Employees Hired After July 1, 1989* was limited to distinguishing

<sup>88</sup> Id. at 14–16.

<sup>89</sup> 519 Phil. 372 (2006) [Per J. Garcia, En Banc].

the benefits that may be received by government employees who were hired before and after the effectivity of Republic Act No. 6758. Thus:

[t]he Court has, to be sure, taken stock of its recent ruling in *Philippine Ports Authority (PPA) Employees Hired After July 1, 1989 vs. Commission on Audit*. Sadly, however, our pronouncement therein is not on all fours applicable owing to the differing factual milieu. There, the Commission on Audit allowed the payment of back cost of living allowance (COLA) and amelioration allowance previously withheld from PPA employees pursuant to the heretofore ineffective DBM – CCC No. 10, but limited the back payment only to incumbents as of July 1, 1989 who were already then receiving both allowances. COA considered the COLA and amelioration allowance of PPA employees as “*not integrated*” within the purview of the second sentence of Section 12 of Rep. Act No. 6758, which, according to COA confines the payment of “*not integrated*” benefits only to July 1, 1989 incumbents already enjoying the allowances.

In setting aside COA’s ruling, we held in *PPA Employees* that there was no basis to use the elements of incumbency and prior receipt as standards to discriminate against the petitioners therein. For, DBM-CCC No. 10, upon which the incumbency and prior receipt requirements are contextually predicated, was in legal limbo from July 1, 1989 (effective date of the unpublished DBM-CCC No. 10) to March 16, 1999 (date of effectivity of the heretofore unpublished DBM circular). And being in legal limbo, the benefits otherwise covered by the circular, if properly published, were likewise in legal limbo as they cannot be classified either as effectively integrated or not integrated benefits.<sup>90</sup>

Similar to what was stated in *Napocor Employees Consolidated Union*, the “element of discrimination between incumbents as of July 1, 1989 and those joining the force thereafter is not obtaining in this case.” The second sentence of the first paragraph of Section 12, Republic Act No. 6758 is not in issue.

## V

### **Additional allowances that may be identified and granted to government employees**

Other than those specifically enumerated in Section 12, non-integrated allowances, incentives, or benefits, may still be identified and granted to government employees. This is categorically allowed in Republic Act No. 6758. This is also in line with the President’s power of control over executive departments, bureaus, and offices.

These allowances, however, cannot be granted indiscriminately.

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<sup>90</sup> Id. at 388–389.

Otherwise, the purpose and mandate of Republic Act No. 6758 will be defeated.

Republic Act No. 6758 was enacted to promote “the policy of the State to provide equal pay for substantially equal work and to base differences in pay upon substantive differences in duties and responsibilities, and qualification requirements of the positions.”<sup>91</sup> The law lists down the factors that should guide the Department of Budget and Management in preparing the index of occupational services, to wit:

1. the education and excellence required to perform the duties and responsibilities of the position;
2. the nature and complexity of the work to be performed;
3. the kind of supervision received;
4. mental and/or physical strain required in the completion of the work;
5. nature and extent of internal and external relationships;
6. kind of supervision exercised;
7. decision-making responsibility;
8. responsibility for accuracy of records and reports;
9. accountability for funds, properties, and equipment; and
10. hardship, hazard, and personal risk involved in the job.<sup>92</sup>

The factors to determine the salary grades corresponding to each position of a government employee do not take into consideration the peculiar characteristics of each government office where performance of the same work may entail different necessary expenses for the employee. For instance, some employees in the Bureau of Customs may require expenses pertaining to security to properly execute their duties as compared to employees in the Department of Trade and Industry. Republic Act No. 6758 recognizes this when it allowed certain allowances in addition to the standardized salary due to the nature of the office. Section 12 of the law excludes from the standardized salary allowances to be given to marine officers and crew on board government vessels and hospital personnel, and foreign service personnel stationed abroad.<sup>93</sup>

Thus, it must be shown that additional non-integrated allowances are given to government employees of certain offices due to the unique nature of the office and of the work performed by the employee.

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<sup>91</sup> Rep. Act No. 6758 (1989), sec. 2.

<sup>92</sup> Rep. Act No. 6758 (1989), sec. 9.

<sup>93</sup> Rep. Act No. 6758 (1989), sec. 12.

Further, the non-integrated allowances that may be granted in addition to those specifically enumerated in Section 12 of Republic Act No. 6758 should be in the nature similar to those enumerated in the provision, that is, they are amounts needed by the employee in the performance of his or her duties.<sup>94</sup>

[T]he benefits excluded from the standardized salary rates are the “allowances” or those which are usually granted to officials and employees of the government to defray or reimburse the expenses incurred in the performance of their official functions.

....

In *Philippine Ports Authority v. Commission on Audit*, we explained that if these allowances were consolidated with the standardized salary rates, then government officials or employees would be compelled to spend their personal funds in attending to their duties.<sup>95</sup>

In *National Tobacco Administration v. Commission on Audit*,<sup>96</sup> this court held that educational assistance is not an allowance that may be granted in addition to the standardized salary.

Analyzing No. 7, which is the last clause of the first sentence of Section 12, in relation to the other benefits therein enumerated, it can be gleaned unerringly that it is a “catch-all proviso.” Further reflection on the nature of subject fringe benefits indicates that all of them have one thing in common - they belong to one category of privilege called *allowances* which are usually granted to officials and employees of the government to defray or reimburse the expenses incurred in the performance of their official functions. **In *Philippine Ports Authority vs. Commission on Audit***, this Court rationalized that “if these allowances are consolidated with the standardized rate, then the government official or employee will be compelled to spend his personal funds in attending to his duties.”

The conclusion - that the enumerated fringe benefits are in the nature of *allowance* - finds support in sub-paragraphs 5.4 and 5.5 of CCC No. 10.

Sub-paragraph 5.4 enumerates the allowance/fringe benefits which are *not* integrated into the basic salary and which may be continued after June 30, 1989 subject to the condition that the grant of such benefit is covered by statutory authority, to wit:

(1) RATA;

<sup>94</sup> *Bureau of Fisheries and Aquatic Resources Employees Union v. Commission on Audit*, 584 Phil. 132 (2008) [Per C.J. Puno, En Banc].

<sup>95</sup> *Id.* at 139–140.

<sup>96</sup> 370 Phil. 793 (1999) [Per J. Purisima, En Banc].

- (2) Uniform and Clothing allowances;
- (3) Hazard pay;
- (4) Honoraria/additional compensation for employees on detail with special projects or inter-agency undertakings;
- (5) Honoraria for services rendered by researchers, experts and specialists who are of acknowledged authorities in their fields of specialization;
- (6) Honoraria for lectures and resource persons or speakers;
- (7) Overtime pay in accordance to Memorandum Order No. 228;
- (8) Clothing/laundry allowances and subsistence allowance of marine officers and crew on board GOCCs/GFIs owned vessels and used in their operations, and of hospital personnel who attend directly to patients and who by nature of their duties are required to wear uniforms;
- (9) Quarters Allowance of officials and employees who are presently entitled to the same;
- (10) Overseas, Living Quarters and other allowances presently authorized for personnel stationed abroad;
- (11) Night differential of personnel on night duty;
- (12) Per Diems of members of the governing Boards of GOCCs/GFIs at the rate as prescribed in their respective Charters;
- (13) Flying pay of personnel undertaking aerial flights;
- (14) Per Diems/Allowances of Chairman and Members or Staff of collegial bodies and Committees; and
- (15) Per Diems/Allowances of officials and employees on official foreign and local travel outside of their official station.

In addition, sub-paragraph 5.5 of the same Implementing Rules provides for the other allowances/fringe benefits not likewise integrated into the basic salary and allowed to be continued only for incumbents as of June 30, 1989 subject to the condition that the grant of the same is with appropriate authorization either from the DBM, Office of the President or legislative issuances, as follows:

- (1) Rice Subsidy;
- (2) Sugar Subsidy;
- (3) Death Benefits other than those granted by the GSIS;
- (4) Medical/Dental/Optical Allowances/Benefits;
- (5) Children's Allowances;
- (6) Special Duty Pay/Allowance;
- (7) Meal Subsidy;
- (8) Longevity Pay; and
- (9) Teller's Allowance.

On the other hand, the challenged financial incentive is awarded by the government in order to encourage the beneficiaries to pursue further studies and to help them underwrite the expenses for the education of their children and dependents. In other words, subject benefit is in the nature of *financial assistance* and not of an *allowance*. For the former, *reimbursement* is not necessary while for the latter, reimbursement is required. Not only that, the former is basically an *incentive wage* which is defined as "a *bonus* or other payment made to employees in addition to guaranteed hourly wages" while the latter cannot be reckoned with as a *bonus or additional income*, strictly speaking.

It is indeed decisively clear that the benefits mentioned in the first

sentence of Section 12 and sub-paragraphs 5.4 and 5.5 of CCC No. 10 are entirely different from the benefit in dispute, denominated as Educational Assistance. The distinction elucidated upon is material in arriving at the correct interpretation of the two seemingly contradictory provisions of Section 12.

Cardinal is the rule in statutory construction “that the particular words, clauses and phrases should not be studied as detached and isolated expressions, but the *whole* and *every part* of the statute must be considered in fixing the meaning of any of its parts and in order to produce a harmonious whole. A statute must so construed as to harmonize and give effect to all its provisions whenever possible.” And the rule - that statute must be construed as a whole - requires that apparently conflicting provisions should be reconciled and harmonized, if at all possible. It is likewise a basic precept in statutory construction that the *intent* of the legislature is *the controlling factor* in the interpretation of the subject statute. With these rules and the foregoing distinction elaborated upon, it is evident that the two seemingly irreconcilable propositions are susceptible to perfect harmony. Accordingly, the Court concludes that under the aforesaid “*catch-all proviso*,” the legislative intent is just to include the fringe benefits which are in the nature of *allowances* and since the benefit under controversy is not in the same category, it is safe to hold that subject educational assistance is not one of the fringe benefits within the contemplation of the first sentence of Section 12 but rather, of the second sentence of Section 12, in relation to Section 17 of R.A. No. 6758, considering that (1) the recipients were incumbents when R.A. No. 6758 took effect on July 1, 1989, (2) were, in fact, receiving the same, at the time, and (3) such additional compensation is distinct and separate from the specific allowances above-listed, as the former is not integrated into the standardized salary rate. Simply stated, the challenged benefit is covered by the second sentence of Section 12 of R.A. No. 6758, the application of sub-paragraphs 5.4 and 5.5 of CCC No. 10 being only confined to the first sentence of Section 12, particularly the last clause thereof which amplifies the “*catch-all proviso*.”<sup>97</sup> (Citations omitted)

In *Bureau of Fisheries and Aquatic Resources Employees Union v. Commission on Audit*,<sup>98</sup> this court affirmed the disallowance of the grant of the food basket allowance in the amount of ₱10,000.00 to employees of the Bureau of Fisheries and Aquatic Resources. This court held:

In the instant case, the Food Basket Allowance is definitely not in the nature of an allowance to reimburse expenses incurred by officials and employees of the government in the performance of their official functions. It is not payment in consideration of the fulfilment of official duty. It is a form of financial assistance to all officials and employees of BFAR. Petitioner itself stated that the Food Basket Allowance has the purpose of alleviating the economic condition of BFAR employees.<sup>99</sup>

## VI

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<sup>97</sup> Id. at 805–809.

<sup>98</sup> 584 Phil. 132 (2008) [Per C.J. Puno, En Banc].

<sup>99</sup> Id. at 140.

## Who identifies and grants

Respondent Commission on Audit argues that the alleged approval by the President is not a law that would allow the grant of allowances and benefits to the employees of petitioner Maritime Industry Authority.

Section 12 of Republic Act No. 6758 does not require the enactment of a law to exclude benefits or allowances from the standardized salary. What is required is a determination by the Department of Budget and Management of the non-integrated benefits or allowances. In *Abakada Guro Party List v. Purisima*.<sup>100</sup>

Congress has two options when enacting legislation to define national policy within the broad horizons of its legislative competence. It can itself formulate the details or it can assign to the executive branch the responsibility for making necessary marginal decisions in conformity with those standards. In the latter case, the law must be complete in all its essential terms and conditions when it leaves the hands of the legislature. Thus, what is left for the executive branch or the concerned administrative agency when it formulates rules and regulations implementing the law is to fill up details (supplementary rule-making) or ascertain facts necessary to bring the law into actual operation (contingent rule-making).<sup>101</sup> (Citations omitted)

The law delegated to the executive branch the filling in of other allowances and benefits that should be excluded from the standardized salary. It specifically identifies the Department of Budget and Management to carry out the task. However, this does not exclude the President from identifying the excluded allowances or benefits himself, the Secretary of the Department of Budget and Management being an alter ego of the President. Of course, the performance of this task must still be in accordance with the parameters laid down in Republic Act No. 6758.<sup>102</sup> As this court held in *Chavez v. Romulo*.<sup>103</sup>

at the apex of the entire executive officialdom is the President. Section 17, Article VII of the Constitution specifies his power as Chief Executive, thus: **“The President shall have control of all the executive departments, bureaus and offices. He shall ensure that the laws be faithfully executed.”** As Chief Executive, President Arroyo holds the steering wheel that controls the course

<sup>100</sup> 584 Phil. 246 (2008) [Per J. Corona, En Banc].

<sup>101</sup> Id. at 282–283.

<sup>102</sup> See *Equi-Asia Placement, Inc. v. Department of Foreign Affairs*, 533 Phil. 590 (2006) [Per J. Chico-Nazario, First Division] where this court held that “[a]ll that is required for the valid exercise of this power of subordinate legislation is that the regulation must be germane to the objects and purposes of the law; and that the regulation be not in contradiction to, but in conformity with, the standards prescribed by the law.”

<sup>103</sup> G.R. No. 157036, June 9, 2004, 431 SCRA 534 [Per J. Sandoval-Gutierrez, En Banc].

of her government. She lays down policies in the execution of her plans and programs. Whatever policy she chooses, she has her subordinates to implement them. In short, she has the power of control. **Whenever a specific function is entrusted by law or regulation to her subordinate, she may act directly or merely direct the performance of a duty.** Thus, when President Arroyo directed respondent Ebdane to suspend the issuance of PTCFOR, she was just directing a subordinate to perform an assigned duty. Such act is well within the prerogative of her office.<sup>104</sup> (Emphasis in the original)

## VII

### **Constitutional and Fiscal Autonomy Group**

We must, however, differentiate the guidelines for the grant of allowances and benefits to officials and employees of members of the Constitutional and Fiscal Autonomy Group. The judiciary, Civil Service Commission, Commission on Audit, Commission on Elections, and the Office of the Ombudsman are granted fiscal autonomy by the Constitution.<sup>105</sup> The fiscal autonomy enjoyed by the Constitutional and Fiscal Autonomy Group is an aspect of the members' independence guaranteed by the Constitution.<sup>106</sup> Their independence is a necessary component for their existence and survival in our form of government.

In *Bengzon v. Drilon*,<sup>107</sup> this court said:

As envisioned in the Constitution, the fiscal autonomy enjoyed by the Judiciary, the Civil Service Commission, the Commission on Audit, the Commission on Elections, and the Office of the Ombudsman contemplates a guarantee of full flexibility to allocate and utilize their resources with the wisdom and dispatch that their needs require. It recognizes the power and authority to levy, assess and collect fees, fix rates of compensation not exceeding the highest rates authorized by law for compensation and pay loans of the government and allocate and disburse such sums as may be provided by law or prescribed by them in the course of the discharge of their functions.<sup>108</sup>

As this court held in *Re: COA Opinion on the Computation of the Appraised Value of the Properties Purchased by the Retired Chief/Associate*

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<sup>104</sup> Id. at 555.

<sup>105</sup> See CONST. (1987), art. VIII, sec. 3; CONST. (1987), art. IX(A), sec. 5; CONST. (1987), art. XI, sec. 14.

<sup>106</sup> See *Re: COA Opinion on the Computation of the Appraised Value of the Properties Purchased by the Retired Chief/Associate Justices of the Supreme Court*, A.M. No. 11-7-10-SC, July 31, 2012, 678 SCRA 1 [Per Curiam, En Banc].

<sup>107</sup> G.R. No. 103524, April 15, 1992, 208 SCRA 133 [Per J. Gutierrez, En Banc].

<sup>108</sup> Id. at 150.

*Justices of the Supreme Court*,<sup>109</sup> “real fiscal autonomy covers the grant to the Judiciary of the authority to use and dispose of its funds and properties at will, free from any outside control or interference.”<sup>110</sup> This includes the judgment to use its funds to provide additional allowances and benefits to its officials and employees deemed to be necessary and relevant in the performance of their functions in the office. Due to the nature of the functions of the Constitutional and Fiscal Autonomy Group and the constitutional grant of fiscal autonomy, an issuance by the Department of Budget and Management or any other agency of the government is not necessary to exclude an allowance or benefit from the standardized salary.

The entity entrusted by Republic Act No. 6758 to determine the benefits and allowances that are not deemed integrated is the Department of Budget and Management. It studies the necessity and reasonableness of the grant of the allowance and, more importantly, its practicability, that is, whether the government has enough budget to grant the allowance. This is in line with our form of government where the “sound management and effective utilization of financial resources of government are basically executive functions.”<sup>111</sup> On the other hand, the budget of the Constitutional and Fiscal Autonomy Group is constitutionally mandated to be released regularly. How these constitutional bodies manage and utilize their budget is within their prerogative and authority to determine. The officials of the Constitutional and Fiscal Autonomy Group can determine whether the budget allocated and released by the government to them can deliver the allowances and benefits its employees will receive. The executive cannot interfere with how funds will be used or disbursed without violating the separation of powers.

Allowing the President or his or her alter ego to dictate the allowances or benefits that may be received by the officers and employees of the Constitutional and Fiscal Autonomy Group will undermine their independence. This arrangement is repugnant to their autonomy enshrined by the Constitution. As said in *Velasco v. Commission on Audit*,<sup>112</sup> the grant or regulation of the grant of productivity incentive allowance or similar benefits are in the exercise of the President’s power of control over these entities. Not being under the President’s power of control, the Constitutional and Fiscal Autonomy Group should be able to determine the allowances or benefits that suit the functions of the office.

Nonetheless, expenditures of government funds by the Constitutional and Fiscal Autonomy Group are still audited by the Commission on Audit on a post-audit basis.<sup>113</sup>

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<sup>109</sup> A.M. No. 11-7-10-SC, July 31, 2012, 678 SCRA 1 [Per Curiam, En Banc].

<sup>110</sup> Id. at 16.

<sup>111</sup> *Blaquera v. Commission on Audit*, 356 Phil. 678, 763 (1998) [Per J. Purisima, En Banc].

<sup>112</sup> G.R. No. 189774, September 18, 2012, 681 SCRA 102 [Per J. Perlas-Bernabe, En Banc].

<sup>113</sup> CONST. (1987), art. IX(D), sec. 2.

## VIII

**No proof of grant of allowance by the President or the Department of Budget and Management**

Petitioner Maritime Industry Authority relies on the alleged approval by then President Estrada of its memorandum dated February 10, 2000. Respondent Commission on Audit counters that the original memorandum was not presented by petitioner Maritime Industry Authority. Further, the alleged approval is not a law authorizing the grant of additional compensation or benefits to government employees.

Article VI, Section 29 of the 1987 Constitution provides, “[n]o money shall be paid out of the Treasury except in pursuance of an appropriation made by law.”

Further, before public funds may be disbursed for salaries and benefits to government officers and employees, it must be shown that these are commensurate to the services rendered and necessary or relevant to the functions of the office. “Additional allowances and benefits must be shown to be necessary or relevant to the fulfillment of the official duties and functions of the government officers and employees.”<sup>114</sup>

In *Yap v. Commission on Audit*,<sup>115</sup> this court laid down two general requisites before a benefit may be granted to government officials or employees. First is that the allowances and benefits were authorized by law and second, that there was a direct and substantial relationship between the performance of public functions and the grant of the disputed allowances. Thus:

[t]o reiterate, the public purpose requirement for the disbursement of public funds is a valid limitation on the types of allowances and benefits that may be granted to public officers. It was incumbent upon petitioner to show that his allowances and benefits were authorized by law and that there was a direct and substantial relationship between the performance of his public functions and the grant of the disputed allowances to him.<sup>116</sup>

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<sup>114</sup> *Veloso v. Commission on Audit*, G.R. No. 193677, September 6, 2011, 656 SCRA 767, 780 [Per J. Peralta, En Banc].

<sup>115</sup> 633 Phil. 174 (2010) [Per J. Leonardo-De Castro, En Banc].

<sup>116</sup> *Id.* at 192.

The burden of proving the validity or legality of the grant of allowance or benefits is with the government agency or entity granting the allowance or benefit, or the employee claiming the same. After the Resident Auditor issues a notice of disallowance, the aggrieved party may appeal the disallowance to the Director within six (6) months from receipt of the decision.<sup>117</sup> At this point, the government agency or employee has the chance to prove the validity of the grant of allowance or benefit. If the appeal is denied, a petition for review may be filed before the Commission on Audit Commission Proper.<sup>118</sup> Finally, the aggrieved party may file a petition for certiorari before this court to assail the decision of the Commission on Audit Commission Proper.<sup>119</sup>

Our laws and procedure have provided the aggrieved party several chances to prove the validity of the grant of the allowance or benefit.

To prove the validity of the allowances granted, petitioner Maritime Industry Authority presented a photocopy of the memorandum with an “approved” stamped on the memorandum. Below the stamp is the signature of then President Estrada.

We cannot rule on the validity of the alleged approval by the then President Estrada of the grant of additional allowances and benefits. Petitioner Maritime Industry Authority failed to prove its existence. The alleged approval of the President was contained in a mere photocopy of the memorandum dated February 10, 2000. The original was not presented during the proceedings. A copy of the document is not in the Malacañang Records Office.

## IX

### **The grant of allowances and benefits amounts to double compensation proscribed by Article IX(B), Section 8 of the 1987 Constitution**

Article IX(B), Section 8 of the 1987 Constitution provides:

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

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<sup>117</sup> REVISED RULES OF THE COMMISSION ON AUDIT (2009), Rule V, secs. 1 and 4.

<sup>118</sup> REVISED RULES OF THE COMMISSION ON AUDIT (2009), Rule VII, sec. 1.

<sup>119</sup> RULES OF COURT, Rule 64.

from any foreign government.

Pensions or gratuities shall not be considered as additional, double, or indirect compensation.

Petitioner Maritime Industry Authority argues that the rule against double compensation does not apply because National Compensation Circular No. 59 is ineffectual due to its non-publication.<sup>120</sup>

Respondent Commission on Audit counters that the disallowed allowances is tantamount to additional compensation proscribed by Article IX(B), Section 8 of the 1987 Constitution.<sup>121</sup> This is because these allowances are not authorized by law.

Republic Act No. 6758 deems all allowances and benefits received by government officials and employees as incorporated in the standardized salary, unless excluded by law or an issuance by the Department of Budget and Management. The integration of the benefits and allowances is by legal fiction.<sup>122</sup>

The disallowed benefits and allowances of petitioner Maritime Industry Authority's officials and employees were not excluded by law or an issuance by the Department of Budget and Management. Thus, these were deemed already given to the officials and employees when they received their basic salaries. Their receipt of the disallowed benefits and allowances was tantamount to double compensation.

## X

### **Petitioner Maritime Industry Authority was not denied due process in the disallowance of the allowances and benefits**

Petitioner Maritime Industry Authority argues that it was denied administrative due process.<sup>123</sup> Respondent Commission on Audit affirmed the notices of disallowance on the basis of provisions of law that are different from the bases cited in the notices of disallowance.<sup>124</sup>

Respondent Commission on Audit does not deny that other grounds

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<sup>120</sup> *Rollo*, p. 19.

<sup>121</sup> *Id.* at 116.

<sup>122</sup> *See Gutierrez v. Department Budget and Management*, 630 Phil. 1 (2010) [Per J. Abad, En Banc].

<sup>123</sup> *Rollo*, p. 22.

<sup>124</sup> *Id.*

were relied upon to affirm the disallowance of the allowances given to the officers and employees of petitioner Maritime Industry Authority. However, it argues that this is pursuant to its mandate under Article IX(D), Section 2 of the 1987 Constitution<sup>125</sup> and is a necessary incident of its appellate jurisdiction as provided in Rule II, Section 4 of the 1997 COA Revised Rules of Procedure.<sup>126</sup>

This court already settled that:

[the Commission on Audit] is not required to limit its review only to the grounds relied upon by a government agency's auditor with respect to disallowing certain disbursements of public funds. In consonance with its general audit power, respondent Commission on Audit is not merely legally permitted, but is also duty-bound to make its own assessment of the merits of the disallowed disbursement and not simply restrict itself to reviewing the validity of the ground relied upon by the auditor of the government agency concerned. To hold otherwise would render COA's vital constitutional power unduly limited and thereby useless and ineffective.<sup>127</sup>

The disallowance of the grant of benefits and allowances by respondent Commission on Audit is proper. We proceed to determine whether officers and employees of petitioner Maritime Industry Authority are liable and/or should refund the disallowed allowances.

## XII

### **Refund of the amounts**

<sup>125</sup> CONST. (1987), art. IX(D), sec. 2 provides:

Section 2. (1) The Commission on Audit shall have the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations with original charters, and on a post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this Constitution; (b) autonomous state colleges and universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity, directly or indirectly, from or through the Government, which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity. However, where the internal control system of the audited agencies is inadequate, the Commission may adopt such measures, including temporary or special pre-audit, as are necessary and appropriate to correct the deficiencies. It shall keep the general accounts of the Government and, for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto.

(2) The Commission shall have exclusive authority, subject to the limitations in this Article, to define the scope of its audit and examination, establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures or uses of government funds and properties.

<sup>126</sup> *Rollo*, pp. 119–120. COA REVISED RULES OF PROCEDURE (1997), Rule II, sec. 4 provides:

Section 4. *Appellate Jurisdiction*. – The Commission Proper shall have appellate jurisdiction to review, reverse, modify, alter or affirm the reports, resolutions, orders, decisions and other dispositions of the Auditors or Directors concerned.

<sup>127</sup> *Yap v. Commission on Audit*, 633 Phil. 174 (2010) [Per J. Leonardo-De Castro, En Banc].

**received and liability of  
approving officers**

Presidential Decree No. 1445 provides for a general liability for unlawful expenditures:

Section 103. General liability for unlawful expenditures. Expenditures of government funds or uses of government property in violation of law or regulations shall be a personal liability of the official or employee found to be directly responsible therefor.<sup>128</sup>

Section 19 of the Manual of Certificate of Settlement and Balances, Commission on Audit Circular No. 94-001 provides:

19.1. The liability of public officers and other persons for audit disallowances shall be determined on the basis of: (a) the nature of the disallowance; (b) the duties, responsibilities or obligations of the officers/persons concerned; (c) the extent of their participation or involvement in the disallowed transaction; and (d) the amount of losses or damages suffered by the government thereby. The following are illustrative examples:

....

19.1.3. Public officers who approve or authorize transactions involving the expenditure of government funds and uses of government properties shall be liable for all losses arising out of their negligence or failure to exercise the diligence of a good father of a family.

Generally, the public officer's good faith does not excuse his or her personal liability over the unauthorized disbursement. This court said:

Section 103 of P.D. 1445 declares that expenditures of government funds or uses of government property in violation of law or regulations shall be a personal liability of the official or employee found to be directly responsible therefor. The public official's personal liability arises only if the expenditure of government funds was made in violation of law. In this case, petitioner's act of entering into a contract on behalf of the local government unit without the requisite authority therefor was in violation of the Local Government Code. While petitioner may have relied on the opinion of the City Legal Officer, such reliance only serves to buttress his good faith. It does not, however, exculpate him from his personal liability under P.D. 1445.<sup>129</sup>

However, with regard to the disallowance of salaries, emoluments,

<sup>128</sup> A similar provision is also found in Exec. Order No. 292 (1987), book V, chap. 9, sec. 52.

<sup>129</sup> *Vicencio v. Villar*, G.R. No. 182069, July 3, 2012, 675 SCRA 468, 480 [Per J. Sereno, En Banc].

benefits, and allowances of government employees, prevailing jurisprudence<sup>130</sup> provides that recipients or payees need not refund these disallowed amounts when they received these in good faith.<sup>131</sup> Government officials and employees who received benefits or allowances, which were disallowed, may keep the amounts received if there is no finding of bad faith and the disbursement was made in good faith.<sup>132</sup>

On the other hand, officers who participated in the approval of the disallowed allowances or benefits are required to refund only the amounts received when they are found to be in bad faith or grossly negligent amounting to bad faith.<sup>133</sup>

In *Philippine Economic Zone Authority v. Commission on Audit*,<sup>134</sup> this court defined good faith relative to the requirement of refund of disallowed benefits or allowances.

In common usage, the term “good faith” is ordinarily used to describe that state of mind denoting “honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry; an honest intention to abstain from taking any unconscientious advantage of another, even through technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transaction unconscientious.”<sup>135</sup>

The assailed notices of disallowance enumerate the following persons

<sup>130</sup> See *Mendoza v. Commission on Audit*, G.R. No. 195395, September 10, 2013, 705 SCRA 306 [Per J. Leonen, En Banc]; *Magno v. Commission on Audit*, 558 Phil. 76 (2007) [Per J. Chico-Nazario, En Banc]; *Singson v. Commission on Audit*, G.R. No. 159355, August 9, 2010, 627 SCRA 36 [Per J. Peralta, En Banc]; *Lumayna v. Commission on Audit*, 616 Phil. 928 (2009) [Per J. del Castillo, En Banc]; *Barbo v. Commission on Audit*, 589 Phil. 289 (2008) [Per J. Leonardo-De Castro, En Banc]; *Kapisanan ng mga Manggagawa sa Government Service Insurance System v. Commission on Audit, et al.*, 480 Phil. 861 (2004) [Per J. Tinga, En Banc]; *Veloso v. Commission on Audit*, G.R. No. 193677, September 6, 2011, 656 SCRA 767 [Per J. Peralta, En Banc]; *Abanilla v. Commission on Audit*, 505 Phil. 202 (2005) [Per J. Sandoval-Gutierrez, En Banc]; *Home Development Mutual Fund v. Commission on Audit*, 483 Phil. 666 (2004) [Per J. Carpio, En Banc]; *Public Estates Authority v. Commission on Audit*, 541 Phil. 412 (2007) [Per J. Sandoval-Gutierrez, En Banc]; *Bases Conversion and Development Authority v. Commission on Audit*, 599 Phil. 455 (2009) [Per J. Carpio, En Banc]; *Benguet State University v. Commission on Audit*, 551 Phil. 878 (2007) [Per J. Nachura, En Banc]; *Agra v. Commission on Audit*, 661 Phil. 563 (2011) [Per J. Leonardo-De Castro, En Banc]; *Blaquera v. Commission on Audit*, 356 Phil. 678 (1998) [Per J. Purisima, En Banc].

<sup>131</sup> *Manila International Airport Authority v. Commission on Audit*, G.R. No. 194710, February 14, 2012, 665 SCRA 653 [Per J. Reyes, En Banc]; *Benguet State University v. Commission on Audit*, 551 Phil. 878 (2007) [Per J. Nachura, En Banc].

<sup>132</sup> J. Brion, concurring and dissenting opinion in *Technical Education and Skills Development Authority v. Commission on Audit*, G.R. No. 204869, March 11, 2014, <[http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/march2014/204869\\_brion.pdf](http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/march2014/204869_brion.pdf)> [Per J. Carpio, En Banc].

<sup>133</sup> *Technical Education and Skills Development Authority v. Commission on Audit*, G.R. No. 204869, March 11, 2014, <[http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/march2014/204869\\_brion.pdf](http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/march2014/204869_brion.pdf)> [Per J. Carpio, En Banc]; See *Velasco v. Commission on Audit*, G.R. No. 189774, September 18, 2012, 681 SCRA 102 [Per J. Perlas-Bernabe, En Banc].

<sup>134</sup> G.R. No. 189767, July 3, 2012, 675 SCRA 513 [Per J. Villarama, Jr., En Banc].

<sup>135</sup> Id. at 524.

as liable for the disallowed disbursements:

- Elenita Delgado – Approving Officer<sup>136</sup>
- Oscar Sevilla- Approving Officer <sup>137</sup>
- Yolanda Quiñones – Chief Accountant<sup>138</sup>
- Agrifina Lacson – Certifying Officer<sup>139</sup>
- Erlinda Baltazar - Cashier<sup>140</sup>
- Myrna Colag – Alternative Approving Officer<sup>141</sup>
- Miriam Dimayuga – Alternate Approving Officer<sup>142</sup>

The recipients of the disallowed allowances under the assailed notices of disallowance are the following:

Payee	Position	Amount Disallowed	Allowance/Benefit Disallowed
Notice of Disallowance No. 2002-002-101(01) <sup>143</sup>			
Erlinda Baltazar	Cashier	550,000.00	Rice and Medical Allowance and Allowances of Board Members and Secretary (net of allowable allowance of ₱500.00/mo pursuant to Sec. 7 of P.D. 474) for January 2001.
Oscar Sevilla	Administrator	5,000.00	
Pedro Mendoza	Director	5,700.00	
Marietto Enecio	Director	5,700.00	
Juan Peña	Director	5,700.00	
Gloria Bañas	[not indicated in <i>rollo</i> ]	3,000.00	
G. Mendoza	Director	5,700.00	
Ruben Ciron	Director	5,700.00	
Notice of Disallowance No. 2002-005-101(01) <sup>144</sup>			
Oscar Sevilla	Administrator	5,000.00	Rice and Medical Allowance, Representation Allowance of Board Members and Secretary (net of allowable allowance of ₱500.00/mo pursuant to Sec. 7 of P.D. 474) for February 2001.
Pedro Mendoza	Director	5,700.00	
Marietto Enecio	Director	5,700.00	
Alfonso Cusi	Director	5,700.00	
Ruben Ciron	Director	5,700.00	
Gloria Bañas	[not indicated in <i>rollo</i> ]	3,000.00	
Notice of Disallowance No. 2002-006-101(01) <sup>145</sup>			
Erlinda Baltazar	Cashier	565,400.00	Rice and Medical

<sup>136</sup> *Rollo*, pp. 149 and 151.  
<sup>137</sup> Id. at 153, 155, and 157.  
<sup>138</sup> Id. at 149, 151, 153, 155, and 157.  
<sup>139</sup> Id. at 149, 151, 153, and 155.  
<sup>140</sup> Id. at 149, 151, 153, 155, 157.  
<sup>141</sup> Id. at 157.  
<sup>142</sup> Id.  
<sup>143</sup> Id. at 149.  
<sup>144</sup> Id. at 151.  
<sup>145</sup> Id. at 153.

			Allowance
Chona [illegible]	[not indicated in <i>rollo</i> ]	1,591.50	Performance Incentive
[illegible]	[not indicated in <i>rollo</i> ]	2,508.25	Allowance for Feb. 2001
Erlinda Baltazar	Cashier	139,000.00	Birthday and Employment Anniversary Bonus for February 2001
Erlinda Baltazar	Cashier	835,376.33	Performance Incentive Allowance for March 2001
Jovino G. Tamayo	[not indicated in <i>rollo</i> ]	5,000.00	Employment Anniversary Bonus
Oscar M. Sevilla	Administrator	5,000.00	Representation Allowance of Board Members and Secretary (net of allowable allowance of ₱ 500.00/mo pursuant to Sec. 7 of P.D. 474) for March 2001.
Jose T. Tale	Director	5,700.00	
Pedro V. Mendoza	Director	5,700.00	
Marietto A. Enecio	Director	5,700.00	
Ruben Ciron	Director	5,700.00	
Alfonso Cusi	Director	5,700.00	
Gloria Bañas	[not indicated in <i>rollo</i> ]	3,000.00	
Notice of Disallowance No. 2002-007-101(01) <sup>146</sup>			
Erlinda Baltazar	Cashier	561,000.00	Rice and Medical Allowance for April 2001
Renita Bautista	[not indicated in <i>rollo</i> ]	30,800.00	Rice/Med for March 2001
Chona Verceles	[not indicated in <i>rollo</i> ]	2,200.00	Rice/Med for March 2001
Alfonso Rulloda	[not indicated in <i>rollo</i> ]	4,698.00	Performance Incentive Allowance for Feb. 2001
Renita Bautista	[not indicated in <i>rollo</i> ]	15,400.00	Rice[/][M]ed for April 2001
Erlinda Baltazar	Cashier	893,910.14	Performance Incentive Allowance for April 2001
Erlinda Baltazar	Cashier	186,000.00	Birthday and Employment

<sup>146</sup> Id. at 155.

			Anniversary Bonus for April 2001
Notice of Disallowance No. 2002-008-101(01) <sup>147</sup>			
Erlinda Baltazar	Cashier	552,200.00	Rice and Medical Allowance for May 2001
Renita Bautista	[not indicated in <i>rollo</i> ]	30,669.50	Performance Incentive Allowance for April 2001
Liberato [illegible]	[not indicated in <i>rollo</i> ]	2,200.00	Rice/Med for April 2001
Emperatriz Aquino	[not indicated in <i>rollo</i> ]	1,098.75	Performance Incentive Allowance for Feb. 2001
Alfonso Rulloda	[not indicated in <i>rollo</i> ]	4,698.00	Performance Incentive Allowance for March 2001
Chona Verceles	[not indicated in <i>rollo</i> ]	1,591.50	Performance Incentive Allowance for March 2001
Emperatriz Aquino	[not indicated in <i>rollo</i> ]	2,232.75	Performance Incentive Allowance for March 2001
Jesus Manongdo	[not indicated in <i>rollo</i> ]	2,200.00	Rice[/][M]ed for May 2001
Erlinda Baltazar	Cashier	124,000.00	Birthday and Employment Anniversary Bonus for May 2001
Roberto [illegible]	[not indicated in <i>rollo</i> ]	3,000.00	Anniversary Allowance
Renita Bautista	[not indicated in <i>rollo</i> ]	11,600.00	Rice/Med for May 2001
Erlinda Baltazar	Cashier	877,270.30	Performance Incentive Allowance for May 2001
Feliciano Tira, Jr.	[not indicated in <i>rollo</i> ]	4,400.00	Rice/Med For April and May 2001

The records do not show the reason why Erlinda Baltazar, petitioner

<sup>147</sup> Id. at 157.

Maritime Industry Authority's cashier, received high amounts for the allowances as shown in the notices of disallowance.

The amount given to Erlinda Baltazar is exorbitant especially when contrasted with the other officers and employees of petitioner Maritime Industry Authority receiving the same allowance. The disparity in the amounts given to Erlinda Baltazar compared to the other officers and employees is too substantial to consider her and the approving officers to be in good faith when Erlinda Baltazar received the amounts. Thus, Erlinda Baltazar and the approving officers are solidarily liable to refund all amounts received by Erlinda Baltazar based on what was disallowed by respondent Commission on Audit. This solidary liability is in accordance with Book VI, Chapter V, Section 43 of the Administrative Code, which provides:

Liability for Illegal Expenditures. – Every expenditure or obligation authorized or incurred in violation of the provisions of this Code or of the general and special provisions contained in the annual General or other Appropriations Act shall be void. Every payment made in violation of said provisions shall be illegal and every official or employee authorizing or making such payment, or taking part therein, and every person receiving such payment shall be jointly and severally liable to the Government for the full amount so paid or received.

The amount Erlinda Baltazar received as allowance for one month should have alerted her and the approving officers on the validity and legality of the grant of the allowance. Good faith dictates that the approving officers deny the grant and Erlinda Baltazar refrain from receiving the amount that is clearly and on its face invalid. Erlinda Baltazar and the approving officers' positions dictate that they are familiar and knowledgeable of the usual amounts allowed for allowances and benefits.

As to the directors, officers, and other employees of petitioner Maritime Industry Authority who received the disallowed benefits, they are presumed to have acted in good faith when they allowed and/or received them.<sup>148</sup>

Respondent Commission on Audit failed to show bad faith on the part of the approving officers in disbursing the disallowed benefits and allowances. Further, the officers of petitioner Maritime Industry Authority relied on the alleged approval of the President of the Philippines in granting the benefits and allowances.

Respondent Commission on Audit said that there were "exchanges of communications between the auditor and Atty. Oscar M. Sevilla, [Maritime Industry Authority]'s Administrator, pointing out to the latter, in letter of

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<sup>148</sup> *Velasco v. Commission on Audit*, G.R. No. 189774, September 18, 2012, 681 SCRA 102 [Per J. Perlas-Bernabe, En Banc].

April 4, 2001, that continuous grant of the allowances in question would not only contradict the provisions of Administrative Order no. 5 issued by the Office of the President and Budget Circular No. 2001-1 but would likewise negate the objective of generating savings.”


However, the checks for the disallowed benefits and allowances were issued prior to April 4, 2001. It does not appear that petitioner Maritime Industry Authority’s directors and officers were informed prior to the disbursement of the amounts disallowed that these allowances and benefits were in violation of existing law, and rules and regulations.


**WHEREFORE**, the decision of respondent Commission on Audit dated March 3, 2005 and resolution dated December 9, 2008 are **AFFIRMED with MODIFICATION**. The approving officers and Erlinda Baltazar are solidarily liable to refund the disallowed amounts received by Erlinda Baltazar. The other payees need not refund the amounts received.

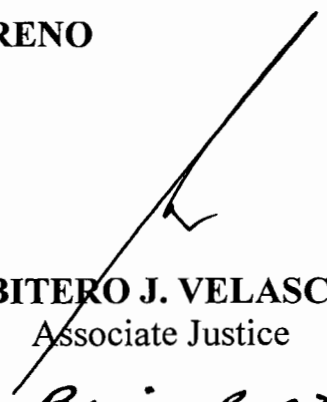
**SO ORDERED.**

  
**MARVIC M.V.F. LEONEN**  
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

*J. Brion left his vote  
See his Concurring Opinion*  
  
**ARTURO D. BRION**  
Associate Justice

  
**DIOSDADO M. PERALTA**  
Associate Justice


  
**LUCAS P. BERSAMIN**  
Associate Justice

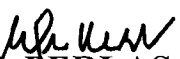
  
**MARIANO C. DEL CASTILLO**  
Associate Justice


  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
Associate Justice


  
**BIENVENIDO L. REYES**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

  
**FRANCIS H. JARDELEZA**  
Associate Justice

### CERTIFICATION

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.

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