

# EN BANC

[ G.R. No. 217075, June 22, 2021 ]

## **SOCIAL SECURITY SYSTEM (SSS), PETITIONER, VS. COMMISSION ON AUDIT (COA), RESPONDENT.**

**ROSARIO, J.:**

This is a petition for *certiorari* under Rule 64 of the Revised Rules of Court seeking to reverse and set aside the 8 May 2014 Decision<sup>[1]</sup> and the 20 November 2014 Resolution<sup>[2]</sup> of the Commission on Audit (COA) in Decision No. 2014-069.

### **The Facts**

On 6 July 2005, the Social Security Commission (SSC) issued Resolution No. 259, Series of 2005,<sup>[3]</sup> granting the following:

1. P20,000.00 Collective Negotiation Agreement (CNA) incentive to each Social Security System (SSS) employee covered within the collective negotiating unit as of 31 December 2004 and who had at least three (3) months prior service in the SSS; and
2. Counterpart benefit to the CNA Incentive of equivalent amount to SSS personnel who are not covered by the collective negotiating unit, which include confidential, coterminous and contractual employees, lawyers and executives.

On post-audit, the SSS Supervising Auditor, under Notice of Disallowance (ND) No. SSS-2007-001 (2005),<sup>[4]</sup> dated 9 January 2007, disallowed the above second category benefit (counterpart CNA benefit) in the aggregate amount of P6,180,000.00 for violation of Section 3(b) of Administrative Order No. 103, dated 31 August 2004,<sup>[5]</sup> and Section 3 of Executive Order No. 180, dated June 1, 1987.<sup>[6]</sup> These provisions prohibit the grant of CNA benefits to high-level and confidential employees, and to those who are not eligible to join the organization of rank-and-file government employees for purposes of collective negotiation since collective negotiation (CN) benefits arise out of membership in the collective negotiation unit.

Citing the contributions of confidential, coterminous and contractual employees, lawyers and executives to the overall efficiency of their agency, the SSS appealed the disallowance to the Legal Services Sector (LSS) of the COA. However, the latter denied the same in LSS Decision No. 2010-025, dated 5 August 2010. The LSS held, *inter alia*, that only rank-and-file employees are entitled to the benefits and/or incentives arising from the execution of the CNA, and high-level employees, who are not considered party-in-interest to the CNA, are not entitled thereto.

Aggrieved, the SSS filed a petition for review before the COA Commission Proper *En Banc* on 3 January 2011. On 8 May 2014, the COA Commission Proper *En Banc* rendered the assailed Decision No. 2014-069, denying SSS' petition for lack of merit and affirming the decision of the LSS. SSS received the decision on 15 May 2014.

The dispositive portion of COA Decision No. 2014-069 reads:

**"WHEREFORE**, this Commission hereby **DENIES** the Petition for Review for lack of merit and **AFFIRMS** Legal Services Sector Decision No. 2010-025 dated August 2010 and Notice of Disallowance No. SSS-2007-001 (2005) dated January 9, 2007 disallowing the payment of Counterpart Collective Negotiation Agreement Benefits to Social Security System employees who are not covered by the collective negotiating unit in the total amount of P6,180,000.00."<sup>[7]</sup>

From this decision, the SSS filed a motion for reconsideration on 11 June 2014, but the same was denied by the COA Commission Proper En Banc, as shown in the Notice, dated 4 February 2015 and received by SSS on the same date.<sup>[8]</sup> The Notice states that–

"Please take notice that the Commission Proper (CP) *en banc* issued a Resolution on November 20, 2014, which reads as follows:

xxxx

The CP denied the Motion for Reconsideration for lack of merit. The movant failed to raise a new matter or show sufficient ground to justify a reconsideration of COA Decision No. 2014-069 dated May 8, 2014."

On 13 February 2015, the SSS filed a *Manifestation with Motion for Clarification and Disclosure of Resolution, dated 20 November 2014, and Minutes of the Meeting of the Commission Proper*,<sup>[9]</sup> requesting that it be provided with a certified true copy of the purported minutes "categorically and squarely addressing and clarifying" how the issues raised in its motion for reconsideration were evaluated and specifically resolved.<sup>[10]</sup>

On 12 March 2015, the COA responded with a Letter<sup>[11]</sup> stating that the resolution of the Commission Proper is copied verbatim in the Notice. Further, the COA explained that the format of the Notice denying the motion for reconsideration is expressly allowed by COA Resolution No. 2013-018, dated 30 September 2013, amending Section 12, Rule X of the 2009 Revised Rules of Procedure of the COA.

### **The Petition and Comment**

On 20 March 2015, the SSS filed the instant petition under Rule 64, citing the following grounds for its allowance:

I. RESPONDENT'S DECISION AFFIRMING ND NO. 2007-001 (2005) DATED 9 JANUARY 2007 AND ITS PURPORTED RESOLUTION DISMISSING PETITIONER'S MR MENTIONED IN THE UNDATED NOTICE OF RESPONDENT'S COMMISSION SECRETARY ARE CONTRARY TO FACTS, LAWS AND THE BASIC NOTION OF FAIR PLAY;

II. RESPONDENT'S DECISION NOT TO DISCLOSE AND FURNISH PETITIONER WITH ITS PURPORTED RESOLUTION DATED 20 NOVEMBER 2014 AND THE MINUTES OF THE MEETING SUPPOSEDLY SIGNED BY THE MEMBERS OF RESPONDENT IS VIOLATIVE OF DUE PROCESS AND AMOUNTS TO GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION.<sup>[12]</sup>

In its Comment,<sup>[13]</sup> filed on 2 November 2015, the COA Commission Proper, through the Office of the Solicitor General, countered that:

I. THE INSTANT PETITION FOR CERTIORARI WAS FILED OUT OF TIME IN VIOLATION OF THE PERTINENT PROVISIONS OF THE RULES OF COURT AND THE 2009 REVISED RULES OF PROCEDURE OF THE COMMISSION ON AUDIT (RRPC);

II. COA DID NOT COMMIT GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RENDERING THE ASSAILED DECISIONS SINCE THEY ARE IN CONSONANCE WITH PREVAILING LAWS, RULES AND REGULATIONS AND ESTABLISHED JURISPRUDENCE;

III. COA DID NOT COMMIT GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RENDERING THE ASSAILED DECISIONS SINCE THERE IS LACK OF LEGAL AND FACTUAL BASES FOR PETITIONER TO GRANT COUNTERPART CNA BENEFITS TO EMPLOYEES NOT COVERED BY THE COLLECTIVE NEGOTIATING UNIT;

IV. COA DID NOT COMMIT GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION SINCE COA VALIDLY RENDERED ITS DECISION ON PETITIONER'S MOTION FOR RECONSIDERATION AND THAT PETITIONER RECEIVED A COPY OF THE COMMISSION PROPER EN BANC RESOLUTION DATED NOVEMBER 20, 2014.

### **The Issues**

Presented, thus, for Our consideration are the following issues: (1) whether the instant petition was timely filed; (2) whether the COA committed grave abuse of discretion in denying SSS' motion for reconsideration through the assailed Notice; and (3) whether the COA committed grave abuse of discretion in upholding the disallowance of the grant of CNA incentives to non-members of the negotiating unit.

### **The Court's Ruling**

*The instant petition was filed beyond the 30-day reglementary period provided in Rule 64; thus, COA's 8 May 2014 Decision had already become final and executory when this petition was filed on 20 March 2015.*

At the outset, the Court notes that the instant petition was filed out of time. Section 3, Rule 64 of the Rules of Court provides:

"**SEC. 3. Time to file petition.** The petition shall be filed within thirty (30) days from notice of the judgment or final order or resolution sought to be reviewed. The filing of a motion for new trial or reconsideration of said judgment or final order or resolution, if allowed under the procedural

rules of the Commission concerned, shall interrupt the period herein fixed. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which *shall not be less than five (5) days* in any event, reckoned from notice of denial."

Petitioner admits that the COA Decision was promulgated on 8 May 2014 and it received a copy thereof on 15 May 2014. Thus, the 30 day-period should have ended on 14 June 2014. However, following Section 3, Rule 64, the period was interrupted when petitioner filed a motion for reconsideration on 11 June 2014, leaving 3 days extended to 5 days by the same Rule - within which to file this petition.

Since petitioner received a copy of the Notice denying its motion for reconsideration on 4 February 2015, it had 5 more days from said date, or until 9 February 2015 to file its petition before the Court. However, the record shows that petitioner filed its petition only on 20 March 2015 or **39 days after the last day of filing**. Thus, there is no dispute that petitioner belatedly filed the instant petition before the Court.

*COA correctly denied  
SSS' motion for  
reconsideration through  
the Notice, dated 4  
February 2015.*

Petitioner mistakenly posits that the Notice of denial of its motion for reconsideration, dated and received on 4 February 2015, did not restart the running of its 30-day period to file the instant petition because it was not presented in the format of a resolution. We do not agree.

COA Resolution No. 2013-018 dated 30 September 2013, amending Section 12, Rule X of the 2009 Revised Rules of Procedure of the COA,<sup>[14]</sup> prescribes the format of the Notice when the COA Commission Proper denies a motion for reconsideration, to wit:

"NOW, THEREFORE, BE IT RESOLVED, as it is hereby RESOLVED, to modify Section 12, Rule X of the RRPC to read as follows:

'Section 12. Effect of Motion for Reconsideration and How It is Disposed Of.- xxx xxx xxx

***In case the Commission Proper denies a Motion for Reconsideration for having been filed out of time, or for failure to raise any new matter or other sufficient ground to justify a reconsideration thereof, the Secretary of the Commission shall issue a Notice to the parties, within five (5) days from the time the relevant Minutes of Meeting of the Commission Proper are signed, informing them of the Resolution of the Commission Proper. The Notice shall be in the form herewith attached as Annex 'A'.***

The above-stated Annex "A" reads:

"[COA Letterhead]  
ENBANC  
NOTICE

Sirs/Mesdames:

"Please take notice that the Commission Proper en banc issued a Resolution dated\_which reads as follows: '[Cite Case No.] (Cite Title of the Case).- The Commission Proper Resolved to DISMISS the Motion for Reconsideration on [CITE GROUND]

Very truly yours,

Secretary of the Commission"

We note that this is the very format assumed by the Notice of denial of SSS' motion for reconsideration received by petitioner on 4 February 2015; hence, there is no doubt as to its validity. Petitioner's stance - rejecting this Notice officially prescribed by the COA Rules of Procedure, yet conveniently adopting a mere letter, dated 12 March 2015,<sup>[15]</sup> as the reckoning point of the period to file a petition before the Court highlights its awareness that when it filed the instant petition on 20 March 2015, the petition was filed beyond the 30-day reglementary period prescribed in Rule 64.

At any rate, even if the Court were to adopt 12 March 2015 as the date when SSS' period to file this petition restarted, SSS would still have only 5 more days to file the instant petition, or until 17 March 2015. Thus, the filing of the instant petition on 20 March 2015 would still be late.

*Assuming arguendo that the petition was timely filed, COA did not commit grave abuse of discretion in affirming the denial of SSS' grant of counterpart CNA benefits to high-ranking officers, managers, lawyers, coterminous and highly confidential employees who are not members of the negotiating unit.*

In *Madera vs. Commission on Audit et al.*,<sup>[16]</sup> this Court, speaking through the Honorable Justice Alfredo Benjamin S. Caguioa, had occasion to explain why judicial review of COA decisions is limited to errors of jurisdiction or to grave abuse of discretion amounting to lack or excess of jurisdiction. Said this Court in that case:

"The Constitution vests the broadest latitude in the COA in discharging its role as the guardian of public funds and properties. In recognition of such constitutional empowerment, the Court has generally sustained the COA's decisions or resolutions in deference to its expertise in the implementation of the laws it has been entrusted to enforce. **Thus, the Constitution and the Rules of Court provide the remedy of a**