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[G.R. No. 229780, January 22, 2019]

BALAYAN WATER DISTRICT (BWD), CONRADO S. LOPEZ AND ROMEO D. PANTOJA, PETITIONERS, VS. COMMISSION ON AUDIT, RESPONDENT.

D E C I S I O N

REYES, J. JR., J.:

Before this Court is a petition for *certiorari* under Rule 64 of the Revised Rules of Court seeking to reverse and set aside the December 27, 2016 Decision[1] of the Commission on Audit (COA) in Decision No. 2016-425, which affirmed the Notice of Disallowance (ND) Nos. 12-101-001(11) to 12-101-007(11), and Nos. 12-101-001(10) to 12-101-012(10).

Petitioner Balayan Water District (BWD) is a government entity organized and existing under Presidential Decree No. 198, as amended. On the other hand, petitioners Conrado S. Lopez and Romeo D. Pantoja are the General Manager (GM) of BWD and representative of BWD employee recipients of the disallowed Cost of Living Allowance (COLA), respectively.[2]

Factual background

On February 10, 2006, BWD's Board of Directors (BOD) passed Resolution No. 16-06[3] granting the payment of COLA to BWD employees in an installment basis starting 2006. The amount to be paid was the accrued COLA from 1992 to 1999. On November 14, 2012, several NDs[4] were issued disallowing the payment of accrued COLA during calendar years 2010 and 2011. Aggrieved, petitioners appealed before the COA Regional Director, Regional Office No. IV-A (COA-R0).[5]

COA-RO Decision

In its November 12, 2013 Decision,[6] the COA-RO denied petitioners' appeal and affirmed the NDs. It explained that water districts were never covered by Letter of Instruction (LOI) No. 97[7] which authorizes the payment of COLA to government-owned and controlled corporations (GOCC). In addition, the COA-RO expounded that in order for BWD employees to be entitled to COLA it must be shown that they were employed in the water district on or before July 1, 1989 and that they were already receiving the said allowance on such date, or prior thereto. The COA-RO ruled:

> WHEREFORE, the instant Appeal is hereby DENIED. Consequently, ND Nos. 12-101-001(11) to 007(11) (inclusive) as well as Nos. 12-101-001(10) to 012(10) (also inclusive) are hereby AFFIRMED.[8]

Unsatisfied, petitioners filed a petition for review[9] before the COA.

Assailed COA Decision

In its December 27, 2016 Decision, the COA affirmed the COA-RO Decision. It agreed that local water districts were excluded in LOI No. 97. The COA added that in order to be entitled to COLA during the period of Compensation Circular (CCC) No. 10, it must be shown that the employees must have been receiving the said allowance prior to the effectivity of Republic Act (R.A.) No. 6758 on July 1, 1989. It elucidated that the ineffectivity of DBM CCC No. 10 did not affect the integration of the COLA to the standardized salary rates because it fell under the general rule of integration under Section 12 of R.A. No. 6758 as clarified by the Court in *Gutierrez v. Department of Budget and Management.*[10] The COA decision read:

> WHEREFORE, premises considered, the Petition for Review of General Manager Conrado S. Lopez, et. al., Balayan Water District, Balayan, Batangas, of Commission on Audit Regional Office No. IV-A Decision No. 2013-36 dated November 12, 2013 is hereby DENIED for lack of merit. Accordingly, Notice of Disallowance Nos. 12-101-001 (11) to 12-101-001-007 (11), and Nos. 12-101-001 (10) to 12-101-012 (10), all dated November 14, 2012, on. the payment to its employees of Cost of Living Allowance/Amelioration Allowance from 1993 to 1999 in the total amount ofl!427,621.88 is AFFIRMED. [11]

Hence, this present petition raising the following:

Issues

I

> **WHETHER COA GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION IN DENYING BWD EMPLOYEES' ENTITLEMENT TO ACCRUED COLA FOR THE PERIOD 1992-1999 BASED ON LETTER OF INSTRUCTION (LOI) 97; [and]**

II

> **WHETHER COA GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION WHEN IT FAILED TO APPRECIATE "GOOD FAITH" IN FAVOR OF PETITIONERS AS RECIPIENTS OF COLA/AA.**[12]

Petitioners argued that BWD's BOD applied pertinent jurisprudence in issuing Board Resolution No. 16-06 allowing the grant of COLA accrued for the period of 1992-1999 to BWD employees. Further, they heavily relied on the pronouncements of the Court in *Metropolitan Naga Water District v. Commission on Audit (MNWD).*[13] Petitioners highlighted that in MNWD the Court ruled: that local water districts are included in the provisions of LOI No. 97; and that there was no need to establish that the employees were already receiving COLA prior to the effectivity of R.A. No. 6758. Further, they posited that they should not be held liable to refund the disallowed amounts because of good faith.

In its Comment[14] dated July 3, 2017, the COA countered that the petitioners failed to prove that it acted with grave abuse of discretion in upholding the NDs issued against them. It pointed out that in *MNWD,* the Court ultimately upheld the disallowance of COLA to the employees therein. Further, the COA disagreed that petitioners acted with good faith because prior to the release of the COLA to the concerned BWD employees, the DBM had issued DBM National Budget (NB) Circular No. 2005-502. It stated that the said issuance holds heads of agencies and other responsible officials who had authorized the grant of COLA personally liable.

In their Reply[15] dated September 19, 2017, petitioners mainly reiterated the arguments they had raised in its petition for *certiorari.* They, however, also argued that good faith should be appreciated in their favor notwithstanding DBM NB Circular No. 2005-502 because the ruling m *MNWD* should apply in this case based on the principle of *stare decisis.*

The Court's Ruling

The petition is partly meritorious.

In their present petition, petitioners constantly cite the pronouncements of the Court in *MNWD.* They highlight that the said decision ruled that: local water districts are included in the coverage of LOI No. 97; the elements of incumbency and prior receipts are inapplicable in determining the propriety of COLA back payments; and that they should be absolved from refunding the disallowed amount on the basis of good faith.

Petitioners' myopic reading of the decision fails to impress. It is true that in *MNWD,* the Court clarified that LOI No. 97 covered local water districts and that the twin requirements of incumbency and prior receipts are relevant only in cases of non-integrated benefits. Nevertheless, the Court ultimately upheld the disallowance of COLA back payments in the above mentioned case because the said allowance was already deemed integrated in the compensation of government employees.

Relevant to the resolution of the present disallowance is Section 12[16] of R.A. No. 6758. It provided that as a general rule, all allowances are deemed included in the standardized salary prescribed therein. However, Section 12 of R.A. No. 6758 enumerated specific non-integrated benefits, namely:

> (a) Representation and Transportation Allowance (RATA); (b) Clothing and laundry allowances;
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> (c) Subsistence allowance of marine officers and crew on board government vessels and hospital personnel;
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> (d) Hazard pay;
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> (e) Allowances of foreign service personnel stationed abroad; and
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> (f) Such other additional compensation not otherwise specified herein as may be determined by the [Department of Budget and Management (DBM)].

In *Maritime Industry Authority v. Commission on Audit,*[17] the Court explained that the legislative policy under Section 12 of R.A. No. 6758 is that all allowances not specifically excluded therein or subsequently identified by the DBM are deemed integrated in the standardized salary, to wit:

> The clear policy of Section 12 is "to standardize salary rates among government pers01mel and do away with multiple allowances and other incentive packages and the resulting differences in compensation among them." Thus, the general rule is that all allowances are deemed included in the standardized salary. 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:
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> 1. representation and transportation allowances;
> 2. clothing and laundry allowances;
> 3. subsistence allowance of marine officers and crew on board governn1ent vessels;
> 4. subsistence allowance of hospital personnel;
> 5. hazard pay; and
> 6. allowances of foreign service personnel stationed abroad.
>
> 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.
>
> **Action by the Department of Budget and Management is not required to implement Section 12 integrating allowances into the standardized salary. <u>Rather, an issuance by the Department of Budget and Management is required only if additional non-integrated allowances will be identified.</u>** Without this issuance from the Department of Budget and Management, the enumerated non-integrated allowances in Section 12 remain exclusive. (Emphasis and underscoring supplied)

In *Philippine Health Insurance Corporation v. Commission on Audit,*[18] the Court reiterated that it had been long settled that Section 12 of R.A. No. 6758 is self-executing in integrating allowances notwithstanding the absence of any DBM issuances, *viz:*

> **Time and again, the Court has ruled that Section 12 of the SSL is self-executing. This means that even without DBM action, the standardized salaries of government employees are already inclusive of all allowances, save for those expressly identified in said section.** It is only when additional non-integrated allowances will be identified that an issuance of the DBM is required. Thus, until and unless the DBM issues rules and regulations identifying those excluded benefits, the enumerated non-integrated allowances in Section 12 remain exclusive. When a grant of an allowance, therefore, is not among those excluded in the Section 12 enumeration or expressly excluded by law or DBM issuance, such allowance is deemed already given to its recipient in their basic salary. As a result, the unauthorized issuance and receipt of said allowance is tantamount to double compensation justifying COA