

# EN BANC

[ G.R. No. 222710, July 24, 2018 ]

**PHILIPPINE HEALTH INSURANCE CORPORATION, PETITIONER,  
VS. COMMISSION ON AUDIT, CHAIRPERSON MICHAEL G.  
AGUINALDO, DIRECTOR JOSEPH B. ANACAY AND SUPERVISING  
AUDITOR ELENA L. AGUSTIN, RESPONDENTS.**

## DECISION

**TIJAM, J.:**

Before Us is a special civil action for *certiorari*<sup>[1]</sup> with prayer for Temporary Restraining Order (TRO) and Writ of Preliminary Injunction (WPI) under Rule 64, in relation to Rule 65 of the Rules of Court, filed by the petitioner, Philippine Health Insurance Corporation (PhilHealth), which seeks to annul and set aside the Decision No. 2015-094<sup>[2]</sup> dated April 1, 2015 and Resolution<sup>[3]</sup> dated November 9, 2015 of the respondent Commission on Audit (COA). The said Decision and Resolution affirmed the Notice of Disallowance (ND) No. H.O. 12-005 (11)<sup>[4]</sup> dated July 23, 2012 on the payment of longevity pay to its officers and employees for the period of January to September 2011 in the amount of PhP5,575,294.70 under Republic Act (RA) No. 7305 or otherwise known as *The Magna Carta of Public Health Workers*.

### Antecedent Facts

On March 26, 1992, RA No. 7305, otherwise known as *The Magna Carta of Public Health Workers* was signed into law in order to: promote and improve the social and economic well-being of the health workers, their living and working conditions and terms of employment; develop their skills and capabilities in order that they will be more responsive and better equipped to deliver health projects and programs; and, encourage those with proper qualifications and excellent abilities to join and remain in government service.<sup>[5]</sup> Accordingly, public health workers (PHWs) were granted allowances and benefits, among others, the longevity pay, which states:

Section 23. **Longevity Pay.** - A monthly longevity pay equivalent to **five percent (5%)** of the monthly basic pay shall be paid to a health worker **for every five (5) years of continuous, efficient and meritorious services** rendered as certified by the chief of office concerned, commencing with the service after the approval of this Act.<sup>[6]</sup> (Emphasis ours)

Pursuant to RA No. 7305, which mandates the payment of longevity pay to public health workers, former Department of Health (DOH) Secretary Alberto G. Romualdez, Jr. issued a Certification dated February 20, 2000, declaring PhilHealth officers and employees as public health workers.<sup>[7]</sup>

For another, the Office of the Government Corporate Counsel (OGCC) in its Opinion

064, Series of 2001, dated April 26, 2001<sup>[8]</sup>, stated that the term health-related work under Section 3<sup>[9]</sup> of RA No. 7305, includes not only the direct delivery or provision of health services but also the aspect of financing and regulation of health services. Thus, in its opinion, the PhilHealth officers and employees were deemed engaged in health-related works for purposes of entitlement to the longevity pay.<sup>[10]</sup>

On August 1, 2011, former PhilHealth President and CEO Dr. Rey B. Aquino issued Office Order No. 0053, S-2011, prescribing the guidelines on the grant of longevity pay, incorporating it in the basic salary of qualified PhilHealth employees for the year 2011 and every year thereafter.<sup>[11]</sup>

On January 31, 2012, the PhilHealth Board passed and approved Resolution No. 1584, S. 2012, which among others, confirmed the grant of longevity pay to its officers and employees for the period of January to September 2011 in the amount of PhP5,575,294.70.<sup>[12]</sup>

However, on post-audit of the Personal Services account for Calendar Year (CY) 2011, COA Supervising Auditor Ms. Elena C. Agustin (Supervising Auditor Agustin), also a respondent in this case, issued Audit Observation Memorandum (AOM) 2012-09 (11) dated April 30, 2012, which found lack of legal basis for the grant of longevity pay, thus recommended the discontinuance of the grant thereof.<sup>[13]</sup>

On May 18, 2012, PhilHealth, through its then President and CEO Dr. Eduardo P. Banzon (Dr. Banzon) asserted that PhilHealth personnel were public health workers, as determined by the DOH in its February 20, 2000 Certification and opined by the OGCC in its Opinion 064, Series of 2001 dated April 26, 2001 and therefore entitled to the grant of longevity pay under RA No. 7305.<sup>[14]</sup>

However, Supervising Auditor Agustin found unsatisfactory the justifications for the grant of longevity pay, and thus issued ND No. H.O. 12-005 (11) dated July 23, 2012.<sup>[15]</sup>

Philhealth received the ND No. H.O. 12-005 (11) on July 30, 2012, and after 179 days from receipt thereof or on January 25, 2013, Philhealth filed its appeal memorandum before the COA Corporate Government Sector.

The COA Corporate Government Sector upheld the ND No. H.O. 12-005 (11) in its Decision<sup>[16]</sup> No. 2014-002 dated March 13, 2014. The COA ruled that PhilHealth personnel were not public health workers but merely engaged in paying and utilization of health services by its covered beneficiaries. The dispositive portion of the Decision No. 2014-002, provides:

WHEREFORE, premises considered, the instant Appeal is **DENIED**. Accordingly, ND No. H.O. 12-005 (11) dated July 23, 2012 is hereby affirmed.<sup>[17]</sup>

PhilHealth received the above decision on March 25, 2014. PhilHealth filed a motion for extension of time of thirty (30) days, from March 30, 2014 to April 30, 2014, to file the petition for review.<sup>[18]</sup> Thereafter, on April 30, 2014, PhilHealth filed its

petition for review before the COA Commission Proper (CP).<sup>[19]</sup>

On April 1, 2015, the COA CP in a Decision No. 2015-094,<sup>[20]</sup> dismissed the petition for being filed out of time. It ruled that under Section 48<sup>[21]</sup> of Presidential Decree (PD) No. 1445, and Rule VII, Section 3 of the 2009 Revised Rules of Procedure of COA<sup>[22]</sup>, the reglementary period to appeal the decision of an auditor is six (6) months or 180 days from receipt of the Decision. The COA found that PhilHealth filed its motion for extension of time to file the petition for review only after the lapsed of the said period. The *fallo* of the COA Decision No. 2015-094, provides:

**WHEREFORE**, premises considered, the instant petition for review is hereby **DISMISSED** for having been filed out of time. Accordingly, Commission on Audit Corporate Government Sector-6 Decision No. 2014-002 dated March 13, 2014, affirming Notice of Disallowance No. H.O. 12-005 (11) dated July 23, 2012, on the payment of longevity pay under the Magna Carta for Public Health Workers to the officers and employees of Philippine Health Insurance Corporation for the period January to September 2011 in the total amount of P5,575,294.70, is final and executory.<sup>[23]</sup>

PhilHealth's motion for reconsideration<sup>[24]</sup> was likewise denied in the November 9, 2015 Resolution<sup>[25]</sup>. It ruled that PhilHealth failed to show any valid reason to justify the delayed filing, and affirmed the ND No. H.O. 12-005 (11) dated July 23, 2012.

Aggrieved, PhilHealth filed the instant Petition for *Certiorari* with prayer for TRO and WPI before the Court raising the following issues:

COA gravely abused its discretion amounting to lack or excess of jurisdiction in failing to consider Philhealth's appeal and dismissing outright the same for being filed out of time despite the following arguments offered by Philhealth:

A. THE TERM "MONTH" IN THE SIX-MONTH REGLEMENTARY PERIOD TO FILE AN APPEAL, PURSUANT TO THE 2009 REVISED RULES OF PROCEDURE OF COA, SHOULD BE UNDERSTOOD TO MEAN THE 30-DAY MONTH.

B. PHILHEALTH PERSONNEL ARE "PUBLIC HEALTH WORKERS" WITHIN THE CONTEMPLATION OF SECTION 3 OF RA 7305 AS WELL AS SECTION 1 OF RULE III OF ITS RIRR.

C. PHILHEALTH PERSONNEL ARE NOT ENGAGED MERELY IN "PAYING" FOR THE UTILIZATION OF HEALTH SERVICES BY COVERED BENEFICIARIES, BUT ARE ENGAGED IN HEALTH AND HEALTH-RELATED WORK, AS CLEARLY SPELLED OUT IN THE PROVISIONS OF RA 7875, AS AMENDED.

D. PURSUANT TO HIS AUTHORITY UNDER RA 7305, FORMER HEALTH SECRETARY ALBERTO G. ROMUALDEZ, JR., CERTIFIED THAT PHILHEALTH OFFICIALS AND EMPLOYEES ARE PERFORMING HEALTH AND HEALTH-

RELATED FUNCTIONS, AND, AS SUCH, ARE COVERED BY THE PROVISIONS OF THIS LAW.

E. UNTIL SET ASIDE BY THE COURT, THE RIRR OF RA 7305 IS ENTITLED TO THE PRESUMPTION OF LEGALITY. THIS IS A NECESSARY CONSEQUENCE OF THE WELL-ESTABLISHED PRACTICE OF ACCORDING THE FORCE AND EFFECT OF A LAW TO RULES AND REGULATIONS ISSUED BY THE AGENCY TASKED TO ENFORCE OR IMPLEMENT A LAW.

F. SECTION 1 (B) OF RULE III OF THE RIRR OF RA 7305 HAS NOT BEEN PREVIOUSLY INTERPRETED BY THE COURT, AND, THUS, THE UNIFORM CONSTRUCTION PLACED THEREON BY THE DOH MUST BE ACCORDED WEIGHT AND CONSIDERATION.

G. THE PHILHEALTH BOARD UNANIMOUSLY CONFIRMED THE GRANT OF PUBLIC HEALTH WORKERS' BENEFITS, INCLUDING THE LONGEVITY PAY, TO PHILHEALTH OFFICIALS AND EMPLOYEES, UNDER ITS RESOLUTION 1584, S. 2012 OF 31 JANUARY 2012.

H. ARTICLE IV, SECTION 16 (N) OF RA 7875, AS AMENDED, EXPLICITLY BESTOWED PHILHEALTH WITH "FISCAL AUTONOMY" TO FIX THE COMPENSATION OF ITS PERSONNEL.

I. THE FISCAL AUTHORITY OF PHILHEALTH UNDER ARTICLE IV, SECTION 16 (N) OF RA 7875, AS AMENDED, HAD BEEN CONFIRMED TWICE BY FORMER PRESIDENT GLORIA M. ARROYO.

J. THE GRANT OF THE SUBJECT LONGEVITY PAY TO PHILHEALTH PERSONNEL MAY BE CONSIDERED A MINISTERIAL DUTY OR FUNCTION OF THE PHILHEALTH BOARD.

K. RA 7875, AS AMENDED, AND RA 7305 PREVAIL OVER RA 10147, THE FIRST TWO LAWS BEING SPECIAL LAWS, WHILE THE LATTER IS A GENERAL LAW.

J. PHILHEALTH OFFICIALS AND EMPLOYEES RECEIVED THE SUBJECT LONGEVITY PAY IN GOOD FAITH AND, THEREFORE, EVEN IF THE DISALLOWANCE IS SUSTAINED, THEY CANNOT BE REQUIRED TO REFUND THE DISALLOWED AMOUNT.<sup>[26]</sup>

Substantially the issues for Our resolution are as follows:

1. Whether COA gravely abused its discretion amounting to lack or excess of jurisdiction in dismissing outright the PhilHealth's appeal.
2. Whether PhilHealth personnel are considered public health workers within the contemplation of Section 3 of RA No. 7305, as well as Section 1 of Rule III of its Implementing Rules and Regulations (IRR).
3. Whether PhilHealth employees received the longevity pay in good faith and even if the disallowance is sustained, they cannot be required to refund the same.

## Our Ruling

### ***The petition fails.***

*Procedural Aspect -*

*The COA did not commit grave abuse of discretion*

An aggrieved party can assail the Decision of the COA through a petition for *certiorari* under Rule 64, as ruled in the case of *Maritime Industry Authority vs. Commission on Audit*:<sup>[27]</sup>

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.

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>[28]</sup> (Emphasis supplied)

This Court has consistently held that findings of administrative agencies are generally accorded not only respect but also finality, unless found to have been tainted with grave abuse of discretion. The same was aptly discussed in the case of *Maritime*<sup>[29]</sup> citing *City of General Santos v. Commission on Audit*<sup>[30]</sup>, to wit:

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.