

EN BANC

[G.R. No. 187257, August 08, 2017]

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE OFFICE OF THE SOLICITOR GENERAL (OSG) AS THE PEOPLE'S TRIBUNE, AND THE NATIONAL POWER BOARD, PETITIONERS, VS. HON. LUISITO G. CORTEZ, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 84, QUEZON CITY, ABNER P. ELERIA, MELITO B. LUPANGCO, NAPOCOR EMPLOYEES CONSOLIDATED UNION (NECU), AND NAPOCOR EMPLOYEES AND WORKERS UNION (NEWU), RESPONDENTS.

[G.R. No. 187776]

ROLANDO G. ANDAYA, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT AND MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL POWER CORPORATION, PETITIONER, VS. HON. LUISITO G. CORTEZ, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 84, QUEZON CITY, ABNER P. ELERIA, MELITO B. LUPANGCO, NAPOCOR EMPLOYEES CONSOLIDATED UNION AND NAPOCOR EMPLOYEES AND WORKERS UNION, RESPONDENTS.

RESOLUTION

LEONEN, J.:

This resolves the 16,500 Workers' Solicitous Motion for Reconsideration^[1] filed by respondents National Power Corporation Employees Consolidated Union (NECU) and the National Power Corporation Employees and Workers Union (NEWU) of this Court's February 7, 2017 Decision.^[2] This Decision vacated and set aside the November 28, 2008 Decision,^[3] March 20, 2009 Joint Order,^[4] and March 23, 2009 Writ of Execution^[5] of Branch 84, Regional Trial Court, Quezon City in Civil Case No. Q-07-61728.

To recall, a Petition for Mandamus^[6] was filed by NECU and NEWU with Branch 84, Regional Trial Court, Quezon City, praying that the National Power Corporation (NAPOCOR) be ordered to release the Cost of Living Allowance (COLA) and Amelioration (AA) allegedly withheld from them from July 1, 1989 to March 19, 1999.^[7] NECU and NEWU pointed to this Court's pronouncements in *De Jesus v. Commission on Audit*,^[8] *Philippine Ports Authority Employees Hired After July 1, 1998 v. Commission on Audit*,^[9] and *Metropolitan Waterworks and Sewerage System v. Bautista, et al.*^[10] They believed that they were among the government employees whose COLA and AA were not factually integrated into their basic salary upon the implementation of Republic Act No. 6758.^[11]

The trial court's Decision dated November 28, 2008 and Joint Order dated March 20, 2009 granted their Petition and awarded a total of P6,496,055,339.98 as alleged back COLA and AA with P704,777,508.60 as legal interest.^[12] A Writ of Execution was issued on March 23, 2009, ordering its immediate release and payment.^[13]

The Office of the Solicitor General, acting as the People's Tribune, and then Secretary of Budget and Management Rolando G. Andaya separately filed Petitions for Certiorari^[14] with this Court, seeking to nullify the trial court's issuances. The Office of the Solicitor General, in particular, prayed for the issuance of a Temporary Restraining Order and/or a Writ of Preliminary Injunction to enjoin the implementation of the Writ of Execution dated March 23, 2009,^[15] which this Court granted in the Resolution^[16] dated April 15, 2009.

On February 7, 2017, this Court rendered a Decision^[17] granting the Petitions for Certiorari. This Court held, among others, that respondents NECU's and NEWU's COLA and AA for the period July 1, 1989 to March 19, 1999 were already factually integrated into their basic salaries, by virtue of Section 12 of Republic Act No. 6758^[18] and Memorandum Order No. 198, series of 1994.^[19] The dispositive portion of the Decision read:

WHEREFORE, the Petitions for Certiorari and Prohibition in **G.R. Nos. 187257** and **187776** are **GRANTED**. The Decision dated November 28, 2008, Joint Order dated March 20, 2009, and Writ of Execution dated March 23, 2009 of the Regional Trial Court of Quezon City, Branch 84 in Civil Case No. Q-07-61728 are **VACATED** and **SET ASIDE**. The Temporary Restraining Order dated April 15, 2009 is made **PERMANENT**.

^[20] (Emphasis in the original)

In their 16,500 Workers' Solicitous Motion for Reconsideration,^[21] respondents NECU and NEWU insist that law, jurisprudence, and evidence support their contention that their COLA and AA were deducted from their salaries from July 1, 1989 to March 19, 1999.^[22] In particular, they distinguish NAPOCOR workers into three (3) categories. The first category includes workers already employed when Republic Act No. 6758 took effect and whose COLA and AA were integrated into their basic salaries only up to 1993. The second category covers those hired after Republic Act No. 6758 took effect and whose COLA and AA were allegedly deducted from 1989 to 1999. The third category consists of employees hired after the effectivity of Republic Act No. 7648 and whose COLA and AA were allegedly deducted from 1994 to 1999.^[23] They present "Exhibit C,"^[24] insisting that this is factual evidence that their basic pay for the disputed period did not include their COLA and AA.^[25]

On the other hand, the Office of the Solicitor General counters that the issues raised by respondents NECU and NEWU have already been "amply and exhaustively addressed"^[26] in this Court's February 7, 2017 Decision, and thus, would merit its immediate denial.^[27]

Respondents NECU and NEWU attempt to sway this Court by-insisting that those hired after Republic Act No. 6758 took effect have never received their COLA and AA

and that these allowances were deducted from their basic pay. This issue, however, has already been discussed and passed upon in this Court's February 7, 2017 Decision:

Thus, *Philippine Ports Authority (PPA) Employees Hired After July 1, 1989* clarified that those who were already receiving COLA and AA as of July 1, 1989, **but whose receipt was discontinued due to the issuance of DBM-CCC No. 10, were entitled to receive such allowances during the period of the Circular's ineffectivity, or from July 1, 1989 to March 16, 1999. The same factual premise was present in Metropolitan Waterworks and Sewerage System, wherein this Court reiterated that those already receiving COLA as of July 1, 1989 were entitled to its payment from 1989 to 1999.**

In neither of these cases did this Court suggest that the compensation of the employees after the promulgation of Republic Act No. 6758 would be **increased** with the addition of the COLA and AA. If the total compensation package were the same, then clearly the COLA or AA, or both were **factually** integrated.

....

Republic Act No. 6758 remained effective during the period of ineffectivity of DBM-CCC No. 10. Thus, the COLA and AA of NAPOCOR officers and employees were integrated into the standardized salaries effective July 1, 1989 pursuant to Section 12 of Republic Act No. 6758, which 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.

Unlike in *Philippine Ports Authority (PPA) Employees Hired After July 1, 1989*, there would be no basis to distinguish between those hired before July 1, 1989 and those hired after July 1, 1989. Both sets of NAPOCOR employees were continuously receiving their COLA and AA since these allowances were already factually integrated into the standardized

salaries pursuant to Section 12 of Republic Act No. 6758.

In order to settle any confusion, we abandon any other interpretation of our ruling in *Philippine Ports Authority (PPA) Employees Hired After July 1, 1989* with regard to the entitlement of the NAPOCOR officers and employees to the back payment of COLA and AA during the period of legal limbo. To grant any back payment of COLA and AA despite their factual integration into the standardized salary would cause salary distortions in the Civil Service. It would also provide unequal protection to those employees whose COLA and AA were proven to have been factually discontinued from the period of Republic Act No. 6758's effectivity.

Generally, abandoned doctrines of this Court are given only prospective effect. However, a strict interpretation of this doctrine, when it causes a breach of a fundamental constitutional right, cannot be countenanced. In this case, it will result in a violation of the equal protection clause of the Constitution.

Furthermore, *Philippine Ports Authority (PPA) Employees Hired After July 1, 1989* only applies if the compensation package of those hired before the effectivity of Republic Act No. 6758 actually decreased; or in the case of those hired after, if they received a lesser compensation package as a result of the deduction of COLA or AA. Neither situation applies in this case.^[28] (Emphasis and underscoring in the original, citations omitted)

Those who were hired after the implementation of Republic Act No. 6758, or after July 1, 1989, did not receive a lesser compensation package than those who were hired before July 1, 1989. To emphasize, respondents NECU's and NEWU's COLA and AA were integrated into their basic salary by virtue of Section 12 of Republic Act No. 6758, which 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.

Section 12 has never been ineffective or rendered unconstitutional. Thus, all allowances not covered by the exceptions to Section 12 are presumed to have been integrated into the basic standardized pay. The receipt of a transition allowance is

not proof that only those who were hired before July 1, 1989 received their COLA and AA. As this Court explained in its February 7, 2017 Decision, the transition allowance was given only to comply with the non-diminution clause of the law. It was never meant as an additional compensation to the standardized pay:

Prior to Republic Act No. 6758, or on June 30, 1989, Mr. Camagong was receiving a total salary of P8,506.30. Upon the effectivity of the law, or on July 1, 1989, all allowances, except those specifically excluded, were deemed integrated into his basic salary. *To stress, all allowances previously granted were already deemed integrated into the standardized salary rates by July 1, 1989.*

As shown above, Mr. Camagong's adjusted salary of P4,386.00 already included all allowances previously received. This amount is obviously less than his previous total compensation of P8,506.30. The law, however, provided a remedy in the form of a transition allowance. *NAPOCOR Employees Consolidated Union (NECU)* explains:

When Rep. Act No. 6758 became effective on July 1, 1989, the new position title of Camagong was Plant Equipment Operator B with a salary grade of 14 and with a monthly salary of P4,386.00.

Admittedly, in the case of Camagong, his monthly gross income of P8,506.30 prior to the effectivity of Rep. Act No. 6758, was thereafter reduced to only P4,386.00. The situation, however, is duly addressed by the law itself. For, while Rep. Act No. 6758 aims at standardizing the salary rates of government employees, yet the legislature has adhered to the policy of non-diminution of pay when it enacted said law. So it is that Section 17 thereof precisely provides for a "transition allowance," as follows:

Section 17. Salaries of Incumbents. — Incumbents of positions presently receiving salaries and additional compensation/fringe benefits including those absorbed from local government units and other emoluments, the aggregate of which exceeds the standardized salary rate as herein prescribed, shall continue to receive such excess compensation, which shall be referred to as transition allowance. The transition allowance shall be reduced by the amount of salary adjustment that the incumbent shall receive in the future.

The transition allowance referred to herein shall be treated as part of the basic salary for purposes of computing retirement pay, year-end bonus and other similar benefits.

As basis for computation of the first across-the-board salary adjustment of incumbents with transition allowance, no incumbent who is receiving