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[G.R. No. 218072, March 08, 2016]

METROPOLITAN NAGA WATER DISTRICT, VIRGINIA I. NERO, JEREMIAS P. ABAN JR., AND EMMA A. CUYO, PETITIONERS, VS. COMMISSION ON AUDIT, RESPONDENT.

DECISION

MENDOZA, J.:

This petition for *certiorari* under Rule 64 of the Revised Rules of Court seeks to reverse and set aside the September 10, 2014 Decision[1] and the March 9, 2015 Resolution of the Commission on Audit (*COA*)[2] which affirmed the October 24, 2011 Decision[3] of the COA Regional Office No. V (*COA Regional Office*) disallowing the payment of backpay differential of Cost of Living Allowance (*COLA*) to the officials and employees of Metro Naga Water District (*MNWD*) in the amount of P3,499,681.14.

On August 20, 2002, the Board of Directors (*the Board*) of petitioner MNWD passed a resolution[4] granting the payment of accrued COLA covering the period from 1992 to 1999 in favor of qualified MNWD personnel. The Board issued the said resolution on the basis of the Court's ruling in *de Jesus v. COA*[5] and its subsequent rulings, and the series of opinions of the Office of the Government Corporate Counsel (OGCC). The MNWD employees began receiving their respective accrued COLA in installment basis starting 2002.[6]

During the post-audit, the Audit Team Leader Jaime T. Posada, Jr. (*Posada*) observed that the payment of COLA in the amount of P3,499,681.14 in 2007 lacked documentation. Thus, Posada required MNWD to submit its payroll as of June 30, 1989 for COLA and its payroll as of July 31, 1989 for salary and other benefits including COLA. The purpose was to determine whether the COLA was received by MNWD employees prior to the effectivity of the Salary Standardization Law (*SSL*).[7] MNWD failed to submit the requested documents.

On June 15, 2009 Posada issued Notice of Disallowance (*ND*) No. 2009-001[8] disallowing the COLA paid in 2007 amounting to P3,499,681.14 and directing the named MNWD officers to immediately settle the disallowance. On October 8, 2009, MNWD filed a notice of appeal with the COA Regional Office.

The COA Regional Office Ruling

In its October 24, 2011 decision, the COA Regional Office upheld the ND covering the disbursement of COLA in 2007 amounting to P3,499,681.14. It opined that MNWD could not rely on the case of *PPA Employees hired after July 1, 1989 v. COA (PPA Employees)*[9] because the circumstances were dissimilar considering that

MNWD was unable to prove that it had granted COLA to its employees since July 1, 1989. Moreover, the COA Regional Office ruled that MWND could not assert that its employees were entitled to COLA by virtue of Letter of Implementation (*LOI*) No. 97[10] because the latter did not include water districts in its coverage.

Undaunted, MWND appealed before the COA.

The COA Ruling

On September 10, 2014, the COA rendered the assailed decision affirming the ruling of the COA Regional Office. It agreed with the COA Regional Office that there was substantial distinction between the case of Philippine Ports Authority (*PPA*) and that of MNWD which warranted the difference in the treatment of the back payment of COLA. The COA noted that in *PPA Employees*, it was established that the PPA had been paying COLA to its employees even prior to July 1, 1989. MNWD, on the other hand, admitted that it had not previously paid the COLA and merely disbursed the same after the passage of a board resolution in 2002. The COA also negated the argument of MNWD that its personnel were entitled to COLA as a matter of right. The COA ruled that water districts were not within the coverage of LOI No. 97.

Aggrieved, MNWD moved for reconsideration, but its motion was denied by the COA in its assailed resolution, dated March 9, 2015.

Hence, this present petition raising the following

ISSUES

A. **WHETHER COA GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION IN NOT RECOGNIZING WATER DISTRICT EMPLOYEES' ENTITLEMENT TO ACCRUED COLA FOR THE PERIOD 1992-1999 AS A MATER OF RIGHT IN ACCORDANCE WITH LOI 97.**

B. **WHETHER COA GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION WHEN IT FAILED TO APPLY EXISTING JURISPRUDENCE IN FAVOR OF MNWD'S EMPLOYEES FOR COLA ENTITLEMENT.**[11]

Essentially, the Court is tasked to resolve whether the back payment of the COLA was correctly disallowed; and in the event the disbursement was improper, whether MNWD is liable to refund the same.

MNWD argues that its employees were entitled to receive COLA as local water districts (*LWD*) were covered under the provisions of LOI No. 97. It asserts that requiring proof that MNWD employees received their COLA prior to July 1, 1989 before they could be entitled to COLA under LOI No. 97 would be unrealistic and unjust because LWDs were declared government owned and controlled corporations (*GOCCs*) only on September 13, 1991 when the Court promulgated *Davao City Water District, et al. v. CSC and CO A (Davao City Water District)*.[12] Further, MNWD insists that pursuant to *PPA Employees*, MNWD employees must likewise enjoy their COLA from March 12, 1992 to March 16, 1999.

In its Comment,[13] dated September 7, 2015, the COA reiterated its reasons for upholding the disallowance of the disbursement in question. It asserted that MNWD could not rely on *PPA Employees* because, unlike the employees therein, the MNWD employees were not previously receiving COLA. In other words, MNWD could not claim that its employees were deprived of COLA because there was no showing that they were paid COLA in the first place.

In its Reply,[14] dated December 21, 2015, MNWD countered that it need not comply with the requirements laid out in *Aquino v. PPA (Aquino)*,[15] where it was held that in order to be entitled to accrued fringe/amelioration benefits under LOI No. 97, it must be shown that (1) the employee was an incumbent; and (2) the employee was receiving those benefits as of July 1, 1989. It reasoned that what was involved in the said case was a claim for continuous enjoyment of Representation and Travel Allowance (*RATA*) and not the payment of accrued COLA.

The Court's Ruling

LWDs are included in the coverage of LOI No. 97

Section 1(d) of LOI No. 97 states:

> 1. Scope of the Plan - The Position and Compensation Plans for the Infrastructure and Utilities group shall apply to the corporations in the transport, the power, the infrastructure, and the water utilities sector, as follows: xxx
>
> d. Water Utilities
>
> Local Water Utilities
> Local Water Utilities Administration
> Metropolitan Waterworks and Sewerage System[16]

As can be gleaned from above, LWDs are among those included in the scope of LOI No. 97. A local water utility is defined as any district, city, municipality, province, investor-owned public utility or cooperative corporation which owns or operates a water system serving an urban center in the Philippines, except that the said term shall not include the Metropolitan Waterworks and Sewerage System (*MWSS*) or any system operated by the Bureau of Public Works.[17] It is, therefore, categorical that MNWD, as a LWD, is included in the coverage of LOI No. 97.

So although it is correct for MNWD to insist that LWDs were subject to the provisions of LOI No. 97, it is erroneous for it to claim that LWDs started to be covered by LOI No. 97 only in 1991 when the Court promulgated *Davao City Water District*. In the said case, it was ruled that LWDs, created pursuant to Presidential Decree (*P.D.*) No. 198, were GOCCs with original charter. It must be remembered that the interpretation of a law by this Court constitutes part of that law from the date it was originally passed, as it merely establishes the contemporaneous legislative intent that the interpreted law carried into effect.[18] Thus, when P.D. No. 198 was enacted in 1973, LWDs were already GOCCs included in the coverage of LOI No. 97.

No need to establish that the benefits in question were received since July 1, 1989

by incumbent employees as of the said date

MNWD correctly argues that the elements of incumbency and prior receipts are inapplicable in determining the propriety of its COLA back payments. In *Ambros v. COA*,[19] as cited in *Aquino*, the Court explained that in order for **non-integrated benefits** to be continued, they must have been received as of July 1, 1989 by incumbents as of the said date. Thus, when the benefit in question is not among the non-integrated benefits enumerated under Section 12 of the SSL or added by a subsequent issuance of the Department of Budget and Management (*DBM*), the twin requirements of incumbency and prior receipt find no application. Hence, in resolving the propriety of the COLA back payments, a resort to the abovementioned requirements is unnecessary.

Integration is the rule and not the exception

The Court, nevertheless, finds that the back payment of the COLA to MNWD employees was rightfully disallowed. Pertinent to the issue is Section 12 of the SSL, 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.

The consolidation of allowances in the standardized salary as stated in the above-cited provision is a new rule in Philippine position classification and compensation system. In *Maritime Industry Authority v. COA (MIA)*,[20] the Court explained that, in line with the clear policy of standardization set forth in Section 12 of the SSL, all allowances, including the COLA, were generally deemed integrated in the standardized salary received by government employees, and an action from the DBM was only necessary if additional non-integrated allowances would be identified. Accordingly, MNWD was without basis in claiming COLA back payments because the same had already been integrated into the salaries received by its employees.

Moreover, MNWD's reliance in PPA Employees is misplaced. The circumstances in the case at bench clearly differ from those in PPA Employees to warrant its application. In *Napocor Employees Consolidated Union v. The National Power Corporation (Napocor)*,[21] as cited in *MIA*, the Court clarified that the *PPA Employees* was inapplicable where there was no issue as to the incumbency of the employees, to wit:

> 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