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SECOND DIVISION

[G.R. No. 172593, April 20, 2016]

NAPOLEON S. RONQUILLO, JR., EDNA G. RAÑA, ROMEO REFRUTO, PONCIANO T. ANTEGRO, ET AL., PETITIONERS, VS. NATIONAL ELECTRIFICATION ADMINISTRATION, EDITA S. BUENO, MARIANO T. CUENCO, AND DIANA M. SAN LUIS, RESPONDENTS.

D E C I S I O N

LEONEN, J.:

Under Republic Act No. 6758, the Cost of Living Allowance (COLA) has been integrated into the standardized salary rates of government workers. Its back payment to the former employees of the National Electrification Administration is, therefore, unauthorized.

This resolves the Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure.[1] The Petition is an offshoot of the Regional Trial Court's disposition of Special Civil Action No. Q-04-53967.[2]

To provide the country's total electrification on an area coverage basis, the National Electrification Administration (NEA) was established as a government agency.[3] NEA later became a public corporation under Presidential Decree No. 269.[4] Expanded by succeeding laws,[5] NEA has since sought to bring electrical power to rural and remote areas, as well as enhance the competence of electric distribution utilities in a deregulated electricity market.[6]

Petitioners Napoleon S. Ronquillo, Jr., Edna G. Raña, Romeo Refruto, Ponciano T. Antegro, and 151 others[7] (Ronquillo, Jr., et al.) are former employees of NEA. Before July 1, 1989, NEA paid its employees their COLA, which was equivalent to 40% of their basic pay,[8] in addition to their basic pay and other allowances.[9]

On July 1, 1989, Republic Act No. 6758,[10] otherwise known as the Compensation and Position Classification Act of 1989, became the new salary standardization law applicable to all government officials and employees.[11]

Section 12[12] of Republic Act No. 6758 provides that, as a general rule, all allowances are already included in the new standardized salary rates. Thus, NEA discontinued paying the COLA of its employees from July 1, 1989.

Pursuant to Republic Act No. 6758,[13] the Department of Budget and Management issued Corporate Compensation Circular No. 10 dated February 15, 1989, otherwise known as Rules and Regulations for the Implementation of the Revised

Compensation and Position Classification Plan in Government-Owned and/or - Controlled Corporations and Government Financial Institutions (GOCCs/GFIs).[14]

Taking its cue from Section 12 of Republic Act No. 6758, which provides for the general rule of integration of allowances into the basic salary, Corporate Compensation Circular No. 10 states that allowances given on top of basic salary shall be "discontinued] without qualification[.]"[15]

Otherwise, payment of these allowances constitutes an "illegal disbursement of public funds."[16]

Corporate Compensation Circular No. 10, which took effect on November 1, 1989, was challenged before this Court.[17] In *De Jesus v. Commission on Audit*[18] this Court struck down Corporate Compensation Circular No. 10 because it lacked publication and the employees were not given the opportunity to be heard.[19] The Decision was promulgated on August 12, 1998.[20]

After Corporate Compensation Circular No. 10 was ruled as ineffective and unenforceable, several government agencies began giving back pays to their employees.[21] The back pay consisted of the allowances that had been discontinued.[22]

The Department of Budget and Management re-issued and published Corporate Compensation Circular No. 10, which became effective on March 16, 1999.[23] NEA paid the COLA of its employees for the period of July 1, 1989 until July 15, 1999.[24]

On November 12, 2001, the Department of Budget and Management issued Budget Circular 2001-03[25] stating that the COLA, among others, is already deemed integrated in the basic salary.[26] Payment of the COLA is, therefore, unauthorized.[27]

The relevant portions of Budget Circular 2001-03 read as follows:

> 2.0 The [Supreme Court] in [*De Jesus v. Commission on Audit and Jamoralin*] declared as ineffective due to non-publication, Corporate Compensation Circular (CCC) No. 10[,] which contained the rules and regulations for the implementation of RA No. 6758 insofar as Government-owned or Controlled Corporations and Government Financial Institutions are concerned.
>
> 3.0 In view of such declaration, therefore, the explicit provisions of Section 12 of RANo. 6758 shall prevail....
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> x x x
>
> Consequently, *only those allowances specifically mentioned in the exceptions under Section 12 may continue to be granted; all others are deemed integrated in the standardized salary rates.*
>
> 4.0 This provision shall apply to all government employees in the employ

> of NGAs [national government agencies], LGUs [local government units], GOCCs [government owned and controlled corporations] and GFIs [government financial institutions].
>
> 5.0 Further, *the standardized salaries reflected in the current budgets of NGAs, LGUs, GOCCs and GFIs are already inclusive of the consolidated allowances.* Thus, providing for a separate grant of said allowances on top of the standardized salary rates is tantamount to double compensation which is prohibited by the Constitution.
>
> 6.0 In view of the foregoing, *payments of allowances and compensation, such as COLA*, amelioration allowance and inflation-connected allowances, among others, which are *already integrated in the basic salary*, are deemed unauthorized, unless otherwise provided by law.[28] (Emphasis supplied)

In 2001,[29] Congress passed Republic Act No. 9136,[30] otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), which provides for a framework to restructure the power industry.[31]

Under Section 63 of the EPIRA, national government employees who would be displaced or separated from services due to the restructuring of the power industry are entitled to separation pay. These affected employees would be considered legally terminated, pursuant to Rule 33, Section 3 (b)(ii)[32] of the EPIRA Implementing Rules and Regulations.

The reorganization of NEA affected the employment of Ronquillo, Jr., et al. On November 7, 2003, more than half of them chose early retirement, while the rest were dismissed from work on December 31, 2003.[33]

Ronquillo, Jr., et al. were given separation pay, the total amount of which excludes the balance of their COLA,[34] specifically for the period of July 16, 1999 until their separation from service on November 7 or December 31, 2003.[35] They demanded[36] that NEA, Administrator Edita S. Bueno (Administrator Bueno),[37] Deputy Administrator for Corporate Resources Mariano T. Cuenco,[38] and Human Resources Management Director Diana M. San Luis[39] (NEA, et al.) give back pay for their COLA,[40] but this was refused.[41] NEA, et al. informed them that NEA needed the funds to cover the separation pay of all the affected employees.[42]

On September 8, 2004, Administrator Bueno wrote to the Commission on Audit, seeking to clarify the legality of paying the COLA as part of the back pay of former NEA employees.[43]

On October 12, 2004, Edgardo T. Guiriba, Supervising Auditor of the Commission on Audit, furnished a copy of the 1st Indorsement[44] dated September 22, 2004 to Administrator Bueno.[45] Prepared by the Commission on Audit's Director of Legal and Adjudication for the Office of Legal Affairs, the 1st Indorsement affirmed the position of the Commission on Audit's Director of Cluster III for Public Utilities that

NEA employees were no longer entitled to the payment of the COLA after Corporate Compensation Circular No. 10 was finally published.[46] the Regional Trial Court.[47]

In its Decision[48] dated December 9, 2005, the Regional Trial Court denied the Petition for lack of merit. The trial court held:

> As correctly raised by the respondents, in order for a petition for mandamus, the petitioner must show that he has a well defined, clear and certain right for the grant thereof. Section 3 Rule 65 of the Revised Rules of Court refers to unlawful neglect of the performance of an act enjoined by law or which unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled.
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> In the advent of RA 6758 and DBM CC[C] No. 10, the petition must clearly establish with certainty the relief sought. Petitioners have *failed to cite any provision of law which unequivocally provides for petitioners' continued entitlement to the COLA after the reissuance and publication of DBM CC[C] No. 10*. There was likewise no showing of a law that clearly establishes petitioners' legal right to the same which respondents may be directed to implement. Considering the reissuance and publication of DBM CC[C] No. 10, a question arises whether the payment of cost of living allowance would continue. This already creates doubt as to the legal basis of petitioner's (sic) claim. Clearly, petitioners must first establish a clear legal right to the act required to be done or the relief sought. A clear legal right derived from a clear provision of law or jurisprudence and not from mere conjectures or doubtful interpretation of the law.
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> WHEREFORE, the petition for Mandamus is DENIED for lack of merit.[49] (Emphasis supplied)

Ronquillo, Jr., et al. moved for reconsideration,[50] but the Motion was likewise denied[51] on March 28, 2006. Raising a question of law,[52] they appealed directly before this Court under Rule 45 of the 1997 Revised Rules of Court.[53]

In the Resolution dated August 30, 2006, this Court required Ronquillo, Jr., et al. to submit a sufficient verification and certification against forum shopping, as only Atty. Napoleon S. Ronquillo, Jr. affixed his signature.[54]

By way of compliance,[55] Ronquillo, Jr., et al. appointed Edna G. Raña as attorney-in-fact of other petitioners and authorized her to sign the Verification and Certification Against Forum Shopping on their behalf.[56] Of the 155 named petitioners, only 103 signed Edna G. Raña's Special Power of Attorney. Dennis Abante, Restituto Abellera, and other named petitioners[57] did not.[58]

In their Petition for Review on Certiorari,[59] Ronquillo, Jr., et al. claim that they "have acquired a vested right over" the payment of the COLA,[60] and that its non-payment is equivalent to diminution of pay.[61]

In the Resolution dated August 30, 2006, this Court required NEA, Edita S. Bueno, Mariano T. Cuenco, and Diana M. San Luis (NEA, et al.) to file their Comment on the Petition. NEA, et al. failed to timely submit their Comment.[62] They gave an Explanation and Apology,[63] which this Court accepted and noted.[64]

In their Comment dated April 17, 2007, NEA, et al. argued that the publication of Corporate Compensation Circular No. 10 terminated Ronquillo, Jr., et al.'s entitlement to COLA.[65] The lack of legal basis for their COLA claims means that mandamus cannot compel NEA, et al. to release payment for such claims.[66]

Ronquillo, Jr., et al. filed their Reply on April 12, 2007.[67] They argue that the second sentence of Section 12 of Republic Act No. 6758 serves as the basis for their entitlement to the COLA. The second sentence reads as follows: "Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 [and are] not integrated into the standardized salary rates[,] shall continue to be authorized."

Ronquillo, Jr., et al. argue that they are still entitled to the balance of their COLA benefits from July 16, 1999 up to November 7 or December 31, 2003, the date of their separation from service.[68] They claim that they had been receiving COLA benefits before Republic Act No. 6758 became effective, and the COLA was not integrated into their standardized salary rate.[69] According to them, the non-payment of their COLA is a diminution of compensation, over which they have a vested right.[70]

On the other hand, NEA, et al. state that the Regional Trial Court has no jurisdiction over the subject matter.[71] They allege that the pleading states no cause of action because petitioners failed to establish a clear legal right for the issuance of a writ of mandamus.[72] There is neither jurisprudence nor law to support their claim for the COLA back pay.[73]

Further, NEA, et al. argue that there is no diminution of benefits, and that Ronquillo, Jr., et al. failed to show that the COLA was not yet integrated into their salaries.[74] Even the Commission on Audit affirmed Ronquillo, Jr., et al.'s non-entitlement to the COLA.[75] NEA, et al. state that if they released funds for the payment of the COLA, they would be at risk of violating Technical Malversation under Article 217[76] of the Revised Penal Code.[77]

For resolution are the following:

First, whether petitioners Ronquillo, Jr., et al. can appeal the Regional Trial Court's Decision directly before this Court; and

Second, whether petitioners Ronquillo, Jr., et al. are entitled to the payment of the COLA after the effectivity of Republic Act No. 6758 and Corporate Compensation Circular No. 10.