801 Phil. 427

EN BANC

[G.R. No. 213453, November 29, 2016]

PHILIPPINE HEALTH INSURANCE CORPORATION, PETITIONER, VS. COMMISSION ON AUDIT, MA. GRACIA PULIDO TAN, CHAIRPERSON; AND JANET D. NACION, DIRECTOR IV, RESPONDENTS.

D E C I S I O N

PERALTA, J.:

Before the Court is a special civil action for *certiorari* under Rule 64, in relation to Rule 65 of the 1997 Rules of Civil Procedure, as amended, seeking to reverse and set aside the Decision No. 2013-208[1] dated November 20, 2013 and Resolution dated April 4, 2014 of the Commission on Audit (*COA*), which affirmed the Notice of Disallowance (*ND*) Philippine Health Insurance Corporation (*PHIC*) 2008-003 (2004) [2] dated February 7, 2008 of the COA Legal Service.

The antecedent facts are as follows:

The instant case stems from petitioner PHIC's grant of several allowances to its officers and employees that were subsequently disallowed by respondent COA. In its PHIC Board Resolution No. 406, s. 2001[3] dated May 31, 2001, for one, petitioner granted the payment of the Collective Negotiation Agreement Signing Bonus (*CNASB*) of P5,000.00 each to all qualified employees due to the extension of the then existing CNA between the PHIC management and the PhilHealth Employees Association (*PHICEA*) for the period of another three (3) years beginning April of 2001. For another, in its PHIC Board Resolution No. 385, s. 2001[4] effective January 1, 2001, petitioner approved. the payment of the Welfare Support Assistance (*WESA*) of P4,000.00 each, in lieu of the subsistence and laundry allowances paid to public health workers under Republic Act (*R.A.*) No. 7305, otherwise known as the *Magna Carta of Public Health Workers*. Petitioner then resolved to approve the grant of the Labor Management Relations Gratuity (*LMRG*) by virtue of its PHIC Board Resolution No. 717, s. 2004[5] dated July 22, 2004, in recognition of harmonious labor-management relations of its employees with the management. Finally, for the services rendered during the period beginning July 1989 until January 1995, petitioner paid the Cost of Living Allowance (*COLA*) to personnel it had absorbed from the Philippine Medical Care Commission (*PMCC*) by virtue of Section 51[6] of R.A. No. 7875, otherwise known as *The National Health Insurance Act of 1995*.[7]

On February 7, 2008, however, pursuant to the recommendations of the Supervising Auditor of the PHIC in various Audit Observation Memoranda (*AOM*),[8] respondent Janet D. Nacion, Director IV of the Legal and Adjudication Office - Corporate of the COA, issued ND PHIC 2008-003 (2004), disallowing the payment of the aforementioned allowances granted to PHIC officers and employees in the total

amount of P87,699,144.00.[9] According to respondent Nacion, the payment of the CNASB was contrary to the doctrine enunciated in *Social Security System (SSS) v. COA*[10] wherein the Court expressly invalidated the payment of the same. With respect to the WESA, Nacion maintained that its payment was made without legal basis in the absence of approval from the Office of the President.[11] As for the payment of the LMRG, Nacion found that it was merely a duplication of the Performance Incentive Bonus (*PIB*) which was granted to employees based on their good performance, increased efficiency and productivity. Lastly, Nacion disallowed the payment of back COLA to PHIC personnel ratiocinating that it should be collected not from petitioner PHIC but from the government agency where the services have been rendered prior to its creation in January 1995.[12]

Petitioner filed its motion for reconsideration which was, however, denied by the COA Legal Services Sector (*LSS*) in its Decision No. 2010-020[13] issued on May 21, 2010. On appeal, the COA Commission Proper (CP) sustained the disallowance in its Decision No. 2013-208 dated November 20, 2013.[14] Thereafter, in a Resolution[15] dated April 4, 2014, the COA CP *en banc* further denied petitioner's motion for reconsideration.

Aggrieved, petitioner filed the instant petition before the Court raising the following issues:

I.

WHETHER THE COA GRAVELY ABUSED ITS DISCRETION, AMOUNTING TO LACK OR EXCESS OF JURISDICTION, IN ISSUING THE ASSAILED DECISION AND RESOLUTION.

II.

WHETHER THE COA DISREGARDED THE FISCAL AUTONOMY GRANTED TO PHIC UNDER SECTION 16 (N), R.A. 7875, AS AMENDED, AS WELL AS EXISTING AND RELEVANT JURISPRUDENCE, IN AFFIRMING THE ND PHIC 2008-003 (2004).

III.

WHETHER PHIC'S PAYMENTS OF THE CNASB, LMRG, WESA, AND BACK COLA IN FAVOR OF ITS OFFICERS AND EMPLOYEES AMOUNTING TO PHP87,699,144.00 WAS PROPER.

IV.

GRANTING THAT THE PAYMENTS WERE NOT PROPER, WHETHER THE PHIC OFFICERS AND EMPLOYEES CAN BE REQUIRED TO REFUND THE AMOUNTS RECEIVED.

Petitioner PHIC raises several infirmities attendant in respondent COA's disallowance. *First*, contrary to respondent's findings, petitioner paid the CNASB to its regular *plantilla* personnel in 2001 and not in 2004 as evinced by the Certification and payrolls it duly presented.[16] During said year, such grant was expressly

sanctioned by Budget Circular No. 2000-19 issued by the Department of Budget and Management (*DBM*) on December 15, 2000 which authorizes the payment of the signing bonus to each entitled rank-and-file personnel. During said year, moreover, the ruling in *SSS v. COA*[17] had not yet been laid down by the Court, which was actually promulgated on July 11, 2002, or more than a year *after* the payment of the subject CNASB. Thus, on the basis of the established principle of prospective application of laws, the invalidation of the CNASB enunciated in the SSS case cannot be used as legal basis in disallowing the issuance of said bonus.[18]

Second, petitioner asserts that the WESA was duly granted in compliance with applicable law, particularly R.A. No. 7305 or the *Magna Carta of Public Health Workers (PHW)*. According to petitioners, the WESA was issued in lieu of the subsistence and laundry allowance due to PHWs under Section 22 of the Magna Carta, which provides that said subsistence allowance shall be "computed in accordance with prevailing circumstances as determined by the Health Secretary in consultation with the Management Health Worker's Consultative Councils." Petitioner explains that respondent COA's assertion that the WESA should be disallowed because it was granted without the participation of the Health Secretary is not entirely accurate. Under Section 18 (a) of R.A. No. 7875, the Board of Directors of the PHIC is composed of eleven (11) members (which was increased to sixteen (16) members under R.A. No. 10606 passed in June 2013) with the Health Secretary sitting as the *Ex-Officio*[19] As part of said PHIC board, its unanimous passage of PHIC Board Resolution No. 385, s. 2001 granting the subject WESA was compliantly the positive act of then Health Secretary Dr. Alberto G. Romualdez, Jr. required under the law.[20] Any official act of the PHIC Board, with the Health Secretary sitting as *Ex-Officio* Chairperson, cannot be considered as an exclusive act of the board, but also as an act of the Health Secretary in his primary capacity as such.

Third, petitioner contends that contrary to respondent's allegation, the LMRG is not merely a duplicate of the PIB. The LMRG was passed in the exercise of the PHIC Board of its "fiscal autonomy" to fix compensation and benefits of its personnel under Section 16 (n) of R.A. No. 7875 in recognition of notable labor-management relations, while the PIB was granted as a performance-based incentive under Executive Order (*E.O.*) No. 486, entitled *Establishing a Performance-Based Incentive System for Government-Owned or Controlled Corporations and for Other Purposes*. [21] In addition, the two (2) grants not only have different requirements for entitlement but also differ in their amounts and manner of computation.

Fourth, with respect to the grant of the COLA back pay, petitioner posits that while it agrees with the position taken by respondent COA Director Nacion that the Court, in *De Jesus v. COA*,[22] has given *imprimatur* on the propriety of the said COLA during the time when the DBM Corporate Compensation Circular (CCC) 10 was in legal limbo, it, nevertheless, disagrees with her view that the PHIC is not legally bound to pay the same to its absorbed personnel for their services were not rendered to PHIC but to another government agency prior to PHIC's creation.[23] Petitioner recounts that the COLA back pay was for services rendered between July 1989 and January 1995 when the payment of the same had been discontinued by reason of DBM CCC 10 issued in July 1995, pursuant to R.A. No. 6758, or the *Salary Standardization Law* (*SSL*). But the failure to publish the DBM CCC 10 integrating COLA into the standardized salary rates meant that the COLA was not effectively integrated as of

July 1989 but only on March 16, 1999 when the circular was published as required by law. Thus, in between those two dates, the employees were still entitled to receive the COLA. But unlike respondent Nacion, who opined that petitioner PHIC has no business to settle the obligations of other government entities having a separate and distinct legal personality therefrom, petitioner PHIC invokes Section 51 of R.A. No. 7875 which transfers all the functions and assets of the defunct PMCC to PHIC. According to petitioner, the term "functions" necessarily means to include then PMCC's obligation to pay the benefits due to its employees who have been absorbed by PHIC such as the COLA that was unduly withdrawn from their salaries after the issuance of DBM CCC 10 in 1989.[24] This is in keeping with the principle of equal protection of laws guaranteed under the Constitution. In the end, petitioner posits that since PHIC personnel received the CNASB, WESA, LMRG and back COLA in good faith, they should not be required to refund them.[25]

For its part, respondent COA initially raised certain procedural defects in petitioner's action. For one, it is alleged that petitioner PHIC is not the real party-in-interest and, therefore, has no *locus standi* to file the instant petition.[26] This is because the parties who benefitted and who will be injured by the disallowance are the officers and employees of PHIC, and not PHIC itself. For another, the special civil action for *certiorari* under Rule 65 is improper as it was not shown that respondent COA acted without jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction.

Substantially, moreover, respondent COA asseverates that PHIC's socalled "fiscal autonomy" does not preclude the COA's power to disallow the grant of allowances.[27] In the exercise of said power, respondent COA claims that petitioner, in granting the subject allowances, cannot rely on Section 16 (n)[28] of R.A. No. 7875. This is because as held in *Government Service Insurance System (GSIS) v. Civil Service Commission*,[29] the term "compensation" "excludes all bonuses, per diems, allowances and overtime pay, or salary pay or compensation given in addition to the base pay of the position or rank as fixed by law or regulations."

Respondent COA further insists that with respect to the CNASB, the payment of the same was made not in 2001, as petitioner claims, but on June 11, 2004, based on an Automatic Debit Advice "dated 6-11-2004."[30] Consequently, *SSS v. COA*[31] is applicable. In fact, in a letter dated October 18, 2004, the DBM reminded the PHIC of the said ruling. Thus, respondent COA posits that while it is true that the payment of the CNASB was allowed under DBM Budget Circular No. 2000-19, dated December 15, 2000, which was the basis of PHIC Board Resolution No. 406, s. 2001 approving said grant, actual payment thereof by petitioner PHIC, however, was made only on June 11, 2004, or after the pronouncement in *SSS v. COA*. Moreover, said Board Resolution has already been made ineffective by Resolution No. 04, s. 2002 and Resolution No. 02, s. 2003 of the Public Sector LaborManagement Council (*PSLMC*), which allows the grant of the CNA Incentive but declares the CNASB illegal as a form of additional compensation.[32] Respondent adds that the pieces of evidence submitted by petitioner consisting of the Certification and payrolls are self-serving for they were made out of court, the COA having no opportunity to impugn the same in open court.[33]

Respondent COA also rejects petitioner's assertions on the validity of the grant of

the WESA claiming that the act of the PHIC Board is not the act of the individual composing the Board in view of the settled rule that a corporation is invested by law with a personality separate and distinct from those of the persons composing it.[34] Thus, the act of the PHIC Board of which the Health Secretary is the ex-officio chair is separate and distinct from the Health Secretary. Consequently, the benefit given as WESA is invalid because the rate thereof was not determined by the Health Secretary as mandated by the Magna Carta of PHWs.

As regards the LMRG, respondent maintains that it is exactly the same as the PIB earlier granted to PHIC employees based on their good performance, increased productivity and efficiency, for good performance is the result of a harmonious relationship between the employees and the management.[35] Even assuming that the LMRG does not partake of the nature of the PIB, the former nonetheless remains an additional benefit that requires prior approval of the Office of the President (*OP*) as mandated by Memorandum Order (*MO*) No. 20 dated June 25, 2001. Said MO requires presidential approval, for any increases in salary or compensation of Government-Owned and Controlled Corporations (*GOCCs*) that are not in accordance with the SSL.

As for the COLA back pay, respondent reiterates Nacion's view that petitioner PHIC is unauthorized to settle the obligations PMCC had because it is not one of the powers and functions enumerated in its charter, particularly Section 16 of R.A. 7875. Said functions do not include the obligation to pay the benefits due to the employees of PMCC or other employees of the government who have been absorbed by the PHIC. Respondent adds that at the time covering the period of July 1989 to January 1995, PHIC had no legal personality yet, for it was created only in 1995.[36]

Thus, the obligation to pay the COLA commenced only from that time. Prior to 1995, the COLA of PMCC employees should have been collected from the PMCC where they rendered their services.

The petition is partly meritorious.

At the outset, the Court rejects the alleged procedural barriers that supposedly prevent it from entertaining the instant petition. Respondent claims that petitioner PHIC is not the proper "aggrieved party" to file the petition because the parties who actually received and who will be injured by the disallowance are the officers and employees of PHIC, and not PHIC itself. Time and again, the Court has defined *locus standi* or legal standing as a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged. The gist of the question of standing is whether a party alleges such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.[37]

In this regard, the Court. finds that petitioner PHIC certainly possesses the legal standing to file the instant action. Petitioner comes before the Court invoking its power to fix the compensation of its employees and personnel enunciated under the National Health Insurance Act. Accordingly, when respondent disallowed petitioner's grant of certain allowances in its exercise of said power, it effectively and directly challenged petitioner's authority to grant the same. Thus, petitioner must be