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[G.R. No. 207145, July 28, 2015]

**GIL G. CAWAD, MARIO BENEDICT P. GALON, DOMINGO E. LUSAYA, JEAN V. APOLINARES, MA. LUISA S. OREZCA, JULIO R. GARCIA, NESTOR M. INTIA, RUBEN C. CALIWATAN, ADOLFO Q. ROSALES, MA. LUISA NAVARRO, AND THE PHILIPPINE PUBLIC HEALTH ASSOCIATION, INC., PETITIONERS, VS. FLORENCIO B. ABAD, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT (DBM); ENRIQUE T. ONA, IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF HEALTH (DOH); AND FRANCISCO T. DUQUE III, IN HIS CAPACITY AS CHAIRMAN OF THE CIVIL SERVICE COMMISSION (CSC),
RESPONDENTS.**

DECISION

PERALTA, J.:

Before the Court is a petition for *certiorari* and prohibition under Rule 65 of the Rules of Court filed by the officers and members of the Philippine Public Health Association, Inc. (PPHAI) assailing the validity of Joint Circular No. 1^[1] dated November 29, 2012 of the Department of Budget and Management (DBM) and the Department of Health (DOH) as well as Item 6.5 of the Joint Circular^[2] dated September 3, 2012 of the DBM and the Civil Service Commission (CSC).

The antecedent facts are as follows:

On March 26, 1992, Republic Act (RA) No. 7305, otherwise known as *The Magna Carta of Public Health Workers* was signed into law in order to promote the social and economic well-being of health workers, their living and working conditions and terms of employment, to develop their skills and capabilities to be better equipped to deliver health projects and programs, and to encourage those with proper qualifications and excellent abilities to join and remain in government service.^[3] Accordingly, public health workers (PHWs) were granted the following allowances and benefits, among others:

Section 20. Additional Compensation. - Notwithstanding Section 12 of Republic Act No. 6758, public health workers shall receive the following allowances: hazard allowance, subsistence allowance, longevity pay, laundry allowance and remote assignment allowance.

Section 21. **Hazard Allowance.** - Public health workers in hospitals, sanatoria, rural health units, main health centers, health infirmaries, barangay health stations, clinics and other health-related establishments located in difficult areas, strife-torn or embattled areas, distressed or isolated stations, prisons camps, mental hospitals, radiation-exposed

clinics, laboratories or disease-infested areas or in areas declared under state of calamity or emergency for the duration thereof which expose them to great danger, contagion, radiation, volcanic activity/eruption, occupational risks or perils to life as determined by the Secretary of Health or the Head of the unit with the approval of the Secretary of Health, shall be compensated hazard allowances equivalent to at least **twenty-five percent (25%)** of the monthly basic salary of health workers receiving **salary grade 19 and below**, and **five percent (5%)** for health workers with **salary grade 20 and above**.

Section 22. **Subsistence Allowance.** - Public health workers who are required to render service within the premises of hospitals, sanitarium, health infirmaries, main health centers, rural health units and barangay health stations, or clinics, and other health-related establishments in order to make their services available at any and all times, shall be entitled to full subsistence allowance of **three (3) meals which may be computed in accordance with prevailing circumstances as determined by the Secretary of Health** in consultation with the Management-Health Worker's Consultative Councils, as established under Section 33 of this Act: *Provided*, That representation and travel allowance shall be given to rural health physicians as enjoyed by municipal agriculturists, municipal planning and development officers and budget officers.

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.^[4]

Pursuant to Section 35^[5] of the *Magna Carta*, the Secretary of Health promulgated its Implementing Rules and Regulations (*IRR*) in July 1992. Thereafter, in November 1999, the DOH, in collaboration with various government agencies and health workers' organizations, promulgated a Revised *IRR* consolidating all additional and clarificatory rules issued by the former Secretaries of Health dating back from the effectivity of the *Magna Carta*. The pertinent provisions of said Revised *IRR* provide:

6.3. **Longevity Pay.** — A monthly longevity pay equivalent to **five percent (5%)** of the present monthly basic pay shall be paid to public health workers **for every five (5) years of continuous, efficient and meritorious services** rendered as certified by the Head of Agency/Local Chief Executives commencing after the approval of the Act. (April 17, 1992)

x x x x

7.1.1. Eligibility to Receive **Hazard Pay.** — All public health workers covered under RA 7305 are eligible to receive hazard pay **when the nature of their work exposes them to high risk/low risk hazards for at least fifty percent (50%) of their working hours** as determined and approved by the Secretary of Health or his authorized representatives.

x x x x

7.2.1. Eligibility for **Subsistence Allowance**

a. All public health workers covered under RA 7305 are eligible to receive full subsistence allowance **as long as they render actual duty**.

b. Public Health Workers shall be entitled to full Subsistence Allowance of **three (3) meals which may be computed in accordance with prevailing circumstances as determined by the Secretary of Health** in consultation with the Management-Health Workers Consultative Council, as established under Section 33 of the Act.

c. Those public health workers who are out of station shall be entitled to per diems in place of Subsistence Allowance. Subsistence Allowance may also be commuted.

x x x x

7.2.3 Rates of Subsistence Allowance

a. Subsistence allowance shall be implemented **at not less than PhP50.00 per day** or PhP1,500.00 per month as certified by head of agency.

x x x x

d. **Part-time public health workers**/consultants are **entitled to one-half (1/2)** of the prescribed rates received by full-time public health workers.^[6]

On July 28, 2008, the Fourteenth Congress issued Joint Resolution No. 4, entitled *Joint Resolution Authorizing the President of the Philippines to Modify the Compensation and Position Classification System of Civilian Personnel and the Base Pay Schedule of Military and Uniformed Personnel in the Government, and for other Purposes*, approved by then President Gloria Macapagal-Arroyo on June 17, 2009, which provided for certain amendments in the *Magna Carta* and its IRR.

On September 3, 2012, respondents DBM and CSC issued one of the two assailed issuances, DBM-CSC Joint Circular No. 1, Series of 2012, to prescribe the rules on the grant of Step Increments due to meritorious performance and Step Increment due to length of service.^[7] Specifically, it provided that "an official or employee authorized to be granted Longevity Pay under an existing law is not eligible for the grant of Step Increment due to length of service."^[8]

Shortly thereafter, on November 29, 2012, respondents DBM and DOH then circulated the other assailed issuance, DBM-DOH Joint Circular No. 1, Series of 2012, the relevant provisions of which state:

7.0. Hazard Pay. - Hazard pay is an additional compensation for performing hazardous duties and for enduring physical hardships in the

course of performance of duties.

As a general compensation policy, and in line with Section 21 of R. A. No. 7305, Hazard Pay may be granted to PHWs **only if the nature of the duties and responsibilities of their positions, their actual services, and location of work expose them to great danger, occupational risks, perils of life, and physical hardships; and only during periods of actual exposure to hazards and hardships.**

x x x x

8.3 The **Subsistence Allowance** shall be **P50** for each day of actual full-time service, or **P25** for each day of actual part-time service.

x x x x

9.0 Longevity Pay (LP)

9.1 Pursuant to Section 23 of R. A. No. 7305, a PHW may be granted LP at 5% of his/her current monthly basic salary, in recognition of every 5 years of continuous, efficient, and meritorious services rendered as PHW. The grant thereof is based on the following criteria:

9.1.1 **The PHW holds a position in the agency plantilla of regular positions;** and

9.1.2 He/She has rendered at least satisfactory performance and has not been found guilty of any administrative or criminal case within all rating periods covered by the 5-year period.

In a letter^[9] dated January 23, 2013 addressed to respondents Secretary of Budget and Management and Secretary of Health, petitioners expressed their opposition to the Joint Circular cited above on the ground that the same diminishes the benefits granted by the *Magna Carta* to PHWs.

Unsatisfied, petitioners, on May 30, 2013, filed the instant petition raising the following issues:

I.

WHETHER RESPONDENTS ENRIQUE T. ONA AND FLORENCIO B. ABAD ACTED WITH GRAVE ABUSE OF DISCRETION AND VIOLATED SUBSTANTIVE DUE PROCESS WHEN THEY ISSUED DBM-DOH JOINT CIRCULAR NO. 1, S. 2012 WHICH:

- A) MADE THE PAYMENT OF HAZARD PAY DEPENDENT ON THE ACTUAL DAYS OF EXPOSURE TO THE RISK INVOLVED;
- B) ALLOWED PAYMENT OF SUBSISTENCE ALLOWANCE AT P50 FOR EACH DAY OF ACTUAL FULL-TIME SERVICE OR P25 FOR EACH DAY OF ACTUAL PART-TIME SERVICE WITHOUT CONSIDERATION OF THE PREVAILING CIRCUMSTANCES AS DETERMINED BY

THE SECRETARY OF HEALTH IN CONSULTATION WITH
THE MANAGEMENT HEALTH WORKERS'
CONSULTATIVE COUNCILS;

- C) REQUIRED THAT LONGEVITY PAY BE GRANTED ONLY
TO PHWs WHO HOLD PLANTILLA AND REGULAR
POSITIONS; AND
- D) MADE THE JOINT CIRCULAR EFFECTIVE ON JANUARY
1, 2013, BARELY THREE (3) DAYS AFTER IT WAS
PUBLISHED IN A NEWSPAPER OF GENERAL
CIRCULATION ON DECEMBER 29, 2012, IN
VIOLATION OF THE RULES ON PUBLICATION.

II.

WHETHER RESPONDENTS FRANCISCO T. DUQUE AND FLORENCIO B. ABAD ACTED WITH GRAVE ABUSE OF DISCRETION WHEN THEY ISSUED DBM-CSC JOINT CIRCULAR NO. 1, S. 2012 DATED SEPTEMBER 2, 2012 WHICH PROVIDED THAT AN OFFICIAL OR EMPLOYEE ENTITLED TO LONGEVITY PAY UNDER EXISTING LAW SHALL NO LONGER BE GRANTED STEP INCREMENT DUE TO LENGTH OF SERVICE.

III.

WHETHER RESPONDENTS' ISSUANCE OF DBM-DOH JOINT CIRCULAR NO. 1, S. 2012 IS NULL AND VOID FOR BEING AN UNDUE EXERCISE OF LEGISLATIVE POWER BY ADMINISTRATIVE BODIES WHEN RESPONDENT ONA ALLOWED RESPONDENT ABAD TO SIGNIFICANTLY SHARE THE POWER TO FORMULATE AND PREPARE THE NECESSARY RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF THE MAGNA CARTA.

IV.

WHETHER RESPONDENT ONA WAS REMISS IN IMPLEMENTING THE MANDATE OF THE MAGNA CARTA WHEN HE DID NOT INCLUDE THE MAGNA CARTA BENEFITS IN THE DEPARTMENT'S YEARLY BUDGET.

V.

WHETHER RESPONDENTS' ISSUANCE OF DBM-DOH JOINT CIRCULAR NO. 1, S. 2012 IS NULL AND VOID FOR BEING AN UNDUE EXERCISE OF LEGISLATIVE POWER BY ADMINISTRATIVE BODIES WHEN THE SAME WAS ISSUED SANS CONSULTATION WITH PROFESSIONAL AND HEALTH WORKERS' ORGANIZATIONS AND UNIONS.

Petitioners contend that respondents acted with grave abuse of discretion when they issued DBM-DOH Joint Circular No. 1, Series of 2012 and DBM-CSC Joint Circular No. 1, Series of 2012 which prescribe certain requirements on the grant of benefits that are not otherwise required by RA No. 7305. Specifically, petitioners assert that the DBM-DOH Joint Circular grants the payment of Hazard Pay only if the nature of the PHWs' duties expose them to danger when RA No. 7305 does not make any qualification. They likewise claim that said circular unduly fixes Subsistence Allowance at P50 for each day of full-time service and P25 for part-time service which are not in accordance with prevailing circumstances determined by the