

## **EN BANC**

**[ G.R. No. 153266, March 18, 2010 ]**

**VICTORIA C. GUTIERREZ, JOEL R. PEREZ, ARACELI L. YAMBOT, CORAZON F. SORIANO, LORNA P. TAMOR, ROMEO S. CONSIGNADO, DIVINA R. SULIT, ESTRELITA F. IRESARE, ROSALINDA L. ALPAY, AUREA L. ILAGAN AND ALL THE OTHER CONCERNED EMPLOYEES OF THE OFFICE OF THE SOLICITOR GENERAL, PETITIONERS, VS. DEPARTMENT OF BUDGET AND MANAGEMENT, HONORABLE SECRETARY EMILIA T. BONCODIN AND DIRECTOR LUZ M. CANTOR, RESPONDENTS,**

**UNIVERSITY OF THE PHILIPPINES, AMADO EUROPA, MERCEDITA REYES, CONCHITA ABARCAR, LUCIO ABERIN, BIENVENIDO BIONG, SOLOMON CELIZ, WILFREDO CORNEL, TOMAS FORIO, ROGELIO JUNTERRIAL, JAIME PERALTA, PILAR RILLAS, WILFREDO SAGUN, JESUS SUGUITAN, LUIS TORRES, JOSE VERSOZA AND ALL THE OTHER CONCERNED INCUMBENT AND RETIRED EMPLOYEES OF THE SOCIAL SECURITY SYSTEM V. SOCIAL SECURITY SYSTEM**

**CONSUELO A. TAGARO, REYNALDO S. CALLANO, AIDA A. MARTINEZ, PRISCILLA P. COSTES, RICELI C. MENDOZA, ARISTON CALVO, SAMSON L. MOLAO, MANUEL SABUTAN, VILMA GONZALES, RUTH C. MAPANAO, NELSON M. BELGIRA, JESUS ANTONIO G. DERIJE V. UNIVERSITY OF SOUTHERN MINDANAO CONFEDERATION OF INDEPENDENT UNIONS IN THE PUBLIC SECTOR (CIU)**

**ESTHER I. ABADIANO AND OTHER FORTY ONE THOUSAND INDIVIDUAL TEACHERS INTERVENORS  
ELPIDIO F. FERRER, MARIKINA CITY FEDERATION OF PUBLIC SCHOOL TEACHERS, INC., REPRESENTED BY ITS PRESIDENT ELPIDIO F. FERRER, AND ALL OTHER INDIVIDUAL PUBLIC SCHOOL TEACHERS IN CENTRAL LUZON, NORTHERN LUZON, SOUTHERN TAGALOG, NATIONAL CENTRAL REGION, CARR AND MINDANAO REPRESENTED BY THEIR RESPECTIVE ATTORNEYS-IN-FACT, ATTORNEYS DANTE ILAYA AND VIRGINIA SUAREZ-PINLAC AND ACTION AND SOLIDARITY FOR THE EMPOWERMENT OF TEACHERS (ASSERT), REPRESENTED BY ITS PRESIDENT AMABLE TUIBEIO, ET AL. HARRIS M. SINOLINDING, KALANTONGAN P. AKIL, DAUNDI B. BAKONG, TERESITA C. DE GUZMAN, QUEENIE A. HABIBUN, JOSE T. MAUN, VIVIENLE P. MARAGGUN, SAAVEDRA M. MANTIKAYAN, GIJIT C. PARON, IRWIN R. QUINAIN, DATUMANONG O. TAGITICAN AND HYDIE P. WONG, AND ALL OTHER CONCERNED EMPLOYEES OF THE COTABATO FOUNDATION COLLEGE OF SCIENCE AND TECHNOLOGY (CFCST) V. COTABATO FOUNDATION COLLEGE OF SCIENCE AND TECHNOLOGY AND DEPARTMENT OF BUDGET AND**

**MANAGEMENT**

**FRANCISCA C. CASTRO, DARIO C. VARGAS, MA. DEBBIE M. RESMA, RAMON P. CASIL, TERESITA C. BUSADRE, CRISTINA V. MANALO, SAUL SAN RAMON, ALEXIS R. REBURIANO, ROSALITO D. ROSA, DR. FERNANDO C. JAVIER, DR. ROSEMARIE M. YAGUIE, DR. GIL T. MAGBANUA, AND ALL OTHER CONCERNED PUBLIC SCHOOL TEACHERS OF QUEZON CITY V. DEPARTMENT OF**

**BUDGET AND MANAGEMENT**

**WILMA Q. NOBLEZA, ELEANOR M. CASTRO, JOSE B. BUSTILLO, JR., ABELARDO E. DE GUZMAN, EDWIN F. FABRIQUIER, ET AL. V. DBM SECRETARY ROMULO NERI AND DEPARTMENT OF BUDGET AND MANAGEMENT**

**EVA VALDEZ FERIA, WILHELMINA BALDO, ROSE MARIE L. YCASA, GLORIA G. IGNACIO AND HJI. AKMAD A. ALSAD AND OTHER TWELVE THOUSAND FIVE HUNDRED INDIVIDUAL TEACHERS**

**BUREAU OF PLANT INDUSTRY EMPLOYEES ASSOCIATION, MARY ANN GUERRERO, ET AL.. INTERVENORS.**

**[G.R. NO. 159007]**

**ESTRELLITA C. AMPONIN, JUDITH A. CUDAL, ROMEO A. PAGALAN, MARISSA F. PARIÑAS, AND RAYMOND F. FLORES, ET AL., PETITIONERS, VS. COMMISSION ON AUDIT, GUILHERMO N. CARAGUE, IN HIS CAPACITY AS CHAIRMAN, RAUL C. FLORES, IN HIS CAPACITY AS COMMISSIONER, COMMISSION ON AUDIT, AND EMMANUEL M. DALMAN, IN HIS CAPACITY AS COMMISSIONER, COMMISSION ON AUDIT, RESPONDENTS.**

**[G.R. NO. 159029]**

**AUGUSTO R. NIEVES, BONIFACIO H. ATIVO, TARCELA P. DETERA, NILDA G. CIELO, ANTHONY M. BRAVO, MARIA LOURDES G. BARROZO, ANTONIO E. FUENTES, ALFREDO D. DONOR, RICO B. NAVA, SR., DOLORES C. HUIDEM AND ALL THE OTHER CONCERNED EMPLOYEES OF THE SORSOGON STATE COLLEGE, PETITIONERS, VS. DEPARTMENT OF BUDGET AND MANAGEMENT AND HONORABLE SECRETARY EMILIA T. BONCODIN, RESPONDENTS.**

**[G.R. NO. 170084]**

**KAPISANAN NG MGA MANGGAGAWA SA BUREAU OF AGRICULTURAL STATISTICS (KMB), EVELYN C. TIDON, RIPOL O. ABALOS, BEATRIZ L. HUBILLA, MA. CHERYL J. TAJONERA, LOLITA DE HERNANDEZ, FLORA M. MABAMBA, DELILAH G. BASSIG AND ALL CONCERNED INCUMBENT AND RETIRED EMPLOYEES OF THE BUREAU OF AGRICULTURAL STATISTICS, DEPARTMENT OF AGRICULTURE, PETITIONERS, VS. DEPARTMENT OF BUDGET AND MANAGEMENT AND HONORABLE SECRETARY ROMULO NERI\*\*\*, RESPONDENTS.**

**G.R. NO. 172713**

**NATIONAL HOUSING AUTHORITY, PETITIONER, VS. EPIFANIO P. RECANA, MERCEDES AMURAO, ERASMO APOSTOL, FLORENDO ASUNCION, FIORELLO JOSEFINA BALTAZAR, ET AL., RESPONDENTS.**

**[G.R. NO. 173119]**

**INSURANCE COMMISSION OFFICERS AND EMPLOYEES, REPRESENTED BY INSURANCE COMMISSION EMPLOYEES WELFARE ASSOCIATION (ICEWA), ET AL., PETITIONERS, VS. DEPARTMENT OF BUDGET AND MANAGEMENT AND/OR HONORABLE SECRETARY ROLANDO G. ANDAYA, JR., RESPONDENTS.**

**[G.R. NO. 176477]**

**FIBER INDUSTRY DEVELOPMENT AUTHORITY EMPLOYEES ASSOCIATION (FIDAEA), REMEDIOS V.J. ABGONA, CELERINA T. HILARIO, QUIRINO U. SANTOS, GRACE AURORA F. PASTORES, RHISA V. PEGENIA, ET AL., PETITIONERS, VS. DEPARTMENT OF BUDGET AND MANAGEMENT AND/OR HONORABLE SECRETARY ROLANDO G. ANDAYA, JR.\*\*\*, RESPONDENTS.**

**[G.R. NO. 177990]**

**BUREAU OF ANIMAL INDUSTRY EMPLOYEES ASSOCIATION (BAIEA), LORY C. BANGALISAN, EDGARDO VINCULADO, LORENZO J. ABARCA, ROLANDO M. VASQUEZ, ALFREDO B. DUCUSIN, ET AL., PETITIONERS, VS. DEPARTMENT OF BUDGET AND MANAGEMENT AND/OR HONORABLE SECRETARY ROLANDO G. ANDAYA, JR.\*\*\*, RESPONDENTS.**

**[A.M. NO. 06-4-02-SB]**

**RE: REQUEST OF SANDIGANBAYAN FOR AUTHORITY TO USE THEIR SAVINGS TO PAY THEIR COLA DIFFERENTIAL FROM JULY 1, 1989 TO MARCH 16, 1999,**

**D E C I S I O N**

**ABAD, J.:**

These consolidated cases question the inclusion of certain allowances and fringe benefits into the standardized salary rates for offices in the national government, state universities and colleges, and local government units as required by the Compensation and Position Classification Act of 1989 and implemented through the challenged National Compensation Circular 59 (NCC 59).

**The Facts and the Case**

Congress enacted in 1989 Republic Act (R.A.) 6758, called the Compensation and Position Classification Act of 1989 to rationalize the compensation of government employees. Its Section 12 directed the consolidation of allowances and additional compensation already being enjoyed by employees into their standardized salary rates. But it exempted certain additional compensations that the employees may be receiving from such consolidation. Thus:

**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.**

Pursuant to the above, the Department of Budget and Management (DBM) issued NCC 59 dated September 30, 1989,<sup>[1]</sup> covering the offices of the national government, state universities and colleges, and local government units. NCC 59 enumerated the specific allowances and additional compensations which were deemed integrated in the basic salaries and these included the Cost of Living Allowance (COLA) and Inflation Connected Allowance (ICA). The DBM re-issued and published NCC 59 on May 3, 2004.<sup>[2]</sup>

The DBM also issued Corporate Compensation Circular (CCC) 10 dated October 2, 1989,<sup>[3]</sup> covering all government-owned or controlled corporations and government financial institutions. The DBM re-issued this circular on February 15, 1999<sup>[4]</sup> and published it on March 16, 1999. Accordingly, the Commission on Audit (COA) disallowed the payments of honoraria and other allowances which were deemed integrated into the standardized salary rates. Employees of government-owned or controlled corporations questioned the validity of CCC 10 due to its non-publication. In *De Jesus v. Commission on Audit*,<sup>[5]</sup> this Court declared CCC 10 ineffective because of such non-publication. Until then, it ordered the COA to pass on audit the employees' honoraria which they were receiving prior to the effectivity of R.A. 6758.

Meanwhile, the DBM also issued Budget Circular 2001-03 dated November 12, 2001,<sup>[6]</sup> clarifying that only the exempt allowances under Section 12 of R.A. 6758 may continue to be granted the employees; all others were deemed integrated in the standardized salary rates. Thus, the payment of allowances and compensation such as COLA, amelioration allowance, and ICA, among others, which were already deemed integrated in the basic salary were unauthorized. The Court's ruling in subsequent cases involving government-owned or controlled corporations followed the *De Jesus* ruling.

On May 16, 2002 employees of the Office of the Solicitor General filed a petition for *certiorari* and *mandamus* in G.R. 153266, questioning the propriety of integrating their COLA into their standardized salary rates. Employees of other offices of the national government followed suit. In addition, petitioners in G.R. 159007 questioned the disallowance of the allowances and fringe benefits that the COA auditing personnel assigned to the Government Service Insurance System (GSIS) used to get. Petitioners in G.R. 173119 questioned the disallowance of the ICA that used to be paid to the officials and employees of the Insurance Commission.

The Court caused the consolidation of the petitions and treated them as a class suit for all government employees, excluding the employees of government-owned or controlled corporations and government financial institutions.<sup>[7]</sup>

On October 26, 2005 the DBM issued National Budget Circular 2005-502<sup>[8]</sup> which provided that all Supreme Court rulings on the integration of allowances, including COLA, of government employees under R.A. 6758 applied only to specific government-owned or controlled corporations since the consolidated cases covering the national government employees are still pending with this Court. Consequently, the payment of allowances and other benefits to them, such as COLA and ICA, remained prohibited until otherwise provided by law or ruled by this Court. The circular further said that all agency heads and other responsible officials and employees found to have authorized the grant of COLA and other allowances and benefits already integrated in the basic salary shall be personally held liable for such payment.

### **The Issues Presented**

The common issues presented in these consolidated cases are:

1. Whether or not the COLA should be deemed integrated into the standardized salary rates of the concerned government employees by virtue of Section 12 of R.A. 6758;
2. Whether or not the ICA may still be paid to officials and employees of the Insurance Commission;
3. Whether or not the GSIS may still pay the allowances and fringe benefits to COA auditing personnel assigned to it;
4. Whether or not the non-publication of NCC 59 dated September 30, 1989 in the Official Gazette or newspaper of general circulation nullifies the integration of the COLA into the standardized salary rates; and
5. Whether or not the grant of COLA to military and police personnel to the exclusion of other government employees violates the equal protection clause.

### **The Court's Ruling**

**One.** Petitioners espouse the common theory that the DBM needs to promulgate