

EN BANC

[G.R. NO. 158791, February 10, 2006]

CIVIL SERVICE COMMISSION, PETITIONER, VS. DEPARTMENT OF BUDGET AND MANAGEMENT, RESPONDENT.

R E S O L U T I O N

CARPIO MORALES, J.:

Before this Court is the Motion for Reconsideration of respondent Department of Budget and Management (DBM) praying that this Court reconsider its Decision dated July 22, 2005 (the Decision) granting the subject petition.

The DBM assails this Court's interpretation of Article IX (A) Section 5 of the Constitution, Sections 62, 63, and 64 of the FY 2002 General Appropriations Act (R.A. No. 9162), and the Resolution of this Court in A.M. No. 92-9-029-SC (Constitutional Mandate on the Judiciary's Fiscal Autonomy) dated June 3, 1993.

The DBM posits that this Court's ruling that fiscal autonomy means preference in terms of cash allocation is not supported by the deliberations of the 1986 Constitutional Commission, particularly the discussions on the draft article on the Judiciary where the concept of fiscal autonomy was, by its claim, introduced.

The DBM cites the comments of then Commissioner Blas Ople expressing concern over "the propensity throughout this Article in its various provisions to accord the Supreme Court, the lower courts and the judicial system as a whole, a whole plethora of privileges and immunities that are denied the rest of the government of the Republic of the Philippines."^[1]

A close reading of Commissioner Ople's comments shows, however, that he was not questioning nor seeking to qualify the concepts of "fiscal autonomy" and "automatic release" as provided for in what is now Article VIII Section 3 of the Constitution.^[2] What was then under consideration was the original draft article on the Judiciary which, with regard to appropriations, provided as follows:

Section 15. An amount equivalent to not less than two percent of the national budget shall be automatically appropriated and regularly released for the judiciary. (Underscoring supplied)

What the original draft thus provided for was automatic appropriation, which is not the same as automatic release of appropriations. The power to appropriate belongs to Congress, while the responsibility of releasing appropriations belongs to the DBM. Commissioner Ople objected to automatic appropriation, it bears emphasis, not to automatic release of appropriations.

It was Commissioner Christian Monsod who proposed the substitute provision that is now Article VIII Section 3 providing for "fiscal autonomy" and for automatic and regular release of appropriations.

In support of its position, the DBM also cites Commissioner Monsod's explanation that "[t]he whole purpose of that provision is to protect the independence of the judiciary while at the same time not giving the judiciary what we call a position of privilege by an automatic percentage." Again, what Commissioner Monsod objected to was automatic appropriation for the judiciary, not automatic release of appropriations once approved. The following statement of Commissioner Monsod, read in its context, does not in any way support the position taken by the DBM.

The Commissioner will recall that when the provision giving fiscal autonomy to the judiciary was presented to the body, we were the ones who denied to it the percentage of the budget because, precisely, we wanted the judiciary to go through the process of budget-making to justify its budget and to go through the legislature for that justification. **But we also said that after having gone through this process, it should have fiscal autonomy so that there will be an automatic and regular release of such funds.** The whole purpose of that provision is to **protect the independence of the judiciary** while at the same time **not giving the judiciary what we call a position of privilege by an automatic percentage.**^[3] (Emphasis and underscoring supplied)

The DBM further claims that the constitutional mandate to automatically and regularly release funds does not preclude the implementation of a cash payment schedule for all agencies, including those belonging to the constitutional fiscal autonomous group (CFAG). It explains the meaning of "cash payment schedule" in the context of the budgetary process, from the enactment of the general appropriations law to the release of appropriations, thus.

After the General Appropriations Act (GAA) is signed into law, this Department, in coordination with the agency concerned, prepares the financial plan for the year in accordance with its appropriations under the GAA. The result of this exercise is embodied in the **Agency Budget Matrix** or ABM which reflects the individual obligation authority ceilings of the agency, called the allotment. An **allotment** allows the agency to enter into a contract or otherwise obligate funds although cash has not yet been received by said agency. Simply put, allotments serve as a guarantee that the national government will look for cash to support the agency's obligations. Therefore, the closer the allotment is to the amount of its appropriation, the better.

The approved allotment of an ordinary agency does not cover its full appropriations, while those for entities vested with fiscal autonomy always cover the full amount of its appropriations. For instance, allotments for Personal Service of an ordinary agency only cover those for filled positions. In contrast, the Personal Service allotments of agencies enjoying fiscal autonomy are comprehensively released, including those for positions that are admittedly vacant. At the end of the year, whatever is unspent for Personal Services, particularly for unfilled positions, translates to savings, which may be used to augment

other items of appropriations.

As emphasized, the ABM of an ordinary agency is disaggregated into those Needing Clearance and Not Needing Clearance. Pursuant to Budget Execution Guidelines no. 2000-12 dated August 29, 2000 x x x, the full allotment of entities belonging to the CFAG is placed under the Not Needing Clearance column.

Finally, items under the Not Needing Column of an ordinary agency is further disaggregated to "this release" which represents the initial allotment authorized under the ABM, and "for later release" which represents the amount to be released after the conduct of the agency performance review. In contrast, the total appropriation and allotment of entities belonging to the CFAG are all placed under "this release" since no agency performance review is conducted by the DBM on these entities.

x x x x

Thus, in order to ensure that the budgets of agencies vested with fiscal autonomy are released in full, the DBM in a ministerial capacity, ensures that the allotments of agencies belonging to the CFAG (i) cover the full amount of their annual appropriations, and (ii) are not subject to any condition. In other words, budgets of fiscal autonomous agencies occupy the highest category in terms of allotment.

x x x x

After the ABMs are issued, the **Notices of Cash Allocations (NCAs)** are issued every month to support approved allotments with cash.

Ideally, the NCA should cover in full the monthly allotment of the agency. The reality, however, is that every national budget is based on revenue projections, and that there is an ever present risk that these revenue targets are not met in full during the course of the budget year. Last FYs 2001 and 2002, for instance, revenue shortfall was at 7.16% and 9.16%, respectively, as shown below under Table 2.

x x x x

Further, not all revenue collections are received at the start of the budget year. The cash flow of the national government, like most other public institutions, has its highs and lows depending on the tax calendar. Thus, not all of the projected revenues are available for spending at the start of the budget year.

It thus becomes imperative for the Executive Department, through the DBM, to manage the release of funds through implementation of cash payment schedules. For instance, if collections for a given month meet the monthly revenue target, then the NCA for that month shall cover 100% of the allotment. If, however, collections do not meet the monthly revenue target, then the NCA to be