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[G.R. No. 150769, August 31, 2004]

KAPISANAN NG MGA MANGGAGAWA SA GOVERNMENT SERVICE INSURANCE SYSTEM (KMG), PETITIONER, VS. COMMISSION ON AUDIT, GUILLERMO N. CARAGUE, IN HIS CAPACITY AS CHAIRMAN, COMMISSION ON AUDIT, RAUL C. FLORES , IN HIS CAPACITY AS COMMISSIONER, COMMISSION ON AUDIT, AND THE RESIDENT AUDITOR OF THE GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

D E C I S I O N

TINGA, J,:

Before the Court is a *Petition for Certiorari* assailing the *Decision No. 2001-068* dated May 10, 2001[1] and *Resolution No. 2001-207* dated November 13, 2001[2] of the Commission on Audit (COA) which affirmed the disallowance of, among others, hazard pay benefits under Republic Act No. 7305 (R.A. No. 7305) to the Social Insurance Group (SIG) personnel of the Government Service Insurance System (GSIS).

R.A. No. 7305, otherwise known as the "Magna Carta for Public Health Workers," was enacted by Congress on January 28, 1992. Signed into law by then President Corazon C. Aquino on March 26, 1992, it took effect on April 17, 1992. The law aims to promote and improve the economic and social well-being as well as the living and working conditions of health workers in the public sector; to develop their skills and capabilities to make them more responsive and better equipped to deliver health projects and programs; and to attract the best and the brightest health workers to join and remain in government service.[3] Accordingly, in addition to the basic salary of public health workers, the law provides for hazard pay, subsistence, longevity pay, laundry and remote assignment allowances for them.

On January 25, 1993, the Secretary of Health[4] wrote Dr. Orlando C. Misa, Vice President and Medical Director of the GSIS, that the Medical Services Group personnel of the GSIS were public health workers under R.A. No. 7305.[5]

However, in a letter dated January 17, 1994 written in response to a query from the Department of Budget and Management (DBM) whether personnel of the Medical Department of the GSIS and the Social Security System can avail of the benefits under R.A. No. 7305, the Secretary of Health[6] stated that the said personnel cannot be classified as public health workers until their respective agencies have been considered as health-related establishments as defined in the Implementing Rules of R.A. No. 7305.

On January 5, 1996, the Secretary of Health[7] granted the request for payment of

hazard pay, subsistence and laundry allowances under R.A. No. 7305 of five departments of the GSIS, namely, the Medical Services Group, the Medical Units of branch offices, the Employees Compensation Department, the Customer Relations and Monitoring Department and the Office of the Vice President-Social Insurance III.[8] Pursuant to such grant, the GSIS Board of Trustees issued Resolution No. 52 granting hazard pay, subsistence and laundry allowance to the aforementioned departments.[9]

Subsequently, in a letter dated September 18, 1996, the Secretary of Health[10] granted the request of the remaining units of the SIG for hazard pay benefits under R.A. No. 7305.[11]

On June 9, 1999, GSIS Resident Auditor Ma. Cristina D. Dimagiba (Dimagiba) issued *Notice of Disallowance No. 99-0120-XXX* regarding the payment of allowances under R.A. No. 7305 for January 1998 to the SIG personnel. The retroactive disallowance was made in accordance with a letter dated May 5, 1999 from the DBM stating that employees belonging to the SIG are not considered as "health-related workers" and are therefore not qualified to receive hazard pay under R.A. No. 7305.[12]

Thereafter, on September 9, 1999, Dimagiba issued *Notice of Disallowance No. 99-0138-ZZZ* regarding the payment of hazard pay to the SIG personnel from January 1998 to the present. The disallowance was based on the DBM's letter dated May 5, 1999, the suspension of payment of hazard pay under R.A. No. 7305 pursuant to Administrative Order No. 170 dated December 13, 1994 and DBM Circular Letter dated December 15, 1997.[13]

On October 29, 1999, GSIS Chief Legal Counsel Manuel S. Crudo, Jr., on behalf of the employees in the SIG, requested for the reconsideration of *Notice of Disallowance No. 99-0138-ZZZ*.[14] However, Dimagiba maintained that the disallowance was proper.

The KMG, the recognized employees' union in the GSIS, appealed the disallowance of allowances under R.A. No. 7305 to the SIG personnel to the COA. However, on May 10, 2001, the COA rendered *Decision No. 2001-068* affirming the disallowance of allowances under R.A. No. 7305 for the SIG personnel.[15] The KMG filed a motion for reconsideration of the decision but on November 13, 2001, the COA issued its *Resolution No. 2001-207* denying the KMG's motion for reconsideration.[16]

On December 20, 2002, the KMG filed the instant petition. It raises the following issues:

> I. WHETHER OR NOT PUBLIC RESPONDENT COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION IN GROSSLY MISAPPRECIATING AND MISEVALUATING THE EVIDENCE THAT RESULTED IN THE DISALLOWANCE OF PAYMENT OF HAZARD PAY BENEFITS TO THE MEMBERS OF PETITIONER BELONGING TO THE SOCIAL INSURANCE GROUP.

II. WHETHER OR NOT PUBLIC RESPONDENT COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION IN USURPING THE POWER AND PREROGATIVE VESTED BY RA 7305 TO THE DEPARTMENT OF HEALTH.

III. WHETHER OR NOT PUBLIC RESPONDENT COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION IN APPLYING AND INTERPRETING THE PROVISIONS OF RA 7305.

IV. WHETHER OR NOT PUBLIC RESPONDENT COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION IN SUSTAINING BASELESS AND ERRONEOUS DISALLOWANCES.

V. WHETHER OR NOT PUBLIC RESPONDENT COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION IN NOT APPLYING THE SAME PRINCIPLE PRONOUNCED IN ITS PRECEDENTS PERTAINING TO SIMILAR ISSUE.[17]

The Court notes that although the assailed decision and resolution of the COA affirmed the disallowance of hazard pay, subsistence and laundry allowances under R.A. No. 7305, the KMG only questions the disallowance of hazard pay.[18]

The KMG contends that the COA erroneously concluded that the GSIS management's continued grant of hazard pay benefits to the SIG personnel was unjustified because the DBM had disallowed such grant in its September 1995 letter. According to the petitioner, the GSIS was well within its right to grant hazard pay because it was so authorized by the DOH, the agency tasked to implement RA No. 7305. Moreover, the September 18, 1996 and July 18, 1997 letters of the Secretary of Health expressly state that the SIG personnel are entitled to hazard pay.[19]

The KMG also claims that the COA committed grave abuse of discretion in declaring that the SIG personnel are not "health-related workers" as the term is defined under RA No. 7305. It insists that as employees who process numerous medical claims, the SIG personnel are considered employees of a health-related establishment and are therefore entitled to receive hazard pay. In support of its argument, the KMG cites the Revised Implementing Rules of R.A. No. 7305 (Implementing Rules) which defines "health-related establishment" as a "health service facility or unit which performs health delivery functions within an agency whose legal mandate is not primarily the delivery of health services." The KMG explains that their processing of numerous medical claims inevitably brings them into contact with infected persons, documents and objects, thereby exposing them to the risk of contracting diseases. The nature of their work thus renders them qualified to receive hazard pay.[20]

It is likewise argued by the KMG that the COA's statement that in view of the relatively higher pay of GSIS employees there is no need to grant them hazard pay is immaterial to the of issue whether the nature of the job of the SIG personnel entitles them to hazard pay allowances.

The petitioner asserts that in disallowing the grant of hazard pay to the SIG personnel, the COA usurped the powers granted by R.A. No. 7305 to the Secretary of Health. Under Section 35 of R.A. No. 7305, it is the Secretary of Health or the Head of the Unit, with the approval of the Secretary of Health who determines who are entitled to hazard pay. Conversely, only the Secretary of Health can determine who are not entitled thereto. Thus, the KMG maintains, since the Secretary of Health previously declared that the SIG personnel are qualified to receive hazard pay under R.A. No. 7305, the disallowance of such benefit would be proper only if such disallowance is made by the Secretary of Health.[21]

The KMG further argues that since they had been receiving hazard pay for several years already, such grant in their favor has ripened into a vested right.[22]

The COA, on the other hand, asserts that it acted in accordance with law when it affirmed the disallowance of payment of hazard pay to the SIG personnel. According to the respondent, since the SIG personnel do not render actual medical services to the clients of GSIS, they are not health-related workers as defined under R.A. No. 7305.[23]

It also claims that the DOH does not have blanket authority under R.A. No. 7305 to enact the implementing rules and regulations thereof as the KMG erroneously suggests. Under Section 35 of the law, the DOH must first consult the appropriate agencies of the Government, as well as professional and health workers' organizations or unions before formulating the implementing rules of R.A. No. 7305. [24]

The COA also points out that the certification issued by the DOH regarding the classification of an agency as a health-related agency for the purpose of determining entitlement to hazard pay is effective only for the year during which such certification was issued.[25]

Finally, the COA disagrees with the KMG's claim that the SIG personnel's entitlement to hazard pay has ripened into a vested right because they have been receiving said benefits for several years already. It insists that hazard pay previously received by the SIG personnel is in the nature of an allowance and is therefore a mere privilege which may be withdrawn.[26]

On October 8, 2002, the Court issued a *Resolution* giving due course to the petition and requiring both parties to submit their respective memoranda.[27]

On November 29, 2002 and December 20, 2002 respectively, the KMG and the COA submitted their memoranda,[28] reiterating the arguments in their pleadings filed earlier.

The fundamental issues for the Court's resolution are interrelated. They are as follows: (1) whether or not the SIG personnel are public health workers as defined by, or for purposes of, R.A. No. 7305 and (2) whether the COA committed grave abuse of discretion in disallowing the grant of hazard pay to the SIG personnel under the same law.

There is no merit in the petition.

Under R.A. No. 7305, the term "health workers" means—

> . . . all persons who are engaged in health and health-related work, and all persons employed in all hospitals, sanitaria, health infirmaries, health centers, rural health units, barangay health stations, clinics and other health-related establishments owned and operated by the Government or its political subdivisions with original charters and shall include medical, allied health professionals, administrative and support personnel employed regardless of their employment status.[29]

The Implementing Rules further define "public health workers," or persons engaged in health and health-related work, as follows:

> 1. Public Health Workers (PWH) — Persons engaged in health and health-related works. These cover employees in any of the following:
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>   a. Any government entity whose primary function according to its legal mandate is the delivery of health services and the operation of hospitals, sanitaria, health infirmaries, health centers, rural health units, barangay health stations, clinics or other institutional forms which similarly perform health delivery functions, like clinical laboratories, treatment and rehabilitation centers, x-ray facilities and other similar activities involving the rendering of health services to the public; and
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>   b. Offices attached to agencies whose primary function according to their legal mandates involves provision, financing or regulation of health services.
>
> Also covered are medical and allied health professionals, as well as administrative and support personnel, regardless of their employment status.[30]

A careful reading of the aforequoted provisions of R.A. No. 7305 and the Implementing Rules readily shows that the nexus between a government employee's official functions and the provision of health services is not as tenuous as the KMG suggests. To be included within the coverage of R.A. No. 7305, a government employee must be **principally tasked to render health or health-related services.** Otherwise put, an employee performing functions not directly connected with the delivery of health services is not a public health worker within the contemplation of the law.

The same conclusion is reached when the principle of *ejusdem generis* is used to ascertain the meaning of the term "public health worker" under R.A. No. 7305 and its Implementing Rules. Under the principle of *ejusdem generis*, where a statute describes things of a particular class or kind accompanied by words of a generic character, the generic word will usually be limited to things of a similar nature with those particularly enumerated, unless there be something in the context of the state