

## EN BANC

[ G.R. No. 149154, June 10, 2003 ]

**RODOLFO S. DE JESUS, EDELWINA DG. PARUNGAO, HERMILO S. BALUCAN, AVELINO C. CASTILLO, DANILO B. DE LEON (INTERIM BOARD OF DIRECTORS, CATBALOGAN WATER DISTRICT), AND ALICE MARIE C. OSORIO (BOARD SECRETARY), PETITIONERS, VS. COMMISSION ON AUDIT, RESPONDENT.**

### DECISION

**CARPIO, J.:**

This is a petition for *certiorari*<sup>[1]</sup> to annul the Decision dated 12 September 2000 of the Commission on Audit ("COA") and its Resolution dated 5 July 2001. The COA affirmed the disallowance of payment of allowances and bonuses to members of the interim Board of Directors of the Catbalogan Water District.

#### The Antecedents

An auditing team from the COA Regional Office No. VIII in Candahug, Palo, Leyte, audited the accounts of the Catbalogan Water District ("CWD") in Catbalogan, Samar. The auditing team discovered that between May to December 1997 and April to June 1998, members of CWD's interim Board of Directors ("Board") granted themselves the following benefits: Representation and Transportation Allowance ("RATA"), Rice Allowance, Productivity Incentive Bonus, Anniversary Bonus, Year-End Bonus and cash gifts. These allowances and bonuses were authorized under Resolution No. 313, series of 1995, of the Local Water Utilities Administration ("LWUA").

During the audit, the COA audit team issued two notices of disallowance dated 1 October 1998 disallowing payment of the allowances and bonuses received by petitioners, namely: Rodolfo S. De Jesus, Edelwina DG. Parungao, Hermilo S. Balucan, Avelino C. Castillo and Danilo B. De Leon as members of the CWD Board as well as Alice Marie C. Osorio as the Board's secretary (collectively "petitioners"). The audit team disallowed the allowances and bonuses on the ground that they run counter to Section 13 of Presidential Decree No. 198 ("PD 198").

Petitioners appealed to the COA Regional Office No. VIII but COA Regional Director Dominador T. Tersol denied the appeal. Aggrieved, petitioners filed a petition for review with the COA which in a decision dated 12 September 2000 denied the petition. The COA also denied on 5 July 2001 petitioners' motion for reconsideration.

Hence, the instant petition.

#### The COA's Ruling

The COA explained that members of the CWD Board cannot receive compensation and other benefits in addition to the *per diems* allowed by Section 13 of PD 198. We quote the relevant portion of the COA's decision:

Resolution No. 313, s. 1995, as amended, which grants compensation and other benefits to the members of the Board of Directors of CWD is not in harmony with the aforementioned provisions of Sec. 13, PD 198, which speaks only of *per diems*, the amount of which is subject to approval by the administrator if more than P50.00 each for every meeting.

It is a fundamental rule in statutory construction that if a statute is clear, plain and free from ambiguity, it must be given literal meaning and applied without attempted interpretation. Thus, any resolution granting allowances to directors of Water Districts other than that authorized in Sec. 13 of PD 198 is null and void. A statutorily proscribed benefit may not be amended by a mere administrative fiat.<sup>[2]</sup>

### **The Issues**

Petitioners contend that the COA committed grave abuse of discretion amounting to lack or excess of jurisdiction in —

1. *Motu proprio* exercising jurisdiction to declare LWUA Board Resolution No. 313, Series of 1995, as amended, not in conformity with Section 13 of PD 198, as amended;
2. Ruling that Section 13 of PD 198, as amended, prohibits payment to petitioners of RATA, extraordinary and miscellaneous expenses ("EME"), and other allowances and bonuses;
3. Demanding the refund of the disallowed allowances and bonuses received by petitioners as interim members and secretary of the CWD Board.

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

The petition is meritorious in part.

The Catbalogan Water District was created pursuant to PD 198, as amended,<sup>[3]</sup> otherwise known as the *Provincial Water Utilities Act of 1973*. PD 198 authorized the local legislative bodies, through an enabling resolution, to create their respective water districts, subject to the guidelines and regulations under PD 198. PD 198 further created the Local Water Utilities Administration ("LWUA"), a national agency, and granted LWUA regulatory powers necessary to optimize public service from water districts.

### ***COA `s Authority to Disallow Allowances and Benefits Granted under LWUA Board Resolution No. 313, Series 1995***

For authority to grant themselves additional allowances and bonuses, petitioners rely on LWUA Resolution No. 131, series of 1995, entitled *Policy Guidelines on*

*Compensation and Other Benefits to WD Board of Directors.* Petitioners assert that LWUA is the government agency tasked to regulate and control water districts created pursuant to PD 198 and that LWUA has the power to issue regulations to implement effectively PD 198. Petitioners claim that the COA has no jurisdiction to construe any provision of PD 198 on the compensation and other benefits granted to LWUA-designated members of the board of water districts. By exercising *motu proprio* plenary jurisdiction to construe and apply Section 13 of PD 198, the COA encroached on the powers of the LWUA. The COA also violated the presumption of legality and regularity generally accorded to policy circulars issued by the administrative agency entrusted to enforce the law.

Petitioners further claim that it is the Department of Budget and Management ("DBM"), not the COA, that has the power to administer the compensation and classification system of the government service and to revise it as necessary. Finally, citing *Eslao v. COA*,<sup>[4]</sup> petitioners contend that the COA "can do no less than to faithfully observe and carry into effect the mandate" of LWUA Board Resolution No. 313, until it is declared void in the proper forum.

Petitioners' contentions are untenable.

Section 2, Subdivision D, Article IX of the 1987 Constitution expressly provides:

Sec. 2(1). ***The Commission on Audit shall have the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to the Government, or any of its subdivisions, agencies or instrumentalities, including government-owned and controlled corporations with original charters,*** and on a post audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this constitution; (b) autonomous state colleges and state universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity, directly or indirectly, from or through the government, which are required by law or the granting institution to submit such audit as a condition of subsidy or equity. However, where the internal control system of the audited agencies is inadequate, the Commission may adopt such measures, including temporary or special preaudit, as are necessary and appropriate to correct the deficiencies. It shall keep the general accounts of the government and, for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto.

(2) The Commission shall have exclusive authority, subject to the limitations in this article, to define the scope of its audit and examination, establish the techniques and methods required therefore, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of government funds and properties. (Emphasis supplied)

The Constitution and existing laws<sup>[5]</sup> mandate the COA to audit all government agencies, including government-owned and controlled corporations with original charters. Indeed, the Constitution specifically vests in the COA the authority to determine whether government entities comply with laws and regulations in disbursing government funds, and to disallow illegal or irregular disbursements of government funds.<sup>[6]</sup> This independent constitutional body is tasked to be vigilant and conscientious in safeguarding the proper use of the government's, and ultimately, the people's property.<sup>[7]</sup>

The Court already ruled in several cases<sup>[8]</sup> that a water district is a government-owned and controlled corporation with a special charter since it is created pursuant to a special law, PD 198. The COA has the authority to investigate whether directors, officials or employees of government-owned and controlled corporations, receiving additional allowances and bonuses, are entitled to such benefits under applicable laws. Thus, water districts are subject to the jurisdiction of the COA.<sup>[9]</sup>

We cannot sustain petitioners' claim that the COA usurped the functions of the LWUA in construing PD 198 and disallowing payment of the additional allowances and bonuses. Such a theory leads to the absurd situation where the board of an administrative agency, by the mere act of issuing a resolution, can put to naught the broad and extensive powers granted to the COA by the Constitution. This will prevent the COA from discharging its constitutional duty as an effective, efficient and independent watchdog of the financial operations of the government.<sup>[10]</sup>

Petitioners' reliance on ***Eslao***<sup>[11]</sup> is misplaced. In ***Eslao***, the Department of Environment and Natural Resources and the Pangasinan State University entered into an agreement to evaluate government reforestation programs. The Asian Development Bank granted a loan to fund the implementation of the agreement. The personnel involved in the project were paid under the DBM-issued National Compensation Circular No. 53, which dealt with foreign-assisted projects. The COA disallowed the payment on the ground that the compensation should fall under the DBM-issued Compensation Policy Guidelines No. 80-4, which governs all projects and provides for lower compensation rates. In reversing the COA, the Court held that National Compensation Circular No. 53 amended Compensation Policy Guidelines No. 80-4 by excepting from the latter's scope foreign-assisted projects. The Court declared that the COA cannot "*substitute its own judgment for any applicable x x x administrative regulation with the wisdom or propriety of which, however, it does not agree, at least not before such x x x regulation is set aside by the x x x courts x x x.*"

Clearly, ***Eslao*** is not in point. The difference is that in ***Eslao***, the COA accepted the wisdom of Compensation Policy Guidelines No. 80-4 but refused to accept the propriety of the exception to the circular embodied in National Compensation Circular No. 53. The DBM issued both compensation regulations under its legislative authority to "classify positions and determine appropriate salaries for specific position classes and. review appropriate salaries for specific position classes and review the compensation benefits programs of agencies x x x."<sup>[12]</sup> Clearly, the COA had ample legislative authority to issue both compensation regulations. In the instant case, the COA was simply exercising its constitutional duty to ***examine and audit*** disbursements of public funds that are patently beyond what the law allows.