

EN BANC

[G.R. Nos. 145383-84, August 06, 2003]

**ATTY. RUDY M. VILLAREÑA, PETITIONER, VS. THE COMMISSION
ON AUDIT, RESPONDENT.**

DECISION

AZCUNA, J.:

Petitioner was found guilty by the Commission on Audit (COA) of neglect of duty, simple misconduct and violation of reasonable office rules and regulations.^[1] To challenge this decision, he filed the instant consolidated Special Civil Actions for Certiorari and Prohibition.

The facts of the case are not contested.^[2] Petitioner, Atty. Rudy M. Villareña, is a State Auditor IV of the COA and assumed the position of Auditor of Marikina on December 1, 1994. He later became City Auditor when Marikina became a city on December 6, 1996. Pursuant to Republic Act No. 7160, the Local Government Code of 1991, the legislative body of Marikina passed Ordinance No. 21, series of 1995; Ordinance No. 9, series of 1996; and Ordinance No. 200, series of 1996, which approved the budget allocations for Marikina for calendar years 1995, 1996 and 1997, respectively. Allotted in each of these were allowances and benefits granted to COA personnel assigned to Marikina, including petitioner.

In line with COA Assignment Orders No. 97-006 and No. 97-051, a Special Audit Team was constituted by the COA to conduct an examination of the cash and accounts of the City Treasurer of Marikina, as well as to audit selected financial transactions of the city. In the course of the examination and audit, the Special Audit Team learned of the allowances given to COA personnel by the City of Marikina and it declared these to have been received in violation of Section 18 of Republic Act No. 6758, An Act Prescribing a Revised Compensation and Position Classification System in the Government and for Other Purposes, COA Memorandum 89-584 and COA Chairman's Indorsement dated March 23, 1995.

Section 18 of Republic Act No. 6758 provides the following:

SECTION 18. Additional Compensation of Commission on Audit Personnel and of Other Agencies. -- In order to preserve the independence and integrity of the Commission on Audit (COA), its officials and employees are prohibited from receiving salaries, honoraria, bonuses, allowances or other emoluments from any government entity, local government unit, and government-owned and controlled corporations, and government financial institution, except those compensation paid directly by the COA out of its appropriations and contributions.

Government entities, including government-owned or controlled

corporations including financial institutions and local government units are hereby prohibited from assessing or billing other government entities, government-owned or controlled corporations including financial institutions or local government units for services rendered by its officials and employees as part of their regular functions for purposes of paying additional compensation to said officials and employees.

COA Memorandum No. 89-584 states the following:

... To ensure the rationality in the payment and receipt of allowances and other forms of fringe benefits by auditing personnel, it is hereby directed that effective January 2, 1989, the receipt of all forms of additional benefits, honorarium, allowances or other forms of compensation by auditing personnel of such allowances and other fringe benefits shall be considered illegal, and shall subject the employee concerned to administrative disciplinary action.

Lastly, the pertinent portion of COA Chairman's Indorsement of March 23, 1995 reads as follows:

Request of Mr. Arnulf E. Lancin, City Auditor, Cagayan de Oro, for authority to collect allowances in the form of honoraria chargeable against local funds, which is denied for want of merit.

Thus, in the Special Audit Team's Confidential Report^[3] dated June 19, 1997, it was recommended that the COA personnel should be ordered to stop receiving additional fringe benefits, honoraria, allowances and other forms of compensation from the City of Marikina and to refund all those previously received. The Confidential Report further stated that under COA Memorandum No. 89-584 the COA may apply appropriate administrative sanctions to the concerned COA personnel.

On the basis of the Report, on July 15, 1997, a formal charge^[4] was initiated against petitioner for grave misconduct, gross neglect of duty, and conduct grossly prejudicial to the best interest of the service and/or violation of office rules and regulations.

In his Answer,^[5] petitioner averred that he received the benefits fully believing that Section 18 of Republic Act No. 6758 and COA Memorandum 89-584 have been repealed and/or superseded by the Local Government Code which authorizes local government units to give additional compensation to national government officials.

On August 4, 1998, COA Decision No. 98-359^[6] was rendered finding petitioner guilty of neglect of duty, simple misconduct and violation of reasonable office rules and regulations. He was fined in an amount equivalent to four months' salary and was ordered to refund the sums he received from the City of Marikina, in the amount of P227,092.50. Within the reglementary period, petitioner moved for reconsideration^[7] of the decision. The motion was partially granted in that the fine was reduced to one month and one day's salary, but the decision was affirmed in all other respects.^[8]

Petitioner now comes to this Court seeking judicial review.

Petitioner argues that he validly received the allowances, honoraria and benefits by virtue of the ordinances enacted by the legislative council of the City of Marikina, under the authority provided for by the Local Government Code, particularly in Sections 447 and 458 which state:

SECTION 447. *Powers, Duties, Functions and Compensation.* -- (a) The sangguniang bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the municipality as provided for under Section 22 of this Code, and shall:

- (1) Approve ordinances and pass resolutions necessary for an efficient and effective municipal government, and in this connection shall:

x x x x x x

- (xi) When the finances of the municipal government allow, provide for additional allowances and other benefits to judges, prosecutors, public elementary and high school teachers, and other national government officials stationed in or assigned to the municipality;

x x x x x x

SECTION 458. *Powers, Duties, Functions and Compensation.* -- (a) The sangguniang panlungsod, as the legislative body of the city, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the city and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the city as provided for under Section 22 of this Code, and shall:

- (1) Approve ordinances and pass resolutions necessary for an efficient and effective city government, and in this connection, shall:

x x x x x x

- (xi) When the finances of the city government allow, provide for additional allowances and other benefits to judges, prosecutors, public elementary and high school teachers, and other national government officials stationed in or assigned to the city;

x x x x x x

Petitioner argues that as an employee of the COA, stationed in the City of Marikina, he falls under the phrase "other national government officials" and is thus entitled to whatever additional allowances and benefits the City of Marikina may give such officials.

With regard to the prohibitions found in Republic Act No. 6758 and COA Memorandum 89-584, petitioner submits that these have been necessarily repealed by the Local Government Code, which is a later law, citing the repealing clause found in Section 534 (f) thereof:

SECTION 534. *Repealing Clause.* --

x x x x x

- (f) All general and special laws, acts, city charters, decrees, executive orders, proclamations and administrative regulations, or part or parts thereof which are inconsistent with any of the provisions of this Code are hereby repealed or modified accordingly.

In fine, petitioner argues that the adoption of Republic Act No. 7160, providing for the authority of local legislative councils to grant benefits to national government officials, had the effect of modifying Republic Act No. 6758, and COA Memorandum No. 89-584, insofar as these do not conform thereto.

The Office of the Solicitor General, on the other hand, points out that Republic Act No. 6758 is a special law while Republic Act No. 7160 is a general law. It argues that a general law does not operate to modify or repeal a special law unless it has been so expressly provided. Furthermore, it maintains that any apparent inconsistency should be reconciled by regarding the prohibition stated in Republic Act No. 6758 as an exception or limitation to the authority of local legislative bodies under Republic Act No. 7160.

We agree with the Office of the Solicitor General.

It is significant to note that petitioner cited only paragraph (f) of the Local Government Code's section on repeal and left out the other provisions that meticulously enumerate specific laws or parts thereof that were repealed or modified. The entire section reads as follows:

SECTION 534. *Repealing Clause.* -- (a) Batas Pambansa Blg. 337, otherwise known as the Local Government Code, Executive Order No. 112 (1987), and Executive Order No. 319 (1988) are hereby repealed.

(b) Presidential Decree Nos. 684, 1191, 1508 and such other decrees, orders, instructions, memoranda and issuances related to or concerning the barangay are hereby repealed.

(c) The provisions of Sections 2, 3, and 4 of Republic Act No. 1939 regarding hospital fund; Section 3, a (3) and b (2) of Republic Act No. 5447 regarding the Special Education Fund; Presidential Decree No. 144 as amended by Presidential Decree Nos. 559 and 1741; Presidential Decree No. 231 as amended; Presidential Decree No. 436 as amended by Presidential Decree No. 558; and Presidential Decree Nos. 381, 436, 464, 477, 526, 632, 752, and 1136 are hereby repealed and rendered of no force and effect.

(d) Presidential Decree No. 1594 is hereby repealed insofar as it governs