

## EN BANC

[ G.R. No. 109023, August 12, 1998 ]

**RODOLFO S. DE JESUS, EDELWINA DE PARUNGAO, VENUS M. POZON AND OTHER SIMILARLY SITUATED PERSONNEL OF THE LOCAL WATER UTILITIES ADMINISTRATION (LWUA), PETITIONERS, VS. COMMISSION ON AUDIT AND LEONARDO L. JAMORALIN IN HIS CAPACITY AS COA-LWUA CORPORATE AUDITOR RESPONDENTS.**

### DECISION

**PURISIMA, J.:**

The pivotal issue raised in this petition is whether or not the petitioners are entitled to the payment of honoraria which they were receiving prior to the effectivity of Rep. Act 6758.

Petitioners are employees of the Local Water Utilities Administration (LWUA). Prior to July 1, 1989, they were receiving honoraria as designated members of the LWUA Board Secretariat and the Pre-Qualification, Bids and Awards Committee.

On July 1, 1989, Republic Act No. 6758 (Rep. Act 6758), entitled "An Act Prescribing A Revised Compensation and Position Classification System in the Government and For Other Purposes", took effect. Section 12 of said law provides for the consolidation of allowances and additional compensation into standardized salary rates. Certain additional compensations, however, were exempted from consolidation.

Section 12, Rep. Act 6758, reads -

"Sec. 12. - *Consolidation of Allowances and Compensation.*- 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 services 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 as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized."<sup>[1]</sup> (Underscoring supplied)

To implement Rep. Act 6758, the Department of Budget and Management (DBM) issued Corporate Compensation Circular No. 10 (DBM-CCC No. 10), discontinuing without qualification effective November 1, 1989, all allowances and fringe benefits granted on top of basic salary.

Paragraph 5.6 of DBM-CCC No. 10 provides :

"Payment of other allowances/fringe benefits and all other forms of compensation granted on top of basic salary, whether in cash or in kind, xxx shall be discontinued effective November 1, 1989. Payment made for such allowances/fringe benefits after said date shall be considered as illegal disbursement of public funds."<sup>[2]</sup>

Pursuant to the aforesaid Law and Circular, respondent Leonardo Jamoralin, as corporate auditor, disallowed on post audit, the payment of honoraria to the herein petitioners.

Aggrieved, petitioners appealed to the COA, questioning the validity and enforceability of DBM-CCC No. 10. More specifically, petitioners contend that DBM-CCC No. 10 is inconsistent with the provisions of Rep. Act 6758 (the law it is supposed to implement) and, therefore, void. And it is without force and effect because it was not published in the Official Gazette; petitioners stressed.

In its decision dated January 29, 1993, the COA upheld the validity and effectivity of DBM-CCC No. 10 and sanctioned the disallowance of petitioners' honoraria.<sup>[3]</sup>

Undaunted, petitioners found their way to this court via the present petition, posing the questions:

(1) Whether or not par. 5.6 of DBM-CCC No. 10 can supplant or negate the express provisions of Sec. 12 of Rep. Act 6758 which it seeks to implement; and

(2) Whether or not DBM-CCC No. 10 is legally effective despite its lack of publication in the Official Gazette. Petitioners are of the view that par. 5.6 of DBM-CCC No. 10 prohibiting fringe benefits and allowances effective November 1, 1989, is violative of Sec. 12 of Rep. Act 6758 which authorizes payment of additional compensation not integrated into the standardized salary which incumbents were enjoying prior to July 1, 1989.

To buttress petitioners' stance, the Solicitor General presented a Manifestation and Motion in Lieu of Comment, opining that Sec. 5.6 of DBM-CCC No. 10 is a nullity for being inconsistent with and repugnant to the very law it is intended to implement. The Solicitor General theorized, that:

"xxx following the settled principle that implementing rules must necessarily adhere to and not depart from the provisions of the statute it seeks to implement, it is crystal clear that Section 5.6 of DBM-CCC No. 10 is a patent nullity. An implementing rule can only be declared valid if it is in harmony with the provisions of the legislative act and for the sole purpose of carrying into effect its general provisions. When an implementing rule is inconsistent or repugnant to the provisions of the statute it seeks to interpret, the mandate of the statute must prevail and must be followed."<sup>[4]</sup>