

PEDRO G. PERALTA, PETITIONER, VS. AUDITOR GENERAL ISMAEL MATHAY, RESPONDENT.*G.R. No. L-26608. March 31, 1971*

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/757522796f49/>**FERNANDO, J.:**

There is need in this appeal from a decision of respondent Auditor General Ismael Mathay for an inquiry into the meaning and significance of the constitutional inhibition against an officer or employee of the government receiving additional or double compensation unless specifically authorized by law,[1] the decisive legal question being whether or not the cost of living allowance as well as incentive and Christmas bonuses paid to petitioner Pedro G. Peralta, a Trustee of the Government Service Insurance System, hereinafter called the GSIS, did fall within such a ban. The answer given by respondent Auditor General was in the affirmative. After a careful study of the matter, this Court arrives at a similar conclusion. Hence this appeal cannot prosper.

The facts are undisputed. As set forth in the brief of petitioner, the GSIS, on May 17, 1966, in a resolution duly passed, granted him an optional retirement gratuity of P40,336.07. Of that amount, he was not able to collect the sum of P7,032.26, covering P3,982.26 as cost of living allowance, P1,275.00 as incentive bonus, and P1,775.00 as Christmas bonus. Such items were not passed in audit, the view of respondent Auditor General being that they should be deducted from his gratuity, although during petitioner's incumbency as Trustee, no question was raised when he was paid such allowance and bonuses. Respondent Auditor General justified his action on the ground that they "partake of the nature of additional compensation," a trustee's remuneration being fixed by law in the form of a per diem of P25.00 for every board meeting of the GSIS attended. Respondent so ruled on June 28, 1966, and maintained such a stand on September 1, 1966 when he denied a motion for reconsideration. Hence this appeal for review filed on September 29, 1966.

The ruling of respondent Auditor General, being in accordance with what the Constitution requires, must be upheld.

1. It is expressly provided in the Constitution: "No officer or employee of the government shall receive additional or double compensation unless specifically authorized by law." [2] This is to manifest a commitment to the fundamental principle that a public office is a public trust. It is expected of a government official or employee that he keeps uppermost in mind the demands of public welfare. He is there to render public service. He is of course entitled to be rewarded for the performance of the functions entrusted to him, but that should not be the overriding consideration. The intrusion of the thought of private gain should be unwelcome. The temptation to further personal ends, public employment as a means for the acquisition of wealth, is to be resisted. That at least is the ideal. There is then to be an awareness on the part of an officer or employee of the government that he is to receive only such compensation as may be fixed by law. With such a realization, he is expected not to avail himself of devious or circuitous means to increase the remuneration attached to his position. It is an entirely different matter if the legislative body would itself determine for reasons satisfactory to it that he should receive something more. If it were to be thus though, there must be a law to that effect. So the Constitution decrees.

As is expressly declared in the Constitution, the Civil Service is to embrace "all branches and subdivisions of the Government * * *." [3] Conformably to the above, the Philippine Civil Service, by law, includes "all branches, subdivisions and instrumentalities of the Government, including government-owned or controlled corporations * * *." [4] Petitioner has not disputed, nor can he dispute that as a trustee, he was an officer of the government, the GSIS having been established in order "to promote the efficiency and welfare of the employees of the Government of the Philippines and to replace the [then] pension systems established in [previous acts]." [5] As such officer, petitioner cannot receive additional or double compensation unless specifically authorized by law. Under the GSIS Act, he is entitled as trustee "to a per diem of P25.00 for each day of actual attendance in session." [6] As in the case of government-controlled corporations, the term "per diems" was used in the sense of the compensation or remuneration attached to the office of Trustee. [7] Such is not the meaning usually attached to it. So it was noted in *Lexal Laboratories v. National Chemical Industries Workers Union*. [8] A "per diem" is commonly identified with the daily allowance "for each day he (an officer or employee) was away from his home base." Its usual signification is thus that of a reimbursement for expenses incurred in the performance of one's duties. If employed in a statute, as in this case, in the concept of remuneration, however, there must be, to justify an additional compensation, a specific law that so provides. Otherwise, fidelity to the constitutional command is lacking.

A similar approach is called for in determining the nature of a cost of living allowance. If it could rightfully be considered as in the nature of a reimbursement rather than additional emoluments or perquisites, then the ruling of respondent Auditor General cannot find support in the Constitution. What was said in an American State decision [9] has relevance. It was therein categorically stated "that it is universally held that an allowance for expenses incident to the discharge of the duties of office is not an increase of salary, a perquisite, nor an emolument of office." [10] To the same effect is this excerpt appearing later in the opinion: "A careful and, we believe, exhaustive examination of the decisions fails to disclose a single case in which it has ever been held that a legislative act, providing for an allowance, for expenses incurred in the discharge of official duties, to a public officer, whose salary or compensation was fixed at a stated sum, was in violation of provisions such as are found in many state Constitutions, forbidding an increase of salary during official terms, or forbidding the granting of 'fees,' 'perquisites,' or 'emoluments' to such officer. Legislative acts which directly in terms, or as construed, attempted to increase such salaries, have been held invalid. But no decision has been found or, as we believe, can be found, which holds a legislative act to be unconstitutional which merely relieves an officer, who received a fixed salary or compensation, from expending such salary for expenses incident to the performance of his official duties." [11] It is worth noting that there are specific provisions in the applicable statutes allowing trustees or directors, traveling expenses which may be collected by the board of directors of the Philippine Virginia Tobacco Administration; [12] traveling and subsistence expenses by the members and board of directors of the Central Luzon-Cagayan Valley Authority; [13] and traveling and other necessary expenses by the members of the Philippine Medical Care Commission. [14] Such provisions are prompted by what may appear to be an excess of caution, for the accepted doctrine is that an allowance to take care of expenses incurred by an official to enable him to fulfill his task cannot be looked upon as an additional compensation. Such a principle does not come to the aid of petitioner though. He was unable to show that the cost of living allowance received by him was in the nature of a reimbursement. It did amount then to an additional compensation.

So it is in the case of the bonuses received by him. It is quite obvious that by its very nature, a bonus partakes of an additional remuneration or compensation. [15] The very characterization of what was received by petitioner as bonuses being intended by way of an incentive to spur him possibly to more diligent efforts and to add to the feeling of well-being traditionally associated with the Christmas season would remove any doubt that the Auditor General had no choice except to deduct from petitioner's gratuity such items.

2. It is apparent that respondent Auditor General accorded respect and deference to a constitutional command. To impute legal error to his actuation is to be oblivious of the fundamental postulate that the Constitution is supreme. Obedience is mandatory. It cannot be disregarded. Every public official is sworn to uphold it. There can be no justification for any other course of action. To condone whether by intent or inadvertence any deviation from what it prescribes is to display less than full fealty to the cardinal precept of our polity. A mistaken sympathy for the situation in which the petitioner did find himself cannot suffice to confer authority on respondent to grant what is asked of him in view of the constitutional ban. Both petitioner, who was himself once a public official, and respondent Auditor General must be cognizant of the paramount character of the Constitution. Thus everyone in the public service is only the more strongly bound to submit to such supremacy and to abide by the limitations which it imposes upon every aspect of the authority thus conferred.[16]

WHEREFORE, the decision of the Auditor General of June 28, 1966, as reiterated in its order denying the motion for reconsideration of September 1, 1966, is affirmed. Without pronouncement as to costs.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Ruiz Castro, Villamor, and Makasiar, JJ., concur.
Teehankee and Barredo, JJ., no part.

[1] According to Article XII, Sec. 3 of the Constitution: "No officer or employee of the Government shall receive additional or double compensation unless specifically authorized by law."

[2] Art. XII, Sec. 3, Constitution of the Philippines.

[3] According to Art. XII, Sec. 1: "A Civil Service embracing all branches and subdivisions of the Government shall be provided by law. Appointments in the Civil Service, except as to those which are policy-determining, primarily confidential or highly technical in nature, shall be made only according to merit and fitness, to be determined as far as practicable by competitive examination."

[4] Section 3 of the Civil Service Act of 1959, Republic Act No. 2260, reads as follows: "The Philippine Civil Service shall embrace all branches, subdivisions and instrumentalities of the Government, including government-owned or controlled corporations, and appointments therein, except as to those which are policy-determining, primarily confidential or highly technical in nature, shall be made only according to merit and fitness, to be determined as far as practicable by competitive examination. Positions included in the civil service fall into three categories; namely, competitive or classified service, non-competitive or unclassified service and exempt service. The exempt service does not fall within the scope of this law."

[5] Section 3 of the Government Service Insurance Act, Commonwealth Act No. 186, is to this effect: "In order to promote the efficiency and welfare of the employees of the Government of the Philippines and to replace the present pension systems established in Acts Numbered Sixteen hundred and thirty-eight, Thirty hundred and fifty, and Thirty-one hundred and seventy-three, as amended, there is hereby established an institution to be known as the 'Government Service Insurance System.' " (1936)

[6] Sec. 16 of Republic Act No. 186, as amended by Republic Act No. 660 (1951); Republic Act No. 1396 (1961) and Republic Act No. 4847 (1966).

[7] Cf. Sec. 12 of Republic Act No. 265, The Central Bank Act (1948); Sec. 5 of Republic Act No. 776, The Civil Aeronautics Act (1952); Sec. 4 of Republic Act No. 1135, The Philippine Tobacco Administration Act (1954); Sec. 3 of Republic Act No. 1161, The Social Security Act (1954); Sec. 6 of Republic Act No. 1145, The Philippine Coconut Administration Act (1954); Sec. 4 of Republic Act No. 1295, The Abaca Corporation Act (1955); Sec. 7 of Republic Act No. 1345, The Namarco Act (1955); Sec. 4 of Republic Act No. 1383, The

Nawasa Act (1955); Sec. 4 of Republic Act No. 1400, The Land Tenure Administration Act (1955); Sec. 2 of Republic Act No. 1815, The Philippine Nuclear Energy Commission Act (1957); Sec. 6 of Republic Act No. 2265, The Philippine Virginia Tobacco Administration Act (1959); Sec. 5 of Republic Act No. 3018, The Rice and Corn Industry Act (1960).

[8] L-24632, Oct. 26, 1968, 25 SCRA 668.

[9] McCoy v. Handlin, 153 N.W. 361 (1915).

[10] Ibid, p. 373.

[11] Ibid, p. 374. The constitutional provision in question, Art. 5 of Sec. 30 of the Constitution of South Dakota reads thus: "The judges of the Supreme Court, Circuit courts and county courts shall each receive such salary as may be provided by law, consistent with this Constitution, and no such judge shall receive any compensation, perquisite or emoluments for or on account of his office in any form what-ever, except such salary: Provided, that county judges may accept and receive such fees as may be allowed under the land laws of the United States." Cf. Earhart v. Frohmler, 178 P2d 436 (1947); State v. Yelle, 110 P2d 162 (1941); Kogel v. McGoldrick, 35 NYS 2d 916 (1942); Clark v. Board of Com-missioners, 276 NW 138 (1936); Swartz v. Kingsbury County, 267 NW 140 (1936); Milwaukee County v. Halsey, 136 NW 139 (1912).

[12] Sec. 6 of the Philippine Virginia Tobacco Administration Act, Republic Act No. 2265 (1959).

[13] Sec. 2 of the Central Luzon-Cagayan Valley Authority Act, Republic Act No. 3054 (1961).

[14] Sec. 4 of the Medical Care Commission Act, Republic Act No. 6111 (1969).

[15] Cf. Ansay v. National Development Co., 107 Phil. 997 (1960). Citing Phil. Education Co. v. CIR, 92 Phil. 381 (1952); H. E. Heacock v. National Labor Union, 95 Phil. 553 (1954). That bonuses constitute additional compensation is the teaching of the following American decisions: Hurt v. Cotton States Fertilizer Co., C.C.A. Ga., 159 F. 2d 52 (1947); Tucker v. Tucker, 87 A. 2d 650 (1952); Payne v. United States, 269 F. 871 (1921); Jones v. Loughman, 288 N.Y.S. 44 (1936); Patterson v. Iowa Bonus Bd., 71 N.W. 2d1 (1955).

[16] Cf. United States v. Lee, 106 US 196 (1882).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.