

**MANILA INTERNATIONAL AIRPORT AUTHORITY, PETITIONER, VS.
COMMISSION ON AUDIT, RESPONDENT, CECILIO BAUTISTA,
FLORENCIO MONTALBO, LILIA DIAZ, OSCAR ACAL, MA. CRISTINA
PORTIA MOJICA...**

G.R. No. 104217. December 05, 1994

Ponente: QUIASON, J.

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QUIASON, J.:

This is a petition for certiorari under Rule 65 of the Revised Rules of Court with prayer for preliminary injunction or restraining order, to reverse and set aside the Decision No. 2142 dated July 1, 1991 of the Commission on Audit (COA) in "RE: Appeal of Mr. Eduardo O. Carrascoso, General Manager, Manila International Airport Authority (MIAA), from the disallowance of the 'excess' RATA paid by MIAA to its officials/employees for the period July 1989 to June 1990 amounting to P1,215,947.96." Said decision affirmed the disallowance in audit by the MIAA Resident Auditor of the amount of P1,215,947.96 representing the excess representation and transportation allowances (RATA) paid to certain MIAA officials and employees.

I

Petitioner MIAA is a government-owned and controlled corporation for the purpose, among others, of encouraging and promoting international and domestic air traffic in the Philippines as a means of making the Philippines a center of international trade and tourism and accelerating the development of the means of transportation and communications in the country (E.O. No. 298, as amended by E.O. No. 903).

In accordance with the Letter of Implementation (LOI) No. 97, specifically Section 5.4(g) thereof, petitioner granted to its Department and Division Managers an increase in their RATA benefits equivalent to 40% of their basic salary.

Pursuant to R.A. No. 6758, otherwise known as the "Compensation and Position Classification Act of 1989," which took effect on July 1, 1989, petitioner adjusted the RATA for the months of July 1989 to June 1991 of its Department and Division Managers to 40% of the standardized salary rates. The adjustment involved the total amount of P1,215,947.96.

On September 12, 1990, MIAA Resident Auditor served a Formal Notice of Disallowance of RATA paid to MIAA officers on the ground that said payment was excessive because the same had been increased to 40%, based on their basic salary effective July 1, 1989, which was in violation of R.A. No. 6758, Corporate Compensation Circular (CCC) No. 10 and COA Memorandum 90-653. Furthermore, the Resident Auditor opined that petitioner should pay its employees only the RATA based on the highest amount being received by the incumbents as of June 30, 1989, which was 40% of the basic pay prior to the salary standardization or at the equivalent rates prescribed under the General Appropriations Act for 1989.

In denying petitioner's motion for reconsideration, the Resident Auditor contended that LOI No. 97, granting RATA at 40% based on the maximum ceiling of the basic pay of the MIAA officials, was inconsistent with R.A. No. 6758 as implemented by CCC No. 10, and that said provision was amended or modified pursuant to the repealing clause under R.A. No. 6758.

On July 17, 1991, the COA rendered its decision, the dispositive portion of which reads:

“ACCORDINGLY, the Commission upholds the action of the MIAA Auditor disallowing in audit the amount of P1,215,947.96 in excess’ RATA” (Rollo, p. 11).

Hence, this petition.

The MIAA officials, whose RATA benefits were affected by the disallowance, intervened as petitioners.

Petitioner and the petitioners-in-intervention, raise the following issues:

1

WHETHER OR NOT LOI NO. 97, DATED AUGUST 31, 1979 IS INCONSISTENT WITH, AND THEREFORE HAS BEEN REPEALED BY SECTION 22 OF R.A. No. 6758.

2

WHETHER OR NOT THE GRANT OF RATA AND RATA ADJUSTMENTS TO PRIVATE PETITIONERS BASED ON THE MAXIMUM CEILING OF 40% OF THEIR BASIC SALARY AUTHORIZED UNDER SECTION 5(g) OF LOI NO. 97, IS VALID, WHEN THE SAME WERE GRANTED, "AFTER JUNE 30, 1989, THE DATE OF EFFECTIVITY OF R.A. NO. 6758 (SALARY STANDARDIZATION LAW)" AND, ACCORDING TO RESPONDENT COA, SHOULD THEREFORE BE BASED "ON THE HIGHEST AMOUNT OF RATA RECEIVED BY THE INCUMBENT AS OF JUNE 30, 1989."

3

ON THE WHOLE, WHETHER OR NOT RESPONDENTS ARE IN EFFECT PRIVIES TO THE PREJUDICIAL STATUTORY AMENDMENTS HEREIN COMMITTED, THROUGH EXECUTIVE LEGISLATION, TANTAMOUNT TO USURPATION OF LEGISLATIVE FUNCTION, THUS, A GROSS VIOLATION OF THE CONSTITUTIONAL PRINCIPLE REGARDING GOVERNMENTAL SEPARATION OF POWERS.

II

Petitioners contend that LOI No. 97, particularly Section 5(g) thereof, was not repealed by Section 22 of R.A. No. 6758. They cite Opinion Nos. 68 and 108 of the Government Corporate Counsel.

Opinion No. 68 dated March 23, 1990 answers the query posed by the Metropolitan Waterworks and Sewerage System (MWSS), a government-owned and controlled corporation, as to whether or not the RATA authorized under LOI No. 97 may be increased or adjusted to a maximum of 40% of the basic pay despite the passage of R.A. No. 6758. On the other hand, Opinion No. 108 dated May 11, 1990 clarified the question raised by the Local Water Utilities Administration (LWUA), also a government-owned and controlled corporation, as to whether or not the 40% RATA of the managerial employees of LWUA be based on their respective standardized salaries retroactive to July 1989 as provided under R.A. No. 6758.

To both queries, the Office of the Government Corporate Counsel in its Opinion No. 68 answered in the affirmative and stated that:

"xxx except for Sections 2 and 15 of PD 985 which are expressly repealed, all other laws, decrees and issuances or parts thereof authorizing the fixing of positions, salaries and allowances of government officials and employees shall be deemed repealed only if these are inconsistent with the provisions of R.A. No. 6758. Section 5(g) of LOI 97 is not inconsistent with R.A. No. 6758 as precisely, this is the basis for the RATA which is continued to be authorized under Section 12 of said law. To construe otherwise would render ineffective said section, as before the RATA is allowed to continue, there must be a previous law, granting the same in the first place. Moreover, the statement in Section 5.4.1 of Corporate Compensation Circular No. 10 that incumbents are allowed to receive RATA "at the highest amount legally authorized as of June 30, 1989" in effect results in the incorporation by reference of all laws, decrees and rules defining the maximum amount of RATA that employees and officials of government corporations may receive" (Rollo, pp. 58-59).

and in Opinion No. 108, it stated that:

"(if) the implementation of the said RA (6758) abrogates or decreases the said RATA of LWUA officers which they receive pursuant to LOI No. 97, (the same) would run counter to the object of said RA.'

On the basis of said opinion, we so hold that the concerned LWUA officers are entitled to a RATA of 40% of their basic salary under the salary standardization law" (Rollo, pp. 60-61).

Respondent COA is of the view that LOI No. 97 has been repealed by Sections 12 and 22 of R.A. No. 6758. Furthermore, it maintains that R.A. No. 6758 practically embraces the entire subject matter on compensation and position classification covered in LOI No. 97.

The first paragraph of Section 12 of R.A. No. 6758 provides:

"Consolidation of Allowances and Compensation. – All 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 only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized (Underscoring supplied).

Under the second sentence of the aforementioned provision, such other compensation includes the RATA. Hence, RATA, being received by incumbents as of July 1, 1989 are entitled to continue to receive the same. Republic Act No. 6758 has therefore, to this extent, amended LOI No. 97. By limiting the benefit of the RATA granted by LOI No. 97 to incumbents, Congress has manifested its intent to gradually phase out this RATA privilege under LOI No. 97 without upsetting its policy of non-diminution of pay (*Philippine Ports Authority v. Commission on Audit*, 214 SCRA 653 [1992]).

With regard to the question as to what is the basis of the RATA to be given to incumbents after July 1, 1989, petitioners contend that according to LOI No. 97 they are entitled to RATA equivalent to 40% of their basic salary. With the effectivity of R.A. No. 6758, the 40% must be adjusted based on the standardized salary.

Respondent COA, however, alleges that starting July 1, 1989, the RATA is no longer based on 40% of the basic salary but on the highest amount of RATA received by the incumbents as of June 30, 1989.

This issue has been answered in *Philippine Ports Authority v. Commission on Audit*, supra, where we held:

"The resolution of this issue involves the proper interpretation of the second sentence of Section 12, first paragraph:

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.

The DBM and the respondents construed July 1, 1989 as a cut-off date. According to them the highest amount the officials are receiving as of July 1, 1989 shall be the amount that shall continue to be authorized.

We disagree to the foregoing interpretation and rule for the petitioners. The date July 1, 1989 does not serve as a cut-off date with respect to the amount of RATA. The date July 1, 1989 becomes crucial only to determine that as of said date, the officer was an incumbent and was receiving the RATA, for purposes of entitling him to its continued grant. The given date should not be interpreted as fixing the maximum amount of RATA to be received by the official."

WHEREFORE, the petition is GRANTED. The disallowance in the amount of P1,215,947.96 representing "excess" payment of RATA for July 1989 to June 1990 is SET ASIDE.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, and Mendoza, JJ., concur.

Feliciano, J., on leave.

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