

DEPARTMENT OF ENERGY, PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.

G.R. No. 113747. December 01, 1994

Ponente: REGALADO, J.

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REGALADO, J.:

This is an original action for certiorari from Commission on Audit (COA) Decision No. 94-004, dated January 11, 1994,[1] which affirmed the disallowance by its resident auditor of the amount of P1,860,000.00 representing the grant of loyalty awards to the employees of petitioner Department of Energy.

The Department of Energy was formerly known as the Office of Energy Affairs (OEA). On April 4, 1990, the OEA Awards Committee was created by said office under Special Order No. 90-04-16[2] pursuant to Civil Service Commission (CSC) Memorandum Circular No. 56, series of 1989, providing the Implementing Guidelines of the Incentives and Rewards System under Republic Act No. 6713.

On May 20, 1992, the OEA Awards Committee favorably endorsed the grant of loyalty and retirement awards to deserving OEA officials and employees who had rendered at least 10, 15 and 20 years of service[3] pursuant to Section 7(e), Rule X of the Omnibus Rules Implementing Book V of Executive Order No. 292, otherwise known as the Administrative Code of 1987. The amount of P3,000.00 was awarded to each employee who had rendered at least 10 years of service; P4,500.00 to employees who had rendered service of at least 15 years; and P6,000.00 to those with at least 20 years of service, or a total of P396,000.00. The second installment of the cash awards in the amount of P288,000.00 was granted on October 3, 1992.

On November 3, 1992, additional loyalty awards were granted at the rate of P1,500.00, P1,600.00 and P1,700.00 for every year of service to those who had rendered 10, 15, and 20 years of service, respectively. The additional cash awards totalled P1,310,000.00. The amounts granted were based on Department Order No. 92-10, dated October 1, 1992, issued by the Department of Budget and Management (DBM).[4]

It is posited that the grant of such awards would encourage creativity, innovativeness, efficiency, integrity and productivity in the public service by recognizing and rewarding officials and employees for their suggestions, inventions, superior accomplishments, and other personal efforts which contribute to the efficiency, economy, or other improvement in the government operations, or for other extraordinary acts or services in the public interest.

As shown in the Schedule of Loyalty Awards received by OEA employees for 1992,[5] a total of 127 employees received the amount of P1,994,000.00. However, only P134,000.00 of this amount was approved by the Resident COA Auditor, while the balance of P1,860,000.00 was disallowed pursuant to Certificate of Settlement and Balances (CSB) Nos. 92-0009--101, 92-0010-101, and 93-0002-101.

Under CSB No. 92-009-101, dated November 24, 1992,[6] covering the first cash award of P396,000.00, the amount of P366,000.00 was disallowed, subject to the approval by the Civil Service Commission of petitioner's Employees Suggestion and Incentive Award System (ESIAS). The second cash installment of P288,000.00 was

disallowed under CSB No. 92-0010-101, also dated November 24, 1992,[7] on the ground that DBM Department Order No. 92-10 should be made to apply only to the employees of the Department of Budget and Management and cannot, therefore, be used as a basis by petitioner in giving out cash awards to its employees. The additional cash award of P1,310,000.00 was likewise not totally approved pursuant to CSB No. 93-0002-101, dated March 1, 1993,[8] for the reason that Section 7(e) of petitioner's ESIAS should be modified to conform with CSC Memorandum Circular No. 42, series of 1992.

It appears that it was only on November 12, 1992 when herein petitioner submitted its ESIAS to the Civil Service Commission[9] and the same was approved on November 23, 1992, subject to the condition that Section 7(e) of the OEA-ESIAS on the grant of loyalty award be modified to conform with the aforesaid CSC Memorandum Circular No. 42.[10]

Petitioner appealed to respondent Commission on Audit which, however, affirmed the disallowance on the ground that loyalty awards cannot be granted where a department or agency has not yet submitted its ESIAS to, and the same has not been approved by, the Civil Service Commission; that although CSC Memorandum Circular No. 42 cannot be given retroactive effect, in the same manner, petitioner's ESIAS may also not be given retroactive effect; and that DBM Department Order No. 92-10, applies exclusively to DBM employees.

Hence this petition which hinges on the asseverations that respondent Commission erred:

1. In not holding that under Section 5 of Rule X of the Omnibus Rules Implementing Book V of the Administrative Code of 1987, the OEA employees are entitled to loyalty awards corresponding to the amount they respectively received in the total sum of P1,994,000.00;
2. In ruling that the amounts of the loyalty awards to OEA employees in 1992 were limited by CSC MC No. 42, series of 1992, and in not holding that said employees are entitled to loyalty awards under Section 7(e) of Rule X of the Omnibus Rules implementing Book V of Executive Order No. 292; and
3. In holding that before a loyalty award may be granted, the department/agency concerned must have an ESIAS submitted and duly approved by the Civil Service Commission.

We repeat, for easy reference, that the OEA Awards Committee was created on April 4, 1990 under Special Order No. 90-04-16 of the Office of Energy Affairs pursuant to CSC Memorandum Circular No. 56, which provided for the implementing guidelines of the Incentives and Awards System under Republic Act No. 6713. The basic function of the committee is to screen all nominations for the Outstanding Officials and Employees Awards, as well as the employees deserving of the Annual OEA Honor Awards, and to recommend the chosen nominees to the management for its final decision.

Republic Act No. 6713, which is the basis for the creation of the OEA Awards Committee, is an act establishing a code of conduct and ethical standards for public officials and employees, and this took effect on March 25, 1989. Section 6 thereof provides for the establishment of a system of annual incentives and rewards in order to motivate and inspire public servants to uphold the highest standards of ethics. It further provides that such incentives and rewards to government officials and employees of the year, to be announced in public ceremonies honoring them, may take the form of bonuses, citations, directorships in government owned or controlled corporations, local and foreign scholarship grants, paid vacations and the like, or automatic promotions.

On April 21, 1989, the Civil Service Commission issued Memorandum Circular No. 56, series of 1989, providing for the guidelines in the implementation of Section 6 of Republic Act No. 6713. Section 2 of said circular states that the award under the system shall be known as the Outstanding Public Officials and Employees Award. Section 3 thereof enumerates the eight norms of conduct as bases for the award; Section 4 explains the nomination

criteria and percentage weight; and Section 5 provides for the forms of incentives and rewards which are similar to those stated in Section 6 of Republic Act No. 6713. Section 7 of the circular constituted the basis for the creation of the OEA Awards Committee.

It can be gleaned from the foregoing, therefore, that the sole and primary purpose and function of the OEA Awards Committee was to screen officials and employees of the Office of Energy Affairs who may be nominated for the Outstanding Public Officials and Employees Award. The award provided for in Republic Act No. 6713, however, pertains to an honor award which is different from the loyalty and retirement award granted by the OEA Awards Committee, as we shall hereinafter explain.

The Omnibus Rules Implementing Book V of Executive Order No. 292, specifically Rule X thereof, prescribes rules, regulations and standards in the administration of the Employees Suggestions and Incentive Awards System (ESIAS) established under Section 35, Book V of Executive Order No. 292. Section 5 of Rule X states that the awards under the ESIAS shall consist of honor and incentive awards. The honor awards are enumerated in Section 6 thereof, paragraph (d) of which reads as follows:

"Sec. 6. Honor awards shall consist of the following:

x x x

(d) Outstanding Public Official/Employee Award or Dangal ng Bayan Award which shall be granted to officials and employees in the government who have demonstrated exemplary service and conduct on the basis of their observance of the eight (8) norms of behavior as provided for under Republic Act No. 6713. Administration of this Award and the procedures of nomination shall be governed by Republic Act No. 6713 and its Implementing Rules."

Essentially, therefore, the OEA Awards Committee was authorized to grant only honor awards, specifically the Outstanding Public Official/Employee Award or the Dangal ng Bayan Award, pursuant to Section 6(d), Rule X of the Omnibus Rules and Republic Act No. 6713. It did not have the power to grant loyalty and retirement awards granted in Section 7, paragraphs (e) and (f), Rule X of the Omnibus Rules which provide that:

"Sec. 7. The incentive awards shall consist of, though not limited to, the following:

x x x

(e) Loyalty Award which shall be granted to an employee who has completed at least ten (10) years of continuous and satisfactory service in the government. This service award shall consist of cash bonus and a lapel emblem or loyalty pin, x x x.

The cash bonus shall, upon the recommendation of the Agency SIAC, be not less than One Hundred Pesos (P100.00) per year, chargeable against the Agency's savings, Provided however: That those who have received the cash award during their first ten (10) years shall, upon reaching fifteen (15), only receive the cash award for the succeeding five (5) years and so on.

(f) Retirement Award which shall be given to a retiree who had rendered at least fifteen (15) years of satisfactory government service. This award shall be in the form of a plaque of appreciation, the design and citation of which shall be determined by the office concerned."

The crux of the matter now is whether or not the subsequent establishment and approval of petitioner's ESIAS legalized the loyalty and retirement awards granted prior thereto. Petitioner contends that there can be retroactive application; respondent believes otherwise.

On October 15, 1992, Memorandum Circular No. 42, series of 1992[11] was issued by CSC Chairman Patricia A.

Sto. Tomas, amendatory of paragraph (e), Section 7 of Rule X of the Omnibus Rules and now requiring, among others, that the grant of an award, monetary or otherwise, by any government agency to its employees shall be subject to the establishment of a Department or Agency ESIAS and the subsequent approval of said system by the Civil Service Commission. It likewise limits the amount of cash gift to not more than P100.00 per year of service. This circular took effect on November 7, 1992, fifteen (15) days after its publication in a newspaper of general circulation.^[12] The subject loyalty awards were given out on May 20, October 3, and November 3, 1992. Consequently, the circular cannot be given retroactive effect. In other words, the system requirement and the cash limit provided for in said memorandum circular cannot be made to apply to the cash awards which had been paid out to petitioner's employees.

It is true that the OEA Awards Committee is not authorized to grant loyalty awards. It appears, however, that petitioner submitted its ESIAS and the same was approved by the CSC on November 23, 1992, after the cash awards had been paid to the employees. This fact notwithstanding, we are inclined to uphold the cash awards granted to them by giving petitioner's ESIAS retroactive effect in the interest of substantial justice, especially since the disallowances were issued by respondent's resident auditor only after petitioner's ESIAS had already been duly approved by the CSC.

Besides, the cash awards were taken from petitioner's savings which is allowed under the law. Finally, we do not find anything irregular or illegal in using DBM Department Order No. 92-10 as the basis for the computation of said cash awards. On these confluent considerations, said awards should be considered as having been validly granted.

ACCORDINGLY, the instant petition, being meritorious, respondent's impugned Decision No. 94-004 should be, as it is hereby, REVERSED and SET ASIDE.

SO ORDERED.

Narvasa, C.J., Padilla, Bidin, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, Vitug, Kapunan, and Mendoza, JJ., concur.
Feliciano, J., on leave.

[1] Annex A, Petition; Rollo, 37.

[2] Annex B, id.; ibid., 40.

[3] Annex C, id.; ibid., 42

[4] Annex I, id.; ibid., 67.

[5] Annex D, id.; ibid., 50.

[6] Annex F, id.; ibid., 59.

[7] Annex G, id.; ibid., 62.

[8] Annex H, id.; ibid., 65.

[9] Annex J, id.; ibid., 70.

[10] Annex L, id.; ibid., 78.

[11] Annex K, id.; ibid., 77.

[12] Rollo, 77. This was published on October 23, 1992 in the Philippine Daily Inquirer.

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