

**NATIONAL TOBACCO ADMINISTRATION REPRESENTED HEREIN BY
ADMINISTRATOR AMANTE SIAPNO, EVANGELISTA A. GARCIA,
RICARDO BRIONES, CLARITA B. CASTRO, CRISTINA LOPEZ, JESUS C.
BONDOC AND...**

G.R. No. 119385. August 05, 1999

Ponente: PURISIMA, J.

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PURISIMA, J.:

At bar is a petition for review on certiorari under Rule 45 of the Revised Rules of Court to review and set aside the decision of the Commission on Audit[1] dated February 7, 1995 in COA Decision No. 95-108.[2]

The National Tobacco Administration (NTA, for short), under Executive Order No. 116, as amended by Executive Order No. 245,[3] is a government-owned and controlled corporation (GOCC, for brevity) tasked to supervise and improve the viability of the tobacco industry in this country.

On August 9, 1989, Congress passed Republic Act No. 6758,[4] entitled "An Act Prescribing a Revised Compensation and Position Classification in the Government and for Other Purposes." On October 2, 1989, pursuant to Section 23 of said law, the Department of Budget and Management (DBM) issued Corporate Compensation Circular No. 10 (CCC No. 10) to serve as the Implementing Rules and Regulations of R.A. No. 6758.

Pertinent records show that even prior to the effectivity of Republic Act No. 6758, officials and employees of the NTA have been enjoying Mid-Year Social Amelioration Benefit equivalent to one-and-a half (1 1/2) month of their basic salary. From 1989 to 1993, however, the said benefit was reduced to one (1) month of the basic salary due to financial/budgetary constraints. In May, 1993, the nomenclature of subject social amelioration benefit was changed to educational assistance in order to reflect the rationale behind the same, which is to encourage its beneficiaries to pursue graduate studies and to finance the schooling of their children.

Sometime in February, 1994, Miss Dalisay E. Aracan, Resident Auditor of NTA, issued a Notice of Disallowance of the payment of the educational assistance for calendar year 1993, opining that the NTA has no statutory authority to grant the incentive. In January, 1995, the same Resident Auditor caused the disallowance of the same benefit paid in 1994, for the same reason.

On April 25, 1994, the petitioners appealed to the Commission on Audit, praying for the lifting of the disallowance in question, pointing out that: (1) Benefits received by employees as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized, pursuant to Section 12 of R.A. 6758; (2) the benefit having been received for so many years, even prior to the effectivity of the Salary Standardization Law of 1989, has been a vested right, on the part of the recipients and (3) such allowance regularly granted, forms part of the total compensation package of NTA Officers and employees, and, therefore, the disallowance thereof amounts to unauthorized diminution of pay.

On February 7, 1995, the Commission on Audit came out with its questioned Decision the pertinent portion of which, reads:

"After a thorough evaluation, this Office believes and so holds that the disallowance of the Auditor on the payment of the mid-year social amelioration benefits or the educational assistance benefits is in order. It bears stress that Sec. 5.6 of CCC No. 10 (Implementing R.A. 6758) is so explicit when it provides that:

`Payment of other allowances/fringe benefit and all other forms of compensation granted on top of basic salary, whether in cash or in kind, not mentioned in Sub-Paragraphs 5.4 and 5.5 above shall be discontinued effective November 1, 1989. Payment made for such allowance/fringe benefits after said date shall be considered as illegal disbursement of public Funds.'

Since the educational assistance or the mid- year social amelioration is not among those allowances mentioned in Sub-pars. 5.4 and 5.5 of CCC No. 10, the same shall be discontinued effective November 1, 1989 and considering that NTA paid its officials/employees this type of allowance, such payment shall be considered as illegal disbursement of public funds.

The provision of Sec. 12 second sentence thereof as invoked by the Administrator should be read in conjunction with the first sentence thus -

`Consolidation of Allowances and Compensation - All allowances except for representation and transportation allowances; clothing and laundry allowances; subsistence [sic] allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service 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." xxx

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Premises considered and for lack of legal basis, the herein request of the Administrator, NTA for the lifting of the disallowance in question, may not be given due course."[5] [Underscoring; supplied]

Undaunted, petitioners found their way to this Court via the present Petition for Review on Certiorari, filed on April 24, 1995, seeking the annulment of the said COA Decision; theorizing that the respondent Commission on Audit erred:

I.

IN HOLDING THAT THE PAYMENT OF SUBJECT SOCIAL AMELIORATION /EDUCATIONAL ASSISTANCE BENEFIT - A BENEFIT CONTINUOUSLY BEING RECEIVED BY INDIVIDUAL PETITIONERS AND OTHER NTA EMPLOYEES STARTING WAY BEFORE THE EFFECTIVITY OF THE SALARY STANDARDIZATION LAW (R.A. 6758) ON 1 JULY 1989 - IS NOT AUTHORIZED UNDER THE SAME LAW (R.A. 6758) OR IS OTHERWISE WITHOUT LEGAL BASIS;

II.

IN FAILING TO REALIZE AND CONSIDER THAT THE DISALLOWANCE OF THE PAYMENT OF SUBJECT SOCIAL AMELIORATION/EDUCATIONAL ASSISTANCE BENEFIT IS CONSTITUTIVE OF DIMINUTION OF COMPENSATION PROSCRIBED UNDER EXISTING LAWS AND IN VIOLATION OF THE GENERAL WELFARE CLAUSE OF THE CONSTITUTION;

III.

IN FAILING TO RECOGNIZE THAT INDIVIDUAL PETITIONERS AND OTHER SIMILARLY SITUATED NTA EMPLOYEES HAVE ACQUIRED A VESTED RIGHT OVER SAID SOCIAL

AMELIORATION/EDUCATIONAL ASSISTANCE BENEFIT AND COA's DISALLOWANCE THEREOF IS AN ILLEGAL VIOLATION OF SUCH RIGHT.

Petitioners raise the pivotal issues: (1) whether or not the social amelioration or educational assistance benefit given to the individual petitioners prior to enactment of R.A. 6758 is authorized under the law, (2) whether or not the disallowance of the said benefit is tantamount to diminution of pay, and (3) whether or not the individual petitioners have acquired a vested right thereover.

First Issue:

Proper Interpretation of Sections 12 and 17 of R.A. 6758 in Relation to Sub-paragraphs 4.1, 5.4 and 5.5 of Corporate Compensation Circular No.10, the Implementing Rules and Regulation of R.A. 6758.

A. Sections 12 and 17 of R. A. 6758, read:

"Section 12: 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 service 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.

Existing additional compensation of any national government official or employee paid from local funds of a local government unit shall be absorbed into the basic salary of said official or employee and shall be paid by the National Government."

while

"Section 17. Salaries of Incumbents - Incumbents of positions presently receiving salaries and additional compensation/fringe benefits including those absorbed from local government units and other emoluments, the aggregate of which exceeds the standardized salary rate as herein prescribed, shall continue to receive such excess compensation, which shall be referred to as transition allowance. The transition allowance shall be reduced by the amount of salary adjustment that the incumbent shall received [sic] in the future."

B. Section 4.1 of CCC No. 10:

4.0 DEFINITION OF TERMS

4.1 The present salary of an incumbent for purposes of this Circular shall refer to the sum total of actual basic salary including allowances enumerated hereunder, being received as of June 30, 1989 and certified and authorized by the DBM.

4.1.1 Cost-of-Living Allowance (COLA)/Bank Equity Pay (BEP) equivalent to forty percent (40%) of basic salary or P300.00 per month, whichever is higher;

4.1.2 Amelioration Allowance equivalent to ten percent (10%) of basic salary or P150.00 per month, whichever is higher;

4.1.3 COLA granted to GOCCs/GFIs covered by the Compensation and Position Classification Plan for the regular agencies/offices of the National Government and to GOCCs/GFIs following the Compensation and Position Classification Plan under LOImp. No. 104/CCC No. 1 and LOImp. No. 97/CCC No. 2, in the amount of P550.00 per month for those whose monthly basic salary is P1,500.00 and below, and P500.00 for those whose monthly basic salary is P1,501.00 and above, granted on top of the COLA/BEP mentioned in Item 4.1.1 above;

4.1.4 Stabilization Allowance; and

4.1.5 Allowance/fringe benefits converted into "Transition Allowance" pursuant to Memorandum Order No. 177, as implemented by Corporate Budget Circular No. 15, both series of 1988.

4.2 Allowances enumerated above are deemed integrated into the basic salary for the position effective July 1, 1989.

4.3 Transition allowance, for purposes of this circular shall mean the excess of the present salary of the incumbent defined in Item 4.1 hereinabove, over the eighth step of the Salary Grade to which his position is allocated.

C. Sub-Paragraphs 5.4, 5.5 and 5.6 of CCC. No. 10:

5.0 IMPLEMENTING PROCEDURES

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5.4 The rates of the following allowances/fringe benefits which are not integrated into the basic salary and which are allowed to be continued after June 30, 1989 shall be subject to the condition that the grant of such benefit is covered by statutory authority.

5.4.1 Representation and Transportation Allowances (RATA) of incumbent of the position authorized to receive the same at the highest amount legally authorized as of June 30, 1989 of the level of his position within the particular GOCC/GFI;

5.4.2 Uniform and Clothing Allowance at a rate as previously authorized;

5.4.3 Hazard Pay as authorized by law;

5.4.4 Honoraria/additional compensation for employees on detail with special projects of inter-agency undertakings;

5.4.5 Honoraria for services rendered by researchers, experts and specialists who are of acknowledged authorities in their field of specialization;

5.4.6 Honoraria for lecturers and resource persons/speakers;

5.4.7 Overtime Pay in accordance to Memorandum Order No. 228;

5.4.8 Clothing/laundry allowances and subsistence of marine officers and crew on board GOCCs/GFIs owned vessels and used in their operations, and of hospital personnel who attend directly to patients and who by nature of their duties are required to wear uniforms;

5.4.9 Quarters Allowance of officials and employees who are presently entitled to the same;

5.4.10 Overseas, Living Quarters and other allowances presently authorized for personnel stationed abroad;

5.4.11 Night Differential of personnel on night duty;

5.4.12 Per Diems of members of governing Boards of GOCCs/GFIs at the rate as prescribed in their respective Charters;

5.4.13 Flying Pay of personnel undertaking aerial flights;

5.4.14 Per Diems/Allowances of Chairman and Members/Staff of collegial bodies and Committees; and

5.4.15 Per Diems/Allowances of officials and employees on official foreign and local travel outside of their

official station;

5.5 Other allowances/fringe benefits not likewise Integrated into the basic salary and allowed to be continued only for incumbents as of June 30, 1989 subject to the condition that the grant of the same is with appropriate authorization either from the DBM, Office of the President or legislative issuances are as follows:

5.5.1 Rice Subsidy;

5.5.2 Sugar Subsidy;

5.5.3 Death Benefits other than those granted by the GSIS;

5.5.4 Medical/Dental/Optical Allowances/Benefits;

5.5.5 Children's Allowance;

5.5.6 Special Duty Pay/Allowance;

5.5.7 Meal Subsidy;

5.5.8 Longevity Pay; and

5.5.9 Teller's Allowance.

5.6 Payment of other allowances/fringe benefits and all other forms of compensation granted on top of basic salary, whether in cash or in kind, not mentioned in Sub-paragraphs 5.4 and 5.5 above 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."

Petitioners maintain "that since they have been receiving the social amelioration or educational assistance benefit before July 1, 1989, when R.A. No. 6758 took effect, and the benefit was not integrated into their standardized salary rate, they are entitled to receive it even after the effectivity of the said Act." [6] They base their claim on the second sentence of Section 12 and on Section 17 of the Salary Standardization Law which, for the sake of thoroughness and clarity of discussion, we deem it expedient to quote again, to wit:

"Second Sentence of Section 12, R.A. 6758 - xxx. 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;"

x x x

"Section 17: Salaries of Incumbents - Incumbents of positions presently receiving salaries and additional compensation /fringe benefits including those absorbed from local government units and other emoluments, the aggregate of which exceeds the standardized salary rate as herein prescribed, shall continue to receive such excess compensation, which shall be referred as transition allowance. The transition allowance shall be reduced by the amount of salary adjustment that the incumbent shall received in the future."

It is the submission of the Commission on Audit that payment of the educational assistance in question is not authorized under Republic Act No. 6758, arguing "that the provision of Sec. 12, second sentence thereof as invoked by the Administrator [representing the petitioner herein] should be read in conjunction with the first sentence...;" [7] and if the entire Section 12 is further considered in relation to sub-paragraphs 5.4, 5.5 and 5.6 of CCC No. 10, respondent concluded that the grant of subject educational assistance would have no legal basis at all.

Confusion as to the proper interpretation of Section 12 springs from two seemingly contradictory provisions. The

last clause of the first sentence of Section 12, reads:

[A]nd 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;"

while the second sentence of Section 12 is to the following effect:

"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."

Before proceeding to rule on the proper interpretation of the two provisos aforecited, the salient features of the provision as a whole should first be pondered upon and tackled.

Under the first sentence of Section 12, all allowances are integrated into the prescribed salary rates, except:

- (1) representation and transportation allowances (RATA);
- (2) clothing and laundry allowances;
- (3) subsistence allowances of marine officers and crew on board government vessels;
- (4) subsistence allowance of hospital personnel;
- (5) hazard pay;
- (6) allowance of foreign service personnel stationed abroad; and
- (7) such other additional compensation not otherwise specified in Section 12 as may be determined by the DBM.

Analyzing No. 7, which is the last clause of the first sentence of Section 12, in relation to the other benefits therein enumerated, it can be gleaned unerringly that it is a "catch-all proviso." Further reflection on the nature of subject fringe benefits indicates that all of them have one thing in common - they belong to one category of privilege called allowances which are usually granted to officials and employees of the government to defray or reimburse the expenses incurred in the performance of their official functions. In *Philippine Ports Authority vs. Commission on Audit*,^[8] this Court rationalized that "if these allowances are consolidated with the standardized rate, then the government official or employee will be compelled to spend his personal funds in attending to his duties."

The conclusion - that the enumerated fringe benefits are in the nature of allowance - finds support in sub-paragraphs 5.4 and 5.5 of CCC No. 10.

Sub-paragraph 5.4 enumerates the allowance/fringe benefits which are not integrated into the basic salary and which may be continued after June 30, 1989 subject to the condition that the grant of such benefit is covered by statutory authority, to wit:

- (1) RATA;
- (2) Uniform and Clothing allowances;
- (3) Hazard pay;
- (4) Honoraria/additional compensation for employees on detail with special projects or inter-agency undertakings;
- (5) Honoraria for services rendered by researchers, experts and specialists who are of acknowledged authorities

in their fields of specialization;

(6) Honoraria for lectures and resource persons or speakers;

(7) Overtime pay in accordance to Memorandum Order No. 228;

(8) Clothing/laundry allowances and subsistence allowance of marine officers and crew on board GOCCs/GFIs owned vessels and used in their operations, and of hospital personnel who attend directly to patients and who by nature of their duties are required to wear uniforms;

(9) Quarters Allowance of officials and employees who are presently entitled to the same;

(10) Overseas, Living Quarters and other allowances presently authorized for personnel stationed abroad;

(11) Night differential of personnel on night duty;

(12) Per Diems of members of the governing Boards of GOCCs/GFIs at the rate as prescribed in their respective Charters;

(13) Flying pay of personnel undertaking aerial flights;

(14) Per Diems/Allowances of Chairman and Members or Staff of collegial bodies and Committees; and

(15) Per Diems/Allowances of officials and employees on official foreign and local travel outside of their official station.

In addition, sub-paragraph 5.5 of the same Implementing Rules provides for the other allowances/fringe benefits not likewise integrated into the basic salary and allowed to be continued only for incumbents as of June 30, 1989 subject to the condition that the grant of the same is with appropriate authorization either from the DBM, Office of the President or legislative issuances, as follows:

(1) Rice Subsidy;

(2) Sugar Subsidy;

(3) Death Benefits other than those granted by the GSIS;

(4) Medical/Dental/Optical Allowances/Benefits;

(5) Children's Allowances;

(6) Special Duty Pay/Allowance;

(7) Meal Subsidy;

(8) Longevity Pay; and

(9) Teller's Allowance.

On the other hand, the challenged financial incentive is awarded by the government in order to encourage the beneficiaries to pursue further studies and to help them underwrite the expenses for the education of their children and dependents. In other words, subject benefit is in the nature of financial assistance and not of an allowance. For the former, reimbursement is not necessary while for the latter, reimbursement is required. Not only that, the former is basically an incentive wage which is defined as "a bonus or other payment made to employees in addition to guaranteed hourly wages"[9] while the latter cannot be reckoned with as a bonus or additional income, strictly speaking.

It is indeed decisively clear that the benefits mentioned in the first sentence of Section 12 and sub-paragraphs 5.4 and 5.5 of CCC No. 10 are entirely different from the benefit in dispute, denominated as Educational Assistance. The distinction elucidated upon is material in arriving at the correct interpretation of the two seemingly contradictory provisions of Section 12.

Cardinal is the rule in statutory construction "that the particular words, clauses and phrases should not be studied as detached and isolated expressions, but the whole and every part of the statute must be considered in fixing the meaning of any of its parts and in order to produce a harmonious whole. A statute must so construed as to harmonize and give effect to all its provisions whenever possible." [10] And the rule - that statute must be construed as a whole - requires that apparently conflicting provisions should be reconciled and harmonized, if at all possible. [11] It is likewise a basic precept in statutory construction that the intent of the legislature is the controlling factor in the interpretation of the subject statute. [12] With these rules and the foregoing distinction elaborated upon, it is evident that the two seemingly irreconcilable propositions are susceptible to perfect harmony. Accordingly, the Court concludes that under the aforesaid "catch-all proviso," the legislative intent is just to include the fringe benefits which are in the nature of allowances and since the benefit under controversy is not in the same category, it is safe to hold that subject educational assistance is not one of the fringe benefits within the contemplation of the first sentence of Section 12 but rather, of the second sentence of Section 12, in relation to Section 17 of R.A. No. 6758, considering that (1) the recipients were incumbents when R.A. No. 6758 took effect on July 1, 1989, (2) were, in fact, receiving the same, at the time, and (3) such additional compensation is distinct and separate from the specific allowances above-listed, as the former is not integrated into the standardized salary rate. Simply stated, the challenged benefit is covered by the second sentence of Section 12 of R.A. No. 6758, the application of sub-paragraphs 5.4 and 5.5 of CCC No. 10 being only confined to the first sentence of Section 12, particularly the last clause thereof which amplifies the "catch-all proviso."

Furthermore, the non-inclusion by the Department of Budget and Management of the controverted educational assistance in Sub-paragraphs 5.4 and 5.5 of CCC No. 10 is expected since the term allowance does not include the questioned benefit which belongs to a different genus. The argument that the said fringe benefit should be disallowed on the ground that it is not mentioned in the Implementing Rules of the Statute is consequently fallacious. It is a settled rule of legal hermeneutics that the implementing rules and regulations (CCC No. 10, in this case) cannot amend the act of Congress (R.A. 6758). The second sentence of R.A. No. 6758 expressly provides that "such additional compensation ... being received by incumbents ... not integrated into the standardized salary rates shall continue to be authorized." To be sure, the said Circular cannot go beyond the terms and provisions of the statute as to prohibit something permitted and allowed by law. [13] The Circular cannot extend the law or expand its coverage as the power to amend or repeal a statute is vested in the legislature. [14]

Conformably, as mandated by the second sentence of Section 12, in relation to Section 17 of the Republic Act under interpretation, the mid-year educational assistance should continue to be authorized.

THE SECOND AND THE THIRD ISSUES:

That the Disallowance of the Payment of Subject Educational Assistance Constitutes Diminution of Compensation; That the NTA Employees Have Already Acquired a Vested Right Over the Same.

Gleanable from the wordings of the second sentence of Section 12 of R.A. No. 6758 is the intention of Congress to prevent any diminution of the pay and benefits being received by incumbents at the time of the enactment of the Salary Standardization Law. Verily, disallowing any such benefit is against the spirit of the Statute and is inconsistent with the principle of equity which "regards the spirit and not the letter..." [15] of the law. Hence, while it cannot be said that the NTA employees have acquired a vested right over the educational assistance in

dispute as it is always subject to availability of funds,[16] nevertheless, disallowing the same, where funds are available as in the case under consideration, would be violative of the principle of equity.

WHEREFORE, the petition is hereby GRANTED; the assailed COA Decision No. 95 - 108 is SET ASIDE, and the disallowance in question LIFTED. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.

[1] Composed of Commissioners Celso D. Gangan (Chairman); Rogelio B. Espiritu and Sofronio B. Ursala as members.

[2] Annex "A," Petition; Rollo, 30-32.

[3] Executive Order 245: Implementing the Consolidation of All Agencies and the Creation of the National Tobacco Administration Prescribing its Charter and for Other Purposes. Date of Effectivity: July 24, 1987.

[4] Otherwise known as: Salary Standardization Law which took effect on July 1, 1989.

[5] Rollo, pp. 30-32.

[6] Petition, p. 6; Rollo, 17.

[7] See: COA Decision, p. 2; Rollo, 31.

[8] 214 SCRA 653 [1992].

[9] William S. Anderson, Ed., Ballentine's Law Dictionary [1969 Edition].

[10] Ruben Agpalo, Statutory Construction ., 1986 Edition, p. 181; citing Aisporma vs. Court of Appeals, 113 SCRA 459 [1982] ; See also: Danilo Paras vs. Commission on Elections, 264 SCRA 49 [1996].

[11] Ibid ., p. 183; citing Lichauco & Co. vs. Apostol, 44 Phil. 138; See also: Aisporma vs. Court of Appeals, 113 SCRA 459 [1982].

[12]Ibid., p. 38.

[13]People vs. Lim, 108 Phil. 1091

[14]Conte vs. Commission on Audit, 264 SCRA 19 [1996]; Cooley's Constitutional Limitations, 7th Ed., pp. 126-131; 157-162.

[15] Air Manila vs. Court of Industrial Relations, 83 SCRA 579 589, citing Bouvier's Law Dictionary, 3rd Revision, p. 1063.

[16] Subjecting the educational assistance to the availability of funds defeats the meaning of vested right which is defined as "one which is fixed, unalterable or irrevocable;... that it is absolute, complete and unconditional, to the exercise of which no obstacle exists ..." (Luque vs. Villegas, 30 SCRA 409 [1960]).

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