

**BASES CONVERSION DEVELOPMENT AUTHORITY, PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.***G.R. No. 142760. August 06, 2002*

Ponente: SANDOVAL-GUTIERREZ, J.

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The present petition for certiorari[1] seeks to set aside the Commission On Audit (COA) Decision No. 99-057 dated March 23, 1999 and Resolution No. 2000-89 dated March 7, 2000, for having been issued with grave abuse of discretion amounting to lack of jurisdiction.

The Bases Conversion Development Authority (BCDA), petitioner, was created as a government corporation on March 13, 1992 by virtue of Republic Act (R.A.) 7227.[2] It is tasked mainly to manage the Clark and Subic military reservations/camps and their extensions and to adopt and implement a comprehensive development plan for their conversion into productive uses, with a view to promoting the economic and social development of the country.[3] Its funding would come from the proceeds of the sale of certain military camps, including all lands covered by Proclamation No. 423, series of 1957, commonly known as the Fort Bonifacio and Villamor (Nichols) Air Base.[4]

The policy-making body of BCDA is the nine-member Board of Directors (Board) appointed by the President of the Philippines with the consent of the Commission on Appointments.[5] Among the powers and functions of the Board is to "determine the organizational structure of the BCDA, define the duties and responsibilities of all officials and employees and adopt a compensation and benefit scheme at least equivalent to that of the Central Bank of the Philippines." [6] It is this compensation and benefit scheme adopted by the Board that is the subject of this case.

Pursuant to the mandate of its charter, the BCDA Board granted its officers and employees several benefits, among which are the (1) Loyalty Service Award for 1995, (2) Children's Allowance, (3) Anniversary Bonus, and (4) 8th step salary increment effective January, 1995. The allocation for these benefits and allowances was taken from the operating budget of the BCDA and incorporated in its corporate budget.[7]

On May 22, 1996, State Auditor Nida M. Blanco of the COA, disallowed in audit the Loyalty Service Award for 1995, the Children's Allowance for the period January to December of 1995, the Anniversary Bonus for 1995, and the 8th step salary increase effective January, 1995, for being excessive and/or illegal and not in accordance with the Central Bank benefit package. The COA disallowed those benefits after it sought the opinion/comment of the Department of Budget and Management (DBM) on the matter:

The details of the disallowance are as follows:

DATE

CHECK NO.

PAYEE

AMOUNT

PERSONS

FACTS AND/OR REASONS

DISALLOWED

LIABLE

FOR DISALLOWANCE

12-28-95

JV0517305

Various

BCDA

Employees

P 85,000.00

BCDA

Loyalty Service Award were given to employees Employees Who who have not yet reached Received the required minimum of Loyalty ten (10) years in Service government service, and Award the amounts granted are for Cy not in accordance with the 1995 Central Bank (CB) benefit package.

Allowable amounts are as follows

1,200.00 – for the first ten years.

1,300.00 – for the next 5 years or total of 15 years

1,400.00 – for the next 5 years or total of 20 years

12-20-95

JV0517304

Various  
BCDA  
Employees

P 53,754.00

BCDA  
Employees  
Who  
Received Children's Allowance  
For the  
Period Jan.  
- Dec., 1995

Management granted Children's Allowance of P100.00 per child which is P70.00 more than what is allowed under CB benefit package.

The amount of disallowance  
is computed as follows:

Amount disbursed  
(P100.00/dep.) -  
P76,554.06

Amount Allowed (P30/dep.)  
- 22,800.00 Amount  
Disallowed P53,754.00

11-14-95

JV5979182

Various  
BCDA  
Employees

P 85,000.00

BDCA  
Employees  
Who

received

An

Anniversary

Bonus for

Cy 1995

BCDA Management granted

Anniversary Bonus of Employees Who P3,000.00 per employee

Received which is P1,200.00 more

An than CB's benefit package.

Disallowance is computed as follows:

Amount Disbursed @

P3,000.00 – P213,000.00

Amt. Allowed P1,800.00-

127-800.00 for Disallowance

P85,000.00

12-13-95

JV0517303

Various

BCDA

Employees

P 346,703.56

BCDA

Employees

Who

received

an 8-step

increment

The grant of an 8-step increment effective January, 1995 has no legal

Received basis. Only those under

an 8-step SG 30 – 32 are allowed to increment be given step increment based on length of service

under DBM Circular Letter No. 7-76 dated March 4, 1996.

Amt. Granted P363,623.56  
Less: Allowed Amount  
granted to CH VAL  
16,920.00 Disallowed  
P346,703.56

Aggrieved, the BCDA asked for a reconsideration but State Auditor Blanco denied the same. This prompted the BCDA to appeal to the COA Proper.

On August 25, 1997, BCDA Chairman Victorino A. Basco wrote then President Fidel V. Ramos requesting a post-facto approval/ratification of the benefits and allowances at the rates granted by the BCDA. On October 6, 1997, the President approved the request.

In a Memorandum dated October 9, 1997, the Office of the President, through then Executive Secretary Ruben D. Torres, informed then DBM Secretary Salvador M. Enriquez, Jr. that the President approved the BCDA Chairman's request.[8]

In view of the President's action, the COA, in its Decision No. 99-057 dated March 23, 1999,[9] lifted the disallowance only of the Anniversary Bonus which was granted without prior approval by the President. The dispositive portion of the Decision reads:

"Premises considered and in view of the presidential marginal approval, this Commission hereby lifts the disallowances on the payment of Anniversary Bonus, which was granted without prior approval by the Office of the President. As to the other benefits granted without legal bases, were excessive and/or contrary to existing DBM compensation policies, rules and regulations, the disallowance thereof is affirmed."

Forthwith, petitioner filed a motion for partial reconsideration but was "denied with FINALITY" in a Resolution No. 2000-089 dated March 7, 2000.[10]

Hence, this petition by the BCDA.

There is no question that the BCDA Charter, R.A. 7227, vests its Board of Directors with the power to grant compensation and monetary benefits to its officers and personnel. Section 10 of the law provides:

"Section 10. Functions of the Board – The Board of Directors shall be the policy-making body of the Conversion Authority (or BCDA) and shall perform the following functions:

Determine the organizational structure of the Conversion Authority, define the duties and responsibilities of all officials and employees and adopt a compensation and benefit scheme at least equivalent to that of the Central Bank of the Philippines;"

In line with the above provision, the compensation and benefit scheme to be adopted by the BCDA Board for its officers and employees shall be "at least equivalent to that of the Central Bank of the Philippines." This implies that such a compensation/benefit structure may be granted by the BCDA Board higher than that of the Central Bank. However, any such grant of a higher monetary package by the BCDA Board must be reasonable and not contrary to existing DBM compensation policies, rules and regulations.

Petitioner claims that respondent acted with grave abuse of discretion amounting to lack of jurisdiction in affirming the disallowance of the (1) Loyalty Service Award, (2) 8th step increment, and (3) Children's Allowance.

As regards the Loyalty Service Award, respondent disallowed this item on the ground that it was given to petitioner's employees although they have not rendered the required minimum of ten (10)-year service in the

government. Petitioner does not specifically deny this, arguing instead that it is the “management’s action in augmenting the salaries of its employees by way of giving loyalty award ....”[11]

We hold that respondent’s disallowance of the Loyalty Service Award is in order. The grant of Loyalty Award in the government service is governed by Memorandum Circular No. 42 of the Civil Service Commission which mandates that it is granted only after the first ten (10) years of service at P100 per year and every five (5) years thereafter.[12]

In justifying the grant of an 8th step increment, petitioner merely claims that “the same was used only as basis for the computation of a new compensation of the various positions in its plantilla pursuant to its authority under its charter.”[13] According to COA, it disallowed the same since only employees under SG 30-32 are authorized to receive step increments based on length of service under DBM Circular Letter No. 7-96 dated March 4, 1996. Moreover, as aptly stated by the DBM, “The positions in the staffing pattern of the BCDA are classified in accordance with the existing DBM classification standards. The salary rates likewise follow what was implemented for other OGCCs/GFIs. Per our records, the BCDA follows the salary rates authorized under NCC No. 72 for CY 1994, NCC No. 74 for CY 1995, NBC No. 448 for CY 1996 and NBC No. 458 for CY 1997. We find no salary rates at the 8th step for the purpose of determining compensation.”[14]

Anent the Children’s Allowance of P100.00 per minor child, respondent disallowed the same considering that the amount exceeds the Central Bank benefit package by P70.00. Petitioner’s charter permits its Board to grant a compensation and benefit package to its personnel higher than that of the Central Bank provided the same is reasonable. Considering the present economic actualities, we find that petitioner’s award of Children’s Allowance is not excessive and, therefore, in accordance with law. In entreating this Court to consider its employees’ predicament, we quote with approval petitioner’s plea:

“Well-recognized is the fact that those in government service receive meager amounts for their daily necessities. Though the subject allowance may not be enough to sustain the needs of the employees’ children, the same would at least lighten their burden in alleviating their finances. There is therefore no cogent reason why the said benefit should be considered excessive and without factual or legal support.”[15]

In sum, we hold that respondent COA, in disallowing the Children’s Allowance, committed grave abuse of discretion.

WHEREFORE, the petition is PARTLY GRANTED. The assailed Decision No. 99-057 dated March 23, 1999 and Resolution No. 2000-89 dated March 7, 2000 issued by the COA are MODIFIED in the sense that the disapproval of the Children’s Allowance is SET ASIDE.

### **SO ORDERED.**

Davide, Jr., C.J., Bellosillo, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, and Corona, JJ., concur. Puno, J., no part. Related to an official of petitioner.

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[1] Filed under Rule 65 of the 1997 Rules of Civil Procedure, as amended.

[2] Otherwise known as “The Bases Conversion and Development Act of 1992”.

[3] Section 4, R.A. 7227.

[4] Section 8, *ibid.*.

[5] Sections 9 and 10, *ibid.*.

[6] Section 10, R.A. 7227.

[7] Petition, rollo, p. 9.

[8] Annex "D," Petition, Rollo, p. 37.

[9] Annex "A," Petition, Rollo, pp. 22-26.

[10] Annex "B," *ibid.*, p. 27.

[11] Petitioner's grounds for reconsideration, cited in Annex "A" (COA Decision No. 99-057, March 23, 1999), Petition, Rollo, p. 23.

[12] Annex "A", *ibid.*, p. 25.

[13] Petition, Rollo, pp. 13-14.

[14] Annex "A", Petition, Rollo, p. 25.

[15] Petition, Rollo, p. 13.

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