

NATIONAL ELECTRIFICATION ADMINISTRATION, PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.

G.R. No. 143481. February 15, 2002

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure with prayer for preliminary injunction and temporary restraining order, to reverse and set aside Decision No. 2000-132 dated May 16, 2000 of the Commission on Audit[1] (“Commission” for brevity) in “RE: Appeal of Mr. Conrado Estrella III, Administrator, National Electrification Administration (NEA) Quezon City, for the lifting of the disallowance on the payment of accelerated increases under Joint Resolution No. 01 totaling P14,155,342.00.” The dispositive portion of the Decision reads:

“Premises considered, the instant appeal has to be, as it is hereby denied for lack of legal basis. Consequently, the Notice of Disallowance issued by the NEA Auditor covering the subject disbursement is hereby sustained. Accordingly, all NEA officials and employees who received compensation and allowances in violation of the provisions of Executive Order No. 389 and National Budget Circular No. 458 are hereby directed to refund the same within a period of one year after the promulgation of this decision. NEA management is enjoined to effect said refund under the supervision of the NEA Auditor who shall ensure the proper and strict implementation of this decision.”[2]

The Antecedent Facts

Petitioner National Electrification Administration (“NEA” for brevity) is a government-owned and controlled corporation created under Presidential Decree No. 269, as amended. NEA is charged with the responsibility of organizing, financing and regulating electric cooperatives throughout the country.

On July 1, 1989, Republic Act No. 6758 (“RA 6758”), entitled “An Act Prescribing A Revised Compensation and Position Classification System in the Government and For Other Purposes”, took effect. RA 6758 provided, among others, a salary schedule for all government positions, appointive or elective, including positions in government-owned or controlled corporations and government financial institutions.

In response to pressing economic difficulties and the need to alleviate the plight of government personnel, the Senate and the House of Representatives passed on March 3, 1994 Joint Resolution No. 01 entitled “Urging the President of the Philippines to Revise the Existing Compensation and Position Classification System in the Government and to Implement the Same Initially Effective January 1, 1994.” Approved by then President Fidel V. Ramos on March 7, 1994, Joint Resolution No. 01 adjusted the salary schedule of all officials and employees of the government. Paragraph 10 of Joint Resolution No. 01 provides that “the new salary schedule shall be implemented within four (4) years” beginning in 1994.

On December 28, 1996, then President Fidel V. Ramos issued Executive Order No. 389 ("EO 389") entitled "Implementing the Fourth and Final Year Salary Increases Authorized by Joint Senate and House of Representatives Resolution No. 01, Series of 1994." EO 389 directed payment of the fourth and final salary increases authorized under Joint Resolution No. 01 in two tranches, as follows:

"SEC. 2. Full Implementation. The Department of Budget and Management is hereby directed to implement in full in FY 1997 the remaining balance of said Salary Schedule after the partial implementation made of the same in 1994, 1995 and 1996 to civilian and uniformed personnel, as follows:

1. For Civilian Personnel

- Effective January 1, 1997 = in accordance with the Fourth Interim Salary Schedule hereto attached and marked as Annex A of this Order. The adjustment shall be to the designated salary step of the employee in the salary grade allocation of his position as of December 31, 1996;

- Effective November 1, 1997 = in accordance with the attached Salary Schedule marked as Annex B of this Order. The adjustment shall be to the designated salary step of the employee in the salary grade allocation of his position as of October 31, 1997.

x x x."

The Department of Budget and Management ("DBM" for brevity) issued Implementing Guidelines under National Budget Circular No. 458 ("NBC No. 458"), series of 1997, reiterating the schedule of payments in EO 389.

In January 1997, NEA implemented the salary increases prescribed for the year 1997 pursuant to Joint Resolution No. 01. However, NEA did not implement the salary increases in accordance with the schedule of payment specified in EO 389 and NBC No. 458. Instead, NEA implemented in one lump sum beginning January 1, 1997 the salary increases required to be paid in two tranches, the first tranche on January 1, 1997 and the second tranche on November 1, 1997. Otherwise stated, NEA accelerated the implementation of the salary increase by paying the second tranche starting January 1, 1997 instead of November 1, 1997.

On September 26, 1997, the Commission's resident auditor in NEA issued a Notice of Suspension requiring the submission of the legal basis "for the full implementation of the new salary schedule effective January 1, 1997 instead of November 1, 1997." The NEA failed to submit the basis for its advance implementation of the prescribed salary rates. Thus, the Commission's resident auditor issued on May 14 and 27, 1998, Notices of Disallowance Nos. 98-010-101 and 98-011-101, respectively. The resident auditor issued another Notice of Disallowance on September 18, 1998. On September 28, 1998 the resident auditor denied NEA's September 23, 1998 request to reconsider the disallowance. Consequently, NEA appealed to the Corporate Audit Office II of the Commission but the appeal was denied on February 5, 1999. On March 12, 1999, NEA filed an appeal with the Commission en banc but the latter denied the same on May 16, 2000 and sustained the disallowance made by the resident auditor.

Hence, this Petition.

Ruling of the Commission on Audit

In sustaining the disallowance made by the resident auditor, the Commission explained thus:

"After a careful evaluation of the facts and pertinent laws obtaining in this case, this Commission finds the instant appeal bereft of merit. Pursuant to Article 29 (1) of the 1987 Constitution "No money shall be paid out of the Treasury except in pursuance of an appropriation made by law." Also, under R.A. 8244, a law appropriating twenty-seven billion pesos for the fourth and final year of implementation of the salary increases

pursuant to the Senate-House of Representatives Resolution No. 01 Series of 1994 for all National Government civilian and uniformed personnel, it is specifically provided that the salary increases shall be effective on the following schedule of payments:

- “Effective January 1, 1997 for the first 50% of the unimplemented balance as of December 31, 1996; and
- “Effective November 1, 1997 the remaining fifty percent (50%) of said unimplemented balance to effect full salary adjustment.”

Perusal of the provision of E.O. No. 389 and National Budget Circular No. 458 Series of 1997 would show the same effectivity dates or schedule of payments. Suffice it to say, that the aforequoted provisions of law treating on the subject salary implementation is clear and unequivocal such that there could never be any room for a different interpretation regarding the effectivity dates except that which is explicitly stated therein. Thus, when the NEA effected full implementation of the new salary schedule on January 1, 1997, instead of November 1, 1997, NEA was, then, clearly acting in violation of the mandates of the law. Consequently, said wrongful implementation must be struck down for being baseless and unlawful, and all its employees who received the undue increases must necessarily return the amount thus received.”

The Issues

In its Memorandum,[3] NEA avers that the Commission committed grave abuse of discretion amounting to lack or excess of jurisdiction in disallowing the increased salaries of NEA’s officials and employees for the period January 1, 1997 to October 31, 1997 for the following reasons:

“1.

NEA’s accelerated implementation of SSL II is in accordance with law, Joint Senate-House of Representatives Resolution No. 01 dated March 3, 1994, particularly Section 10 thereof x x x.

“2.

The fund to pay such increase had the “imprimatur” of the DBM and was included in the General Appropriations Act of 1997 (R.A. 8250) x x x.”[4]

In the main, NEA argues that it may accelerate the implementation of the salary increases for the year 1997 due to the availability of funds.

The Court’s Ruling

The Petition has no merit.

First, we find that NEA’s accelerated implementation of the Salary Standardization Law II is not in accordance with law.

We reject NEA’s claim that Republic Act No. 8250, otherwise known as the General Appropriations Act of 1997 (“1997 GAA”), serves as legal basis for NEA’s accelerated implementation of the last phase of the Salary Standardization Law II. The 1997 GAA is not self-executory so as to serve as outright legal authority for NEA to spend what had been appropriated for NEA’s “Personal Services” under the 1997 GAA. Budgetary appropriations under the GAA do not constitute unbridled authority to government agencies to spend the appropriated amounts as they may wish.

Pursuant to the provisions on National Government Budgeting[5] found in the Revised Administrative Code of 1987 (“Administrative Code”), appropriations for Personal Services are not itemized. Thus, the 1997 GAA contains a lump sum appropriation of P210,766,000.00 for NEA’s Personal Services, broken down into

P37,476,000.00 for General Administration and Support, P103,855,000.00 for Support to Operations, and P69,435,000.00 for Operations. There is no itemization of Personal Services in the 1997 GAA, and nothing is mentioned therein about the acceleration or full payment of the Salary Standardization Law II.

The itemization of Personal Services is prepared after the enactment of the annual GAA and requires the approval of the President. Thus, Section 23, Chapter 4, Book IV of the Administrative Code provides that:

“SEC. 23. Content of the General Appropriations Act. – The General Appropriations Act shall be presented in the form of budgetary programs and projects for each agency of the government, with the corresponding appropriations for each program and project, including statutory provisions of specific agency or general applicability. The General Appropriations Act shall not contain any itemization of personal services, which shall be prepared by the Secretary after enactment of the General Appropriations Act, for consideration and approval of the President.” (Emphasis supplied)

Further, the execution of the annual GAA is subject to a program of expenditure to be approved by the President and this approved program of expenditure is the basis for the fund release. Thus, Section 34, Chapter 5, Book IV of the Administrative Code states that –

“Sec. 34. Program of Expenditure - The Secretary of Budget shall recommend to the President the year’s program of expenditure for each agency of the government on the basis of authorized appropriations. The approved expenditure program shall constitute the basis for fund release during the fiscal period, subject to such policies, rules and regulations as may be approved by the President.” (Emphasis supplied)

Moreover, Section 60, Chapter 7, Book VI of the Administrative Code provides that no portion of the appropriations in the GAA shall be used for payment of any salary increase or adjustment unless specifically authorized by law or appropriate budget circular. It reads:

SEC. 60. Restrictions on Salary Increases. – No portion of the appropriations provided in the General Appropriations Act shall be used for payment of any salary increase or adjustment unless specifically authorized by law or appropriate budget circular nor shall any appropriation for salaries authorized in the General Appropriations Act, save as otherwise provided for under the Compensation and Position Classification Act, be paid unless the positions have been classified by the Budget Commission. (Emphasis supplied)

Finally, Section 33 of the 1997 GAA itself expressly provides that the salary increases authorized by the Senate-House of Representatives Joint Resolution No. 01 or the Salary Standardization Law II are subject to approval by the President. It reads:

“Sec. 33. Compensation Adjustment and Productivity Incentive Benefits. The amount authorized for Compensation Adjustment and Productivity Incentive Benefits shall be used for the adjustment in basic salary and associated benefits of national government personnel pursuant to Joint Resolution No. 01, s. 1994 of Congress, as well as Productivity Incentive Benefits as may be approved by the President: PROVIDED, That such compensation adjustment shall be fully implemented within FY 1997: PROVIDED, FURTHER, That transportation allowance, if any, shall be deducted from or reduced by the salary adjustment: PROVIDED, FURTHERMORE, That compensation adjustment for government-owned or controlled corporations and local government units shall be charged to their corporate and local funds, respectively: xxx.” (Emphasis supplied)

Clearly, NEA cannot automatically spend its authorized appropriation for Personal Services under the 1997 GAA. The Budget Secretary must first prepare an itemization of the Personal Services, and submit the same for approval of the President. Next, the Budget Secretary must recommend to the President NEA’s program of expenditure for the current year based on NEA’s authorized appropriation. The President may approve the expenditure program subject to certain policies and rules. The salary adjustments as well as the associated benefits granted by the

Salary Standardization Law II are, under the 1997 GAA, expressly subject to the President's approval. Appropriations for salary increases or adjustments shall be released as specifically authorized by law or appropriate budget circular, which in this case is National Budget Circular No. 458. Hence, compliance with said budget circular is mandatory.

The rules on National Government Budgeting as prescribed by the Administrative Code are not idle or empty exercises. The mere approval by Congress of the GAA does not instantly make the funds available for spending by the Executive Department. The funds authorized for disbursement under the GAA are usually still to be collected during the fiscal year. The revenue collections of the government, largely from taxes, may fall short of the approved budget, as has been the normal occurrence almost every year.

This puts the Executive Department in a dilemma: borrow money to bridge the deficit, or cut down on spending even if the expenditure is authorized by the general appropriations law. Borrowing money locally puts an upward pressure on interest rates, while borrowing from abroad increases our foreign debt stock and eventually puts a downward pressure on the peso. On the other hand, cutting down on spending impairs the delivery of basic services and dampens the economy. The Executive Department must balance carefully these economic and social factors, and to do this it must calibrate government disbursements to match, as much as possible, receipt of revenues. This is the rationale behind the rules on National Government Budgeting.

Next, NEA argues that an intention to exempt adequately funded government-owned or controlled corporations ("GOCCs" for brevity) from the two-tranche payment can be gleaned from the last paragraph of Section 10 of EO 389 which reads:

"GOCCs, GFIs and LGUs which do not have adequate or sufficient funds to pay the salary increases prescribed herein, may only partially implement the established rate; Provided, That, any partial implementation should be fixed at a uniform percentage such that no official or employee shall receive a percentage adjustment higher than that of any other official/employee in the same corporate entity and local government unit."

The interpretation placed by NEA on Section 10 does not find support in the text thereof – *expressum facit cessare tacitum* – what is expressed puts an end to that which is implied.[6] Section 10 refers only to GOCCs with insufficient funds to pay the salary increases. Section 10 expressly authorizes GOCCs with insufficient funds to partially implement the prescribed salary increases in a uniform and non-discriminatory manner. Nothing in Section 10 authorizes GOCCs with sufficient funds to accelerate the prescribed schedule of salary increases. Clearly, Section 10 of EO 389 does not authorize, expressly or impliedly, the advance implementation of the salary increases just because a GOCC has the available funds.

NEA also contends that its accelerated implementation of the salary increases is supported by the Memorandum of the Office of the President dated November 7, 1995, the subject of which reads, "xxx: Authorizing the Acceleration of the Implementation of the Revised Compensation and Position Classification Plan provided in Senate-House of Representatives Joint Resolution No. 01 Adopted and Approved on 07 March 1994 to Government-Owned and/or Controlled Corporations (GOCCs) and Government Financial Institutions (GFIs)." According to NEA, the Memorandum allows full implementation of salary increases "x x x not earlier than November 1, 1996." The specific provision referred to by NEA reads as follows:

"The three tranches scheme for GOCCs are as follows:

FIRST - effective not earlier than 01 November 1997 at an amount as may be determined by the governing Board of the GOCC concerned, provided such amount shall not exceed 30% of the unimplemented balance of said Salary Schedule;

SECOND - the 30% of the said balance or any lower amount as may be determined by the governing Board of the concerned GOCC may be implemented not earlier than 01 April 1996; and

THIRD – the remaining balance may be implemented not earlier than 01 November 1996.” (Emphasis supplied)

The Memorandum, which allows full implementation of the salary increases “[n]ot earlier than November 1, 1996”, does not automatically accelerate the staggered salary increases for 1997. On the contrary, the Memorandum specifically provides that accelerated implementation can be availed of by GOCCs and GFIs “x x x only upon prior approval of the DBM”. In order to secure such prior approval from the DBM, GOCCs and GFIs must submit an application for acceleration to the DBM which will evaluate and act on the same on the basis of nine terms and conditions specifically enumerated in the Memorandum. The Memorandum provides thus:

“The GOCC and GFI can avail of the above accelerated implementation only upon prior approval by the DBM. For this purpose, GOCC and GFI will submit an application for acceleration to DBM which will evaluate and act on same on the basis of the following terms and conditions:

- the GOCC and GFI shall have never been seriously/critically assailed to have caused or contributed to the economic problems of the country as evidenced by duly verified/proven facts presented in a responsible published public criticism;
- that it must not have received any subsidy or other forms of financial support from the national government in financing its operation or in the implementation of projects for the last three (3) years;
- that its operational performance for the same period, as well as its present financial position, is indicative that the concerned GOCC and GFI will remain financially viable and capable of financing its operations;
- that it has actually remitted all mandatory dividends to the national government through the National Treasury equivalent to 50% of its net income pursuant to R.A. No. 7656, dated 09 November 1993, and has no unpaid taxes due the national government or local government units, and their respective agencies and instrumentalities;
- that all advances made by the national government for debt service and other obligations shall have been accordingly liquidated;
- that it has not incurred any losses from operations for the last three (3) years;
- that the financial position and earning performance of the GOCC and GFI shall in no case be affected by SSL acceleration;
- that the accelerated implementation herein authorized shall strictly be based on the Position Allocation List (PAL) specifically approved by the DBM for such GOCC and GFI pursuant to R.A. No. 6758, or Organizational Structure and Staffing Pattern pursuant to existing budgeting laws, and shall be based on the 33-grade Salary Schedule; and
- that no funding support shall be required from the national government nor funds already released and earmarked for a specific purpose be used therefore. Funds for the purpose shall solely be sourced from corporate funds;

x x x.” (Emphasis supplied)

Evidently, in order to avail of the benefits of accelerated implementation, NEA must secure the approval of the DBM by complying with the terms and conditions prescribed by the Memorandum. NEA failed to do this. Absent any authority or approval from the DBM or the President authorizing NEA to accelerate implementation of the

last phase of the salary increase, NEA's accelerated payment is without legal basis.

Neither could NEA successfully assail the authority of the President to issue EO 389. The Administrative Code has unequivocally vested the President with rule-making powers in the form of executive orders, administrative orders, proclamations, memorandum orders and circulars and general or special orders.[7] An executive order, like the one prescribing the salary schedules, is defined in the Administrative Code as follows:

“Sec. 2. Executive Orders. – Acts of the President providing for rules of a general or permanent character in implementation or execution of constitutional or statutory powers shall be promulgated in executive orders”.[8] (Italics supplied)

Joint Resolution No. 01 expressly acknowledges the authority of the President to revise the existing compensation and position classification under the standards and guidelines provided by said Resolution.[9] Further, paragraph 13 of the Resolution states that:

(13) Implementing Guidelines - The Department of Budget and Management shall prepare and issue the necessary guidelines for the implementation of the revised compensation and position classification system consistent with the governing executive order to be issued by the Office of the President.” (Emphasis supplied)

As the administrative head of the government, the President is vested with the power to execute, administer and carry out laws into practical operation. Hence, the Court has held that -

“While Congress is vested with the power to enact laws, the President executes the laws. The executive power is vested in the President. It is generally defined as the power to enforce and administer the laws. It is the power of carrying (out) the laws into practical operation and enforcing their due observance.”[10]

There could be no doubt that EO 389 has been issued on authority and within the confines of the law. Joint Resolution No. 01 established a time frame of four years[11] for the implementation of the Salary Standardization Law II. Consonant with this time frame, the initial implementation was effected in 1994 through Executive Order No. 164; in 1995 through Executive Order No. 218; in 1996 through Executive Order No. 290 and clarified by Presidential Memorandum to the Secretary of Budget and Management dated November 7, 1995. For the fourth and final year, Executive Order No. 389 dated December 28, 1996 was issued by the President. Oddly, NEA does not question the authority of the President to issue the executive orders implementing the Salary Standardization Law II previous to EO 389. Apparently, NEA complied with the previous executive orders implementing Joint Resolution No. 01.

NEA argues that the Commission failed to take note that RA 8244, which provides for the same schedule of payment as EO 389 and NBC No. 458, is intended only for all national government civilian and uniformed personnel and not GOCCs and GFIs. A reading of the decision of the Commission would show that reference to RA 8244 by the Commission was resorted to give effect to the relevant law and rules. Since RA 8244 and EO 389 are in pari materia, relating as they are to the fourth year implementation of the salary increases authorized by Joint Resolution No. 01, the Commission applied said law and rules in harmony with each other. The Commission thus stated that a perusal of “RA 8244, EO 389 and NBC No. 458 would show the same effectivity dates or schedule of payments.”

Similarly untenable is NEA's contention that the Commission acted beyond the scope of its functions in determining whether or not NEA violated the law. According to NEA, the Commission exceeded its authority in inquiring whether NEA's advance release of the salary increases violated certain laws considering that the Commission's power is limited to a determination of whether or not there is a law appropriating funds for that purpose. To support this theory, NEA cites *Guevara vs. Gimenez*,[12] wherein the Supreme Court allegedly outlined the scope of authority of the Commission as follows:

“Under the Constitution, the authority of the Auditor General in connection with the expenditures of the government is limited to the auditing of expenditures of fund or property pertaining to, or held in trust by, the government or the provinces or municipalities thereof. xxx xxx Such function is limited to a determination of whether there is a law appropriating funds for a given purpose.”

The ruling in Guevara has already been overturned by the Court in *Caltex Philippines, Inc. vs. Commission on Audit*,^[13] as follows:

“The ruling on this particular point, quoted by petitioner from the cases of *Guevara vs. Gimenez and Ramos vs. Aquino*, are no longer controlling as the two (2) were decided in the light of the 1935 Constitution.

xxx. As observed by one of the Commissioners of the 1986 Constitutional Commission, Fr. Joaquin G. Bernas: “It should be noted, however, that whereas under Article XI, Section 2, of the 1935 Constitution the Auditor General could not correct ‘irregular, unnecessary, excessive or extravagant’ expenditures of public funds but could only ‘bring [the matter] to the attention of the proper administrative officer,’ under the 1987 Constitution, as also under the 1973 Constitution, the Commission on Audit can ‘promulgate accounting and auditing rules and regulations including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures or uses of government funds and properties.’ Hence, since the Commission on Audit must ultimately be responsible for the enforcement of these rules and regulations, the failure to comply with these regulations can be a ground for disapproving the payment of a proposed expenditure.”

Indeed, the powers of the Commission as provided in the 1987 Constitution are broader and more extensive. Section 2, Paragraph D, Article IX of the 1987 Constitution reads:

“Sec. 2. (1) The Commission on Audit shall have the power, authority and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the government, or any of its subdivisions, agencies, or instrumentalities, including government-owned and controlled corporations with original charters and on a post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this Constitution; (b) autonomous state colleges and universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity, directly or indirectly, from or through the Government, which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity. x x x.

(2) The Commission shall have exclusive authority, subject to the limitations in the Article, to define the scope of its audit and examination, establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of government funds and properties.”

The Constitution and existing laws^[14] mandate the Commission to audit all government agencies, including government-owned or controlled corporations. The Constitution specifically vests in the Commission the authority to determine whether government entities comply with laws and regulations in the disbursement of government funds and to disallow illegal or irregular disbursements of government funds.

Second, there is no merit in NEA’s contention that the DBM, upon its approval of NEA’s proposed budget, had effectively stamped its “imprimatur” on the accelerated implementation of the salary increases starting January 1, 1997 because NEA’s proposed budget for 1997 included funds for such accelerated implementation. This is not the approval contemplated by the Presidential Memorandum dated November 7, 1995, which requires compliance with specific terms and conditions. The DBM’s approval of NEA’s “proposed budget” cannot be deemed sufficient authority to execute the same in disregard of the relevant orders and circulars providing for its manner

of execution. The budget process is a cycle of sequential and interrelated budget activities regularly recurring within a specific time frame (a twelve-month period called “fiscal year”).[15]

The DBM’s approval of NEA’s “proposed budget” is only a part of the first phase of the entire budget process which consists of four major phases, namely: Budget Preparation, Budget Authorization, Budget Execution and Budget Accountability.[16] After approval of the “proposed budget” by the DBM, the same is submitted to Congress for evaluation and inclusion in the appropriations law which sets forth the authorized appropriations of the departments and agencies. However, this “authorization” does not include the authority to disburse. A program of expenditures is first prepared showing approved programs and projects. An itemization of personal services is also prepared listing authorized itemized positions and their corresponding classifications and authorized salaries. As clearly stated in Section 60, Chapter 7, Book VI of the Administrative Code, “no portion of the appropriations in the GAA shall be used for payment of any salary increase or adjustment unless specifically authorized by law or appropriate budget circular.”[17] NBC No. 458 is the appropriate budget circular referred to by the law with respect to the payment of the last phase of the Salary Standardization Law II.

Third, under our system of government all executive departments, bureaus and offices are under the control of the President of the Philippines. This precept is embodied in Article VII, Section 17 of the Constitution which provides as follows:

“Sec. 17. The President shall have control of all the executive departments, bureaus and offices. He shall ensure that the laws be faithfully executed.”

The presidential power of control over the executive branch of government extends to all executive employees from Cabinet Secretary to the lowliest clerk.[18] The constitutional vesture of this power in the President is self-executing and does not require statutory implementation, nor may its exercise be limited, much less withdrawn, by the legislature.[19]

Executive officials who are subordinate to the President should not trifle with the President’s constitutional power of control over the executive branch. There is only one Chief Executive who directs and controls the entire executive branch[20], and all other executive officials must implement in good faith his directives and orders. This is necessary to provide order, efficiency and coherence in carrying out the plans, policies and programs of the executive branch.

This case would not have arisen had NEA complied in good faith with the directives and orders of the President in the implementation of the last phase of the Salary Standardization Law II. The directives and orders are clearly and manifestly in accordance with all relevant laws. The reasons advanced by NEA in disregarding the President’s directives and orders are patently flimsy, even ill-conceived. This cannot be countenanced as it will result in chaos and disorder in the executive branch to the detriment of public service.

WHEREFORE, the instant petition is DISMISSED for lack of merit and the Decision of the Commission on Audit dated May 16, 2000 is AFFIRMED in toto.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Buena, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.

[1] Composed of Chairman Celso D. Gangan and Commissioners Raul C. Flores and Emmanuel M. Dalman.

[2] Rollo, p. 21; COA Decision, p. 2.

[3] Rollo, p. 131.

[4] Ibid., p. 135.

[5] Book VI.

[6] Santiago vs. Guingona, Jr., 298 SCRA 756 (1998).

[7] Secs. 2 to 7, Chapter 2, Title I, Book III of the Revised Administrative Code of 1987.

[8] Section 2, Chapter 2, Title I, Book III of the Revised Administrative Code of 1987.

[9] 8[th] Whereas clause.

[10] Ople vs. Torres, 293 SCRA 141 (1998).

[11] Paragraph 10.

[12] 6 SCRA 813 (1962).

[13] 208 SCRA 726 (1992).

[14] Including the Government Auditing Code of the Philippines, specifically Section 26 thereof which provides:

Section 26. General Jurisdiction. The authority and powers of the Commission shall extend to and comprehend all matters relating to auditing procedures, systems and controls, the keeping of the general accounts of the Government, the preservation of vouchers pertaining thereto for a period of ten years, the examination and inspection of the books, records, and papers relating to those accounts; and the audit and settlement of the accounts of all persons respecting funds or property received or held by them in an accountable capacity, as well as the examination, audit and settlement of all debts and claims of any sort due or owing to the Government or any of its subdivisions, agencies or instrumentalities. The said jurisdiction extends to all government-owned or controlled corporations, including their subsidiaries, and other self-governing boards, commission, or agencies of the Government, and as herein prescribed, including non-governmental entities subsidized by the government, those funded by donations through the government, those required to pay levies or government shares, and those for which the government has put up a counterpart fund or those partly funded by the government.

[15] Budget Operations Manual published by the Department of Budget and Management.

[16] Ibid.

[17] Supra.

[18] Fr. Joaquin Bernas, S.J., The Constitution, A Commentary, Vol. II, 2[nd] Ed. (1988), pp. 203-204.

[19] De Leon vs. Carpio, 178 SCRA 457 (1989).

[20] Villena vs. Secretary of the Interior, 67 Phil. 451 (1939).

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