

ROHBERT A. AMBROS, PRESIDENT, EMPLOYEES ASSOCIATION, IN HIS OWN BEHALF AND IN REPRESENTATION OF HIS CO-EMPLOYEES, NUMBERING TWO HUNDRED THIRTY-FIVE, IN THE NATIONAL TOBACCO ADMI...*G.R. NO. 159700. June 30, 2005*

Ponente: CALLEJO, SR., J.

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Before the Court is the petition for certiorari under Rule 65 of the Rules of Court filed by Rohbert A. Ambros, in his own behalf and as President of the Employees Association in the National Tobacco Administration, seeking to nullify Commission on Audit (COA) Decision No. 2002-162[1] dated August 15, 2002. The assailed COA decision disallowed the grant of the Educational Assistance Incentive Bonus to the employees of the National Tobacco Administration (NTA) who were hired on or after July 1, 1989, the date when Republic Act (R.A.) No. 6758 or the Salary Standardization Law of 1989[2] took effect. Likewise sought to be set aside is COA Resolution No. 2003-109 dated July 17, 2003, denying the reconsideration of the assailed decision.

Factual Background of the Case

The present case is an offshoot of *National Tobacco Administration v. Commission on Audit*, G.R. No. 119385[3] and stemmed from the following facts:

Prior to the enactment of R.A. No. 6758, the NTA had been granting mid-year Social Amelioration Benefit (SAB) to its officials and employees, equivalent to one-and-a-half (1-1/2) month of their basic salaries, sourced from its corporate funds. From 1989 up to 1993, due to financial or budgetary constraints, the said benefit was reduced to one month of the basic salary. In May 1993, the SAB was renamed Educational Assistance Incentive Bonus (EAIB), the avowed purpose of which was to encourage its beneficiaries to pursue graduate studies and to finance the schooling of their children.

Sometime in February 1994, the Resident Auditor of the COA in the NTA, Dalisay E. Aracan, issued a Notice of Disallowance of the payment of the EAIB for the calendar year 1993 stating that the NTA had no statutory authority to grant the incentive. Again, in January 1995, the same Resident Auditor caused the disallowance of the said benefit paid in 1994 for the same reason. The COA, in its Decision dated February 7, 1995, affirmed the disallowance of the EAIB.

Consequently, the NTA, then as the petitioner and through its then Administrator Amante Siapno and other employees, filed with the Court the petition in G.R. No. 119385 which sought to nullify the February 7, 1995 COA Decision disallowing the EAIB.

On August 5, 1999, the Court rendered the decision in G.R. No. 119385 in favor of the petitioners therein and lifting the said disallowance. The dispositive portion of the said decision reads:

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

SO ORDERED.

While G.R. No. 119385 was pending resolution, the NTA continued to grant the EAIB to its employees who were incumbents as of July 1, 1989. The NTA, however, discontinued its payment to those who were hired on or after the said date.

Thereafter, in another case entitled *Irene V. Cruz v. Commission on Audit*,^[4] the issue raised was whether the COA gravely abused its discretion when it disallowed the payment of the Social Amelioration Benefit (SAB) to the employees hired by the Sugar Regulatory Administration (SRA) after October 31, 1989.^[5] The SRA had granted the SAB to its employees since 1963. After the enactment of R.A. No. 6758, the COA allowed the continued payment of the SAB to the SRA employees but only to those hired before October 31, 1989. Ruling on the issue raised in the said case, the Court held that all the employees of the SRA, regardless of the date of hiring, are entitled to the SAB granted by the said government-owned and controlled corporation.

Emboldened by the Court's decision in the Cruz case, five employees of the NTA, namely, Primitivo Abalos, Jr., Anthony Lewis (now separated from service), Rolando Magundayao, Marivic Espolong and Carmelita Albano, all hired between the period of July 1, 1989 to October 31, 1989, filed their respective claims for the EAIB, including back pay from date of hiring. The NTA granted these claims.

On post-audit, however, the NTA Auditor disallowed the payment of the EAIB to the above-named employees on the ground that they were non-incumbents as of July 1, 1989. The Deputy Administrator for Support Services of the NTA sought reconsideration of the disallowance on the following grounds:

- The payment of the EAIB to the above-named personnel was due to the extension of the cut-off date from July 1, 1989 to October 31, 1989;
- The said NTA personnel were employed between the period July 10, 1989 and September 26, 1989 which was within the extended cut-off date of October 31, 1989 and were actually receiving the said allowance;
- The NTA allowed the payment of said benefit not only for humanitarian reasons but also in the belief that said personnel were really entitled to receive said allowance following the ruling laid down in COA Decision No. 95-074 dated January 27, 1995 which recognized the extension of the cut-off date of DBM-CCC No. 10, from July 1, 1989 to October 31, 1989;
- The said employees were similarly situated as the NEA employees who were the subject of COA Decision No. 95-074; and
- That Section 5.6 of DBM-CCC No. 10 extending the cut-off date from July 1, 1989 to October 31, 1989 should be made the basis for entitlement to said benefits.^[6]

Acting thereon, the NTA Auditor recommended the lifting of the disallowance of the EAIB. However, the Director, Corporate Audit Office II, reversed the Auditor's action and recommended the disallowance of the said benefit. The Deputy Administrator for Support Services of the NTA then elevated the matter for review to the COA which, in the assailed COA Decision No. 2002-162 dated August 15, 2002, affirmed the disallowance of the EAIB to the NTA employees who were non-incumbents as of July 1, 1989.

In so ruling, the COA cited Section 12 of R.A. No. 6758 which reads:

Sec. 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.

Relying on the second sentence (first paragraph) of the above-quoted provision, the COA reasoned that the legislative intent was to limit to the incumbents, as of July 1, 1989, the right to receive such additional compensation not integrated into the standardized salary rates.

The COA further explained that the NTA employees who were hired between July 1, 1989 to October 31, 1989 could not claim the EAIB because Department of Budget and Management Corporate Compensation Circular (DBM-CCC) No. 10, the Implementing Rules of R.A. No. 6758, was declared ineffective by the Court in *De Jesus v. Commission on Audit*[7] due to non-publication thereof in the Official Gazette or in a newspaper of general circulation as required by law. Necessarily, the extension of the cut-off date from July 1, 1989 to October 31, 1989 provided in Section 5.6 of the said circular was, likewise, without force and effect. The COA noted that when DBM-CCC No. 10 was re-issued and subsequently published in the Official Gazette on March 1, 1999, the extended cut-off date was deleted from Section 5.6 thereof.

The NTA, through its then Administrator Carlitos S. Encarnacion, moved for the reconsideration of the said COA decision as it prayed for the lifting of the disallowance and the declaration that all NTA employees, regardless of the date of hiring are entitled to the EAIB. In the assailed COA Resolution No. 2003-109 dated July 17, 2003, however, the NTA's motion for reconsideration was denied. The COA cited *Government Service Insurance System v. Commission on Audit*,[8] where this Court stated that:

... The date July 1, 1989 is important only for determining whether an employee is an incumbent and receiving the allowance prior to the law's effectivity in order to ascertain if such employee is qualified to its continued grant. ...[9]

According to the COA, it is evident from this statement that July 1, 1989 was indicated as a qualifying date in order to ascertain whether the non-integrated benefits and allowances as provided in R.A. No. 6758 shall continue to be granted to incumbent employees prior to the said date.

With the denial of its motion for reconsideration, the NTA issued a Memorandum dated August 28, 2003, directing its employees to settle the disallowed EAIB through payroll deduction. The said memorandum reads:

Pursuant to the Commission on Audit (COA) Decision No. 2003-109 dated 17 July 2003, affirming the disallowance on the payment of the Educational Assistance Incentive Bonus (EAIB) to employees of the National Tobacco Administration (NTA) hired after 01 July 1989 and in view of the undertaking executed by said claimants to refund the EAIB received in CY 2002 to NTA in the event that the COA Commission Proper denies NTA's Motion for Reconsideration, you are hereby directed to settle the disallowance through payroll deduction from October 2003 to September 2004.[10]

Aggrieved, petitioner Ambros, President of the Employees Association in the NTA,[11] in his own behalf and in representation of his co-employees, including the five earlier mentioned employees, filed with the Court the present petition for certiorari seeking the nullification of the assailed COA decisions. When required to file its

comment on the petition, the NTA filed the Manifestation in Lieu of Comment dated January 26, 2004, stating that it is joining the petitioners in their cause and that it is not opposing their petition as it finds the contentions thereof meritorious.[12]

The Petitioners' Case

The petitioners assail the classification made by the COA, i.e., only those incumbents as of July 1, 1989 are entitled to the EAIB and those employees hired on or after the said date are not, as having no legal basis. They invoke the Court's pronouncement in *Cruz* that "[t]he date of hiring of an employee cannot be considered as a substantial distinction. The employees, based on the title or position they were holding, were exposed to the same type of work, regardless of the date they were hired. The date of hiring is not among the factors that shall be taken into consideration in fixing compensation or granting of benefits." The petitioners thus contend that the date of hiring can never be considered as a substantial difference.

According to the petitioners, the GSIS case cited by the COA is inapplicable to the present case because what was involved therein was an allowance. On the other hand, the EAIB is not an allowance but is in the nature of a financial assistance. As such, it belongs to a different genus of benefits with those contemplated in R.A. No. 6758 and DBM-CCC No. 10. The EAIB is granted to NTA employees on pure liberality of the government subject, however, to availability of corporate funds.

It is also pointed out by the petitioners that most of them belong to the younger generation of employees who are keen on pursuing higher education. The EAIB would enable them to pursue further their career development and produce more competent, useful and responsible pool of human resources. They aver that they should not be treated differently from those who were hired before July 1, 1989 as they invoke the principle of equal pay for substantially equal work.

The petitioners thus pray that COA Decision No. 2002-162 dated August 15, 2002 and COA Resolution No. 2003-109 dated July 17, 2003 be set aside. Further, they urge the Court to declare them, who were hired after July 1, 1989, to be similarly entitled to the EAIB as those who were incumbents as of the said date.

Respondent COA's Counter-Arguments

For its part, the COA, through the Solicitor General, defends the disallowance of the EAIB to the employees of the NTA who were hired on or after July 1, 1989. It argues that in G.R. No. 119385, the case earlier mentioned involving the continued grant of the EAIB to NTA employees, the Court ruled that the said benefit granted prior to the effectivity of R.A. No. 6758 should continue to be authorized on the basis of the second sentence (first paragraph) of Section 12,[13] in relation to Section 17[14] thereof. Accordingly, the COA explains, the Court allowed the EAIB to be paid to the petitioners in G.R. No. 119385 for the following reasons: "a) the EAIB is distinct and separate from the list enumerated in the first sentence of Section 12 of R.A. No. 6758, otherwise referred to as the integrated allowance/benefits. Hence, it is a non-integrated benefit covered by the second sentence thereof; b) the recipients were incumbents when R.A. No. 6758 took effect on July 1, 1989; c) the recipients were receiving the EAIB at the time." [15]

The COA asserts that the ruling of the Court in G.R. No. 119385 is in consonance with *Philippine Ports Authority v. COA*,[16] *Manila International Airport Authority v. COA*,[17] *Philippine International Trading Corp. v. COA*,[18] *Social Security System v. COA*[19] and *Government Service Insurance System v. COA*,[20] where the Court invariably ruled that in view of the enactment of R.A. No. 6758, additional financial incentives may no longer be granted to government employees. It was, likewise, held in these cases that incumbent government employees as of July 1, 1989 shall continue to receive the non-integrated benefits that they have been receiving as

of the said date so as not to upset the legislature's policy on non-diminution of pay and benefits.

The COA posits that since the petitioners in the present case were hired after July 1, 1989 and, therefore, do not satisfy the requirements of Sections 12 and 17 of R.A. No. 6758, i.e., incumbent and receiving the EAIB as of July 1, 1989, they are not entitled to receive such benefit enjoyed by the incumbents as of the said date.

The petitioners' reliance on the Cruz case involving the employees of the SRA and their SAB is allegedly misplaced. The COA contends that the factual milieu of the said case is different from that obtaining in the present case because in the former, the SRA employees were able to obtain a post facto approval/ratification of their SAB from the Office of the President in accordance with then Section 5.5[21] of DBM-CCC No. 10.

The Issue

The sole substantive issue for the Court's resolution is whether the COA gravely abused its discretion in disallowing the payment of the EAIB to the employees of the NTA who were non-incumbents of the positions as of July 1, 1989, the date when R.A. No. 6758 took effect.

The Court's Ruling

The COA did not commit any grave abuse of discretion in rendering the assailed decision and resolution as it properly disallowed the payment of the EAIB to the petitioners in the present case who were non-incumbents as of July 1, 1989 and were not receiving the same as of the said date.

As held in G.R. No. 119385, the EAIB is a non-integrated benefit which falls under the second sentence (first paragraph) of Section 12 of R.A. No. 6758.

Preliminarily, it is necessary to refer back to the Court's ruling in G.R. No. 119385. In the said case, the Court allowed the payment of the EAIB to the petitioners therein to continue on the basis of the second sentence (first paragraph) of Section 12 of R.A. No. 6758, thus:

... [I]t 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." [22]

Again citing the second sentence (first paragraph) of Section 12 of R.A. No. 6758, the Court, in the said case, took into consideration the intent of Congress to prevent any diminution of the pay and benefits being received by the incumbents at the time of the enactment of R.A. No. 6758. It, however, opined that the petitioners therein could not claim that they had acquired a vested right over the EAIB because the same was always subject to availability of funds. The Court ratiocinated, thus:

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 ... 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, nevertheless, disallowing the same, where funds are available as in the case under consideration, would be violative of the principle of equity. [23]

Since the EAIB has been classified by the Court as a non-integrated benefit falling under the second sentence (first paragraph) of Section 12 of R.A. No. 6758, the issue raised in the present case, i.e., whether the employees of the NTA who were non-incumbents of the positions as of July 1, 1989 are entitled to the same (EAIB), therefore, hinges on the proper interpretation of the said proviso. For clarity, the proviso is quoted anew below:

... 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.

The petitioners theorize that this proviso should be construed so as that not only incumbents as of July 1, 1989 are entitled to the EAIB but also those who were hired thereafter. Regrettably, the petitioners' proffered construction cannot be given effect.

Congress has prescribed July 1, 1989 as the qualifying date to determine whether an employee was an incumbent and receiving the non-integrated benefit, i.e., the EAIB, for purposes of entitling the employee to its continued grant.

It is significant to note that the second sentence (first paragraph) of Section 12 of R.A. No. 6758 has been construed by the Court in not a few cases involving various government-owned and controlled corporations and government financial institutions. In these cases, which shall be discussed shortly, the Court has consistently interpreted the proviso to mean that July 1, 1989 was prescribed by the legislature as the qualifying date to determine whether an employee was an incumbent and receiving the non-integrated allowance or benefit prior to R.A. No. 6758, for purposes of entitling the employee to its continued grant.

The seminal case was *Philippine Ports Authority v. COA*,^[24] where the issue was whether the officials of the Philippine Ports Authority (PPA) are still entitled to the rates of their representation and transportation allowances (RATA) under Letter of Instruction (LOI) No. 97, which were higher than those authorized by R.A. No. 6758, after July 1, 1989. Ruling in the affirmative, the Court declared that RATA does not form part of the standardized salary. Rather, it falls under the second sentence (first paragraph) of Section 12 of R.A. No. 6758 and as such, shall continue to be authorized "only if they are being received by incumbents as of July 1, 1989." The Court further gave due consideration to the manifest intent of Congress to limit the benefits, including the RATA, falling under the second sentence (first paragraph) of Section 12 of R.A. No. 6758 to incumbents only. The pertinent pronouncement of the Court in the said case is quoted thus:

Under the first sentence, RATA does not form part of the standardized salary. ...

...

Now, under the second sentence of Section 12, first paragraph, the RATA enjoyed by these PPA officials shall continue to be authorized only if they are "being received by incumbents only as of July 1, 1989." RA 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.

The legislature has similarly adhered to this policy of non-diminution of pay when it provided for the transition allowance under Section 17 of RA 6758 which reads:

...

While Section 12 refers to allowances that are not integrated into the standardized salaries whereas Section 17 refers to salaries and additional compensation or fringe benefits that are integrated into the standardized salaries, both sections are intended to protect incumbents who are receiving said salaries and/or allowances at the time RA 6758 took effect.

An incumbent is a person who is in present possession of an office.

The consequential outcome, under Sections 12 and 17, is that if the incumbent resigns or is promoted to a higher position, his successor is no longer entitled to his predecessor's RATA privileges under LOI No. 97 or to the transition allowance.[25]

Still in PPA, the Court explained further the significance of the second sentence (first paragraph) of Section 12 of R.A. No. 6758 when it addressed the contention of the DBM that starting July 1, 1989, the RATA is no longer based on 40% of basic salary but on the highest amount of RATA received by the incumbent as of June 30, 1989. The Court refuted the COA's contention stating that the date July 1, 1989 does not serve as a cut-off date with respect to the amount of RATA. Rather, the said date 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 said explanation is quoted below, thus:

The respondents, meanwhile, reiterate the position of the Department of Budget and Management (DBM) that starting July 1, 1989, the RATA is no longer based on 40% of basic salary but on the highest amount of RATA received by the incumbents as of June 30, 1989.

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

...

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 with 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. This given date should not be interpreted as fixing the maximum amount of RATA to be received by the official.[26]

Similar to that raised in PPA, the issue raised in Manila International Airport Authority v. COA[27] was whether the officials of the Manila International Airport Authority (MIAA) may continue to receive the RATA at the higher rates prescribed by LOI No. 97 even after July 1, 1989. The Court ruled in the affirmative as it cited the second sentence (first paragraph) of Section 12 of R.A. No. 6758 and reiterated its ruling in PPA:

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.[28]

The Court in MIAA, likewise, reiterated that the date July 1, 1989 in the second sentence (first paragraph) of Section 12 of R.A. No. 6758 does not serve as a cut-off date with respect to the amount of RATA. Rather, the said date 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.[29]

In Philippine International Trading Corp. v. COA,[30] the benefit involved was the Car Plan Program granted by the Philippine International Trading Corp. (PITC) to its officers prior to July 1, 1989. The COA disallowed the payment of the said benefit after the enactment of R.A. No. 6758. The affected officials of the PTIC filed the petition with the Court asserting that as incumbent officials they are still entitled to the said benefit even after July

1, 1989. The Court granted the petition stating that “this Court has confirmed in *Philippine Ports Authority v. Commission on Audit* the legislative intent to protect incumbents who are receiving salaries and/or allowances over and above those authorized by R.A. No. 6758 to continue to receive them even after the latter law took effect. In reserving the benefits to incumbents, the legislature has manifested its intent to gradually phase out this privilege without upsetting the policy of non-diminution of pay and consistent with the rule that laws should only be applied prospectively in the spirit of fairness and justice.”[31] Aside from reiterating the ruling in PPA, the Court stressed in PTIC that “there was no intention on the part of the legislature to revoke existing benefits being enjoyed by incumbents of government positions at the time of the passage of R.A. No. 6758 by virtue of Sections 12 and 17 thereof.”[32]

In *Government Service Insurance System v. COA*,[33] the Court held that the longevity pay and children’s allowance granted by the said government financial institution to its employees prior to July 1, 1989 are non-integrated benefits and likened these benefits to the RATA received by the employees in PPA, in the sense that: “a) it is also a non-integrated allowance authorized to be continued for incumbents under Section 12, R.A. No. 6758; and b) the rate thereof did not consist of a definite amount but was subject to certain factors or stipulations that were nonetheless fixed before R.A. No. 6758 took effect.”[34] Applying the ruling in PPA that July 1, 1989 is not determinative of the highest amount of the non-integrated benefit that an incumbent may receive but that the said date is important only to determine whether the employee was an incumbent and receiving the benefit prior to R.A. No. 6758 in order to ascertain if the employee is qualified to its continued grant, the Court upheld the increase in the amounts of longevity pay and children’s allowance granted by the GSIS after July 1, 1989 to its employees who were incumbents at the time of the passage of R.A. No. 6758. The Court in GSIS elucidated this point in this wise:

It is thus evident that in adjusting the amount of allowances mentioned above [referring to the longevity pay and children’s allowance], petitioner GSIS was merely complying with the policy of non-diminution of pay and benefits enunciated in R.A. No. 6758. This policy does not only pertain specifically to the amount being received by the incumbent as of July 1, 1989, but also to the terms and conditions attached to these benefits prior to the passage of the statute. Relative to this, it should be noted that respondent COA did not dispute the fact that these benefits, including the terms and conditions thereof, are part of a compensation package granted by the GSIS Board to incumbents even before R.A. No. 6758 took effect. In turn, this compensation package was incorporated in the 1978 GSIS Revised Compensation System approved by the President, upon recommendation of the Department of Budget and Management (DBM).

Thus, to peg the amount of these non-integrated allowances at the figure being received by the incumbent as of July 1, 1989 would vary the terms of the benefits to which the incumbents are entitled. This could not have been the intent of the statute, because such interpretation would effectively impair the incumbents’ right to these allowances, which have already accrued prior to July 1, 1989. In other words, before R.A. No. 6758 was enacted, incumbent GSIS employees had a fixed right to these allowances under the terms and conditions then obtaining. They could not therefore be excluded from its enjoyment under the same terms and conditions without violating basic precepts of fairness and due process.[35]

In *Social Security System v. COA*,[36] the Court upheld the COA’s disallowance of the contract signing bonus in the amount of P5,000.00 which the Social Security System (SSS) granted to each of its employees and officers after the signing of their collective negotiation agreement on July 10, 1996. The Court pointed out that the provision of law authorizing the Social Security Commission (SSC) to fix the compensation of its employees had already been modified, if not repealed, by R.A. No. 6758. Hence, whatever salaries and other financial and non-financial inducements that the SSC was minded to fix for its employees must comply with the provisions of the latter law. Citing Sections 12 and 17 of R.A. No. 6758, the Court clarified that only the remuneration which was being offered as of July 1, 1989, and which was then being enjoyed by incumbent SSS employees and

officers, could be availed of exclusively by the same employees and officers separate from and independent of the prescribed standardized salary rates. Since the contract signing bonus was non-existent as of July 1, 1989 as it accrued only in 1996, the payment of the same to the SSS employees and officers was properly disallowed by the COA. In so ruling, the Court again referred to its pronouncement in PPA relating to the import of the date July 1, 1989 as well as enunciated that:

Evidently, while RA 6758 intended to do away with multiple allowances and other incentive packages and the resulting differences in compensation among government personnel, the statute clearly did not revoke existing benefits being enjoyed by incumbents of government positions at the time of the passage of RA 6758 by virtue of Secs. 12 and 17 thereof. In previous rulings of this Court, among the financial and non-financial incentives which we allowed certain government employees to enjoy after the effectivity of RA 6758 were car plan benefits and educational funding assistance for incumbents of existing positions as of 1 July 1989 until such gratuity packages were gradually phased out.

We have no doubt that RA 6758 modified, if not repealed, Sec. 3. par. (c), of RA 1161 as amended, at least insofar as it concerned the authority of SSC to fix the compensation of SSS employees and officers. This means that whatever salaries and other financial and non-financial inducements that the SSC was minded to fix for them, the compensation must comply with the terms of RA 6758. Consequently, only the remuneration which was being offered as of 1 July 1989, and which was then being enjoyed by incumbent SSS employees and officers, could be availed of exclusively by the same employees and officers separate from and independent of the prescribed standardized salary rates. Unfortunately, however, the signing bonus in question did not qualify under Secs. 12 and 17 of RA 6758. It was non-existent as of 1 July 1989 as it accrued only in 1996 when the CNA was entered into by and between SSC and ACCESS. The signing bonus therefore could not have been included in the salutary provisions of the statute nor would it be legal to disburse to the intended recipients.[37]

It should be mentioned, at this point, that through subsequent laws enacted by the legislature, several government-owned and controlled corporations and government financial institutions including the GSIS[38] and the SSS[39] have been exempted from the coverage of R.A. No. 6758.

Clearly, it can be gleaned from the cases discussed earlier that the Court has been very consistent in construing the second sentence (first paragraph) of Section 12 of R.A. No. 6758 as prescribing July 1, 1989 as the qualifying date to determine whether an employee was an incumbent and receiving the non-integrated remuneration or benefit, for purposes of entitling him to its continued grant. Put differently, those allowances or fringe benefits (whether RATA or other benefits) which have not been integrated into the standardized salary are allowed to be continued only for incumbents of positions as of July 1, 1989 and who were actually receiving said allowances or fringe benefits as of the said date.

With respect to the EAIB, the Court has categorically classified it in G.R. No. 119385 as a non-integrated benefit falling under the purview of the second sentence (first paragraph) of Section 12 of R.A. No. 6758. The Court granted the petition therein because the petitioners in the said case were incumbent officials and employees of the NTA as of July 1, 1989. Moreover, they were actually receiving the said benefit as of the said date. The Court made this clear as it stated that the EAIB is covered by the second sentence (first paragraph) 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.”[40] In other words, the Court’s basis for allowing the EAIB to continue to be granted to the petitioners therein was because they were incumbents and receiving the same as of July 1, 1989. According to the Court, to rule otherwise would run afoul of the legislature’s intent to prevent any diminution of the pay and benefits being received by them at

the time of the enactment of R.A. No. 6758.

In contrast, the petitioners in this case were neither incumbents nor receiving the EAIB as of July 1, 1989 since they were hired only after the said date. The principle of non-diminution of benefits, which the Court has declared in the cases earlier discussed to be the manifest intent of legislature in engrafting the second sentence (first paragraph) in Section 12 of R.A. No. 6758, thus, finds no application to them. Accordingly, the COA properly disallowed the payment of the EAIB to the petitioners in the present case.

The case of Cruz v. COA, relied upon by the petitioners is not squarely applicable to the present case.

Reliance by the petitioners on the Cruz case is misplaced. The ruling of the Court in the said case is not decisive because subsequent thereto, the Court en banc rendered the decision in SSS, discussed earlier, reiterating the pronouncement in the cases prior to Cruz on the significance of the date July 1, 1989 in the second sentence (first paragraph) of Section 12 of R.A. No. 6758. In fact, in SSS, the Court specifically mentioned the educational funding assistance granted to the NTA employees as among those benefits that the Court allowed to continue “for incumbents of existing positions as of 1 July 1989 until such gratuity packages were gradually phased out.”

In any case, as correctly pointed out by the Solicitor General, the factual milieu of that case is different from that attendant in the present case. The most decisive factual distinction is, unlike in the present case, the SRA employees who were the petitioners in Cruz were able to obtain from the Office of the President a post facto approval or ratification of their social amelioration benefit (SAB).[41] This post facto authority granted by the Office of the President covered all employees of the SRA regardless of the date of hiring. Hence, since such approval by the President did not distinguish as to the date of hiring with respect to the grant of the SAB to the SRA employees, the Court properly did not distinguish as well in Cruz. In the present case, the petitioners have not shown that they have obtained any similar authority from the President with regard to the grant of the EAIB to all the employees of the NTA regardless of the date of hiring.

The petitioners cannot correctly claim similar treatment as those who were incumbents as of July 1, 1989 with respect to the grant of the EAIB

As the petitioners themselves put it, they are “basing their case solely on the principle of equity, that they should be provided with equal pay for substantially equal work, which should be the same as those ‘on board’ as of July 1, 1989, and the only difference that can be possibly made is to base the pay upon substantive differences in duties and responsibilities and qualification requirements of the positions and not the date of hiring.”[42]

The petitioners are, in effect, invoking the principle of equal protection of the law embodied in the Constitution.[43] Fairly recently, the Court had the occasion to restate the principle in this wise:

The guaranty of equal protection of the laws is not a guaranty of equality in the application of the laws upon all citizens of the state. It is not, therefore, a requirement, in order to avoid the constitutional prohibition against inequality, that every man, woman and child should be affected alike by a statute. Equality of operation of statutes does not mean indiscriminate operation on persons merely as such, but on persons according to the circumstances surrounding them. It guarantees equality, not identity of rights. The Constitution does not require that things which are different in fact be treated in law as though they were the same. The equal protection clause does not forbid discrimination as to things that are different. It does not prohibit legislation which is limited either in the object to which it is directed or by the territory within which it is to operate.

The equal protection of the laws clause of the Constitution allows classification. Classification in law, as in the other departments of knowledge or practice, is the grouping of things in speculation or practice because they agree with one another in certain particulars. A law is not invalid simply because of simple inequality. The very idea of classification is that of inequality, so that it goes without saying that the mere fact of inequality in no manner determines the matter of constitutionality. All that is required of a valid classification is that it be

reasonable, which means that the classification should be based on substantial distinctions which make for real differences, that it must be germane to the purpose of the law; that it must not be limited to existing conditions only; and that it must apply equally to each member of the class. This Court has held that the standard is satisfied if the classification or distinction is based on a reasonable foundation or rational basis and is not palpably arbitrary.

In the exercise of its power to make classifications for the purpose of enacting laws over matters within its jurisdiction, the state is recognized as enjoying a wide range of discretion. It is not necessary that the classification be based on scientific or marked differences of things or in their relation. Neither is it necessary that the classification be made with mathematical nicety. Hence, legislative classification may in many cases properly rest on narrow distinctions, for the equal protection guaranty does not preclude the legislature from recognizing degrees of evil or harm, and legislation is addressed to evils as they may appear.[44]

The equal protection clause, therefore, does not preclude classification of individuals who may be accorded different treatment under the law as long as the classification is reasonable and not arbitrary.[45]

With respect to R.A. No. 6758, the clear policy thereof is to standardize salary rates among government personnel and do away with multiple allowances and other incentive packages and the resulting differences in compensation among them. The different treatment accorded by the second sentence (first paragraph) of Section 12 of R.A. 6758 to the incumbents as of July 1, 1989, on one hand, and those employees hired on or after the said date, on the other, with respect to the grant of the non-integrated benefits lies in the fact that the legislature intended to gradually phase out the said benefits without, however, upsetting its policy of non-diminution of pay and benefits. As the Court explained in SSS:

Although it was the clear policy intent of RA 6758 to standardize salary rates among government personnel, the Legislature under Secs. 12 and 17 of the law nonetheless saw the need for equity and justice in adopting the policy of non-diminution of pay when it authorized incumbents as of 1 July 1989 to receive salaries and/or allowances over and above those authorized by RA 6758. In *Philippine Ports Authority v. Commission on Audit*, we held that no financial or non-financial incentive could be awarded to employees of government-owned and controlled corporations aside from benefits which were being received by incumbent officials and employees as of 1 July 1989. This Court also observed –

The consequential outcome, under Sections 12 and 17 is that if the incumbent resigns or is promoted to a higher position, his successor is no longer entitled to his predecessor's RATA privilege ... or to the transition allowance ... [A]fter July 1, 1989, additional financial incentives such as RATA may no longer be given by GOCCs with the exception of those which were authorized to be continued under Section 12 of RA 6758.[46]

The second sentence (first paragraph) of Section 12 of R.A. No. 6758 does not infringe the equal protection clause of the Constitution as it is based on reasonable classification intended to protect the right of the incumbents against diminution of their pay and benefits. The petitioners in the present case, who are admittedly non-incumbent employees of the NTA as of July 1, 1989, cannot, therefore, claim similar treatment as the incumbents as of the said date, with respect to the grant of the EAIB.

WHEREFORE, the petition is DISMISSED. The assailed COA Decision No. 2002-162 dated August 15, 2002 and COA Resolution No. 2003-109 dated July 17, 2003 are AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

Corona, J., on official leave.

[1] Approved by then Chairman Guillermo N. Carague and Commissioners Raul C. Flores and Emmanuel M. Dalman.

[2] Entitled “An Act Prescribing a Revised Compensation and Position Classification in the Government and for Other Purposes.”

[3] 311 SCRA 755 (1999).

[4] G.R. No. 134740, 23 October 2001, 368 SCRA 85.

[5] The cut-off date of July 1, 1989 was extended to October 31, 1989 by the Department of Budget and Management Corporate Compensation Circular (DBM-CCC) No. 10, the Implementing Rules and Regulations of Rep. Act No. 6758. Section 5.6 of the said circular originally stated:

Payment of other allowances/fringe benefits and all other forms of compensation granted on top of basic salary, whether in cash or in kind, shall be discontinued effective November 1, 1989. Payment made for such allowances/fringe benefits after said date shall be considered illegal disbursement of public funds.

However, in *De Jesus v. Commission on Audit* (G.R. No. 109023, 12 August 1998, 294 SCRA 152), the Court declared DBM-CCC No. 10 “ineffective” for non-compliance with the requisite publication in the Official Gazette or in a newspaper of general circulation. It was then re-issued and published in the Official Gazette on March 1, 1999. The extended cut-off date was deleted from Section 5.6 thereof.

[6] Rollo, pp. 41-42.

[7] *Supra* note 5.

[8] G.R. No. 138381, 16 April 2002, 381 SCRA 101.

[9] *Id.* at 115.

[10] Rollo, p. 26.

[11] In their Manifestation and Motion for Leave to File and Admit Herein Incorporated Comment to respondent COA’s Memorandum dated September 30, 2004, the petitioners informed the Court that petitioner Ambros’ term as President of the Employees Association of the NTA (EANTA) had already ended September 16, 2004. Nonetheless, in a meeting held on September 21, 2004, the EANTA General Membership passed a resolution granting petitioner Ambros authority to continue to represent them in the present case.

[12] Rollo, p. 52.

[13] *Supra*.

[14] The provision reads:

Sec. 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 receive in the future.

The transition allowance referred to herein shall be treated as part of the basic salary for purposes of computing retirement pay, year-end bonus and other similar benefits.

As basis for computation of the first across-the-board salary adjustment of incumbents with transition allowance, no incumbent who is receiving compensation exceeding the standardized salary rate at the time of the effectivity of this Act, shall be assigned a salary lower than ninety percent (90%) of his present compensation or the standardized salary rate, whichever is higher. Subsequent increases shall be based on the resultant adjusted salary.

[15] Rollo, pp. 72-73.

[16] G.R. No. 100773, 16 October 1992, 214 SCRA 653.

[17] G.R. No. 104217, 5 December 1994, 238 SCRA 714.

[18] G.R. No. 132593, 25 June 1999, 309 SCRA 177.

[19] G.R. No. 149240, 11 July 2002, 384 SCRA 548.

[20] G.R. No. 138381, 16 April 2002, 381 SCRA 101.

[21] The provision originally read:

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 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.

As re-issued and published in the Official Gazette on March 1, 1999, Sec. 5.5 of DBM-CCC No. 10 now reads:

5.5 The following allowances/fringe benefits authorized to GOCCs/GFIs pursuant to the aforementioned issuances are not likewise to be integrated into the basic salary and allowed to be continued only for incumbents of positions as of June 30, 1989 who are authorized and actually receiving said allowances/benefits as of said date, at the same terms and conditions prescribed in said issuances: 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.

[22] National Tobacco Administration v. COA, *supra*, pp. 769-770.

[23] *Id.* at 770-771.

[24] G.R. No. 100773, 16 October 1992, 214 SCRA 653.

[25] *Id.* at 659-660.

[26] *Id.* at 663-664.

[27] G.R. No. 104217, 5 December 1994, 238 SCRA 714.

[28] *Id.* at 720.

[29] *Id.*

[30] G.R. No. 132593, 25 June 1999, 309 SCRA 177.

[31] *Id.* at 185.

[32] Id. at 186.

[33] G.R. No. 138381, 16 April 2002, 381 SCRA 101.

[34] Id. at 114-115.

[35] Id. at 115-116.

[36] G.R. No. 149240, 11 July 2001, 384 SCRA 548.

[37] Id. at 556-557.

[38] Republic Act No. 8291.

[39] Republic Act No. 8282.

[40] National Tobacco Administration v. COA, *supra*, pp. 769-770.

[41] *Supra* note 21.

[42] Rollo, p. 122.

[43] SECTION 1, ARTICLE III, CONSTITUTION reads:

Sec. 1. No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws.

[44] Central Bank (now Bangko Sentral ng Pilipinas) Employees Association, Inc. v. Bangko Sentral ng Pilipinas and the Executive Secretary, G.R. No. 148208, 15 December 2004, pp. 7-8, citing *Victoriano v. Elizalde Rope Workers' Union*, 59 SCRA 54 (1974).

[45] *Villareña v. Commission on Audit*, G.R. Nos. 145383-84, 6 August 2003, 408 SCRA 455.

[46] *Social Security System v. COA*, *supra*.

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