

**NAPOLEON S. RONQUILLO, JR., EDNA G. RAÑA, ROMEO REFRUTO,
PONCIANO T. ANTEGRO, ET AL., PETITIONERS, VS. NATIONAL
ELECTRIFICATION ADMINISTRATION, EDITA S. BUENO, MARIANO T.
CUENCO...**

G.R. No. 172593. April 20, 2016

Ponente: LEONEN, J.

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LEONEN, J.:

Under Republic Act No. 6758, the Cost of Living Allowance (COLA) has been integrated into the standardized salary rates of government workers. Its back payment to the former employees of the National Electrification Administration is, therefore, unauthorized.

This resolves the Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure.[1] The Petition is an offshoot of the Regional Trial Court's disposition of Special Civil Action No. Q-04-53967.[2]

To provide the country's total electrification on an area coverage basis, the National Electrification Administration (NEA) was established as a government agency.[3] NEA later became a public corporation under Presidential Decree No. 269.[4] Expanded by succeeding laws,[5] NEA has since sought to bring electrical power to rural and remote areas, as well as enhance the competence of electric distribution utilities in a deregulated electricity market.[6]

Petitioners Napoleon S. Ronquillo, Jr., Edna G. Raña, Romeo Refruto, Ponciano T. Antegro, and 151 others[7] (Ronquillo, Jr., et al.) are former employees of NEA. Before July 1, 1989, NEA paid its employees their COLA, which was equivalent to 40% of their basic pay,[8] in addition to their basic pay and other allowances.[9]

On July 1, 1989, Republic Act No. 6758,[10] otherwise known as the Compensation and Position Classification Act of 1989, became the new salary standardization law applicable to all government officials and employees.[11]

Section 12[12] of Republic Act No. 6758 provides that, as a general rule, all allowances are already included in the new standardized salary rates. Thus, NEA discontinued paying the COLA of its employees from July 1, 1989.

Pursuant to Republic Act No. 6758,[13] the Department of Budget and Management issued Corporate Compensation Circular No. 10 dated February 15, 1989, otherwise known as Rules and Regulations for the Implementation of the Revised Compensation and Position Classification Plan in Government-Owned and/or -Controlled Corporations and Government Financial Institutions (GOCCs/GFIs).[14]

Taking its cue from Section 12 of Republic Act No. 6758, which provides for the general rule of integration of allowances into the basic salary, Corporate Compensation Circular No. 10 states that allowances given on top of basic salary shall be "discontinued] without qualification[.]"[15]

Otherwise, payment of these allowances constitutes an "illegal disbursement of public funds."[16]

Corporate Compensation Circular No. 10, which took effect on November 1, 1989, was challenged before this Court.[17] In *De Jesus v. Commission on Audit*[18] this Court struck down Corporate Compensation Circular No. 10 because it lacked publication and the employees were not given the opportunity to be heard.[19] The Decision was promulgated on August 12, 1998.[20]

After Corporate Compensation Circular No. 10 was ruled as ineffective and unenforceable, several government agencies began giving back pays to their employees.[21] The back pay consisted of the allowances that had been discontinued.[22]

The Department of Budget and Management re-issued and published Corporate Compensation Circular No. 10, which became effective on March 16, 1999.[23] NEA paid the COLA of its employees for the period of July 1, 1989 until July 15, 1999.[24]

On November 12, 2001, the Department of Budget and Management issued Budget Circular 2001-03[25] stating that the COLA, among others, is already deemed integrated in the basic salary.[26] Payment of the COLA is, therefore, unauthorized.[27]

The relevant portions of Budget Circular 2001-03 read as follows:

2.0 The [Supreme Court] in [*De Jesus v. Commission on Audit and Jamoralin*] declared as ineffective due to non-publication, Corporate Compensation Circular (CCC) No. 10[,] which contained the rules and regulations for the implementation of RA No. 6758 insofar as Government-owned or Controlled Corporations and Government Financial Institutions are concerned.

3.0 In view of such declaration, therefore, the explicit provisions of Section 12 of RANo. 6758 shall prevail....
x x x

Consequently, only those allowances specifically mentioned in the exceptions under Section 12 may continue to be granted; all others are deemed integrated in the standardized salary rates.

4.0 This provision shall apply to all government employees in the employ of NGAs [national government agencies], LGUs [local government units], GOCCs [government owned and controlled corporations] and GFIs [government financial institutions].

5.0 Further, the standardized salaries reflected in the current budgets of NGAs, LGUs, GOCCs and GFIs are already inclusive of the consolidated allowances. Thus, providing for a separate grant of said allowances on top of the standardized salary rates is tantamount to double compensation which is prohibited by the Constitution.

6.0 In view of the foregoing, payments of allowances and compensation, such as COLA, amelioration allowance and inflation-connected allowances, among others, which are already integrated in the basic salary, are deemed unauthorized, unless otherwise provided by law.[28] (Emphasis supplied)

In 2001,[29] Congress passed Republic Act No. 9136,[30] otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA), which provides for a framework to restructure the power industry.[31]

Under Section 63 of the EPIRA, national government employees who would be displaced or separated from services due to the restructuring of the power industry are entitled to separation pay. These affected employees would be considered legally terminated, pursuant to Rule 33, Section 3 (b)(ii)[32] of the EPIRA Implementing Rules and Regulations.

The reorganization of NEA affected the employment of Ronquillo, Jr., et al. On November 7, 2003, more than half of them chose early retirement, while the rest were dismissed from work on December 31, 2003.[33]

Ronquillo, Jr., et al. were given separation pay, the total amount of which excludes the balance of their

COLA,[34] specifically for the period of July 16, 1999 until their separation from service on November 7 or December 31, 2003.[35] They demanded[36] that NEA, Administrator Edita S. Bueno (Administrator Bueno),[37] Deputy Administrator for Corporate Resources Mariano T. Cuenco,[38] and Human Resources Management Director Diana M. San Luis[39] (NEA, et al.) give back pay for their COLA,[40] but this was refused.[41] NEA, et al. informed them that NEA needed the funds to cover the separation pay of all the affected employees.[42]

On September 8, 2004, Administrator Bueno wrote to the Commission on Audit, seeking to clarify the legality of paying the COLA as part of the back pay of former NEA employees.[43]

On October 12, 2004, Edgardo T. Guiriba, Supervising Auditor of the Commission on Audit, furnished a copy of the 1st Indorsement[44] dated September 22, 2004 to Administrator Bueno.[45] Prepared by the Commission on Audit's Director of Legal and Adjudication for the Office of Legal Affairs, the 1st Indorsement affirmed the position of the Commission on Audit's Director of Cluster III for Public Utilities that NEA employees were no longer entitled to the payment of the COLA after Corporate Compensation Circular No. 10 was finally published.[46] the Regional Trial Court.[47]

In its Decision[48] dated December 9, 2005, the Regional Trial Court denied the Petition for lack of merit. The trial court held:

As correctly raised by the respondents, in order for a petition for mandamus, the petitioner must show that he has a well defined, clear and certain right for the grant thereof. Section 3 Rule 65 of the Revised Rules of Court refers to unlawful neglect of the performance of an act enjoined by law or which unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled.

In the advent of RA 6758 and DBM CC[C] No. 10, the petition must clearly establish with certainty the relief sought. Petitioners have failed to cite any provision of law which unequivocally provides for petitioners' continued entitlement to the COLA after the reissuance and publication of DBM CC[C] No. 10. There was likewise no showing of a law that clearly establishes petitioners' legal right to the same which respondents may be directed to implement. Considering the reissuance and publication of DBM CC[C] No. 10, a question arises whether the payment of cost of living allowance would continue. This already creates doubt as to the legal basis of petitioner's (sic) claim. Clearly, petitioners must first establish a clear legal right to the act required to be done or the relief sought. A clear legal right derived from a clear provision of law or jurisprudence and not from mere conjectures or doubtful interpretation of the law.

WHEREFORE, the petition for Mandamus is DENIED for lack of merit.[49] (Emphasis supplied)

Ronquillo, Jr., et al. moved for reconsideration,[50] but the Motion was likewise denied[51] on March 28, 2006. Raising a question of law,[52] they appealed directly before this Court under Rule 45 of the 1997 Revised Rules of Court.[53]

In the Resolution dated August 30, 2006, this Court required Ronquillo, Jr., et al. to submit a sufficient verification and certification against forum shopping, as only Atty. Napoleon S. Ronquillo, Jr. affixed his signature.[54]

By way of compliance,[55] Ronquillo, Jr., et al. appointed Edna G. Raña as attorney-in-fact of other petitioners and authorized her to sign the Verification and Certification Against Forum Shopping on their behalf.[56] Of the 155 named petitioners, only 103 signed Edna G. Raña's Special Power of Attorney. Dennis Abante, Restituto Abellera, and other named petitioners[57] did not.[58]

In their Petition for Review on Certiorari,[59] Ronquillo, Jr., et al. claim that they "have acquired a vested right over" the payment of the COLA,[60] and that its non-payment is equivalent to diminution of pay.[61]

In the Resolution dated August 30, 2006, this Court required NEA, Edita S. Bueno, Mariano T. Cuenco, and Diana M. San Luis (NEA, et al.) to file their Comment on the Petition. NEA, et al. failed to timely submit their Comment.[62] They gave an Explanation and Apology,[63] which this Court accepted and noted.[64]

In their Comment dated April 17, 2007, NEA, et al. argued that the publication of Corporate Compensation Circular No. 10 terminated Ronquillo, Jr., et al.'s entitlement to COLA.[65] The lack of legal basis for their COLA claims means that mandamus cannot compel NEA, et al. to release payment for such claims.[66]

Ronquillo, Jr., et al. filed their Reply on April 12, 2007.[67] They argue that the second sentence of Section 12 of Republic Act No. 6758 serves as the basis for their entitlement to the COLA. The second sentence reads as follows: "Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 [and are] not integrated into the standardized salary rates[,] shall continue to be authorized."

Ronquillo, Jr., et al. argue that they are still entitled to the balance of their COLA benefits from July 16, 1999 up to November 7 or December 31, 2003, the date of their separation from service.[68] They claim that they had been receiving COLA benefits before Republic Act No. 6758 became effective, and the COLA was not integrated into their standardized salary rate.[69] According to them, the non-payment of their COLA is a diminution of compensation, over which they have a vested right.[70]

On the other hand, NEA, et al. state that the Regional Trial Court has no jurisdiction over the subject matter.[71] They allege that the pleading states no cause of action because petitioners failed to establish a clear legal right for the issuance of a writ of mandamus.[72] There is neither jurisprudence nor law to support their claim for the COLA back pay.[73]

Further, NEA, et al. argue that there is no diminution of benefits, and that Ronquillo, Jr., et al. failed to show that the COLA was not yet integrated into their salaries.[74] Even the Commission on Audit affirmed Ronquillo, Jr., et al.'s non-entitlement to the COLA.[75] NEA, et al. state that if they released funds for the payment of the COLA, they would be at risk of violating Technical Malversation under Article 217[76] of the Revised Penal Code.[77]

For resolution are the following:

First, whether petitioners Ronquillo, Jr., et al. can appeal the Regional Trial Court's Decision directly before this Court; and

Second, whether petitioners Ronquillo, Jr., et al. are entitled to the payment of the COLA after the effectivity of Republic Act No. 6758 and Corporate Compensation Circular No. 10.

We deny the Petition.

I

We first resolve the procedural matters.

According to respondents, the case is premature as petitioners failed to exhaust administrative remedies.[78] Respondents are mistaken. The doctrine of exhaustion of administrative remedies does not apply when the issue deals with a question of law:

[The case] does not involve an examination of the probative value of the evidence presented by the parties. There is a question of law when the doubt or difference arises as to what the law is on a certain state of facts, and not as to the truth or the falsehood of alleged facts. Said question [of law] at best could be resolved only tentatively by the administrative authorities. The final decision on the matter rests not with them but with the courts of justice. Exhaustion of administrative remedies does not apply, because nothing of an administrative

nature is to be or can be done. The issue does not require technical knowledge and experience but one that would involve the interpretation and application of law.[79] (Emphasis supplied, citations omitted)

Issues dealing with the interpretation of law solely involve a question of law. A question of law exists when the law applicable to a particular set of facts is not settled, whereas a question of fact arises when the truth or falsehood of alleged facts is in doubt.[80]

The case involves a question of law, specifically, whether Republic Act No. 6758 and the re-issuance and publication of the Department of Budget and Management's Corporate Compensation Circular No. 10 entitle petitioners to the back pay of the COLA.

II

Republic Act No. 6758 and its implementing rules, Corporate Compensation Circular No. 10, have already included the COLA in the government worker's standardized salary rates.

This Court is mindful that the case of *Tañada v. Hon. Tuvera*[81] mandates the publication of executive issuances as a requirement for its validity.[82] Nevertheless, in *Maritime Industry Authority v. Commission on Audit*[82] we have stated that the non-publication of a Department of Budget and Management circular implementing Republic Act No. 6758 does not invalidate the non-integration of allowances in the standardized salary as provided by law.[84] In any case, the subsequent re-issuance and publication cured any alleged defect of Corporate Compensation Circular No. 10.

Petitioners argue that Corporate Compensation Circular No. 10, as the implementing measure, cannot produce an effect that is not intended by the law it seeks to implement.[85] They claim that notwithstanding the re-issuance and publication of the Corporate Compensation Circular No. 10, the second sentence of Section 12 of Republic Act No. 6758 provides that "other additional compensation" shall continue to be granted. This is erroneous.[86]

Section 12 of Republic Act No. 6758 states the general rule on integration.[87] That is to say, all allowances are generally integrated into the government employee's standardized salary rates:

Section 12. Consolidation of Allowances and Compensation. - All allowances, except for representation and transportation allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM, shall be deemed included in the standardized salary rates herein prescribed. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized. (Emphasis supplied)

By exception, Section 12 provides for seven (7) types of allowances that do not form part of basic pay, or non-integrated allowances. All other allowances, save for these items, are deemed included in the government employee's standardized salary. These are as follows:

- (1) representation and transportation allowances (RATA);
- (2) clothing and laundry allowances;
- (3) subsistence allowance of marine officers and crew on board government vessels;
- (4) subsistence allowance of hospital personnel;
- (5) hazard pay;
- (6) allowances of foreign service personnel stationed abroad; and

(7) such other additional compensation not otherwise specified in Section 12 as may be determined by the [Department of Budget and Management].[88]

In *National Tobacco Administration v. Commission on Audit*,^[89] this Court has held that these enumerated exceptions "have one thing in common—they belong to one category of privilege called allowances which are usually granted to officials and employees of the government to defray or reimburse the expenses incurred in the performance of their official functions."^[90]

The six (6) non-integrated allowances have clearly omitted the COLA. This is because the COLA is not an allowance that seeks to reimburse expenses incurred in the fulfillment of the government worker's official functions.^[91] Rather, as this Court has ruled in *Gutierrez, et al. v. Department of Budget and Management, et al.*,^[92] the COLA is meant to cover for the government employee's rising cost of living:

As defined, cost of living refers to "the level of prices relating to a range of everyday items" or "the cost of purchasing those goods and services which are included in an accepted standard level of consumption." Based on this premise, COLA is a benefit intended to cover increases in the cost of living. Thus, it is and should be integrated into the standardized salary rates.^[93] (Emphasis supplied, citations omitted)

We now determine whether the Department of Budget and Management likewise excludes the COLA from the exceptions to the general rule on integration, pursuant to item 7 of Section 12.

In *Philippine Ports Authority (PPA) Employees Hired After July 1, 1989 v. Commission on Audit*,^[94] this Court has held that Section 12 of Republic Act No. 6758 is self-executing for the first six (6) items, but not for the seventh item.^[95] The seventh item can only "be deemed legally completed"^[96] after the issuance and publication of the implementing rules and regulations of Republic Act No. 6758.^[97]

Providing for implementing rules and regulations, the Department of Budget and Management issued Corporate Compensation Circular No. 10. This Circular establishes guidelines to determine the "other additional compensation[.]"^[98] which are not deemed integrated into the government employee's standardized salary rates.

These non-integrated allowances are found in Sections 5.4 and 5.5 of Corporate Compensation Circular No. 10. Section 5.4 of Corporate Compensation Circular No. 10 provides:

5.4

The following allowances/fringe benefits which were authorized to [Government-Owned and Controlled Corporations/Government Financial Institutions] under the standardized Position Classification and Compensation Plan . . . are not to be integrated into the basic salary and allowed to be continued after June 30, 1989 only to incumbents of positions who are authorized and actually receiving such allowances/benefits as of said date[:]

5.4.1

Representation and Transportation Allowances (RATA)[;]

5.4.2

Uniform and Clothing Allowance;

5.4.3

Hazard Pay as authorized by law;

5.4.4

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

5.4.5

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

5.4.6

Honoraria for lecturers and resource persons/speakers;

5.4.7

Overtime Pay as authorized by law;

5.4.8

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

5.4.9

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

5.4.10

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

5.4.11

Night Differential of personnel on night duty;

5.4.12

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

5.4.13

Flying Pay of personnel undertaking aerial flights;

5.4.14

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

5.4.15

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

Section 5.5 of Corporate Compensation Circular No. 10 likewise provides:

5.5

The following allowances/fringe benefits authorized to GOCCs/GFIs ... 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

The COLA is absent in the list of the Department of Budget and Management's determined non-integrated allowances.

In *Land Bank of the Philippines v. Naval Jr.*,^[99] we have ruled that without a doubt, the COLA has "not been expressly excluded from the general rule of integration[.]"^[100] Therefore, based on a clear reading of Section 12 of Republic Act No. 6758, vis-a-vis Sections 5.4 and 5.5 of Corporate Compensation Circular No. 10, the COLA has already formed part of petitioners' standardized salary rates on July 1, 1989, the date of effectivity of the Compensation and Position Classification Act of 1989.

To justify their claim for the COLA back pay, petitioners argue that the second sentence of Section 12 applies.^[101] The second sentence states: "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."

Petitioners are mistaken.

The second sentence of Section 12 plainly provides that its application is subject to two (2) conditions: that the recipients must be incumbents when Republic Act No. 6758 took effect,^[102] and that the additional compensation must not have been integrated into their standardized salary rates. The second condition is not true of the COLA.

The COLA falls under "all allowances" referred to in the first sentence of Section 12: "All allowances . . . shall be

deemed included in the standardized salary rates herein prescribed." Nothing in the exceptions found in Section 12 mentions the COLA.

This finds further support in Section 4 (Definition of Terms) of Corporate Compensation Circular No. 10.

Section 4 of Corporate Compensation Circular No. 10 defines the government employee's present salary as the sum of one's actual basic salary, including the COLA benefits, among others:

4.0

DEFINITION OF TERMS

4.1

The present salary of an incumbent for purposes of this Circular shall refer to the sum total of actual basic salary including allowances enumerated hereunder, being received as of June 30, 1989 and authorized pursuant to [Presidential Decree] No. 985 and other legislative or administrative issuances:

4.1.1

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

....

4.1.3

COLA granted to [Government-Owned and Controlled Corporations/Government Financial Institutions] covered by the Compensation and Position Classification Plan for the regular agencies/offices of the National Government and to GOCCs/GFIs following the Compensation and Position Classification Plan under [Letter of Implementation] No. 104/CCC No. 1 and [Letter of Implementation] No. 97/CCC No. 2, in the amount of P550.00 per month for those whose monthly basic salary is PI,501 and above, granted on top of the COLA/BEP mentioned in item 4.1.1 above;

....

4.2.

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

(Emphasis supplied)

Land Bank of the Philippines settles the controversy: Corporate Compensation Circular No. 10 specifically includes the COLA granted to employees of government-owned and controlled corporations as part of their basic salary beginning July 1, 1989.[103] Under Presidential Decree No. 269,[104] NEA is a government-owned and controlled corporation.

Thus, the applicable laws and jurisprudence establish that the former NEA employees are not entitled to COLA back pays for two (2) reasons: Republic Act No. 6758 does not mention the COLA as an exception to the general rule on integration; and Corporate Compensation Circular No. 10 provides that a public corporation such as NEA has already incorporated the COLA in its employees' basic pay.

III

Petitioners argue that respondents' denial of their claim is violative of the rule against non-diminution of pay.[105]

There is no diminution of pay when an existing benefit is substituted in exchange for one of equal or better value. As we have extensively discussed, Republic Act No. 6758 has already included the COLA in the standardized salary rates of government officers and employees. The rule on non-diminution of benefits is, therefore, inapplicable.

In *Gutierrez, et al.*:[106]

[The COLA] is deemed included in the standardized salary rates of government employees since it falls under the general rule of integration—"all allowances."

More importantly, the integration [of the COLA into the standardized salary rates] was not by mere legal fiction since it was factually integrated into the employees' salaries. Records show that the government employees were informed by their respective offices of their new position titles and their corresponding salary grades when they were furnished with the Notices of Position Allocation and Salary Adjustment (NPASA). The NPASA provided the breakdown of the employee's gross monthly salary as of June 30, 1989 and the composition of his standardized pay under R.A. 6758. Notably, the COLA was considered part of the employees' monthly income.

In truth, petitioners never really suffered any diminution in pay as a consequence of the consolidation of COLA into their standardized salary rates. There is thus nothing in [this case] which can be the subject of a back pay since the amount corresponding to COLA was never withheld from petitioners in the first place.[107] (Emphasis supplied, citations omitted)

Budget Circular 2001-03 dated November 12, 2001 of the Department of Budget and Management also states:

5.0 ... the standardized salaries reflected in the current budgets of [Government Owned and Controlled Corporations] are already inclusive of the consolidated allowances. Thus, providing for a separate grant of said allowances on top of the standardized salary rates is tantamount to double compensation which is prohibited by the Constitution.

The back payment of the COLA to petitioners amounts to double compensation.[108] Unless otherwise provided by law, government employees cannot be paid an extra remuneration for the same office that already has a fixed compensation.[109]

In *Maritime Industry Authority*:[110]

Article VI, Section 29 of the 1987 Constitution provides, "[n]o money shall be paid out of the Treasury except in pursuance of an appropriation made by law."

. . . [B]efore public funds may be disbursed for salaries and benefits to government officers and employees, it must be shown that these are commensurate to the services rendered and necessary or relevant to the functions of the office. "Additional allowances and benefits must be shown to be necessary or relevant to the fulfillment of the official duties and functions of the government officers and employees.[111] (Citation omitted)

Under Article IX(B), Section 8 of the Constitution, "[n]o elective or appointive public officer or employee shall receive additional, double, or indirect compensation, unless specifically authorized by law[.]" This provision serves as a constitutional limitation on the government's spending power. In *Peralta v. Auditor General Mathay*:[112]

[A] public office is a public trust. It is expected of a government official or employee that he [or she] keeps

uppermost in mind the demands of public welfare. [One] is there to render public service. . . . There is then to be an awareness on the part of an officer or employee of the government that he [or she] is to receive only such compensation as may be fixed by law. With such a realization, [one] is expected not to avail himself [or herself] of devious or circuitous means to increase the remuneration attached to [one's] position.[113]

Respondents assert that the Regional Trial Court did not err in denying the writ of mandamus sought by petitioners, and that there was no categorical duty on their part to pay petitioners' claims for the COLA.[114]

No law mandates respondents to give NEA's former employees their COLA back pays. Expressly forming part of a government employee's salary under Corporate Compensation Circular No. 10, and not expressly excluded by Republic Act No. 6758, the COLA is considered integrated into the standardized salary rates of petitioners effective July 1, 1989.[115] Thus, respondents have no legal authority to give the claimed balance of petitioners' COLA benefits. The payment of allowances or fringe benefits integrated in the basic salary, whether in cash or in kind, is considered an "illegal disbursement of public funds." [116]

This Court has ruled in *Gutierrez* that "until and unless the [Department of Budget and Management] issues such rules and regulations [pursuant to item 7 of Section 12], the enumerated exclusions in items (1) to (6) remain exclusive. Thus so, not being an enumerated exclusion, COLA is deemed already incorporated in the standardized salary rates of government employees under the general rule of integration." [117]

WHEREFORE, the Petition is DENIED. The Regional Trial Court Decision dated December 9, 2005 and Order dated March 28, 2006 in Special Civil Action No. Q-04-53967, which denied back payment of the Cost of Living Allowance of petitioners are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, and Mendoza, JJ., concur.

[1] Rollo, pp. 12-34.

[2] *Id.* at 16.

[3] Rep. Act No. 6038, An Act Declaring a National Policy Objective for the Total Electrification of the Philippines on an Area Coverage Service Basis, Providing for the Organization of the National Electrification Administration, the Organization, Promotion and Development of Electric Cooperatives to Attain the Objective, Prescribing Terms and Conditions for their Operation, the Repeal of R.A. No. 2717, and for Other Purposes (1969). Rep. Act No. 6038 is otherwise known as the National Electrification Administration Act.

[4] Pres. Decree No. 269, Creating the "National Electrification Administration" as a Corporation, Prescribing its Powers and Activities, Appropriating the Necessary Funds Therefor and Declaring a National Policy Objective for the Total Electrification of the Philippines on an Area Coverage Service Basis, the Organization, Promotion and Development of Electric Cooperatives to Attain the Said Objective, Prescribing Terms and Conditions for their Operations, the Repeal of Republic Act No. 6038, and for Other Purposes (1973).

[5] See Pres. Decree No. 1645, Amending Presidential Decree No. 269, Increasing the Capitalization and Broadening the Lending and Regulatory Powers of the National Electrification Administration and for Other Purposes (1979); Rep. Act No. 9136, An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for Other Purposes (2001); and Rep. Act No. 10531, An Act Strengthening the National Electrification Administration, Further Amending for the Purpose Presidential Decree No. 269, As Amended, Otherwise Known as the "National Electrification Administration Decree" (2012).

[6] National Electrification Administration, Philosophy, Mandate <http://www.nea.gov.ph/about-us/philosophy> (visited April 1, 2016)

[7] Rollo, pp. 12-15. Dennis Abante, Restitute Abellera, Edna Abiog, Gavino Abundo, Edilberto M. Aguila, Blesida Aguilar, Francisco A. Aguilar, Fiorina Alipio, Norberto Aliwalas, Gavino Andal, Emmanuel Angeles, Felipe S. Antolin, Ramon Aquino, Celia Arugay, Norminda C. Asa, Lolita D. Ayson (Id. at 75), Veronica Bangha-on, Basilio L. Bartolome Jr. (Id. at 76), Estrella Batalla, Dominador Baterina, Rebecca Bautista, Illuminado B. Benosa Jr., Marissa Bigornia, Rene Briones, Lorna Cabalay, Corazon Cabulisan, Roselyn Cachapero, Alfredo Cacuyog, Carlos V. Castillo, Gracia Ma. J. Castillo, Maximilian G. Castillo, Ruben P. Catabas, Efren Cauteverio, Raul Cea, Diosdado M. Celzo, Benedicto Chavez, Yolanda Chenilla, Benjamin M. Clores, Manuel Cruces Jr., Anabelle P. Cruz, Jessie C. Cruz, Danilo M. Cruz, Rodolfo P. Cruz, Siony E. Cunanan, Milagros S. Dacumos, Jhonny A. Daiz (Id. at 76), Inocencio M. David, Marilou B. De Jesus, Gerardo dela Cruz, Maximo dela Cruz, Jaime C. del Rosario, Lolita C. delos Reyes, Sonny B. delos Santos, Rodolfo C. Dipalac (Id. at 78), George A. Din, Dwight L. Dolino, Alma S. Encarnacion, Jose A. Endiola, Ernesto Enriquez Jr., Fausto Estacio, Reynaldo Fabro, Numer Fulleros, Roger B. Garcia, Luzvimnida L. Gonzales, Rocky P. Gonzales, Gonzalo P. Paulo (Id. at 78), Alberto Guiang, Armando Hate, Corazon Hernandez, Robertino C. Herrera, Benjamin C. Ines, Cresencio Javier, Concepcion Lacson, Elena B. Laidan, Mercedes B. Laig, Raul M. Laig, Agustin Madattu, Roberto Magday, Peterson Mallari, Hendrick R. Manegdeg, Norma Manaloto, Eduardo Y. Manansala, Eduardo Mangubat, Celia Manuel, Hermenegildo C. Manzano, Fe S. Marquez, Bienvenido S. Marasigan, Rodolfo L. Martinez Jr. (Id. at 77), Emerita Mate, Nelson S. Milo, Melba D. Mina, Rogelio B. Mina (Id. at 75), Pablito A. Modesto (Id. at 77), Marcial L. Montemayor (Id. at 78), Benita Montilla, Danilo E. Morales, Ma. Lourdes Philinda Noble, Imelda Nocum, Cecilio B. Nogoy, Victor Noriega, Mila Ocaso, Andrecito Oliver, Belarmino P. Ombrog Sr. (Id. at 77), Aida Ong, Aristotle Osias, Larry Pallera, Teresita Pecafia, Rosario D. Palileo (Id. at 79), Bienvenido Pores (Id. at 79), Jake M. Quintos, Sinamar I. Raña (Id. at 79), Nabor Rañao (Id. at 80), Elpidio A. Regalado, Telesfora L. Requizo, Eduardo Reyes, Ferdinand V. Reyes, Luis Reyes, Loreto P. Reynoso, Marceliano B. Rivera Jr., Jose Romero, Merlin Rosales, Myrna Rosales, Justiniano Rosarito, Rodolfo Sace, Celso Salazar, Carlito Salisi (Id. at 78), Pacifico Salvador Jr., Honorio Samia, Melinda Salandanan, Noel Sanchez (Id. at 80), Vilma R. San Diego, Felimon Santos Jr., Emerlinda C. Senar (Id. at 75), Suzette A. Sese, Maricon M. Sison, Genoveva SB. Sondia (Id. at 75), Nestor Soriano, Graciano M. Sombillo, Cresencio S. Soriano, Guillermo Sotto, Victor B. Tenoso (Id. at 78), Jose Timola, Dante Z. Tiu, Roel Tumanon, Cesar Valdez, Rebecca S. Valeroso, Juanito Velasco, Dominador Q. Velasquez (Id. at 79), Roger Viola, Stephen Veleria (Id. at 79), and Quirino Ulit.

[8] Id. at 35, Regional Trial Court Decision.

[9] Id.

[10] Rep. Act No. 6758 is entitled An Act Prescribing a Revised Compensation and Position Classification System in the Government and for Other Purposes.

[11] Rep. Act No. 6758(1989), sec. 23.

[12] Rep. Act No. 6758 (1989), sec. 12 provides:

Section 12. Consolidation of Allowances and Compensation. - All allowances, except for representation and transportation allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM, shall be deemed included in the standardized salary rates herein prescribed. Such other additional

compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized.

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

[13] Rep. Act No. 6758 (1989), sec. 23 provides:

Section 23. Effectivity. - ... The [Department of Budget and Managements] shall, within sixty (60) days after its approval, allocate all positions in their appropriate position titles and salary grades and prepare and issue the necessary guidelines needed to implement the same.

[14] Rollo, p. 35.

[15] *De Jesus v. Commission on Audit*, 355 Phil. 584, 587 (1998) [Per J. Purisima, En Banc].

[16] DBM Corporate Compensation Circular No. 10 (1999), sec. 5.6.

[17] Rollo, p. 35.

[18] 355 Phil. 584 (1998) [Per J. Purisima, En Banc].

[19] *Id.* at 590-591.

[20] *Id.* at 584.

[21] *Id.* at 36, Regional Trial Court Decision.

[22] *Id.*

[23] *Id.* at 35.

[24] *Id.* at 36.

[25] Clarification on the Consolidation of Allowances, Including Cost of Living Allowance (COLA). Cited in DepEd Memorandum No. 166 (2005), Dissemination of Budget Circular No. 2001-03 http://www.deped.gov.ph/sites/default/files/memo/2005/DM_s2005_166.pdf (visited April 1, 2016).

[26] DBM Budget Circular 2001-03 (2001), par. 7.0.

[27] DBM Budget Circular 2001-03 (2001), par. 6.0; DBM Corporate Compensation Circular No. 10 (1999), sec. 5.6.

[28] Cited in DepEd Memorandum No. 166, s. 2005, Dissemination of Budget Circular No. 2001-03 http://www.deped.gov.ph/sites/default/files/memo/2005/DM_s2005_166.pdf (visited April 1, 2016)

[29] Rep. Act No. 9136 (2001) provides:

This Act which is a consolidation of House Bill No. 8457 and Senate Bills No. 1712, 1621, 1943 and 2000 was finally passed by the House of Representatives and the Senate on May 31, 2001 and June 4, 2001, respectively.

[30] Rep. Act No. 9136 is entitled An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for Other Purposes.

[31] Rep. Act No. 9136(2001), sec. 3.

[32] Implementing Rules and Regulations of Republic Act No. 9136, Rule 33, sec. 3(b)(ii) provides: Rule 33. Separation Benefits

....

Section 3. Separation and Other Benefits.

....

(b) The following shall govern the application of Section 3(a) of this Rule:

....

(ii) With respect to NEA officials and employees, they shall be considered legally terminated and shall be entitled to the benefits or separation pay provided in Section 3 (a) herein when a restructuring of NEA is implemented pursuant to a law enacted by Congress or pursuant to Section 5(a)(5) of Presidential Decree No. 269.

[32] Ronquillo Jr., et al. filed a Special Civil Action for Mandamus before

[33] Rollo, p. 94, NEA's et al.'s Comment.

[34] Id. at 36, Regional Trial Court Decision.

[35] Id. at 20, Ronquillo, et al.'s Petition.

[36] Id. at 21.

[37] Id. at 17.

[38] Id.

[39] Id.

[40] Id. at 36.

[41] Id.

[42] Id.

[43] Id. at 113, Memorandum for the Assistant Commissioner Raquel R. Habitan, General Counsel, Legal and Adjudication Office.

[44] Id. at 112, Re: Request of Ms. EDITHA S. BUENO, Administrator, National Electrification Administration (NEA), for clarification on the legality of paying the Cost of Living Allowance (COLA) of the former NEA personnel covering the period August 1999 to November 7, 2003. The 1st Indorsement was signed by Salvador P. Isiderio, Director IV of Commission on Audit Office of Legal Affairs.

[45] Id. at 111, Memorandum for the NEA Administrator from the Commission on Audit Supervising Auditor.

[46] Id.

[47] Id. at 35.

[48] Id. at 35-37.

[49] Id. at 36-37.

[50] Id. at 38-46.

[51] Id. at 47-48. The Order was issued by Presiding Judge Samuel H. Gaerlan

[52] Id. at 94.

[53] Id. at 17.

[54] Id. at 56.

[55] Id. at 58.

[56] Id. at 57-58.

[57] Dennis Abante, Restituto Abellera, Edna Abiog, Ramon Aquino, Norminda C. Asa, Estrella Batalla, Dominador Baterina, Marissa Bigornia, Lorna Cabalay, Roselyn Cachapero, Carlos V. Castillo, Efren Cauteverio, Manuel Cruces, Anabelle P. Cruz, Jessie C. Cruz, Marilou B. De Jesus, George A. Din, Fausto Estacio, Rocky P. Gonzales, Corazon Hernandez, Benjamin C. Ines, Concepcion Lacson, Mercedes B. Laig, Raul M. Laig, Norma Manaloto, Hermenegildo C. Manzano, Emerita Mate, Nelson S. Milo, Danilo E. Morales, Imelda Nocum, Cecilio B. Nogoy, Victor Noriega, Mila Ocaso, Andrecito Oliver, Aida Ong, Aristotle Osias, Larry Pallera, Jake M. Quintos, Elpidio A. Regalado, Telesfora L. Requizo, Marceliano B. Rivera Jr., Jose Romero, Merlin Rosales, Myrna Rosales, Rodolfo Sace, Honorio Samia, Melinda Salandanan, Maricon M. Sison, Graciano M. Sombillo, Jose Timola, Roger Viola, and Quirino Ulit

[58] Rollo, pp. 75-80. There were also others who signed but are not named petitioners.

[59] Id. at 12-34.

[60] Id. at 23.

[61] Id. at 24.

[62] Id. at 56.

[63] Id. at 88-91. In their Explanation and Apology (to Show Cause Order dated February 19, 2007), NEA, et al., through their counsel, stated that the Office of Legal Services was understaffed because of the resignation of five lawyers, including the lawyer in charge of the case. Only three lawyers were attending to the cases and legal problems of NEA and 119 electric cooperatives nationwide.

[64] Id. at 123-124, Resolution dated July 23, 2007.

[65] Id. at 92.

[66] Id. at 94.

[67] Id. at 126.

[68] Id. at 24.

[69] Id. at 25.

[70] Id. at 23.

[71] Id. at 36.

[72] Id.

[73] Id.

[74] Id. at 97.

[75] Id. at 96.

[76] REV. PEN. CODE, art. 217, as amended by Rep. Act No. 1060 (1954), sec. 1 provides:

ART. 217. Malversation of public funds or property—Presumption of malversation.—Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property ...

The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be prima facie evidence that he has put such missing funds or property to personal uses.

[77] Rollo, p. 96.

[78] Id. at 36.

[79] Republic v. Lacap, 546 Phil. 87, 98 (2007) [Per J. Austria-Martinez, Third Division].

[80] Republic v. Malabanan, et al, 646 Phil. 631,637-638 (2010) [Per J. Villarama Jr., Third Division].

[81] 230 Phil. 528 (1986) [Per J. Cruz, En Banc].

[82] Id. at 535-538.

[83] G.R. No. 185812, January 13, 2015
<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/january2015/185812.pdf> [Per J. Leonen, En Banc].

[84] Id. at 15-16.

[85] Rollo, p. 25.

[86] Id.

[87] Land Bank of the Philippines v. Naval Jr., G.R. No. 195687, April 7, 2014, 720 SCRA 796, 812-813 and 820-821 [Per J. Velasco Jr., Third Division].

[88] National Tobacco Administration v. Commission on Audit, 370 Phil. 793, 805 (1999) [Per J. Purisima, En Banc].

[89] 370 Phil. 793 (1999) [Per J. Purisima, En Banc].

[90] Id. at 805.

[91] Land Bank of the Philippines v. Naval Jr., G.R. No. 195687, April 7, 2014, 720 SCRA 796, 813 [Per J. Velasco Jr., Third Division].

[92] 630 Phil. 1 (2010) [Per J. Abad, En Banc].

[93] Id. at 17.

[94] 506 Phil. 382 (2005) [Per Acting C.J. Panganiban, En Banc].

[95] Id. at 391.

[96] Id.

[97] Id.

[98] Rep. Act No. 6758 (1989), sec. 12.

[99] G.R. No. 195687, April 7, 2014, 720 SCRA 796 [Per J. Velasco Jr., Third Division].

[100] Id. at 812,

[101] Rollo, p.25.

[102] National Tobacco Administration v. Commission on Audit, 370 Phil. 793, 808-809 (1999) [Per J. Purisima, En Banc].

[103] Land Bank of the Philippines v. Naval Jr., G.R. No. 195687, April 7, 2014, 720 SCRA 796, 812-813 [Per J. Velasco Jr., Third Division].

[104] Pres. Dec. No. 269 (1973), otherwise known as Creating the "National Electrification Administration" as a Corporation, Prescribing its Powers and Activities, Appropriating the Necessary Funds Therefor and Declaring a National Policy Objective for the Total Electrification of the Philippines on an Area Coverage Service Basis, the Organization, Promotion and Development of Electric Cooperatives to Attain the Said Objective, Prescribing Terms and Conditions for their Operations, the Repeal of Republic Act No. 6038, and for Other Purposes.

[105] Rollo, p. 24.

[106] Gutierrez, et al. v. Department of Budget and Management, et al., 630 Phil. 1, 21-22 (2010) [Per J. Abad, En Banc], citing NAPOCOR Employees Consolidation Union (NECU) v. National Power Corporation (NPC), 519 Phil. 372, 384-385 and 389 (2006) [Per J. Garcia, En Banc].

[108] Maritime Industry Authority v. Commission on Audit, G.R. No. 185812, January 13, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/january2015/185812.pdf> 26-27 [Per J. Leonen, En Banc].

[109] Id.

[110] Id. at 25.

[111] Id.

[112] 148 Phil. 261 (1971) [Per J. Fernando, En Banc].

[113] Id. at 265-266.

[114] Rollo, pp. 97-98.

[115] DBM Corporate Compensation Circular No. 10 (1999), sec. 4.1.1.

[116] DBM Corporate Compensation Circular No. 10 (1999), sec. 5.6.

[117] Gutierrez, et al. v. Department of Budget and Management, et al, 630 Phil. 1, 16 (2010) [Per J. Abad En Banc].

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