THE PROVINCE OF NEGROS OCCIDENTAL, REPRESENTED BY ITS GOVERNOR ISIDRO P. ZAYCO, PETITIONER, VS. THE COMMISSIONERS, COMMISSION ON AUDIT; THE DIRECTOR, CLUSTER IV-VISAYAS; THE REG...

G.R. No. 182574. September 28, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before the Court is a petition for certiorari[1] assailing Decision No. 2006-044[2] dated 14 July 2006 and Decision No. 2008-010[3] dated 30 January 2008 of the Commission on Audit (COA) disallowing premium payment for the hospitalization and health care insurance benefits of 1,949 officials and employees of the Province of Negros Occidental.

The Facts

On 21 December 1994, the Sangguniang Panlalawigan of Negros Occidental passed Resolution No. 720-A[4] allocating P4,000,000 of its retained earnings for the hospitalization and health care insurance benefits of 1,949 officials and employees of the province. After a public bidding, the Committee on Awards granted the insurance coverage to Philam Care Health System Incorporated (Philam Care).

Petitioner Province of Negros Occidental, represented by its then Governor Rafael L. Coscolluela, and Philam Care entered into a Group Health Care Agreement involving a total payment of P3,760,000 representing the insurance premiums of its officials and employees. The total premium amount was paid on 25 January 1996.

On 23 January 1997, after a post-audit investigation, the Provincial Auditor issued Notice of Suspension No. 97-001-101[5] suspending the premium payment because of lack of approval from the Office of the President (OP) as provided under Administrative Order No. 103[6] (AO 103) dated 14 January 1994. The Provincial Auditor explained that the premium payment for health care benefits violated Republic Act No. 6758 (RA 6758),[7] otherwise known as the Salary Standardization Law.

Petitioner complied with the directive post-facto and sent a letter-request dated 12 January 1999 to the OP. In a Memorandum dated 26 January 1999,[8] then President Joseph E. Estrada directed the COA to lift the suspension but only in the amount of P100,000. The Provincial Auditor ignored the directive of the President and instead issued Notice of Disallowance No. 99-005-101(96)[9] dated 10 September 1999 stating similar grounds as mentioned in Notice of Suspension No. 97-001-101.

Petitioner appealed the disallowance to the COA. In a Decision dated 14 July 2006, the COA affirmed the Provincial Auditor's Notice of Disallowance dated 10 September 1999.[10] The COA ruled that under AO 103, no government entity, including a local government unit, is exempt from securing prior approval from the President

granting additional benefits to its personnel. This is in conformity with the policy of standardization of compensation laid down in RA 6758. The COA added that Section 468(a)(1)(viii)[11] of Republic Act No. 7160 (RA 7160) or the Local Government Code of 1991 relied upon by petitioner does not stand on its own but has to be harmonized with Section 12[12] of RA 6758.

Further, the COA stated that the insurance benefits from Philam Care, a private insurance company, was a duplication of the benefits provided to employees under the Medicare program which is mandated by law. Being merely a creation of a local legislative body, the provincial health care program should not contravene but instead be consistent with national laws enacted by Congress from where local legislative bodies draw their authority.

The COA held the following persons liable: (1) all the 1,949 officials and employees of the province who benefited from the hospitalization and health care insurance benefits with regard to their proportionate shares; (2) former Governor Rafael L. Coscolluela, being the person who signed the contract on behalf of petitioner as well as the person who approved the disbursement voucher; and (3) the Sangguniang Panlalawigan members who passed Resolution No. 720-A. The COA did not hold Philam Care and Provincial Accountant Merly P. Fortu liable for the disallowed disbursement. The COA explained that it was unjust to require Philam Care to refund the amount received for services it had duly rendered since insurance law prohibits the refund of premiums after risks had already attached to the policy contract. As for the Provincial Accountant, the COA declared that the Sangguniang Panlalawigan resolution was sufficient basis for the accountant to sign the disbursement voucher since there were adequate funds available for the purpose. However, being one of the officials who benefited from the subject disallowance, the inclusion of the accountant's name in the persons liable was proper with regard to her proportionate share of the premium.

The dispositive portion of the COA's 14 July 2006 decision states:

> WHEREFORE, premises considered, and finding no substantial ground or cogent reason to disturb the subject disallowance, the instant appeal is hereby denied for lack of merit. Accordingly, Notice of Disallowance No. 99-005-101(96) dated 10 September 1999 in the total amount of P3,760,000.00 representing the hospitalization and insurance benefits of the officials and employees of the Province of Negros Occidental is hereby AFFIRMED and the refund thereof is hereby ordered.
>
> The Cluster Director, Cluster IV-Visayas, COA Regional Office No. VII, Cebu City shall ensure the proper implementation of this decision.[13]

Petitioner filed a Motion for Reconsideration dated 23 October 2006 which the COA denied in a Resolution dated 30 January 2008.

Hence, the instant petition.

The Issue

The main issue is whether COA committed grave abuse of discretion in affirming the disallowance of P3,760,000 for premium paid for the hospitalization and health care insurance benefits granted by the Province of Negros Occidental to its 1,949 officials and employees.

The Court's Ruling

Petitioner insists that the payment of the insurance premium for the health benefits of its officers and employees was not unlawful and improper since it was paid from an allocation of its retained earnings pursuant to a valid appropriation ordinance. Petitioner states that such enactment was a clear exercise of its express powers under the

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principle of local fiscal autonomy which includes the power of Local Government Units (LGUs) to allocate their resources in accordance with their own priorities. Petitioner adds that while it is true that LGUs are only agents of the national government and local autonomy simply means decentralization, it is equally true that an LGU has fiscal control over its own revenues derived solely from its own tax base.

Respondents, on the other hand, maintain that although LGUs are afforded local fiscal autonomy, LGUs are still bound by RA 6758 and their actions are subject to the scrutiny of the Department of Budget and Management (DBM) and applicable auditing rules and regulations enforced by the COA. Respondents add that the grant of additional compensation, like the hospitalization and health care insurance benefits in the present case, must have prior Presidential approval to conform with the state policy on salary standardization for government workers.

AO 103 took effect on 14 January 1994 or eleven months before the Sangguniang Panlalawigan of the Province of Negros Occidental passed Resolution No. 720-A. The main purpose of AO 103 is to prevent discontentment, dissatisfaction and demoralization among government personnel, national or local, who do not receive, or who receive less, productivity incentive benefits or other forms of allowances or benefits. This is clear in the Whereas Clauses of AO 103 which state:

> WHEREAS, the faithful implementation of statutes, including the Administrative Code of 1987 and all laws governing all forms of additional compensation and personnel benefits is a Constitutional prerogative vested in the President of the Philippines under Section 17, Article VII of the 1987 Constitution;
>
> WHEREAS, the Constitutional prerogative includes the determination of the rates, the timing and schedule of payment, and final authority to commit limited resources of government for the payment of personal incentives, cash awards, productivity bonus, and other forms of additional compensation and fringe benefits;
>
> WHEREAS, the unilateral and uncoordinated grant of productivity incentive benefits in the past gave rise to discontentment, dissatisfaction and demoralization among government personnel who have received less or have not received at all such benefits;
>
> NOW, THEREFORE, I, FIDEL V. RAMOS, President of the Republic of the Philippines, by virtue of the powers vested in me by law and in order to forestall further demoralization of government personnel do hereby direct: x x x (Emphasis supplied)

Sections 1 and 2 of AO 103 state:

> SECTION 1. All agencies of the National Government including government-owned and/or -controlled corporations and government financial institutions, and local government units, are hereby authorized to grant productivity incentive benefit in the maximum amount of TWO THOUSAND PESOS (P2,000.00) each to their permanent and full-time temporary and casual employees, including contractual personnel with employment in the nature of a regular employee, who have rendered at least one (1) year of service in the Government as of December 31, 1993.
>
> SECTION 2. All heads of government offices/agencies, including government owned and/or controlled corporations, as well as their respective governing boards are hereby enjoined and prohibited from authorizing/granting Productivity Incentive Benefits or any and all forms of allowances/benefits without prior approval and authorization via Administrative Order by the Office of the President. Henceforth, anyone found violating any of the mandates in this Order, including all officials/agency found to have taken part thereof, shall be accordingly and severely dealt with in accordance with the applicable provisions of existing administrative and penal laws.
>
> Consequently, all administrative authorizations to grant any form of allowances/benefits and all forms of additional compensation usually paid outside of the prescribed basic salary under R.A. 6758, the Salary Standardization Law, that are inconsistent with the legislated policy on the matter or are not covered by any

> legislative action are hereby revoked. (Emphasis supplied)

It is clear from Section 1 of AO 103 that the President authorized all agencies of the national government as well as LGUs to grant the maximum amount of P2,000 productivity incentive benefit to each employee who has rendered at least one year of service as of 31 December 1993. In Section 2, the President enjoined all heads of government offices and agencies from granting productivity incentive benefits or any and all similar forms of allowances and benefits without the President's prior approval.

In the present case, petitioner, through an approved Sangguniang Panlalawigan resolution, granted and released the disbursement for the hospitalization and health care insurance benefits of the province's officials and employees without any prior approval from the President. The COA disallowed the premium payment for such benefits since petitioner disregarded AO 103 and RA 6758.

We disagree with the COA. From a close reading of the provisions of AO 103, petitioner did not violate the rule of prior approval from the President since Section 2 states that the prohibition applies only to "government offices/agencies, including government-owned and/or controlled corporations, as well as their respective governing boards." Nowhere is it indicated in Section 2 that the prohibition also applies to LGUs. The requirement then of prior approval from the President under AO 103 is applicable only to departments, bureaus, offices and government-owned and controlled corporations under the Executive branch. In other words, AO 103 must be observed by government offices under the President's control as mandated by Section 17, Article VII of the Constitution which states:

> Section 17. The President shall have control of all executive departments, bureaus and offices. He shall ensure that the laws be faithfully executed. (Emphasis supplied)

Being an LGU, petitioner is merely under the President's general supervision pursuant to Section 4, Article X of the Constitution:

> Sec. 4. The President of the Philippines shall exercise general supervision over local governments. Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barangays shall ensure that the acts of their component units are within the scope of their prescribed powers and functions. (Emphasis supplied)

The President's power of general supervision means the power of a superior officer to see to it that subordinates perform their functions according to law.[14] This is distinguished from the President's power of control which is the power to alter or modify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the President over that of the subordinate officer.[15] The power of control gives the President the power to revise or reverse the acts or decisions of a subordinate officer involving the exercise of discretion.[16]

Since LGUs are subject only to the power of general supervision of the President, the President's authority is limited to seeing to it that rules are followed and laws are faithfully executed. The President may only point out that rules have not been followed but the President cannot lay down the rules, neither does he have the discretion to modify or replace the rules. Thus, the grant of additional compensation like hospitalization and health care insurance benefits in the present case does not need the approval of the President to be valid.

Also, while it is true that LGUs are still bound by RA 6758, the COA did not clearly establish that the medical care benefits given by the government at the time under Presidential Decree No. 1519[17] were sufficient to cover the needs of government employees especially those employed by LGUs.

Petitioner correctly relied on the Civil Service Commission's (CSC) Memorandum Circular No. 33 (CSC MC No.

33), series of 1997, issued on 22 December 1997 which provided the policy framework for working conditions at the workplace. In this circular, the CSC pursuant to CSC Resolution No. 97-4684 dated 18 December 1997 took note of the inadequate policy on basic health and safety conditions of work experienced by government personnel. Thus, under CSC MC No. 33, all government offices including LGUs were directed to provide a health program for government employees which included hospitalization services and annual mental, medical-physical examinations.

Later, CSC MC No. 33 was further reiterated in Administrative Order No. 402[18] (AO 402) which took effect on 2 June 1998. Sections 1, 2, and 4 of AO 402 state:

> Section 1. Establishment of the Annual Medical Check-up Program. - An annual medical check-up for government of officials and employees is hereby authorized to be established starting this year, in the meantime that this benefit is not yet integrated under the National Health Insurance Program being administered by the Philippine Health Insurance Corporation (PHIC).
>
> Section 2. Coverage. - x x x Local Government Units are also encouraged to establish a similar program for their personnel.
>
> Section 4. Funding. - x x x Local Government Units, which may establish a similar medical program for their personnel, shall utilize local funds for the purpose. (Emphasis supplied)

The CSC, through CSC MC No. 33, as well as the President, through AO 402, recognized the deficiency of the state of health care and medical services implemented at the time. Republic Act No. 7875[19] or the National Health Insurance Act of 1995 instituting a National Health Insurance Program (NHIP) for all Filipinos was only approved on 14 February 1995 or about two months after petitioner's Sangguniang Panlalawigan passed Resolution No. 720-A. Even with the establishment of the NHIP, AO 402 was still issued three years later addressing a primary concern that basic health services under the NHIP either are still inadequate or have not reached geographic areas like that of petitioner.

Thus, consistent with the state policy of local autonomy as guaranteed by the 1987 Constitution, under Section 25, Article II[20] and Section 2, Article X,[21] and the Local Government Code of 1991,[22] we declare that the grant and release of the hospitalization and health care insurance benefits given to petitioner's officials and employees were validly enacted through an ordinance passed by petitioner's Sangguniang Panlalawigan.

In sum, since petitioner's grant and release of the questioned disbursement without the President's approval did not violate the President's directive in AO 103, the COA then gravely abused its discretion in applying AO 103 to disallow the premium payment for the hospitalization and health care insurance benefits of petitioner's officials and employees.

WHEREFORE, we GRANT the petition. We REVERSE AND SET ASIDE Decision No. 2006-044 dated 14 July 2006 and Decision No. 2008-010 dated 30 January 2008 of the Commission on Audit.

SO ORDERED.

Corona, C.J., Carpio Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, Mendoza, and Sereno, JJ., concur.

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[1] Under Rule 65 of the 1997 Revised Rules of Civil Procedure.

[2] Rollo, pp. 24-31. Penned by Chairman Guillermo N. Carague with Commissioners Reynaldo A. Villar and Juanito G. Espino, Jr., concurring.

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[3] Id. at 32-38.

[4] Id. at 49-50.

[5] Id. at 39.

[6] Authorizing the Grant of CY-1993 Productivity Incentive Benefits to Government Personnel and Prohibiting Payments of Similar Benefits in Future Years Unless Duly Authorized by the President.

[7] An Act Prescribing a Revised Compensation and Position Classification System in the Government and for Other Purposes. This Act took effect on 1 July 1989.

[8] Rollo, p. 67.

[9] Id. at 68.

[10] Id. at 24-31. Decided by Chairman Guillermo N. Carague, Commissioner Reynaldo A. Villar and Commissioner Juanito G. Espino, Jr.

[11] SECTION 468. Powers, Duties, Functions and Compensation. - (a) The sangguniang panlalawigan, as the legislative body of the province, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the province and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the province as provided for under Section 22 of this Code, and shall:

(1) Approve ordinances and pass resolutions necessary for an efficient and effective provincial government and, in this connection, shall:

x x x x

(viii) Determine the positions and salaries, wages, allowances and other emoluments and benefits of officials and employees paid wholly or mainly from provincial funds and provide for expenditures necessary for the proper conduct of programs, projects, services, and activities of the provincial government x x x.

[12] 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] Rollo, p. 31.

[14] De Villa v. City of Bacolod, G.R. No. 80744, 20 September 1990, 189 SCRA 736.

[15] Bito-Onon v. Judge Yap Fernandez, 403 Phil. 693 (2001).

[16] Rufino v. Endriga, G.R. No. 139554, 21 July 2006, 496 SCRA 13, citing Mondano v. Silvosa, 97 Phil. 143 (1955).

[17] Revised Philippine Medical Care Act which was approved on 11 June 1978. This Act revised Republic Act

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No. 6111 or the Philippine Medical Care Act of 1969 which took effect on 4 August 1969.

[18] Establishment of a Medical Check-up Program for Government Personnel.

[19] An Act Instituting a National Health Insurance Program for All Filipinos and Establishing the Philippine Health Insurance Corporation for the Purpose.

[20] Section 25. The State shall ensure the autonomy of local governments.

[21] Section 2. The territorial and political subdivisions shall enjoy local autonomy.

[22] Supra note 11.

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