

**RONNIE H. LUMAYNA, ROMEO O. CHULANA, HELEN A. BONHAON,
PETER G. LAHINA, JR., JUANITO O. LICHNACHAN, JR., SAMMY C.
CHANG-AGAN, BONIFACIO L. BAICHON, REYNALDO B. UCHAYAN,
JOHN L. ...**

G.R. No. 185001. September 25, 2009

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Assailed in this Petition for Certiorari under Rule 64 in relation to Rule 65 of the Rules of Court is the Decision No. 2005-071[1] dated 29 December 2005 of the Commission on Audit (COA) affirming the Notice of Disallowance[2] of the 5% salary increase of the municipal personnel of the Municipality of Mayoyao, Ifugao covering the period 15 February to 30 September 2002, in the amount of P895,891.50, and requiring petitioners to refund the same. Also assailed is the COA Decision No. 2007-040[3] dated 25 October 2007 denying the Motion for Reconsideration.

On 15 June 2001, the Department of Budget and Management (DBM) issued Local Budget Circular No. 74[4] (LBC No. 74), authorizing the grant of a maximum of 5% salary adjustment to personnel in the Local Government Units (LGUs) effective 1 July 2001, pursuant to Republic Act No. 9137[5] dated 8 June 2001.

On 13 May 2002, the Sangguniang Bayan of Mayoyao, Ifugao, (Sangguniang Bayan) enacted Resolution No. 41, s. 2002,[6] approving the 2002 Annual Municipal Budget, and appropriating the amount of P1,590,376.00 thereof for the salaries and benefits of 17 newly created positions in the municipality.[7] Upon review by the Sangguniang Panlalawigan of the Province of Ifugao (Sangguniang Panlalawigan), the 2002 Annual Municipal Budget of Mayoyao, Ifugao was declared operative subject to the conditions that the creation of 17 new positions shall in no case be made retroactive and that the filling up of such positions be made strictly in accordance with the Civil Service rules and regulations.[8]

On 8 July 2002, the Sangguniang Bayan approved Resolution No. 66, s. 2002, adopting a first class salary scheme for the municipality and implementing a 5% salary increase for its personnel in accordance with LBC No. 74.[9] For this purpose, it enacted Resolution No. 94, s. 2002, re-aligning the amount of P1,936,524.96[10] from the 2002 municipal budget originally appropriated for the salaries and benefits of the 17 new positions.[11]

On 12 July 2002, DBM issued Local Budget Circular No. 75[12] (LBC No. 75) providing guidelines on personal services limitation, pursuant to Section 325(a) of the Local Government Code of 1991 (LGC).

On 16 December 2002, the Sangguniang Bayan through Resolution No. 144, s. 2002, approved the 2003 Annual Municipal Budget stated in Appropriation Ordinance No. 03.[13] This was reviewed by the Sangguniang Panlalawigan and approved on 10 February 2003 via Resolution No. 2003-808.[14] The Sangguniang Panlalawigan, however, disallowed the 5% salary increase and the re-alignment of funds pursuant to Resolution No. 94, s. 2002, of the Sangguniang Bayan on the ground that the re-alignment is not sufficient in form to

implement a salary increase.

On 9 June 2003, the Sangguniang Bayan enacted Resolution No. 73, s. 2003,[15] earnestly requesting the Sangguniang Panlalawigan to reconsider its Resolution.[16] Finding good faith on the part of the officials of the municipality, the Sangguniang Panlalawigan in its Resolution No. 2004-1185 reconsidered its earlier position. Thus, the Sangguniang Panlalawigan allowed the adoption of a first class salary schedule and the 5% salary increase of the Municipality of Mayoyao, Ifugao.

Meanwhile, the Regional Legal and Adjudication Office (RLAO) of the COA-Cordillera Administrative Region (COA-CAR) issued a Notice of Disallowance dated 16 May 2003 of the amount of P895,891.50, representing payments for salary increases of municipal personnel, for the period 15 February - 30 September 2002. According to COA-CAR, the grant of the increase was not in accordance with Sections 325 and 326 of the LGC; that the limitation on personal services had been exceeded; and that the Sangguniang Bayan resolution was not the appropriate manner of granting the increase. Pursuant thereto, the following persons, petitioners herein, were ordered to refund the said amount:

Helen A. Bonhain - Budget Officer
Peter G. Lahina, Jr. - Municipal Accountant
Ronnie H. Lumayna - Municipal Mayor
Romeo O. Chulana
Juanito O. Lichnachan, Jr.
Sammy C. Chang-agan

Bonifacio L. Baichon
Reynaldo B. Uchayan
John L. Martin
Augusta C. Panitio
Rosendo P. Bongyo, Jr.
Klarisa Mae C. Chawana

SB Members who approved Resolution No. 94, s. 2002

Petitioners requested a reconsideration, which was denied on 5 August 2003 by the RLAO-COA-CAR.[17] Thus, petitioners filed a Notice of Appeal before the Director, LAO-Local of COA but it was denied on 10 November 2003 in Decision No. 2003-104.

Hence, petitioners filed a Petition for Review before respondent COA assailing LAO-Local Decision No. 2003-104.

On 29 December 2005, the COA rendered the herein assailed Decision No. 2005-071[18] denying the petition for lack of merit, and affirming the disallowance in the amount of P895,891.50. The COA held thus:

After a careful evaluation, this Commission answers in the negative subject to the extended discussions hereunder.

Anent the first assignment of error, the same has been judiciously passed upon in LAO-Local Decision No. 2003-104. While the Municipality of Mayoyao may grant salary increases pursuant to LBC No. 74, such grant should comply with the limitations provided by law, specifically Section 325 (a) of R.A. No. 7160. There is no doubt that in the grant of the 5% salary increase to the officials and employees of the Municipality of Mayoyao, the limitation for PS in the annual budget of said Municipality had been exceeded. In fact, in a recomputation made Ms. Virginia B. Farro, Provincial Budget Officer of Ifugao, as embodied in her letter dated July 04, 2003, it was revealed that the Annual Budget of the Municipality exceeded the PS limit by

P3,944,568.05. Furthermore, Mr. Julian L. Pacificador, Jr., Regional Director, DBM-CAR, in his letter dated December 3, 2003 asserted that the grant of the increase through the adoption of higher salary class schedule is not included in the list of items and activities whereby PS limitation may be waived under LBC No. 75. It must also be noted that the Municipality's budget adopted the salary rates under LBC No. 69 and not the salary rates under LBC No. 74.

Anent the second assignment of error, the same will not suffice to over-turn the other grounds for the audit disallowance. The fact remains that the grant of the 5% salary increase contravened the limitation of the law as explicitly provided under item (a) of section 325 of R.A. No. 7160.

Anent the third assignment of error, while the Sangguniang Panlalawigan of Ifugao, in its resolution No. 2002-556, has declared operative the 2002 Annual Budget of Mayoyao, the review of said Sanggunian was only limited to the provisions stated in the said budget which contained, among others, provisions for the funding of the 17 newly created positions and not the salary increases. Thus, the declaration of the Sangguniang Panlalawigan of Ifugao that the 2002 annual budget was operative did not include the grant of the 5% salary increase because the same was not actually contained in the said budget but in SB Resolution No. 66, series of 2002.

Anent the 4th assignment of error, the disallowance is not based solely on the results of the favorable review of the Sangguniang Panlalawigan of Ifugao since there are other grounds which would justify and uphold the disallowance. [19]

Petitioners filed a Motion for Reconsideration but it was denied by respondent COA on 25 October 2007 in its Decision No. 2007-040.[20]

Hence, this petition[21] under Rule 64 of the Rules of Court raising the following issues:

- RESOLUTION NO. 66, S. 2002 ADOPTING A 5% INCREASE IN THE SALARY OF THE PERSONNEL OF LGU MAYOYAO PURSUANT TO DBM LBC 74, AND RESOLUTION NO. 94, S. 2002 PROVIDING THE FUND TO IMPLEMENT THE FORMER ARE VALID EXERCISES OF LOCAL LEGISLATIVE PREROGATIVE BY THE SANGGUNIAN BAYAN OF MAYOYAO, IFUGAO. THERE IS SUFFICIENT PROOF THAT THE BUDGET OF THE MUNICIPALITY OF MAYOYAO FOR 2002 DID NOT EXCEED THE PS LIMITATIONS FOR THAT PARTICULAR YEAR. IN THE SAME MANNER, THE REALIGNMENT OF FUNDS PURSUANT TO RESOLUTION NO. 94, S. 2002 DID NOT CREATE ANY INCREASE IN THE PERSONAL SERVICES ALLOCATION OF THE AFORESAID MUNICIPALITY FOR THAT PARTICULAR YEAR BECAUSE THE REALIGNMENT PERTAINS TO A REALIGNMENT OF AN EXISTING PERSONAL SERVICES FUND PARTICULARLY THE AMOUNT ORIGINALLY INTENDED FOR THE SEVENTEEN POSITIONS WHICH WERE VACATED AND/OR ABOLISHED, TO FUND THE SALARY INCREASE WHICH IN ITSELF IS A PERSONAL SERVICE EXPENDITURE. THE HONORABLE COMMISSION ON AUDIT, THEREFORE, GRAVELY ABUSED ITS DISCRETION WHEN IT HELD THAT THE REALIGNMENT PURSUANT TO RESOLUTION NO. 94, S. 2002 CAUSED THE LGU OF MAYOYAO TO EXCEED THE PS LIMITATIONS FOR 2002 AS PRESCRIBED BY LAW AND CONSEQUENTLY DECLARING AS INVALID RESOLUTION NO. 66 S. 2002 OF THE SANGGUNIAN BAYAN OF MAYOYAO, IFUGAO.

- THE PERSONAL SERVICES ALLOCATION FOR THE MUNICIPALITY OF MAYOYAO, IFUGAO FOR FY 2002 WAS COMPUTED IN ACCORDANCE WITH DBM LBC 74 IN RELATION TO DBM LBC 69 WHICH WERE THE CIRCULARS IN EFFECT AT THE TIME THE BUDGET OF THE LGU FOR FY 2002 WAS REVIEWED, APPROVED AND DECLARED OPERATIVE BY THE SANGGUNIAN PANLALAWIGAN OF THE PROVINCE OF IFUGAO THROUGH RESOLUTION NO. 2002-556. SOON THEREAFTER DBM LBC 75 WAS ISSUED WITH A CLEAR EFFECTIVITY CLAUSE EXEMPTING

FROM ITS OPERATION BUDGETS WHICH HAVE ALREADY BEEN REVIEWED PRIOR TO ITS ISSUANCE. NOTICE OF DISALLOWANCE (ND) NO. 03-006 DATED MAY 16, 2003 IS PREMISED ON A RECOMPUTATION OF THE ALLOWABLE PS LIMITATION OF THE LGU BASED ON RATES STATED IN DBM LBC 75 CONTRARY TO THE CLEAR LANGUAGE OF ITS EFFECTIVITY CLAUSE. THE HONORABLE COMMISSION, THEREFORE, GRAVELY ABUSED ITS DISCRETION WHEN IT UPHELD THE NOTICE OF DISALLOWANCE (ND) NO. 03-007 WHICH DIRECTED THE HEREIN PETITIONERS TO REFUND THE AMOUNT DISALLOWED THEREIN.

- PUBLIC OFFICERS ENJOY THE PRESUMPTION OF REGULARITY OF PERFORMANCE OF OFFICIAL FUNCTIONS AND DUTIES. FOR THIS REASON AND MORE, THE HONORABLE SUPREME COURT UPHELD CERTAIN NOTICES OF DISALLOWANCE ISSUED BY THE HONORABLE COMMISSION TO CERTAIN GOVERNMENT AGENCIES BUT DECLINED TO LET THE PERSONS LIABLE THEREFORE TO REFUND THE AMOUNT DISALLOWED ON THE GROUND OF GOOD FAITH. IN RESOLUTION NO. 2004-1185 OF THE SANGGUNIANG PANLALAWIGAN OF IFUGAO RECOGNIZED THE GOOD FAITH OF LGU MAYOYAO AND THE NOBLE INTENTIONS OF THE OFFICERS THEREOF TO GIVE THE EMPLOYEES A DECENT PAY. THE HONORABLE COMMISSION ON AUDIT, THEREFORE GRAVELY ABUSED ITS DISCRETION, WHEN IT FAILED TO CONSIDER THE GOOD FAITH OF THE OFFICERS WHO APPROVED THE QUESTIONED RESOLUTIONS AND DEMANDED THE REFUND BY HEREIN PETITIONERS OF THE WHOLE AMOUNT DISALLOWED THEREIN EVEN IF THE SAID AMOUNTS WERE ALREADY RECEIVED BY THE EMPLOYEES.[22]

The foregoing boils down to the core issue of whether the COA committed grave abuse of discretion in affirming the disallowance of the amount of P895,891.50, representing the 5% salary increase of the personnel of the municipality of Mayoyao for the period 15 February to 30 September 2002, and in ordering petitioners to refund the same.

We first dispense with the procedural issue of whether the petition was timely filed.

Respondent, through the Office of the Solicitor General, argues that the petition should be dismissed outright for being filed beyond the reglementary period to appeal.[23] Respondent maintains that since petitioners received a copy of Decision No. 2005-071 on 29 August 2006, they only had 30 days or until 28 September 2006 within which to file a Motion for Reconsideration or a Petition for Review on Certiorari with the Supreme Court. As the Motion for Reconsideration was filed only on 2 October 2006, the COA Decision No. 2005-71 already attained finality.[24]

On the other hand, petitioners allege that this argument on belated filing is misplaced considering that respondent COA already gave due course to their Motion for Reconsideration, the resolution of which was embodied in its Decision No. 2007-040. At any rate, petitioners argue that their failure to file the Motion for Reconsideration with respondent COA on 28 September 2006 was justified because the government offices in Metro Manila were closed due to typhoon "Feria." [25]

Petitioners' contention has merit. Records show that COA gave due course to the Motion for Reconsideration without stating in its Decision No. 2007-040 [26] that it was filed out of time. For this reason, we find that the issue of whether the petitioners timely filed the Motion for Reconsideration has become moot.

Going now to the merits of the case, petitioners contend that Resolution Nos. 66 and 94, s. 2002, are valid exercise of legislative prerogative in accordance with DBM LBC No. 74, which gave them the authority to grant a maximum of 5% salary adjustment to personnel in the LGU effective 1 July 2001. Petitioners cite as basis Resolution No. 2002-556 of the Sangguniang Panlalawigan which declared as operative the 2002 Annual Budget of the Municipality of Mayoyao, Ifugao on 10 June 2002.

Petitioners also claim that the amount allocated in the 2002 municipal budget for personal services is within the allowable limits prescribed by law. In declaring that the municipality exceeded the personal services limitation set by law, respondent COA based its finding on a computation using the rates prescribed in LBC No. 75, and not LBC No. 74, in relation to LBC No. 69, on which the municipality based its computation. Petitioners further explain that when the municipality enacted Resolution No. 94, s. 2002, re-aligning the amount appropriated for the 17 newly created positions to the 5% salary increase of the municipal personnel, it did so with the understanding that the 17 newly created positions were vacated and/or abolished. Thus, the re-alignment of the aforesaid amount was done without decreasing the whole amount originally earmarked for personal services.

Claiming good faith, petitioners insist that Resolution No. 66, s. 2002 was enacted on 2 July 2002, while LBC No. 75 was issued by DBM on 12 July 2002 and was received by them at a much later date; that Notice of Disallowance No. 03-006 was issued only on 16 May 2003, after the municipality had already implemented the 5% salary increase pursuant to Resolution Nos. 66 and 94, s. 2002; and that the Sangguniang Panlalawigan recognized the good faith of the municipality when it enacted Resolution No. 2004-1185 where it reconsidered its earlier Resolution No. 2003-808.

We PARTIALLY GRANT the petition.

The COA disallowed the amount of P895,891.50 on the ground that the 5% salary increase exceeded the total allowable appropriations of the municipality for personal services provided by law, specifically Section 325(a)[27] of the LGC. It based its finding on the recomputation made by Ms. Virginia B. Farro, Provincial Budget Officer of Ifugao, which showed that the Annual Budget of the municipality exceeded the personal services limit by P3,944,568.05.[28] According to the COA, the municipality's budget adopted the salary rates under LBC No. 69 instead of the salary rates prescribed under LBC No. 74 which is the applicable circular in this case.[29]

As regards petitioners' reliance on Resolution No. 2002-556 of the Sangguniang Panlalawigan, the COA in its Decision No. 2005-071 made it clear that the review of the 2002 municipal budget by the Sangguniang Panlalawigan was only limited to the provisions stated in the said budget which contained, among others, provisions for the funding of the 17 newly created positions, and not its re-alignment to the 5% salary increase. Consequently, the declaration by the Sangguniang Panlalawigan in the said Resolution that the 2002 municipal budget was operative did not include the grant of the 5% salary increase, as the same was not contained in the said budget but in Resolution No. 66, s. 2002.[30]

We find that the COA correctly affirmed the disallowance of the amount of P895,891.50.

At the outset, it must be stressed that factual findings of administrative bodies charged with their specific field of expertise, are afforded great weight by the courts, and in the absence of substantial showing that such findings were made from an erroneous estimation of the evidence presented, they are conclusive, and in the interest of stability of the governmental structure, should not be disturbed.[31]

In this case, the assailed Decisions of the COA clearly presented the factual findings and adequately explained the legal basis for disallowing the said amount. Indeed, as computed by Ms. Virginia Farro, the Provincial Budget Officer of Ifugao, the annual budget of Mayoyao for 2002 exceeded the limit for personal services as prescribed in Section 325(a) of the LGC by P3,944,568.05. Further, it was established that the grant of the increase through the adoption of higher salary class schedule is not among the list of items and activities whereby the limitation for personal services may be waived pursuant to LBC No. 75. Finally, the municipality adopted the salary rates under LBC No. 69 and not the salary rates under LBC No. 74. No grave abuse of discretion amounting to lack or excess of jurisdiction can thus be attributed to respondent COA. Grave abuse of discretion exists where an act of a court

or tribunal is performed with a capricious or whimsical exercise of judgment equivalent to lack of jurisdiction, or where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility which must be so patent and gross as to amount to an invasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law -- mere abuse of discretion is not enough.[32]

However, we find that petitioners should not be ordered to refund the disallowed amount because they acted in good faith.

In *Abanilla v. Commission on Audit*,^[33] the Board of Directors of the Metropolitan Cebu Water District (MCWD) issued several resolutions giving benefits and privileges to its personnel which included hospitalization privileges, monetization of leave credits, Christmas bonus, and longevity allowance. MCWD likewise entered into a collective bargaining agreement (CBA) with the employees' union providing for benefits, such as cash advances, 13th month pay, mid-year bonus, Christmas bonus, vacation and leave credits, hospitalization, medicare, uniform privileges and water allowance.

However, the COA disallowed the amount of P12,221,120.86 representing hospitalization benefits, mid-year bonus, 13th month pay, Christmas bonus and longevity pay on the ground that the compensation package of MCWD personnel may no longer be subject of a CBA, as its officers and employees were covered by the Civil Service laws, and not by the Labor Code.

On petition for certiorari before this Court, the disallowance by COA was sustained; however, the MCWD personnel who received those benefits were no longer required to refund the same. The Court held, thus:

While we sustain the disallowance of the above benefits by respondent COA, however, we find that the MCWD affected personnel who received the above mentioned benefits and privileges acted in good faith under the honest belief that the CBA authorized such payment. Consequently, they need not refund them.

In *Querubin vs. Regional Cluster Director, Legal and Adjudication Office, COA Regional Office VI, Pavia, Iloilo City*, citing, *De Jesus vs. Commission on Audit*, this Court held.:

"Considering, however, that all the parties here acted in good faith, we cannot countenance the refund of subject incentive benefits for the year 1992, which amounts the petitioners have already received. Indeed, no indicia of bad faith can be detected under the attendant facts and circumstances. The officials and chiefs of offices concerned disbursed such incentive benefits in the honest belief that the amounts given were due to the recipients and the latter accept the same with gratitude, confident that they richly deserve such benefits.

x x x. Petitioners here received the additional allowances and bonuses in good faith under the honest belief that the LWUA Board Resolution No. 313 authorized such payment. At the time petitioners received the additional allowances and bonuses, the Court had not yet decided *Baybay Water District*. Petitioners had no knowledge that such payment was without legal basis. Thus, being in good faith, petitioners need not refund the allowances and bonuses they received but disallowed by the COA."^[34]

In *Blaquera v. Alcala*,^[35] petitioners who were officials and employees of several government agencies were paid productivity incentive benefits for the year 1992 pursuant to Executive Order No. 292, otherwise known as the Administrative Code of 1987. On 19 January 1993, then President Fidel V. Ramos issued Administrative Order No. 29 limiting the grant of productivity incentive benefits for the year 1992 in the maximum amount of P1,000.00 and enjoining the grant of said benefit without prior approval of the President.

Consequently, all agencies that authorized the payment of productivity incentive benefits for the year 1992 in excess of P1,000.00 were directed to immediately cause the return/refund of the excess amount. Thus, respondents therein caused the deduction, from petitioners' salaries or allowances, of the amounts needed to cover the alleged overpayments.

On petition before the Court, it was held that Administrative Order No. 29 limiting the amount of incentive benefits and enjoining heads of government agencies from granting incentive benefits without prior approval of the President, was a valid exercise of the President's power of control and authority over executive departments. As regards petitioners' contention that respondents should be held personally liable for the refund in question, the Court held, thus:

Untenable is petitioners' contention that the herein respondents be held personally responsible for the refund in question. Absent a showing of bad faith or malice, public officers are not personally liable for damages resulting from the performance of official duties.

Every public official is entitled to the presumption of good faith in the discharge of official duties. Absent any showing of bad faith and malice, there is likewise a presumption of regularity in the performance of official duties.

In upholding the constitutionality of AO 268 and AO 29, the Court reiterates the well-entrenched doctrine that "in interpreting statutes, that which will avoid a finding of unconstitutionality is to be preferred."

Considering, however, that all the parties here acted in good faith, we cannot countenance the refund of subject incentive benefits for the year 1992, which amounts the petitioners have already received. Indeed, no indicia of bad faith can be detected under the attendant facts and circumstances. The officials and chiefs of offices concerned disbursed such incentive benefits in the honest belief that the amounts given were due to the recipients and the latter accepted the same with gratitude, confident that they richly deserve such benefits.[36]

This ruling has been consistently applied in several cases.[37]

In the instant case, although the 5% salary increase exceeded the limitation for appropriations for personal services in the Municipality of Mayoyao, this alone is insufficient to overthrow the presumption of good faith in favor of petitioners as municipal officials. It must be mentioned that the disbursement of the 5% salary increase of municipal personnel was done under the color and by virtue of resolutions enacted pursuant to LBC No. 74, and was made only after the Sangguniang Panlalawigan declared operative the 2002 municipal budget. In fact, the Notice of Disallowance was issued only on 16 May 2003, after the municipality had already implemented the salary increase. Moreover, in its Resolution No. 2004-1185,[38] the Sangguniang Panlalawigan reconsidered its prior disallowance of the adoption of a first class salary schedule and 5% salary increase of the Municipality of Mayoyao based on its finding that the municipal officials concerned acted in good faith, thus:

WHEREAS, the Sangguniang Bayan of Mayoyao however justified that their realignment of the amount of Php 1,936,524.96 and the adoption of a first class salary was done in good faith and with the purpose of giving decent pay to officials and employees of the said Municipality considering the high cost of living;

WHEREAS, this Body finding merit on the justification of the said Municipality hereby reconsiders its earlier stand on the disallowed adoption of a first class salary schedule and the 5% salary increase of the Municipality of Mayoyao, Ifugao;

x x x x.[39]

Furthermore, granting arguendo that the municipality's budget adopted the incorrect salary rates, this error or mistake was not in any way indicative of bad faith. Under prevailing jurisprudence, mistakes committed by a public officer are not actionable, absent a clear showing that he was motivated by malice or gross negligence amounting to bad faith. It does not simply connote bad moral judgment or negligence. Rather, there must be some dishonest purpose or some moral obliquity and conscious doing of a wrong, a breach of a sworn duty through some motive or intent, or ill will. It partakes of the nature of fraud and contemplates a state of mind affirmatively operating with furtive design or some motive of self-interest or ill will for ulterior purposes.[40] As we see it, the

disbursement of the 5% salary increase was done in good faith. Accordingly, petitioners need not refund the disallowed disbursement in the amount of P895,891.50.

WHEREFORE, the instant Petition is PARTIALLY GRANTED. The Decision of the Commission on Audit No. 2005-071 dated 29 December 2005 and its Decision No. 2007-040 dated 25 October 2007 affirming the disallowance of the 5% salary increase of the municipal personnel of Mayoyao, Ifugao, covering the period 15 February to 30 September 2002 in the amount of P895,891.50, are AFFIRMED with MODIFICATION that petitioners need not refund the said disallowed amount of P895,891.50.

SO ORDERED.

Ynares-Santiago[**], Corona, Carpio Morales, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, and Abad, JJ., concur.
Puno, C.J., Quisumbing, and Carpio, JJ., on official leave.

[**] Acting Chief Justice per Special Order No. 706 dated September 17, 2009.

[1] Rollo, pp. 24-27.

[2] Annex "K", id. at 54.

[3] Id. at 28-32.

[4] Id. at 33-34.

[5] An Act Appropriating The Sum of Ten Billion Nine Hundred Million Pesos (P10,900,000,000.00) As Supplemental Appropriation For FY 2001 And For Other Purposes.

[6] Rollo, pp. 38-39.

[7] Id. at 38-39.

[8] See Resolution No. 2002-556; id. at 40.

[9] Id. at 41.

[10] This includes the P1,590,376.00 appropriated for the 17 newly created positions and 5% salary increase of all officials and employees of the Municipality of Mayoyao, Ifugao.

[11] Rollo, p. 42.

[12] Id. at 43-48.

[13] Id. at 49-50.

[14] Id. at 51-53.

[15] Id. at 62-63.

[16] Id. at 55-61.

[17] Id. at 25.

[18] Id. at 24-27.

[19] Id. at 26-27.

[20] Id. at 28-32.

[21] Id. at 3-63, with Annexes.

[22] Id. at 13-14.

[23] Section 3, Rule 64 of the Rules of Court provides:

Time to file petition. -- The petition shall be filed within thirty (30) days from notice of the judgment or final order or resolution sought to be reviewed. The filing of a motion for new trial or reconsideration of said judgment or final order or resolution, if allowed under the procedural rules of the Commission concerned, shall interrupt the period herein fixed. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of denial.

[24] Rollo, pp. 78-81.

[25] Id. at 91-93.

[26] Id. at 28-32.

[27] Section 325(a) of the Local Government Code, provides:

General Limitations. - The use of the provincial, city, and municipal funds shall be subject to the following limitations:

(a) The total appropriations, whether annual or supplemental, for personal services of a local government unit for one (1) fiscal year shall not exceed forty-five percent (45%) in the case of the first to third class provinces, cities, and municipalities, and fifty-five percent (55%) in the case of fourth class or lower, of the total annual income from regular sources realized in the next preceding fiscal year. The appropriations for salaries, wages, representation and transportation allowances of officials and employees of the public utilities and economic enterprises owned, operated, and maintained by the local government unit concerned shall not be included in the annual budget or in the computation of the maximum amount of personal services. The appropriations for the personal services of such economic enterprises shall be charged to their respective budgets.

[28] Rollo, p. 26.

[29] Id. at 31.

[30] Id. at 27.

[31] *Ocampo v. Commission on Elections*, G.R. Nos. 136282 & 137470, February 15, 2000, 325 SCRA 636, 645.

[32] *VMC Rural Electric Service Cooperative, Inc. v. Court of Appeals*, G.R. No. 153144, October 16, 2006, 504 SCRA 336, 350.

[33] G.R. No. 142347, August 25, 2005, 468 SCRA 87.

[34] Id. at 93-94.

[35] G.R. Nos. 109406, 110642, 111494, 112056 & 119597, September 11, 1998, 295 SCRA 366.

[36] Id. at 447-448.

[37] *De Jesus v. Commission on Audit*, G.R. No. 149154, 40, June 10, 2003, 403 SCRA 666; *Querubin v. Regional Cluster Director, Legal and Adjudication Office, COA Regional Office VI, Pavia, Iloilo City*, G.R. No. 159299, July 7, 2004, 433 SCRA 769; *Kapisanan ng mga Manggagawa sa Government Service Insurance System*

(KMG) v. Commission on Audit, G.R. No. 150769, August 31, 2004, 437 SCRA 371; Home Development Mutual Fund v. Commission on Audit, G.R. No. 157001, October 19, 2004, 440 SCRA 643; Philippine Ports Authority v. Commission on Audit, G.R. No. 159200, February 16, 2006, 482 SCRA 490; and Barbo v Commission on Audit, G.R. No. 157542, October 10, 2008.

[38] Id. at 62-63.

[39] Id. at 63.

[40] Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto, G.R. No. 145184, March 14, 2008, 548 SCRA 295.

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