

MANILA INTERNATIONAL AIRPORT AUTHORITY, PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.

G.R. No. 194710. February 14, 2012

Ponente: REYES, J.

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REYES, J.:

This is a petition for certiorari under Rule 64 of the Revised Rules of Procedure filed by Manila International Airport Authority (MIAA) from the Commission on Audit (COA) Decision No. 2010-118[1] dated November 19, 2010, the dispositive portion of which states:

WHEREFORE, all premises considered, the herein appeal is DENIED and ND No. MIAA-2006-001 dated August 31, 2006 in the total amount of P44,790,000.00 is hereby AFFIRMED. Accordingly, LAO-Corporate Decision No. 2008-006 dated February 18, 2008 is hereby AFFIRMED.[2]

Factual Antecedents

On July 30, 2003, the Board of Directors of MIAA issued Resolution No. 2003-067,[3] which approved the Collective Negotiation Agreement (CNA) between MIAA and Samahang Manggagawa sa Paliparan ng Pilipinas (SMPP) and authorized the grant of P30,000.00 to all MIAA officials and employees as “contract signing bonus”. Specifically:

“RESOLVED, That, the authority of MIAA General Manager to sign the renewal of the Collective Negotiation Agreement (CNA) between Manila International Airport Authority (MIAA) and Samahang Manggagawa sa Paliparan ng Pilipinas (SMPP), the duly accredited employee union at MIAA, be approved, as it is hereby approved”.

“RESOLVED, FURTHER, That, the AUTHORITY shall grant all MIAA officials and employees the amount of P30,000.00 each as contract Signing Bonus to be sourced from the savings of personal services, following the provision of Article XII of the CNA.”[4]

On post-audit, Mr. Ireneo B. Manalo (Manalo), the then Corporate Auditor, issued Audit Observation Memorandum (AOM) No. JPA 03-35[5] dated November 4, 2003, stating that the payment of the said contract signing bonus had been previously declared improper by this Court in *Social Security System v. Commission on Audit*. [6] Thus:

In your letter dated October 7, 2003, it was explained that the grant of signing bonus was sanctioned by Resolution No. 2, Series of 2003, known as Grant of Collective Negotiation Agreement (CNA) Incentive for Government-Owned and/or Controlled Corporation (GOCCs) and Government Financial Institution (GFIs). The same explanation, the gratuity emanated from CNA executed after the effectivity of RA 6758, was invoked by the petitioner in *SSS vs. COA*. In its decision, the Supreme Court affirmed the COA decision disallowing the payment of signing bonus to each employee and officer of the SSS. (Please refer to the attached Supreme Court Decision)

The payment of signing bonus made by MIAA, therefore, was improper and has no legal basis.[7]

The COA's Legal and Adjudication Office-Corporate (LAO-Corporate) reviewed AOM No. JPA 03-35 and in a Notice of Disallowance (N.D.) No. MIAA-2006-001[8] dated August 31, 2006, Director IV Janet D. Nacion (Director Nacion) disallowed the subject disbursement in the total amount of P44,790,000.00 for being contrary to Section 1 of Public Sector Labor Management Council (PSLMC) Resolution No. 2, Series of 2003 and the May 2, 2002 letter of Emilia T. Boncodin (Boncodin), the former Secretary of the Department of Budget and Management (DBM), to Guillermo N. Carague (Carague), the former Chairman of the COA. The relevant portions thereof state:

Please be informed that the payment for the year 2003 of Collective Negotiation Agreement (CNA)/Signing Bonus of P30,000.00 each to the officials and employees of the MIAA granted under Board Resolution No. 2003-067 passed on July 30, 2003 has been disallowed in audit being in (sic) contrary to Section 1 of Public Sector Labor Management Council (PSLMC) Resolution No. 02 dated May 19, 2003 which states that "x x x a CNA Incentive may be provided in the CNA to be granted to the rank-and-file." The MIAA CNA/Signing Bonus included not only the rank-and-file but all officers and employees, MIAA Board of Directors, Board Secretariat and EXECOM.

It was also noted that although the MIAA General Manager, in his memorandum dated January 28, 2003 stated categorically that "x x x all the requirements under Section 3 of the Public Sector Labor Management Council (PSLMC) Resolution No. 2 has been complied with x x x", there were no documents submitted to support this statement.

Moreover, the grant/payment of CNA Signing Bonus has been stopped/discontinued per letter dated May 15, 2002 of the former DBM Secretary Emilia T. Boncodin to COA Chairman Guillermo N. Carague.[9]

Furthermore, Director Nacion directed the members of the Board of Directors who approved Resolution No. 2003-067, the employees who approved and signed the request for payment and those who certified that the disbursement is lawful and supported by necessary documents, to refund and all recipients to refund the disallowed benefit.[10]

MIAA, through its Assistant General Manager for Finance and Administration, Herminia D. Castillo (Castillo), appealed N.D. No. MIAA-2006-01 stating that: (a) the CNA Incentive was granted to all officers and employees of MIAA, including those who do not occupy rank-and-file positions, since the achievement of MIAA's performance targets and the success of its fiscal reforms is a collaborative effort; and (b) MIAA's performance in 2003 justified the grant of the CNA Incentive. In her letter dated December 19, 2006,[11] Castillo alleged that:

On the basis of the foregoing, hereunder is an assessment of MIAA's financial performance for CY 2003 as justification in the grant of [Collective] Negotiation Agreement (CNA)/Signing Bonus pursuant to PSLMC Resolution No. 2, s. 2003.

- Actual corporate operating income of Php 4.567 billion surpassed income projection of Php 4.371 billion. Favorable variance is Php 196 million.
- Actual cash operating expenses of Php 2.034 billion is less than what was appropriated at Php 2.210 billion in the board-approved COB. Favorable variance is Php 176.57 million.
- Of the total excess in operating expense budget of Php 176.57 million, only Php 118.70 million may be considered savings that are attributable to cost-saving measures and unutilized allocation for Personal Services pertaining to vacant positions.
- Under PSLMC Resolution No. 2, s. 2003, the Php 118.70 million savings may be granted as CNA Incentive. Amount paid in CY 2003 subject of the Notice of Disallowance totalled Php 44.79 million.

- Dividends totaling (sic) Php 231.489 million representing 50% of MIAA's Net Income for CY 2003 was remitted to the Bureau of Treasury on June 1 & 9, 2004. (Copy of disbursement vouchers hereto attached as Annex F & G)

The CNA Incentive was granted to all officers and employees including those who do not belong to the rank-and-file since MIAA's financial reforms and performance beyond expected targets CY 2003 were due to the collaborative effort of the whole organization as a corporate body exercising powers thru the MIAA Board pursuant to Executive 903 otherwise known as MIAA's Charter.[12]

In its Decision No. 2008-006[13] dated February 18, 2008, the LAO-Corporate, thru Director Nacion, denied MIAA's appeal, the dispositive portion of which states:

WHEREFORE, foregoing premises considered, the instant request for reconsideration of the disallowed CNA Signing Bonus paid in 2003 in the total amount of P44,790,000.00 is hereby DENIED. Accordingly, N.D. No. MIAA-2006-001 dated August 31, 2006 is hereby AFFIRMED.[14]

According to Director Nacion, the President's decision to disallow the grant of signing bonus is clear from former DBM Secretary Boncodin's May 15, 2002 letter to former COA Chairman Carague. Contrary to MIAA's claim, the grant is actually a signing bonus and cannot be considered a CNA Incentive since it was released on August and October, or immediately after the approval of the CNA between MIAA and SMPP and before MIAA had determined its savings from Maintenance and Other Operating Expenses (MOOE). Under DBM Budget Circular No. 2006-01 dated February 1, 2006, the CNA Incentive is a one-time benefit, the payment of which is subject to the successful implementation of projects and achievement of performance targets, and should be exclusively sourced from the MOOE based on the cost-cutting measures specified in the CNA.

Even assuming that the subject grant was a CNA Incentive, MIAA violated Section 1 of PSLMC Resolution No. 2 as implemented by DBM Budget Circular No. 2006-01, limiting the grant of the CNA Incentive to rank-and-file employees. MIAA also failed to comply with Section 3 of PSLMC Resolution No. 2 when it failed to submit its Corporate Operating Budget (COB) to the DBM and the Office of the President (OP) for approval. To quote:

It must be emphasized however, that the grant of the CNA Signing bonus is no longer allowed. The President of the Philippines had set a moratorium on the grant of the said signing bonus due to some problems raised on the payment and fund source thereof. This is clear from the letter dated May 15, 2002 of the former Department of Budget and Management (DBM) Secretary Emilia T. Boncodin addressed to the Commission on Audit Chairman, Guillermo N. Carague. Said letter further stated that the PSLMC considered the grant of incentives instead of the CNA Signing Bonus in order to resolve the issue. Thus, on December 27, 2005, the Office of the President (OP) issued Administrative Order (A.O.) No. 135 authorizing the grant of CNA Incentive to Employees in Government Agencies. The AO confirmed the grant of the CNA Incentive in strict compliance with PSLMC Resolution No. 02, series of 2003. The moratorium, however, on the grant of CNA Signing Bonus was not lifted under the said AO.

Granting arguendo that the MIAA treated the subject incentive as a CNA Incentive instead of Signing Bonus since they used as their basis PSLMC Resolution No. 02, series of 2003, which was approved on May 19, 2003, still, their argument is untenable. Under Section 1 of the aforesaid PSLMC Resolution as implemented by DBM Budget Circular No. 2006-1 dated February 1, 2006, a CNA Incentive may be provided in the CNA to be granted to the rank and file employees. In the instant case, however, the CNA incentive was paid not only to the rank and file employees but also to the officials of the MIAA i.e., Board of Directors, Board Secretariat and EXCOM Members including those occupying the position of Assistant Department Manager (ADM)/Division Chief, who are not considered rank-and-file employees per opinion of the Civil Service Commission-COA Field Office, contrary to Section 1 of the aforesaid resolution.

Moreover, while it is true that in said PSLMC Resolution, the CNA incentive may be granted to the

rank-and-file employees, the grant thereof is not absolute or automatic as the conditions set forth under Section 3 thereof have to be complied with by the MIAA before it can grant the CNA incentive bonus, which states:

“Section 3. The CNA Incentive may be granted if the following conditions are met by the GOCC/GFI:

a) Actual operating income at least meets the targeted operating income in the Corporate Operating Budget (COB) approved by the Department of Budget and Management (DBM)/Office of the President for the year; x x x”

b) Actual operating expenses are less than the DBM approved level of operating expenses in the COB as to generate sufficient source of funds for the payment of CNA Incentive; and

c) For income generating GOCCs/GFIs, dividends amounting to at least 50% of their annual earnings have been remitted to the National Treasury in accordance with the provisions of Republic Act No. 7656 dated November 9, 1993.

x x x x

However, a careful scrutiny of the COB submitted by the MIAA as basis for the grant of the CNA Incentive would show that the same was just approved by the MIAA Board of Directors. There is no indication that the same was approved by the DBM/OP as required by the said PSLMC Resolution. Hence, the grant/payment of the CNA Incentive to its officials and employees may be considered as an irregular expenditure.

In addition, as provided under the aforesaid DBM Budget Circular No. 2006-1, the CNA Incentive for the year shall be paid as a one-time benefit after the end of the year, provided that the planned programs/activities/projects have been implemented and completed in accordance with the performance targets for the year. This is so, since it shall be sourced solely from savings from released Maintenance and Other Operating Expenses (MOOE) allotments for the year under review. Such savings should be generated out of the cost-cutting measures identified in the CNAs and supplements thereto. In the case at bar, however, the subject CNA Incentive was paid in August and October, 2003, four (4) or two (2) months before the end of the year, thus, as of that time it can be deduced that management has not yet determined its savings from MOOE. Such being the case, indeed said payment cannot be considered as an Incentive Bonus, but in reality a Signing Bonus, which is no longer allowed to be given to rank-and-file employees of MIAA, much more to its officials.[15]

Consequently, the MIAA filed with the COA a petition for review, which was denied on the following grounds: (a) the subject grant is not a CNA Incentive but a signing bonus as it was paid on August 1, 2003 or immediately after the CNA between MIAA and SMPP was approved on July 30, 2003 and it was paid before any savings from MOOE could be generated from the programs, projects and activities under the CNA; (b) the signing bonus is prohibited under Administrative Order (A.O.) No. 135 and Section 5.6.2 of DBM Budget Circular No. 2006-1; (c) assuming that the grant is a CNA Incentive, still, it is invalid as it was paid upon renewal of the CNA, which is contrary to the provisions of Section 1 of PSLMC Resolution No. 2; (d) payment of the CNA Incentive to MIAA's officers, Board of Directors, Board Secretariat and Executive Committee (ExeCom) violated PSLMC Resolution No. 2, Section 2 of A.O. No. 135 and DBM Budget Circular No. 2006-01; and (e) the grant was without the prior approval of the OP and/or the DBM. Thus:

Whether or not the disallowed payment was a CNA Incentive or a signing bonus ultimately depends on the nature and timing of the payment, not on its nomenclature. In this case, the amount was paid upon the renewal of the CNA. Particularly, it was paid on August 1, 2003, one day after the approval of the CNA between the MIAA and SMPP on July 30, 2003. It was paid before any savings from MOOE could be generated out of the planned program/projects/activities under the CNA. It was therefore, a sort of a signing bonus. By naming it as a contract signing bonus, MIAA Board Resolution No. 2003-067 merely formalized its real identity as a

signing bonus. The payment of CNA Signing Bonus however, is prohibited. A.O. No. 135 authorizing the payment of the CNA Incentive subject to Section 5.6.2 of DBM Budget Circular No. 2006-1 dated February 1, 2006, clearly disallows payment of any CNA Incentive upon signing or ratification of the CNA or supplements thereto, as this gives the CNA Incentive the character of a CNA Signing Bonus, which is not a truly reasonable compensation as held in *SSS vs. COA*, G.R. No. 149240, 384 SCRA 548, July 11, 2002.

Granting arguendo that the herein payment by MIAA is a CNA Incentive and not a signing bonus, the payment of such CNA Incentive was still not valid since it was paid upon the renewal of the CNA. The second sentence of Section 1 of PSLMC Resolution No. 4 provides: "To ensure that funds are available and still all planned targets, programs and services approved in the budget of the agency are achieved, only savings generated after the signing of the CNA may be used for the CNA Incentive." By paying the purported CNA Incentive upon renewal of the CNA, MIAA could not honestly declare that the funding thereof was taken from savings generated after the signing of the CNA. To stress, the requirement to pay the CNA Incentive at year end is precisely because it is only at the end of the year that the amount of savings generated from MOOE could be determined and could be used as funding of the intended CNA Incentive.

Moreover, payment of the CNA Incentive to include all MIAA officers, members of the Board of Directors, Board Secretariat and Executive Committee (EXCOM) directly violated the limitation imposed by the aforesaid PSLMC Resolution No. 02, Series of 2003, Section 2 of A.O. No. 135, and DBM Budget Circular No. 2006-1 that a CNA Incentive can be granted only to the rank-and-file employees excluding managerial, co-terminus and highly confidential employees.

x x x

Petitioner's reliance on the recommendation of the PSLMC during its meeting on March 29, 2007 to include management personnel as grantees of the incentive is unavailing. That recommendation has remained, as it is, a mere recommendation. It has not reached the stage of an official pronouncement of the President or of the DBM.

Petitioner's third argument is also without merit. It is clear from the provisions provided for in said PSLMC Resolution No. 02, Series of 2003 and Section 5 of Presidential Decree (PD) No. 1597 as reiterated in A.O. No. 135 that allowances, honoraria and other fringe benefits which may be granted to government employees shall be subject to Presidential approval. MIAA is not exempted from these directives.[16]

The Petitioner's Case

In its Petition, MIAA claimed that: (a) its real intention was to grant a CNA Incentive pursuant to PSLMC Resolution No. 2 and A.O. No. 135 and the fact that the P30,000.00 paid to its officers and employees was denominated as a "contract signing bonus" is a mistake or a mere inadvertence committed in good faith; (b) DBM Circular No. 2006-1, which provides that the CNA Incentive should be paid at the end of the year, cannot prevail over A.O. No. 135, which does not specify any period; (c) the CNA Incentive may be released any time as A.O. No. 135 is a form of social legislation, which should be liberally construed in favor of its beneficiaries; (d) pursuant to the minutes of the March 29, 2007 meeting of the PSLMC, the CNA Incentive can be given not only to rank-and-file employees as the successful implementation of financial reforms and achievement of performance targets cannot be solely attributed to them; (e) there is no compulsion for MIAA to secure the approval of the OP and/or the DBM before it can authorize the payment of the CNA Incentive as it is not asking for any budgetary support as provided in Book IV, Chapter 3, Section 19 of Executive Order (E.O.) No. 292; (f) MIAA's duty to submit its COB for the approval of the DBM and/or the OP is only for information and notification purposes; (g) under E.O. No. 778, or the MIAA's charter, the approval of its Board of Directors suffice for the grant of the CNA Incentive; (h) even assuming that the subject disbursement is found to be without legal basis, the recipients thereof are under no obligation to return or refund for having acted in good faith and of the honest belief that they

are entitled thereto; and (i) the members of MIAA's Board of Directors cannot be held personally liable for the approval and release of the CNA Incentive as they merely acted in the performance of their public duties.

The Respondent's Case

In its Comment[17] dated February 18, 2011, the COA claimed that: (a) MIAA's alleged inadvertence in naming the grant as a contract signing bonus was conveniently raised to legitimize what is otherwise prohibited; (b) the benefit being a signing bonus and not a CNA Incentive is demonstrated by the time it was granted, which is simultaneous with the approval of the CNA; (c) the benefit cannot be considered a CNA Incentive because it was paid before any savings from the MOOE was generated; (d) it is at the end of the year that savings can be said to exist as it is only at such time when the difference between the approved COB and the actual expenses incurred can be computed with finality; (e) under DBM Budget Circular No. 2006-1, which implements A.O. No. 135, the CNA Incentive shall be paid after the end of the year; (f) the said DBM Circular enjoys the presumption of regularity and it does not conflict with A.O. No. 135; (g) even for the sake of argument that the subject disbursement is a CNA Incentive, still, it is invalid in view of MIAA's failure to submit its COB to the OP and/or DBM; (h) the refund of amounts received by mistake is in accordance with the principle of solutio indebiti under Articles 2154 to 2163 of the Civil Code; (i) MIAA's Board of Directors' description of the grant as a contract signing bonus despite the OP's earlier directive disallowing the payment of a signing bonus and this Court's pronouncements in *SSS v. COA* is gross negligence tantamount to bad faith; (j) alternatively, their bad faith is shown by their misleading attempt to make it appear that the amounts released were CNA Incentives; and (k) the bad faith of MIAA's Board of Directors renders them liable not only for refund but also for damages.

Issues

With this petition, this Court is confronted with the task of ascertaining the real nature of the subject benefit. Indeed, the resolution of this issue is indispensable to determining whether the COA was correct in holding the beneficiaries of this disallowed benefit liable for a refund and for attributing bad faith on the part of the members of MIAA's Board of Director who authorized the same. If the subject allotment is a signing bonus, then there is no question as to its illegality, which the individuals who approved and/or benefited therefrom cannot feign ignorance of and pretend to have acted in good faith.

Our Ruling

There is no dispute that the grant of a signing bonus had been previously disallowed by the express mandate of then President Gloria Macapagal-Arroyo (President Arroyo). In her May 2, 2002 letter, former DBM Secretary Boncodin expressed former President Arroyo's directive as follows:

On the other hand, the President has set a moratorium on the grant of CNA signing bonus due to some problems raised on the payment and fund source. The moratorium will be in effect until such time that the problems are resolved and a policy is issued on the matter.[18]

The PSLMC, of which we are a member, is already looking at options on how the issues can be resolved expeditiously. The Council is considering the grant of incentives instead of the CNA Signing Bonus.[19]

Shortly thereafter, on July 22, 2002, this Court declared in *SSS v. COA*[20] that Social Services Commission's authority to fix the compensation of its employees under its charter, Republic Act (R.A.) No. 1161 as amended, is subject to the provisions of R.A. No. 6758, which provides for the consolidation of allowances and compensation in the prescribed standardized salary rates. While there are exceptions provided under Sections 12 and 17 of R.A. No. 6758 in observance of the policy on non-diminution of pay, the signing bonus is not one of the benefits contemplated. This Court also ruled that the signing bonus is "not a truly reasonable compensation" since conduct

of peaceful collective negotiations “should not come with a price tag”.

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

x x x x

On the basis of the foregoing pronouncement, we do not find the signing bonus to be a truly reasonable compensation. The gratuity was of course the SSC’s gesture of good will and benevolence for the conclusion of collective negotiations between SSC and ACCESS, as the CNA would itself state, but for what objective? Agitation and propaganda which are so commonly practiced in private sector labor-management relations have no place in the bureaucracy and that only a peaceful collective negotiation which is concluded within a reasonable time must be the standard for interaction in the public sector. This desired conduct among civil servants should not come, we must stress, with a price tag which is what the signing bonus appears to be.[21]

With the abolition of the signing bonus, the PSLMC issued Resolution No. 2, Series of 2003, authorizing the grant of the CNA Incentive, the primary purpose of which is to recognize the joint efforts of labor and management in the achievement of planned targets, programs and services approved in the budgets of government-owned or controlled corporations (GOCCs) and government financial institutions (GFIs) at lesser cost.[22] The clear objective is to encourage, promote and reward productivity, efficiency and use of austerity measures as specified in the CNA.

To guarantee that the CNA Incentive would be exclusively funded by the savings generated from the implementation of cost-cutting measures, PSLMC imposed the following conditions:

a)

Actual operating income at least meets the targeted operating income in the Corporate Operating Budget (COB) approved by the Department of Budget and Management (DBM)/Office of the President for the year. For GOCCs/GFIs, which by the nature of their functions consistently incur operating losses, the correct year’s operating loss should have been minimized or reduced compared to or at most equal that of prior year’s levels;

b)

Actual operating expenses are less than the DBM-approved level of operating expenses in the COB as to generate sufficient source of funds for the payment of CNA Incentive; and

c)

For income generating GOCCs/GFIs, dividends amounting to at least 50% of their annual earnings have been remitted to the National Treasury in accordance with provisions of Republic Act No. 7656 dated November 9, 1993.[23]

The COB is the budget of a GOCC or GFI, which consists of estimates of revenues, expenditures and borrowings and prepared prior to the beginning of the fiscal year and recommended by the governing board. The COB must

be submitted for the consideration and final approval of the President through the DBM.[24]

Subsequently, on December 27, 2005, former President Arroyo issued A.O. No. 135, which confirmed the grant of the CNA to rank-and-file employees under PSLMC Resolution No. 2, Series of 2003.[25] Grants of the CNA Incentive authorized after PSLMC Resolution No. 2 took effect and in strict compliance with its provisions prior to the effectivity of A.O. No. 135 were likewise confirmed.[26] A.O. No. 135 also required that the frugality schemes be identified in the CNA and that the CNA Incentive be exclusively sourced from the savings that may be generated during the term of the CNA.[27]

As DBM was directed to issue the policy and procedural guidelines to implement A.O. No. 135, it issued Budget Circular No. 2006-1 on February 1, 2006, which provides the following limitations on the grant of the CNA Incentive:

5.6 The amount/rate of the individual CNA Incentive:

5.6.1

Shall not be pre-determined in the CNAs or in the supplements thereto since it is dependent on savings generated from cost-cutting measures and systems improvement, and also from improvement of productivity and income in GOCCs and GFIs;

5.6.2

Shall not be given upon signing and ratification of the CNAs or supplements thereto, as this gives the CNA Incentive the character of the CNA Signing Bonus which the Supreme Court has ruled against for not being a truly reasonable compensation (*Social Security System vs. Commission on Audit*, 384 SCRA 548, July 11, 2002);

5.6.3

May vary every year during the term of the CNA, at rates depending on the savings generated after the signing and ratification of the CNA; and

x x x x

5.7 The CNA Incentive for the year shall be paid as a one-time benefit after the end of the year, provided that the planned programs/activities/projects have been implemented and completed in accordance with the performance targets for the year.

x x x x

7.0 Funding Source

7.1 The CNA Incentive shall be sourced solely from savings from released Maintenance and Other Operating Expenses (MOOE) allotments for the year under review, still valid for obligation during the year of payment of the CNA, subject to the following conditions:

7.1.1 Such savings were generated out of cost-cutting measures identified in the CNAs and supplements thereto;

7.1.2 Such savings shall be reckoned from the date of signing of the CNA and supplements thereto;

x x x x

7.2 GOCCs/GFIs and LGUs may pay the CNA Incentive from savings in their respective approved corporate operating budgets or local budgets.

Considering the foregoing in conjunction with the respective submissions of both parties, this Court finds no compelling reason to reverse the assailed decision of the COA. Essentially, the conclusion reached by this Court is anchored on the following: (a) the benefit in question is, in fact, a signing bonus, which is an illegal disbursement; (b) even assuming that the subject benefit is a CNA Incentive, MIAA's non-compliance with the requirements under PSLMC Resolution No. 2 and DBM Budget Circular No. 2006-1 rendered the same illegal; and (c) MIAA's Board of Directors' decision to authorize the grant of a signing bonus and its officers' act of approving the release thereof and certifying its validity notwithstanding former President Arroyo's mandate, PSLMC Resolution No. 2, and this Court's ruling in *SSS v. COA* is an error so gross that is tantamount to bad faith, thus, rendering them personally liable.

In a petition for certiorari, the burden is on the part of the petitioner to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent issuing the impugned order. Mere abuse of discretion is not enough; it must be grave.[28] In this case, MIAA's allegations of COA's grave abuse of discretion failed to muster, leading to the inevitable dismissal of this petition.

Facts indubitably demonstrate that the grant in question is a signing bonus.

MIAA's claim that the amount of P30,000.00 given to each employee, rank-and-file or otherwise, and member of the Board of Directors, Board Secretariat and ExeCom is a CNA Incentive and not a signing bonus, deserves scant consideration. MIAA's claim that its Board of Directors labelled the subject benefit as a signing bonus by mistake or inadvertence in good faith fails to convince. Indeed, claims of well-meaning negligence, blunder or oversight can be self-serving and easily contrived.

That MIAA's Board of Directors did not make a mistake and their real intention was to reward the successful conclusion of collective negotiations by some pecuniary means is belied by simultaneous approval of the grant and the CNA between SMPP and MIAA betrays their real intention. Moreover, prior to the issuance of AOM No. JPA 03-35 declaring the subject benefit illegal, there was no effort on the part of its Board of Directors to rectify the alleged mistake in nomenclature. It was only after then Corporate Auditor Manalo and Director Nacion called MIAA's attention as to the illegality of a signing bonus that MIAA alleged that the subject benefit is a CNA Incentive. Easily, such is a mere afterthought.

That the subject benefit is a CNA Incentive as MIAA's supposed purpose was to recognize the contributions of its officers and employees in the achievement of performance targets and success of austerity measures hardly inspires belief. At the time MIAA's Board of Directors approved the subject benefit, or on July 30, 2003, it cannot be truthfully claimed that MIAA had already determined that its compliance with the conditions imposed by PSLMC Resolution No. 2 is certain such that: (a) its actual operating income equalled or surpassed the target operating income as provided in its COB; (b) its actual operating expenses are less than the approved amount of operating expenses in the COB; and (c) there exists enough savings to provide the necessary funding. Indeed, it is plain common sense that it is only by the end of the year that the exact amount of savings is known and whether it is sufficient to cover the CNA Incentive.

Thus, it cannot be gainsaid that the COA acted with grave abuse of discretion amounting to lack of jurisdiction. To the contrary, COA acted in accordance with its duty by observing the provisions of PSLMC Resolution No. 2, A.O. No. 135 and DBM Budget Circular No. 2006-1 in its decision to disallow the benefit in question. In fact, it was the Board of Directors of MIAA who acted beyond their jurisdiction and abused their authority to approve the benefits of MIAA officers and employees[29] when they authorized the payment of a benefit that has already been abrogated.

The grant of a signing bonus, of course, is contrary to this Court's ruling in *SSS v. COA*, which effectively illegalized the signing bonus for being inconsistent with the objectives of R.A. No. 6758 of standardizing the salaries and compensation of civil servants. Moreover, the signing bonus is inherently unnecessary since orderly behavior and conciliatory approach to collective negotiations are expected of members of the public sector, the performance of which is not subject to their whims or conditioned on their receipt of a monetary award. Similarly, this contravened then President Arroyo's order to discontinue the grant of signing bonus and PSLMC Resolution No. 2, which was issued to provide a reasonable substitute for the signing bonus.

Apparently, the members of MIAA's Board of Directors were either oblivious of the foregoing or they simply had the temerity to believe that their authority to approve the salaries and compensation of MIAA officers and employees under MIAA's charter is plenary to the point of being unbridled. However, as will be discussed below, departure from prevailing rules and regulations, whether by reason of ignorance or audacity, is inexcusable.

Granting that the subject benefit is a CNA Incentive, COA's disallowance thereof is warranted given MIAA's failure to comply with DBM Budget Circular No. 2006-1.

Contrary to MIAA's claim, the provisions of DBM Budget Circular No. 2006-1 are germane to the objectives of A.O. No. 135, which affirmed PSLMC Resolution No. 2.

Interestingly, MIAA claimed that the subject benefit is a CNA Incentive but refused to comply with DBM Budget Circular No. 2006-1, raising the unconstitutionality thereof as the reason for its non-submission of its COB for the DBM's approval and the release of the benefit prior to the end of 2003. Allegedly, there is a conflict between DBM Budget Circular No. 2006-1 and A.O. No. 135 as there is nothing in the latter, which requires the COB to be submitted for DBM's validation and the payment of the CNA Incentive at the end of the year.

However, the said conflict is more imagined than real. A cursory reading of DBM Budget Circular No. 2006-1 shows that its provisions are consistent with those of PSLMC Resolution No. 2 and A.O. No. 135. There is no clear showing that the former secretary of DBM transcended the demarcations fixed by A.O. No. 135 in the exercise of her rule-making power.

Particularly, the requirement that the COB should be submitted to the President through the DBM for approval is already a pre-existing requirement under Section 4, PSLMC Resolution No. 2. Such requirement is likewise consistent with Section 5, Presidential Decree No. 1597 and Memorandum Order No. 20 dated June 25, 2001 mentioned in the 5th and 6th Whereas Clauses[30] of A.O. No. 135. With respect to the requirement that the CNA Incentive be released after the end of the year, this does not contravene any provision of A.O. No. 135 and PSLMC Resolution No. 2. By specifying the time when the CNA Incentive may be released to the rank-and-file employees, the former DBM Secretary was merely supplying a detail necessary for the proper implementation of A.O. No. 135. The assailed provisions of DBM Budget Circular No. 2006-1 are germane to the purposes and objectives of A.O. No. 135 and PSLMC Resolution No. 2 and not much is required to appreciate its rationale: to ensure that the CNA Incentive will be paid only if the actual operating income meets or exceeds the target fixed in COB and will be funded by the savings generated from cost-reducing measures and no other. Without further extrapolation, these amounts remain to be mere approximations until the end of the year.

This Court's pronouncements in *Miners Association of the Philippines, Inc. v. Hon. Factoran, Jr., et al.*[31] apply:

We reiterate the principle that the power of administrative officials to promulgate rules and regulations in the implementation of a statute is necessarily limited only to carrying into effect what is provided in the legislative enactment. The principle was enunciated as early as 1908 in the case of *United States v. Barrias*. The scope of the exercise of such rule-making power was clearly expressed in the case of *United States v. Tupasi Molina*, decided in 1914, thus: "Of course, the regulations adopted under legislative authority by a particular department must be in harmony with the provisions of the law, and for the sole purpose of carrying into effect its general provisions. By such regulations, of course, the law itself can not be extended. So long, however, as the regulations relate solely to carrying into effect the provision of the law, they are valid." [32] (citations omitted)

MIAA had placed itself in a rather curious position by taking what is clearly a piece-meal approach. It cited PSLMC Resolution No. 2 and A.O. No. 135 to justify the subject grant and conveniently claim that DBM Circular No. 2006-1 suffers from infirmities, hence, should not be complied with. However, MIAA failed to sustain its claim of an existing conflict, which more than suggests that it is merely grasping at straws. Truly, there is nothing that can legitimize MIAA's non-observance thereof. Prior to any declaration by a competent authority that such circular is unconstitutional, it possesses no discretion to withhold compliance.

It was therefore incumbent upon the Board of Directors of MIAA to ensure that the requirements of such circular, which merely implements A.O. No. 135 and PSLMC Resolution No. 2, are met before authorizing the grant of the subject benefit. Specifically, MIAA was duty-bound to: (a) submit its COB for the approval of the President, through the DBM; (b) release the benefit after the end of the year and not after the signing and ratification of the CNA; and (c) fund the benefit from its savings from its approved COB and released MOOE allotments. These, MIAA failed to do, thus, giving COA ample basis to issue the assailed decision.

Refund by the MIAA's Board of Directors and the officers who approved the release of funds of the amounts they received are warranted in view of their evident bad faith.

Since the illegality of the disallowed benefit has been settled, this Court now proceeds to resolve the issue of whether the members of MIAA's Board of Directors, other responsible officers and the recipients thereof should be held accountable and be ordered to effectuate a refund.

This Court partially agrees with the COA.

This Court finds no reason to deviate from prevailing jurisprudence, stating that disallowed benefits received in good faith need not be refunded. As stated in *Lumayna v. Commission on Audit*: [33]

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.

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]

Clearly, good faith is anchored on an honest belief that one is legally entitled to the benefit. In this case, the MIAA employees who had no participation in the approval and release of the disallowed benefit accepted the same on the assumption that Resolution No. 2003-067 was issued in the valid exercise of the power vested in the Board of Directors under the MIAA charter. As they were not privy as to reason and motivation of the Board of Directors, they can properly rely on the presumption that the former acted regularly in the performance of their official duties in accepting the subject benefit. Furthermore, their acceptance of the disallowed grant, in the absence of any competent proof of bad faith on their part, will not suffice to render liable for a refund.

The same is not true as far as the Board of Directors. Their authority under Section 8 of the MIAA charter is not absolute as their exercise thereof is "subject to existing laws, rules and regulations" and they cannot deny knowledge of *SSS v. COA* and the various issuances of the Executive Department prohibiting the grant of the signing bonus. In fact, they are duty-bound to understand and know the law that they are tasked to implement and their unexplained failure to do so barred them from claiming that they were acting in good faith in the performance of their duty. The presumptions of "good faith" or "regular performance of official duty" are disputable and may be contradicted and overcome by other evidence.^[35]

Granting that the benefit in question is a CNA Incentive, MIAA's Board of Directors has no authority to include its members, the members of the Board Secretariat, ExeCom and other employees not occupying rank-and-file positions in the grant. Indeed, this is an open and contumacious violation of PSLMC Resolution No. 2 and A.O. No. 135, which were unequivocal in stating that only rank-and-file employees are entitled to the CNA Incentive. Given their repeated invocation of these rules to justify the disallowed benefit, they cannot feign ignorance of these rules. That they deliberately ignored provisions of PSLMC Resolution No. 2 and A.O. No. 135 that they failed to observe bolsters the finding of bad faith against them.

The same is true as far as the concerned officers of MIAA are concerned. They cannot approve the release of funds and certify as to the legality of the subject disbursement knowing that it is a signing bonus. Alternatively, if they acted on the belief that the benefit is a CNA Incentive, they were in no position to approve its funding without assuring themselves that the conditions imposed by PSLMC Resolution No. 2 are complied with. They were also not in the position to release payment to the members of the Board of Directors, ExeCom and employees who do not occupy rank-and-file positions considering the express language of PSLMC Resolution No. 2.

Simply put, these individuals cannot honestly claim that they have no knowledge of the illegality of their acts. Thus, this Court finds that a refund of the amount of P30,000.00 received by each of the responsible officers and members of MIAA's Board of Directors is in order.

WHEREFORE, premises considered, this Petition is hereby **PARTIALLY GRANTED**. Accordingly, only the directors responsible for the passage of Resolution No. 2003-067 and the officers who authorized the release of funds and certified the expense as necessary and lawful are hereby ordered to refund the amount of Thirty Thousand Pesos (P30,000.00) each.

SO ORDERED.

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

[1] Rollo, pp. 27-32.

[2] Id. at 32.

[3] Id. at 97.

[4] Id.

[5] Id. at 33-34.

[6] 433 Phil. 946 (2002).

[7] Supra note 5.

[8] Rollo, pp. 35-40.

[9] Id. at 35-36.

[10] Id. at 36-40.

[11] Id. at 41-42.

[12] Id.

[13] Id. at 43-47.

[14] Id. at 46.

[15] Id. at 44-46.

[16] Id. at 30-31.

[17] Id. at 65-78.

[18] Id. at 96.

[19] Id. at 98.

[20] Supra note 6.

[21] Id. at 959-963.

[22] See 2nd Whereas Clause of A.O. No. 135 and DBM Circular No. 2006-1.

[23] Section 2, PSLMC Resolution No. 2, Series of 2003.

[24] Section 4 (a), id.

[25] Section 1, id.

[26] Id.

[27] Section 3, id.

[28] Tan v. Spouses Antazo, G.R. No. 187208, February 23, 2011.

[29] Section 8 (c), E.O. No. 778 as amended by E.O. No. 993.

[30] WHEREAS, Section 5 of Presidential Decree No. 1597 provides that allowances, honoraria and other fringe benefits which may be granted to government employees shall be subject to Presidential approval;

WHEREAS, Memorandum Order No. 20 dated June 25, 2001 requires the approval of the President for any increase in salary or compensation of GOCCs and GFIs that are not in accordance with Republic Act No. 6758 (the Salary Standardization Law);

[31] 310 Phil. 113 (1995).

[32] Id. at 128.

[33] G.R. No. 185001, September 25, 2009, 601 SCRA 163.

[34] Id. at 178-179, citing *Abanilla v. Commission on Audit*, 505 Phil. 202, 207-208 (2005).

[35] *Philippine Agila Satellite Inc. v. Usec. Trinidad Lichauco*, 522 Phil. 565, 585 (2006).

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