

**MANUEL ALBA, AS MINISTER OF THE BUDGET, AND JESUS AZURIN,
AS MINISTER OF HEALTH, PETITIONERS, VS. FRANCISCO A. PEREZ,
AND HON. DANIEL C. MACARAEG, AS PRESIDING JUDGE, REGIONAL
T...**

G.R. No. 65917. September 24, 1987

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-65917/>

PARAS, J.:

Petitioners appeal to Us by way of petition for review by certiorari from the decision rendered by respondent judge[1] granting the petition for mandamus filed by Dr. Francisco A. Perez, City Health Officer of San Pablo City, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered, ordering the respondent Minister of the Budget to issue the corresponding cash disbursement ceiling and to release the necessary allotment for the payment of petitioner's two step merit salary increase since January 1, 1981, and the respondent Minister of Health to integrate petitioner's two step merit salary increase to his basic salary.

"Without pronouncement as to costs." (p. 49, Rollo)

Respondent Dr. Francisco A. Perez was named outstanding Health Worker for 1980 by the Ministry of Health on January 22, 1981. Being such an awardee, Dr. Perez was granted by the Ministry of Health a two-step salary increase in accordance with the merit increase program as enunciated in Letter of Instructions (LOI) No. 562. Thereafter, the Ministry of Health requested the Sangguniang Panglunsod of San Pablo City, which is paying Dr. Perez' salary in full to appropriate the amount corresponding to the merit increase in its current budget. For lack of legal basis, the Bureau of Local Government opposed the proposed merit increase because the provisions of LOI No. 562 apply only to officials/employees in the national government, and consequently, awardee Dr. Perez was not entitled thereto, since he is an employee of the local government as provided for in the charter of San Pablo City. This prompted Dr. Perez to request the Ministry of Health to make the corresponding allocation to issue a notice of salary adjustment effective January 1, 1981. The Minister of Justice, upon a query made by the Ministry of Health, in his Opinion No. 177, Series of 1981, dated November 20, 1981, acknowledged that the merit increase program applies only to the officials/employees of the national government but declared Dr. Perez as one such official or employee and concluded that the Ministry of Health should pay the merit increase to him. Relying on such opinion, the Ministry of Health issued to respondent Dr. Perez on December 1, 1981 a notice of salary adjustment which release of the amount was denied by the Office of the Budget and Management which insisted that the awardee is an employee of the local or city government who is not covered by the merit increase program. Dr. Perez made his appeal therefrom to the Ministry of Health who forwarded it, recommending favorable action thereon to the Office of the President of the Philippines. The latter referred the appeal to the Minister of the Budget who affirmed his earlier decision of disallowing the merit increase and reiterating the same reasons. A petition for mandamus to compel the Office of the Budget and Management to pay the merit increase was filed by Dr. Perez before the lower court which granted the aforementioned favorable decision, subject matter

of the present petition for review on certiorari before Us by petitioners arguing that:

1. The position of private respondent as the City Health Officer of San Pablo City is embraced in Sec. 7 of Pres. Decree (P.D.) No. 1136 which states among other things that the salary plan provided for in Sec. 8 of the same decree shall cover the City Health Officer, among other officials, whose salary shall be paid out of city funds and therefore a local government employee whose position does not appear in the list of national government employees defined under another law (P.D. 985).
2. The constitution provides that no money shall be paid out of the Treasury except in pursuance of an appropriation made by law. Since there is no such appropriation, the Minister of the Budget cannot be compelled to release the amount for the payment of the merit salary increase because such allocation entails the exercise of judgment and discretion of the Minister of the Budget which cannot be controlled by mandamus.
3. The decision declaring respondent Dr. Perez as an employee of the national government would have far reaching effects such that all other city health officers and local officials similarly situated would also be so entitled to all personal benefits given to national employees. Dr. Perez's exemplary accomplishment which merited for him the grant to a two-step increase must yield to the overriding economic consideration of availability of funds which the government must set aside for the purpose.

We do not agree with the arguments set down by petitioners. Private respondent invites Our attention to the City Charter of San Pablo City (CA #520, Sec. 87, May 7, 1940) more specifically, Art. IV thereof, which provides that the position of a City Health Officer is not included among the heads of the regular departments of the city but included among the national officials performing municipal functions under the direct control of the Health Minister and not the city mayor as provided for in Art. XIV of the same charter. Such principle is reiterated in the Decentralization Act of 1967 which shows that the appointing authority is the Health Minister and not the local officials. Petitioner Minister of the Budget admitted thru the testimony of its representative, Alice S. Torres, chief of the Compensation and Position Classification and a specialist thereon that the City Health Officer is under the administrative and technical supervision of the Ministry of Health (p. 69, tsn, June 16, 1983, p. 72, Rollo). Be it noted that, Section 7 of PD 1136 relied upon by petitioners provides that the basic salary of the City Health Officer is paid from city funds. However the last paragraph of the same Sec. 7 excludes the city health officer from the classification of local government official as can be gathered from the phrase "x x x except those occupied by (a) officials whose compensation is fixed in the constitution, Presidential Decrees and other laws and (b) officials and employees who are under the direct supervision and control of the National Government or its agencies and who are paid wholly or partially from national funds."

Provincial and city health officers are all considered national government officials irrespective of the source of funds of their salary because the preservation of health is a national service. Also their positions are partially funded by the national government. Some are receiving one-half of their salary from the national funds and the other one-half from local funds. Others are wholly paid by either the local or the national government.

Private respondent Dr. Perez is a career official of the Ministry of Health and not of San Pablo. Promotions in the Ministry are covered by a Merit Promotion Plan of post-graduate studies and academic qualifications, extensive training, experience, and highly satisfactory performances. This program is a budgetary innovation which is restrictive and selective in nature. Dr. Perez was the only one who qualified under the program for the whole Region IV of the Ministry of Health in 1980. Inclusion of such position in local compensation plan of local government will certainly destroy this career pattern which is based on national not local or political expediency. Likewise, the Ministry of Health is the one agency vested with the power and authority in implementing the merit program in this particular case wherein the record shows the grant of the merit award because of the outstanding

accomplishment and performance of Dr. Perez, and thru his introduction of rehydrating solutions like oresol in the treatment of diarrhea and also the use of herbal medicine, enabling the government to save millions of pesos which could be used to purchase costly antibiotics. This undisputable fact answers the argument of petitioners that the grant to Dr. Perez must yield to the overriding economic consideration of availability of government funds purposely set aside because under the circumstances, Dr. Perez is truly deserving of a merit increase.

We cannot likewise ignore the opinions of the Ministry of Justice cited by private respondent to wit: 1) Opinion No. 26, Series of 1976 which categorically rules that "Officials and employees of provincial and city health offices render service as officials and employees of the Bureau of Health (Ministry of Health) and they are for that reason not local but national officials under the direct supervision and control of the Ministry of Health; 2) Opinion No. 177, Series of 1981, which is specific and definitive that the private respondent is a national government employee and the Ministry of Health should pay the merit increase awarded to him. In this 1981 opinion, it was explained in detail how the said funds corresponding to his merit increase could be legally disbursed contrary to the unfounded speculations expressed by the petitioners.

Lastly, there is no basis in petitioner's allegations that they cannot be compelled by mandamus as the appropriation is not authorized by law and it is discretionary on the part of the Ministry of the Budget whether or not to allocate. Respondent Dr. Perez has been proven to be a national government official, hence covered by the merit promotion plan of the government more particularly the Health Ministry wherein private respondent is its lone beneficiary for the year 1980 in Region IV. It thus becomes the ministerial duty of the Budget Minister to approve the request for allotment. Having failed to do so, he could be compelled by mandamus.

WHEREFORE, the instant petition is hereby DENIED.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Padilla, and Sarmiento, JJ., concur.

[1] Judge Daniel C. Macaraeg, Br. LV, Manila, in Case No. 82-11379.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.