

ROSEO U. TEJADA AND RADITO C. CHING, PETITIONERS, VS. HON. EUFEMIO C. DOMINGO, IN HIS CAPACITY AS CHAIRMAN OF THE COMMISSION ON AUDIT, RESPONDENTS.

G.R. No. 91860. January 13, 1992

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In this special civil action for certiorari with prohibition and mandamus, petitioners urge this Court to annul and set aside the alleged "erroneous, arbitrary, wrongful and illegal interpretation and implementation"[1] by the respondent Chairman of the Commission on Audit (COA) of Republic Act. No. 6758, otherwise known as the Compensation and Position Classification Act of 1989.

Specifically involved is Section 18 of the Act, which reads:

x x x

"SECTION 18. Additional Compensation of Commission on Audit Personnel and of Other Agencies. — In order to preserve the independence and integrity of the Commission on Audit (COA), its officials and employees are prohibited from receiving salaries, honoraria, bonuses, allowances or other emoluments from any government entity, local government unit, and government-owned and controlled corporations, and government financial institutions, except those compensation paid directly by the COA out of its appropriations and contributions.

Government entities, including government-owned or controlled corporations including financial institutions and local government units are hereby prohibited from assessing or billing other government entities, government-owned or controlled corporations including financial institutions or local government units for services rendered by its officials and employees as part of their regular functions for purposes of paying additional compensation to said officials and employees."

The questioned interpretation and implementation are contained in the memorandum of the respondent dated 24 August 1989, the pertinent portion of which reads:

"x x x Thus effective July 1, 1989, the salaries, allowances and other emoluments to be received by COA officials and employees, regardless of station or assignment, are only those that are paid directly by COA out of its own appropriations and contributions.

Henceforth, the continued payment by any other government entity, whether in the national, local or corporate sector, to any COA official or employee of such compensation, including those incorporated in the computerized payroll, would no longer have legal basis. Accordingly, in order not to delay the processing of the salary payroll of all COA officials and employees for September, 1989, all such additional emoluments will be deleted in the computation of the said payroll."[2]

The genesis of this controversy is not disputed.

Petitioners Roseo U. Tejada and Radito C. Ching are senior clerks of the COA assigned to the auditing units of the Philippine National Bank (PNB) and the Central Bank (CB), respectively.

Before the effectivity of R.A. No. 6758, Tejada's gross monthly compensation was P3,673.20, broken down as follows:

"basic salary

P1,623.00

cost of living allowance

700.00

bank equity pay

648.00

longevity pay

140.00

amelioration pay

162.00

meal allowance

400.00

P3,673.20”

while Ching's was only P3,134.00, itemized as follows:

"basic salary

P1,623.00

cost of living allowance

700.00

bank equity pay

649.00

amelioration pay

162.00

P3,134.00"

Of the foregoing, only the basic salary and the cost of living allowance, in the total sum of P2,323.00, were due each of them as senior clerks in the COA. The other benefits were voluntarily given to them by the PNB and the CB, respectively.

Prior to the enactment of Presidential Decree No. 1445, otherwise known as the Government Auditing Code of the Philippines, all officials and employees of the COA, like herein petitioners, assigned to, inter alia, government-owned or controlled corporations (GOCCs), received their salaries, allowances, additional compensation, emoluments and other fringe benefits directly from such GOCCs. This practice was not deemed effective enough to enhance the independence and protect the integrity of the COA. Thus, with the end in view of insulating these COA officials and employees, particularly the auditors, from unwarranted influence, thereby preserving the independence and integrity of the COA, Presidential Decree No. 1445 expressly mandates that the salaries and other forms of compensation of the personnel of the COA shall follow a common position classification and compensation plan regardless of agency assignment and shall be subject to P.D. No. 985; and that all officials and employees thereof, including its representatives and support personnel, shall be paid their salaries, emoluments and allowances directly by the COA out of the latter's appropriations and contributions,[3] which shall be considered as part of its operating expenses to be included in the annual appropriations law, but funded from the assessments made upon, or from contributions of the GOCCs.[4] It directs GOCCs to appropriate in their respective budgets and remit to the National Treasury an amount at least equivalent to the appropriation for the salaries and allowances of the representatives and staff of the Commission during the preceding fiscal year.[5]

The requirement of a common position and compensation plan did away with the old practice of agencies concerned determining the number, compensation and assignment of COA representatives, which was both chaotic and unjust. The provision on direct payment by COA of the salaries and other benefits was designed to instill institution loyalty.[6]

This policy was further strengthened by Executive Order No. 19 which President Corazon C. Aquino enacted on 19 June 1986.[7] Sections 2 and 3 thereof provide:

"SECTION 2. (as amended by E.O. No. 271). The cost of audit services rendered to government agencies by the Commission on Audit shall be covered by the fund sources provided in Sec. 24 of Presidential Decree No. 1445 which shall be incorporated in the national government budget and included in the Annual General Appropriations Law: provided, that in the case of government-owned and/or controlled corporations and its subsidiaries, the cost of audit services shall be based on the actual cost of the audit function in the corporation

concerned, plus a reasonable rate to cover overhead expenses. The actual audit cost shall include personal services, maintenance and other operating expenses, depreciation on capital and equipment and out-of-pocket expenses.

This amount shall be remitted in six equal installments every sixty days (the first installment to fall on January 15 of every calendar year) to the National Treasury by each government corporation/subsidiary concerned; provided, that if the operating budgets of the government corporations/subsidiary are reduced during the year as a result of operating fund shortfall or reduction of its operations, the cost of audit services previously determined shall be reduced proportionately. x x x

SECTION 3. All allowances and fringe benefits granted by government-owned or controlled corporations to the personnel of the Commission's auditing units in such corporations shall be directly defrayed by the Commission from its own appropriation pursuant to Section 31 of the General Provisions of the General Appropriations Act otherwise known as Batas Pambansa Bilang 879."

Thus, the law is clear that the contributions from the GOCCs are limited to the cost of audit services which are based on the actual cost of the audit function in the corporation concerned plus a reasonable rate to cover overhead expenses. The actual audit cost shall include personnel services, maintenance and other operating expenses, depreciation on capital and equipment and out-of-pocket expenses. In respect to the allowances and fringe benefits granted by the GOCCs to the COA personnel assigned to the former's auditing units, the same shall be directly defrayed by COA from its own appropriations pursuant to Section 31 of the General Provisions of the General Appropriations Act, otherwise known as Batas Pambansa Bilang 879. The pertinent portion of said Section 31 reads as follows:

"x x x

Officials and employees on detail with other offices, including representatives and support personnel of auditing units assigned to serve other offices and agencies, shall be paid their salaries, emoluments, allowances and the foregoing supplemental compensation, fringe benefits and other personal services costs from appropriations of their parent agencies, and in no case shall such be charged against appropriations of the agencies where they are assigned or detailed, except when authorized by law."

This provision was re-stated in the General Appropriations Acts (GAA) of the succeeding calendar years.[8]

Then came Section 18 of R.A. No. 6758, and its interpretation and implementation[9] by respondent which provoked this case.

Disagreeing with the respondent's stand, petitioners, together with other COA employees, sent to the former a letter-request,[10] dated 27 September 1989, asking that the order for the deletion from the COA Centralized or Special Payroll of their allowances, fringe benefits and other emoluments, be reconsidered, and "be restored or at least considered in the determination of their respective compensation rates as of 1 July 1989, so that they will not suffer any salary deduction when the standardized salary rates are finally implemented."

On 27 October 1989, respondent issued another memorandum[11] denying, in effect, the letter-request. As a consequence, each of the petitioners presently receive the reduced salary of P2,323.00.

Hence, they filed this petition on 7 February 1990.[12]

They raise the following issues:

"1. Does Section 18 of R.A. No. 6758 require, or even authorize, the diminution of the gross compensation of COA personnel which they were receiving prior to its effectivity, notwithstanding the provisions of Sections 12 and 17 of the same law?

2. Were all the salaries, allowances, fringe benefits and other emoluments which petitioners were receiving as part of their gross compensation prior to the effectivity of R.A. No. 6758 'paid directly by the COA out of its appropriations and contributions' within the meaning of the exception under Section 18 of the same law?"

and then submit a negative answer to the first, and an affirmative answer to the second as they were, and have always been, since the effectivity of P.D. No. 1445, "paid directly by the COA out of its appropriations and contributions." [13]

We required respondent to Comment on the petition. [14]

Respondent, represented by the Office of the Solicitor General, filed his Comment on 11 May 1990. [15] He maintains that the real issue to be resolved is:

"Whether or not under R.A. No. 675 COA personnel may still be allowed to receive from any government agency, local or national, including government-owned or controlled corporations and government financing institutions, other allowances, emoluments and fringe benefits over and above their legally set salaries and allowances as COA employees."

He then asserts that petitioners are no longer entitled to the extra allowances and benefits which they used to receive prior to the effectivity of R.A. No. 6758 for: (a) they are not entitled as a matter of right to the additional emoluments they have been receiving from the agencies to which they are assigned -- such were gratuitously given by the latter; (b) the extra emoluments from GOCCs have no legal basis; (c) the additional allowances created a salary distortion; (d) the additional allowances do not promote auditing integrity and independence; (e) GOCCs no longer pay extra emoluments and have been prohibited from doing so; and (f) COA personnel assigned to GOCCs are subject to periodic reshuffling or reassignment pursuant to Sections 20 (4) and 22 (1) of P.D. No. 1445, hence they do not acquire a vested right to the additional compensation or fringe benefits being paid by GOCCs as the receiving of such would cease upon their reassignment.

We required the petitioners to file a Reply to the Comment, [16] which they complied with on 28 June 1990. [17] On 10 July 1990, this Court gave due course [18] to the petition and required both parties to simultaneously file their respective Memoranda, which they complied with.

To Our mind, the respondent presents the proper issue and a careful scrutiny of the arguments adduced by the parties would lead Us to no other conclusion but to sustain the respondent and dismiss the petition for want of merit.

The two (2) main issues formulated by petitioners are clearly based on erroneous premises or assumptions. Petitioners assume that their gross compensation includes the extra emoluments given by the GOCCs to which they are assigned, that Sections 12 and 17 of the Act grant them vested rights to such extra emoluments and that they were directly paid by the COA out of its appropriations and contributions.

There can be no question that Section 18 of Republic Act No. 6758 is designed to strengthen further the policy, earlier mandated by the Government Auditing Code of the Philippines and then by Executive Order No. 19 (as amended by Executive Order No. 271), to preserve the independence and integrity of the COA, by explicitly PROHIBITING: (1) COA officials and employees from receiving salaries, honoraria, bonuses, allowances or other emoluments from any government entity, local government unit, GOCCs and government financial institutions, except such compensation paid directly by the COA out of its appropriations and contributions, and (2) government entities, including GOCCs, government financial institutions and local government units from assessing or billing other government entities, GOCCs, government financial institutions or local government units for services rendered by the latter's officials and employees as part of their regular functions for purposes of

paying additional compensation to said officials and employees. While the cited section uses the word "prohibited," Section 22 of P.D. No. 1445 does not. No one may successfully argue against the proposition that a total removal of the temptation and enticement the extra emoluments provide would be one effective way to vigorously and aggressively enforce the Constitutional provision mandating the COA to prevent or disallow irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of government funds and properties.[19] The COA personnel assigned to the GOCCs who have absolutely nothing to look forward to or expect from the latter in terms of extra benefits would have no reason to accord special treatment to the GOCCs by closing their eyes to irregular or unlawful expenditures or use of funds or property, or conducting perfunctory audit. The law realizes that such extra benefits could diminish the personnel's seriousness and dedication in the pursuit of their assigned tasks, affect their impartiality and provide a continuing temptation to ingratiate themselves to the GOCCs or government financial institutions concerned. In the end then, they would become ineffective auditors.

Upon the other hand, as correctly contended by the respondent, Memorandum Order No. 177 rationalizing the compensation structure in GOCCs and government financial institutions, issued by the President on 31 May 1988, limits the grant of extra allowances and fringe benefits to their officials and employees. Section 2 thereof reads:

"SECTION 2. Allowances of incumbents. Incumbents of positions in corporate entities covered by the Memorandum Order who are presently receiving additional monthly compensation/fringe benefits and other emoluments which were continuously enjoyed for a period of at least 12 months prior to the effectivity of this Order, including those authorized solely by their governing boards effected on or before December 31, 1987, the aggregate of which exceeds the standardized rates prescribed pursuant to existing laws, rules and regulations and ministered by the Department of Budget and Management, shall continue to receive such excess allowances, which shall be referred to as 'transition allowance.' The 'transition allowance' shall be correspondingly reduced by the amount of any salary increase or salary adjustment that the incumbent shall receive in the future.

The additional compensation, fringe benefits and other emoluments which may be considered as 'transition allowance' under this Memorandum Order shall be limited to those which are of common or general application to all the personnel of the entities covered under Section 1 hereof."

The Corporate Budget Circular No. 15 issued by the Secretary of the Department of Budget and Management on 5 July 1988, to implement the aforesaid Memorandum Order, pertinently provides for the coverage and exemption thereof, thus:

"2.0. COVERAGE AND EXEMPTION.

2.1. The provisions of MO No. 177, series of 1988, shall apply only to officials and employees of profit-making and financially viable government-owned or controlled corporations and financial institutions which are not receiving subsidies for any operating expenses from the National Government.

2.2. Members of the governing boards of any government-owned or controlled corporation and financial institution, detailed personnel from other government agencies/corporations including personnel of the Commission on Audit (COA) and Civil Service Commission (CSC) are not covered by the provisions of said Order." (underscoring supplied).

Then, too, among the laws specifically repealed by R.A. No. 6758[20] is the proviso under Section 2 of P.D. No. 985, which reads:

"x x x Provided, that notwithstanding a standardized salary system established for all employees, additional financial incentives may be established by government corporations and financial institutions for their employees to be supported fully from their corporate funds and for such technical positions as may be

approved by the President in critical government agencies."

The foregoing legislative and executive pronouncements unerringly reveal a two-pronged strategy to preserve and enhance the independence and integrity of the COA and make its personnel loyal to none other except that institution and beholden to nobody but the people whose coffers they must guard with dedication and responsibility.

The first aspect of the strategy is directed to the COA itself, while the second aspect is addressed directly against the GOCCs and government financial institutions. Under the first, COA personnel assigned to auditing units of GOCCs or government financial institutions can receive only such salaries, allowances or fringe benefits paid directly by the COA out of its appropriations and contributions. The contributions referred to are the cost of audit services earlier mentioned which cannot include the extra emoluments or benefits now claimed by petitioners. The COA is further barred from assessing or billing GOCCs and government financial institutions for services rendered by its personnel as part of their regular audit functions for purposes of paying additional compensation to such personnel. Under the second, GOCCs and government financial institutions can no longer rely on Section 2 of P.D. No. 985; moreover, fringe benefits and other emoluments in excess of the standardized rates, which may be continued to be received in the concept of "transition allowance" under Memorandum Order No. 177, in relation to Corporate Budget Circular No. 15 (15 July 1988), apply only to the officials and employees of profit-making and financially viable GOCCs and government financial institutions.

The strategy also promotes and is consistent with the policy behind R.A. No. 6758, which Section 2 thereof announces:

"SECTION 2. Statement of Policy. - It is hereby declared the policy of the State to provide equal pay for substantially equal work and to base differences in pay upon substantive differences in duties and responsibilities, and qualification requirements of the positions. In determining rates of pay, due regard shall be given to, among others, prevailing rates in the private sector for comparable work. For this purpose, the Department of Budget and Management (DBM) is hereby directed to establish and administer a unified Compensation and Position Classification System, hereinafter referred to as the System, as provided for in Presidential Decree No. 985, as amended, that shall be applied for all government entities, as mandated by the Constitution."

It goes without saying then that the PNB and the CB cannot legally and validly continue to grant Tejada and Ching, respectively, the extra emoluments in question because these could only be given to its officials, employees or organic personnel, subject to Memorandum Order No. 177 and Corporate Budget Circular No. 15. Otherwise stated, Tejada and Ching cannot legally and validly receive such extra benefits from the PNB and the CB, respectively, because not only are they not organic personnel thereof, but also because of the express prohibition of Section 18 of R.A. No. 6758.

Petitioners' contention that Sections 12 and 17 of R.A. No. 6758 authorize their continued receipt of the extra allowances from the GOCCs to which they are assigned are patently untenable. These sections read in full as follows:

"SEC. 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.

x x x

SEC. 17. Salaries of Incumbents. - Incumbents of positions presently receiving salaries and additional compensation/fringe benefits including those absorbed from local government units and other emoluments, the aggregate of which exceeds the standardized salary rate as herein prescribed, shall continue to receive such excess compensation, which shall be referred to as transition allowance. The transition allowance shall be reduced by the amount of salary adjustment that the incumbent shall receive in the future.

The transition allowance referred to herein shall be treated as part of the basic salary for purposes of computing retirement pay, year-end bonus and other similar benefits.

As basis for computation of the first across-the-board salary adjustment of incumbents with transition allowance, no incumbent who is receiving compensation exceeding the standardized salary rate at the time of the effectivity of this Act, shall be assigned a salary lower than ninety percent (90%) of his present compensation or the standardized salary rate, whichever is higher. Subsequent increases shall be based on the resultant adjusted salary."

Section 12 refers to the regular allowances and compensation which an instrumentality, entity or agency of the government grants to its organic personnel. In the case of COA personnel, such allowances and compensation cannot include allowances, fringe benefits or extra emoluments, such as those claimed by petitioners, which are granted by GOCCs or government financial institutions because Section 18 of the Act itself bans the COA personnel from receiving them even as it also prohibits GOCCs and government financial institutions from granting such benefits to personnel of other government instrumentalities, entities or agencies assigned to them to perform the regular functions of their mother units. There is no indication at all that R.A. No. 6758 has jettisoned the first aspect of the policy. On the contrary, it has strengthened it. It would have been absurd and illogical for the law to impose the prohibition and at the same time mandate its integration in the standardized salary rates of the personnel of the COA. In the second place, the Secretary of the DBM, Hon. Guillermo Carague, has certified that "other than those authorized/mandated by law, the allowances, fringe benefits and other emoluments that were directly received by COA personnel from the various government owned and controlled corporations, including government financial institutions, to which they are assigned, were not provided under the regular appropriations of the Commission in the General Appropriations Act of 1989 and 1990." [21] They were not so provided because, as discussed above, there was no legal basis therefor.

Were this Court to accept petitioner's theory, it would ingraft into the law that which the Legislature never intended and interpret the law in a manner that defeats or negates its purpose. Worse, it would compel the PNB and the CB to continue granting petitioners Tejada and Ching, respectively, the subject extra emoluments thus writing into the law an exception for the benefit of COA personnel. This would be judicial legislation, which We are not prepared to experiment on. The questioned law is clear enough. Frankly, its interpretation is not even called for.

Neither may petitioners seek refuge or consolation under Section 17. Again, the additional compensation or fringe benefits and other emoluments referred to therein are those granted by the mother or parent unit to the incumbents thereof, i.e., the organic personnel, which include benefits absorbed from local government units. As correctly observed by respondent, the law does not mention benefits absorbed from GOCCs or government financial institutions. This is so because no such benefit was intended to be absorbed. On the contrary, GOCCs and government financial institutions were prohibited from granting them to non-organic personnel.

Petitioners, nevertheless, posit the view that since, in respect to GOCCs and government financial institutions, the law does not seem to make a distinction between an incumbent therein who is an organic personnel thereof and an incumbent who is a COA personnel assigned to their auditing units, petitioners must, for purposes of Section 17, be considered "incumbents" of the PNB and the CB. They appeal to the rule on statutory construction that where the law does not make any distinction, no distinction should be made. A distinction is not in order for the meaning of incumbent is not doubtful nor susceptible of more than one interpretation. An incumbent is a person who is in present possession of an office; one who is legally authorized to discharge the duties of an office.[22] An office is a public charge or employment, an employment on behalf of the government in any station or public trust, not merely transient, occasional or incidental.[23] An incumbent then can only refer to the holder of an office either by appointment or by election. Insofar as petitioners are concerned, they are incumbents of the position to which they have been appointed -- senior clerks of the COA -- and not of the PNB or the CB to which they are merely temporarily assigned.

The foregoing disquisition renders unnecessary further discussion on the other points raised by respondent.

WHEREFORE, for lack of merit, the petition is DISMISSED with costs against petitioners.

IT IS SO ORDERED.

Narvasa, C.J., Melencio-Herrera, Paras, Feliciano, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, and Romero, JJ., concur.

Cruz, J., joins J. Gutierrez, Jr., in his concurring and dissenting opinion.

Nocon, J., no part.

[1] Rollo, 2.

[2] Rollo, 20.

[3] P.D. No. 1445, pars. 2 and 3, Section 22.

[4] Id., par. 1, Section 24.

[5] Id., par. 2, Id.

[6] TANTUICO, JR., F.S., State Audit Code Philippines, 1982 ed., 185-186.

[7] Amended later by Executive Order No. 271, promulgated on 25 July 1987.

[8] Third paragraph of Section 27, GAA of 1987 (Executive Order No. 87); Section 24, GAA of 1988 (R.A. No. 6642); Section 25, GAA of 1989 (R.A. No. 6688); Section 31, GAA of 1990 (R.A. No. 6831); and Section 33, GAA of 1991 (R.A. No. 7078).

[9] Rollo, 20-21.

[10] Id., 22-28.

[11] Id., 29-30.

[12] Id., 2.

[13] Rollo, 10-11.

[14] Id., 31.

[15] *Id.*, 41.

[16] *Rollo*, 31.

[17] *Id.*, 34.

[18] *Id.*, 48.

[19] Section 2 (2), Article IX-D, 1987 Constitution.

[20] Section 16 reads:

"Repeal of Special Salary Laws and Regulations. All laws, decrees, executive orders, corporate charters, and other issuances or parts thereof, that exempt agencies from the coverage of the System, or that authorize and fix position classification, salaries, pay rates or allowances of specified positions, or groups of officials and employees or of agencies which are inconsistent with the System, including the proviso under Section 2 and Section 16 of Presidential Decree No. 985 are hereby repealed."

[21] Letter of Secretary Carague dated 24 August 1990, marked as Annex "B" of respondent's Memorandum, 121.

[22] *Black's Law Dictionary*, Fifth ed., 691.

[23] *Id.*, 976.

CONCURRING AND DISSENTING OPINION

GUTIERREZ, JR., J.:

I agree with the laudable objectives of Rep. Act No. 6758 but I believe that it must be implemented in a more reasonable, humane, and realistic manner.

The petitioner's problems are symptomatic of the improvident and uncalculating approach of Government to the compensation and money problems of its own employees. Judges are ordered to stop receiving the allowances given to them for decades by local governments. And yet, no provisions are made in the budget to enable the Supreme Court to replace these allowances with equivalent amounts and to provide them with the supplies, telephone, electricity and maintenance services, and accommodations which have been furnished by local governments since the turn of the century. Public school teachers are given increased salaries by the national government but, at the same time, the "city share" which the local governments used to pay is withdrawn. The salary increases are thus meaningless inspite of so much publicity and fanfare given to them.

The two petitioners in this case are clerks. When a clerk joins the government service, he does so on the basis of the total compensation package regularly given for a fairly long period to occupants of that position. Unlike the chief or assistant chief auditor, he does not expect to be shifted from agency to agency. In theory a clerk joins the COA as a national office but in actuality he joins the COA Supreme Court, COA Philippine National Bank, COA Bureau of Prisons, etc. To suddenly reduce the take home pay which has been received for many years is cruel and unnecessary.

If standardization of incomes of all clerks in all government offices is to be effected no matter how different the workloads, the confidentiality or sensitivity of functions, the complexity and magnitude of assignments, and the amounts of funds and properties being checked by the office, some kind of transition arrangement to equal the lost income must be provided by the Commission itself, at the very least.

It is easy to mount arguments in defense of implementing rules intended to make certain offices more independent and, supposedly, more effective. But the arguments become rhetorical, quixotic, and illusive if they do not take into account the hardships and sacrifices which affected personnel, especially rank and file workers, are compelled to suffer.

I, therefore, regret that I cannot concur with the majority opinion in its entirety until a more humane and practical mode of implementation is devised.

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