

BAYBAY WATER DISTRICT, REPRESENTED BY ERNESTO D. FERNANDEZ, GENERAL MANAGER; ERLINDA MENDEZ, SAMUEL O. CANETE, NILO RAMADA, DOMINGO COTIAMCO, BWD BOARD OF DIRECTORS, AND OTHER S...

G.R. Nos. 147248-49. January 23, 2002

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a special civil action for certiorari under Rule 64 of the 1997 Revised Rules of Court for annulment of the decision, dated September 21, 2000, of the Commission on Audit[1] and its resolution, dated January 30, 2001, affirming the disallowance by the Director, COA Regional Office No. VIII, of the payment of various benefits to members of the board of directors and officers of petitioner Baybay Water District (BWD) in Baybay, Leyte.

The facts are as follows:

In 1996, the Resident Auditor of the BWD conducted an audit of its 1994 accounts. In the course of the audit, the auditor disallowed payments of per diems in excess of those authorized by the Local Water Utilities Administration (LWUA) and P. D. No. 198, RATA (representation and transportation allowance) and rice allowances granted to the members of the board of directors of the BWD, as well as duplication of claims for cash gifts as part of the Christmas bonus of the general manager and traveling allowance of the officers of the BWD. The members of the board, namely, petitioners Domingo V. Cotiamco, Apolonio G. Medina, Nilo T. Ramada, Virginia P. Espinosa, Ernesto L. Gorre, Antonio R. C. Palencia, Love Joy A. Fernandez, and Frank Bula, Administrative Division Chief Erlinda A. Mendez, and then General Manager Francis H. P. Militante, the officers who had approved the release of these benefits, were served with notices of disallowance. Ma. Josette B. Astorga, to whom rice allowances had been given, and the other petitioners in this case were also served with similar notices.

On May 30, 1997, petitioners asked for a reconsideration, but the Resident Auditor denied their request on the ground that the disallowance had become final and executory. Instead, she advised them to make their appeal to the Commission on Audit. The BWD at first appealed to the COA Regional Office No. VIII at Tacloban City, which affirmed the findings of the Resident Auditor of Baybay, Leyte, and then to the Commission on Audit. On September 21, 2000, the Commission rendered a decision, the dispositive portion of which reads:

WHEREFORE, premises considered, it is regretted that the instant appeal cannot be given due course for lack of merit. Accordingly, the decision of the Director COA Regional Office No. VIII is hereby affirmed and the following persons cited in the various Notices of Disallowances, namely:

Erlinda A. Mendez, for approving the questioned payment and at the same time being payee;

Francis H. P. Militante

- do -

Domingo V. Cotiamco

as payee

Apolonio G. Medina

- do -

Nilo T. Ramada

- do -

Virginia P. Espinosa

- do -

Ernesto L. Gorre

- do -

Antonio R. C. Palencia

- do -

Ma. Josette B. Astorga

- do -

Love Joy A. Fernandez

- do -

Frank Bula

- do -

are held liable.[2]

Petitioners filed a motion for reconsideration. As their motion was denied by the Commission on January 30, 2001, they filed the present petition, alleging that the Commission erred in:

- NOT HOLDING THAT THE GRANT OF THE SUBJECT BENEFITS TO THE DIRECTORS, OFFICERS AND EMPLOYEES OF BWD, HAS LEGAL BASIS, AND IS GUARANTEED BY THE CONSTITUTION.
- HOLDING THAT PETITIONERS ARE NOT ENTITLED TO RECEIVE OTHER BENEFITS PURSUANT TO SECTION 13 OF PD 198, AS AMENDED.
- NOT HOLDING THAT SECTION 13 OF P. D. 198, AS AMENDED, WAS ALREADY REPEALED AND/OR SUPERSEDED BY REPUBLIC ACT 6758, OTHERWISE KNOWN AS THE SALARY STANDARDIZATION LAW, WHICH TOOK EFFECT IN JULY, 1989.
- HOLDING THAT THE CONTINUED DISALLOWANCE OF THESE BENEFITS WOULD NOT VIOLATE THE POLICY OR RULE ON NON-DIMINUTION OF BENEFITS AND THE EQUITY RULE.
- NOT HOLDING THAT THE BENEFITS GRANTED TO BWD OFFICERS AND EMPLOYEES IS A MANAGEMENT PREROGATIVE WHICH ACT OR PRIVILEGE SHOULD ENJOY THE PRESUMPTION OF LEGALITY UNTIL OTHERWISE DECLARED BY THE COURTS AND THAT THE GRANT OF THESE BENEFITS NOT ONLY APPLIES TO THE PERMANENT EMPLOYEES BUT ALSO TO THE OFFICERS AND MEMBERS OF THE BOARD OF BWD.[3]

The issues raised in this case are as follows: (1) whether members of the board of directors of water districts are entitled to receive benefits in addition to those authorized to be paid pursuant to their charter and the guidelines of the LWUA after the effectivity of R. A. No. 6758; (2) whether the disallowance of duplication of claims of transportation allowance of various BWD employees, as well as the grant of RATA, rice allowance, and excessive per diems to members of the board of directors of BWD, would impair vested rights, violate any rule against diminution of benefits, and undermine the management prerogative of water districts; and (3) whether the BWD officers and employees are entitled to receive benefits in excess of that authorized by law.

For the reasons hereafter given, we hold that petitioners are not entitled to receive benefits and allowances in excess of those allowed by P.D. No. 198, the guidelines of the LWUA, and other applicable laws.

First. As far as the directors of the BWD are concerned, P. D. No. 198, §13, as amended by P. D. No. 768 and P. D. No. 1479, reads:

Compensation. — Each director shall receive a per diem, to be determined by the board, for each meeting of the board actually attended by him, but no director shall receive per diems in any given month in excess of the equivalent of the total per diems of four meetings in any given month. No director shall receive other compensation for services to the district.

Any per diem in excess of P50 shall be subject to approval of the Administration. (emphasis added)

Petitioners argue that the term “compensation” in the above provision does not include the allowances and per diems which had been disallowed in this case. They cite P. D. No. 1146,[4] §2(i), as amended by R.A. No. 8291, which provides that “compensation” means “the basic pay or salary by an employee, pursuant to his employment/appointment, excluding per diems, bonuses, overtime pay, allowances and any other emoluments received in addition to the basic pay which are not integrated into the basic pay under existing laws.”

The contention is untenable. The statutory provision invoked refers to the basis for the computation of employer and employee contributions to the GSIS as well as the benefits to which such employees are entitled. In the same manner, under §32 of the National Internal Revenue Code, “compensation” includes fees, salaries, wages, commissions, and similar items for purposes of recognizing taxable income. The definitions of the term

“compensation” in these statutes are for limited purposes only and cannot be deemed to comprehend such other purposes not specifically included in the provisions thereof.

Petitioners, also invoke the rulings of this Court in *Kneebone v. NLRC*,^[5] *Vengco v. Trajano*,^[6] and *Philippine Duplicators, Inc. v. NLRC*,^[7] to support their contention that the prohibition against the payment of compensation other than per diems does not include the payment of allowances and other benefits.

These cases do not apply to this case. They refer to the exclusion made by this Court of allowances and other benefits from the salaries of employees in the private sector, not to the compensation of members of the board of directors of water districts, whose rights to compensation, as already stated, are governed by P. D. No. 198. Under §13 of this Decree, per diem is precisely intended to be the compensation of members of board of directors of water districts. Indeed, words and phrases in a statute must be given their natural, ordinary, and commonly-accepted meaning,^[8] due regard being given to the context in which the words and phrases are used.^[9] By specifying the compensation which a director is entitled to receive and by limiting the amount he/she is allowed to receive in a month, and, in the same paragraph, providing “No director shall receive other compensation” than the amount provided for per diems, the law quite clearly indicates that directors of water districts are authorized to receive only the per diem authorized by law and no other compensation or allowance in whatever form.

Second. Petitioners contend that the prohibition in P.D. No. 198, §13 against the grant of additional compensation to board members must be deemed repealed by virtue of §22^[10] of R. A. No. 6758, otherwise known as the Salary Standardization Law, which took effect on July 1, 1989. They contend that §13 of P.D. No. 198 is inconsistent with the following provisions of the Salary Standardization Law:

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.

....

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.

We do not agree. R. A. No. 6758, §4 specifically provides that the Salary Standardization Law applies to “positions, appointive or elective, on full or part-time basis, now existing or hereafter created in the government, including government-owned or controlled corporations and government financial institutions.” These positions, with their corresponding functions, are described as follows:

Sec. 5. Position Classification System. – The Position Classification System shall consist of classes of positions grouped into four main categories, namely: professional supervisory, professional non-supervisory, sub-professional supervisory, and sub-professional non-supervisory, and the rules and regulations for its implementation.

Categorization of these classes of positions shall be guided by the following considerations:

(a) Professional Supervisory Category. – This category includes responsible positions of a managerial character involving the exercise of management functions such as planning, organizing, directing, coordinating, controlling and overseeing within delegated authority the activities of an organization, a unit thereof or of a group, requiring some degree of professional, technical or scientific knowledge and experience, application of managerial or supervisory skills required to carry out their basic duties and responsibilities involving functional guidance and control, leadership, as well as line supervision. These positions require intensive and thorough knowledge of a specialized field usually acquired from completion of a bachelor's degree or higher degree courses.

The positions in this category are assigned Salary Grade 9 to Salary Grade 33.

(b) Professional Non-Supervisory Category. – This category includes positions performing tasks which usually require the exercise of a particular profession or application of knowledge acquired through formal training in a particular field or just the exercise of a natural, creative and artistic ability or talent in literature, drama, music and other branches of arts and letters. Also included are positions involved in research and application of professional knowledge and methods to a variety of technological, economic, social, industrial and governmental functions; the performance of technical tasks auxiliary to scientific research and development; and in the performance of religious, educational, legal, artistic or literary functions. These positions require thorough knowledge in the field of arts and sciences or learning acquired through completion of at least four (4) years of college studies.

The positions in this category are assigned Salary Grade 8 to Salary Grade 30.

(c) Sub-Professional Supervisory Category. – This category includes positions performing supervisory functions over a group of employees engaged in responsible work along technical, manual or clerical lines of work which are short of professional work, requiring training and moderate experience or lower training but considerable experience and knowledge of a limited subject matter or skills in arts, crafts or trades.

These positions require knowledge acquired from secondary or vocational education or completion of up to two (2) years of college education.

The positions in this category are assigned Salary Grade 4 to Salary Grade 18.

(d) Sub-Professional Non-Supervisory Category. – This category includes positions involved in structured work in support of office or fiscal operations or those engaged in crafts, trades or manual work. These positions usually require skills acquired through training and experience or completion of elementary education, secondary or vocational education or completion of up to two (2) years of college education.

The positions in this category are assigned Salary Grade 1 to Salary Grade 10.

It is obvious that the Salary Standardization Law does not apply to petitioners because directors of water districts are in fact limited to policy-making and are prohibited from the management of the districts. P.D. No. 198, §18 described the functions of members of boards of directors of water districts as follows:

Sec. 18. Functions Limited to Policy-Making. — The function of the board shall be to establish policy. The Board shall not engage in the detailed management of the district.

Furthermore, the fact that §§12 and 17 of the Salary Standardization Law speak of allowances as “benefits” paid in addition to the salaries incumbents are presently receiving makes it clear that the law does not refer to the compensation of board of directors of water districts as these directors do not receive salaries but per diems for their compensation.

It is noteworthy that even the Local Water Utilities Administration (LWUA), in Resolution No. 313, s. 1995, entitled “Policy Guidelines on Compensation and Other Benefits to WD Board of Directors,” on which petitioners

rely for authority to grant themselves additional benefits, acknowledges that directors of water districts are not organic personnel and, as such, are deemed excluded from the coverage of the Salary Standardization Law. Memorandum Circular No. 94-002 of the DBM-CSC-LWUA-PAWD Oversight Committee states in pertinent part:

As the WD Board of Directors' function is limited to policy-making under Sec. 18 of Presidential Decree 198, as amended, it is the position of the Oversight Committee that said WD Directors are not to be treated as organic personnel, and as such are deemed excluded from the coverage of RA 6758, and that their powers, rights and privileges are governed by the pertinent provisions of PD 198, as amended, not by RA 6758 or Executive Order No. 164, s. 1994.

There is, therefore, no basis for petitioners' contention that the provisions of P.D. No. 198 on the compensation of members of the board of directors of water districts are inconsistent with the provisions of the Salary Standardization Law.

Third. Petitioners contend that even before this Court declared in *Davao City Water District v. Civil Service Commission*[11] that water districts are government-owned and controlled corporations subject to the jurisdiction of the COA, water districts had already been granting additional benefits to members of the board of directors, with the approval of the Local Water Utilities Administration (LWUA), and to their officers and employees and that they continued doing so after the promulgation of the decision in that case. Petitioners contend they have thus acquired a vested right to these benefits of which they cannot now be deprived without violating their property rights and the rule on non-diminution of benefits.

This contention too has no merit. The erroneous application and enforcement of the law by public officers does not estop the Government from making a subsequent correction of such errors.[12] More specifically, where there is an express provision of law prohibiting the grant of certain benefits, the law must be enforced even if it prejudices certain parties due to an error committed by public officials in granting the benefit.[13] As already stated, P.D. No. 198 expressly prohibits the grant of compensation other than the payment of per diems, as determined by the LWUA pursuant to P. D. No. 198, to directors of water districts. Practice, without more, no matter how long continued, cannot give rise to any vested right if it is contrary to law.[14]

The same rule applies to the officers and employees of the BWD. R.A. No. 6686, which then applied, provides that all government personnel are entitled to a Christmas bonus of one (1) month basic salary and additional cash gift of P1,000.00.[15] The cash gift granted to Francis H. P. Militante, BWD Manager, for the year 1994 amounted to P1,500.00. The Resident Auditor, therefore, properly disallowed the P500.00 thereof as this amount was in excess of that authorized by law. On the other hand, findings regarding the duplication of claims for the transportation allowance granted to various employees of the BWD are findings of fact by the Resident Auditor. The question is whether such claims were properly accounted for and not whether this disallowance will impair vested rights. It is well-settled that findings of fact of quasi-judicial agencies, such as the COA, are generally accorded respect and even finality by this Court, if supported by substantial evidence, in recognition of their expertise on the specific matters under their jurisdiction.[16] In the present case, the findings of the Resident Auditor were not only supported by the evidence, but they remained un rebutted by petitioners who simply relied on claims based on impairment of vested rights and diminution of benefits.

Petitioners' reliance on *De Jesus v. Commission on Audit*,[17] *Philippine Ports Authority v. Commission on Audit*,[18] and *Manila International Airport Authority v. Commission on Audit*[19] is likewise erroneous. In *De Jesus*, it was held that the circular issued by the Department of Budget and Management to implement the Salary Standardization Law, which discontinued the payment of allowances and fringe benefits previously granted on top of basic salary, was ineffective for lack of publication in the Official Gazette or in a newspaper of general

circulation, as required by law. On the other hand, in Philippine Ports Authority and Manila International Airport Authority, the issue resolved was the right of employees to receive RATA over and above the standardized salary after the effectivity of R. A. No. 6758. These cases are not in point as the issues in the present case are, to repeat, (1) whether members of the board of directors of water districts are entitled to receive even after the effectivity of the Salary Standardization Law benefits other than their authorized per diems, contrary to the provisions of their charter and the resolution of the LWUA; (2) whether the disallowance of duplication of claims of transportation allowance to BWD employees, as well as the grant of RATA, rice allowance, and excessive per diems to members of the board of directors of BWD, would impair vested rights and violate any rule against diminution of benefits and undermine the management prerogative of the BWD; and (3) whether the BWD officers and employees are entitled to receive benefits in excess of that authorized by law.

Fourth. Petitioners invoke management prerogative to justify the grant of allowances and other benefits to both the board of directors of BWD and its officers and employees.

With respect to the board of directors, there is no basis for such contention. To begin with, management prerogative refers to the right of an employer to regulate all aspects of employment, such as the freedom to prescribe work assignments, working methods, processes to be followed, regulation regarding transfer of employees, supervision of their work, lay-off and discipline, and dismissal and recall of work.[20] Clearly, the existence of such right presupposes the existence of an employer-employee relationship. In the present case, the BWD board of directors are not employees of BWD. As already noted, their function, as defined by P. D. No. 198, is limited to policy-making,[21] implying that their relationship to the water district is more fiduciary than that of employer-employee. Moreover, as also noted before, the right of directors of water districts to the payment of compensation is expressly provided for in P.D. No. 198, thus pre-empting the exercise of any discretion by the water districts.

With respect to the officers and employees of BWD, it has been held that the terms and conditions of employment of government employees are governed by law.[22] Thus, the exercise of management prerogative by government corporations are limited by the provisions of the laws applicable to them. The cash gift granted to the general manager as part of his Christmas bonus was in excess of that authorized by R. A. No. 6686. It cannot be justified by the exercise of management prerogative as it is contrary to law.

Finally, the disallowance of the duplication of claims for transportation allowance does not fall under management prerogative as this does not pertain to the power of management to determine the terms and conditions of employment but pertains to whether or not the claims are properly accounted for.

Fifth. Petitioners finally cite the grant of similar benefits to the directors of the National Power Corporation (NAPOCOR) to support their claim that board of directors are entitled to receive allowances and other benefits in addition to per diems. The comparison drawn by petitioner between the BWD and NAPOCOR has no basis. The grant of other allowances to NAPOCOR board members in COA Decision No. 99-020 is based on the Revised NAPOCOR Charter (R. A. No. 6395, as amended by P. D. No. 1360), which states:

Sec. 6 The members of said Board shall receive a per diem of not to exceed Five Hundred Pesos for each regular or special meeting of the Board actually attended by them, and upon approval of the Secretary of Energy, shall receive such other allowances as the Board may prescribe, any provision of law to the contrary notwithstanding.

As the Commission pointed out in its decision COA Case No. 90-020:

The entitlement to per diems and other allowances by members of the board was originally derived from the revised NPC Charter. All allowances enjoyed by the board members were approved by the Ministry of Energy

to conform with the imposition of an additional condition under the NPC Charter that the receipt of the allowances other than per diems should carry the approval of the MOE.

The entitlement to these allowances cannot be removed by R.A. 6758 or any subsequent law, consistent with the policy of non-diminution of pay embodied under R. A. 6758 since these allowances were already being received and the board's right to these allowances was already established before the enactment of R. A. 6758.

Since the allowances were fixed at a time when the authority of the board to grant the same was still valid and effective, the allowances are also valid and should remain part of the compensation of the members of the board.

Unlike P.D. No. 198, §13, the Charter of NAPOCOR expressly granted members of its board of directors the right to receive allowances in addition to their per diems, subject only to the approval of the Secretary of Energy. Petitioners cannot thus claim similar treatment as the board of directors of NAPOCOR. The BWD board of directors' right to compensation, it bears emphasis, is limited to per diems.

WHEREFORE, the petition for certiorari is DENIED and the decision of the Commission on Audit, dated September 21, 2000, as well as its resolution, dated January 30, 2001, is AFFIRMED.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Kapunan, Panganiban, Quisumbing, Pardo, Buena, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and Carpio, JJ., concur.
Vitug, J., in the result.

[1] Per Chairman Celso D. Gangan and Commissioners Raul C. Flores and Emmanuel M. Dalman.

[2] Rollo, p. 26.

[3] Petition, p. 7; Rollo, p. 9.

[4] AMENDING, EXPANDING, INCREASING AND INTEGRATING THE SOCIAL SECURITY AND INSURANCE BENEFITS OF GOVERNMENT EMPLOYEES AND FACILITATING THE PAYMENT THEREOF UNDER COMMONWEALTH ACT NO. 167, AS AMENDED, AND FOR OTHER PURPOSES.

[5] 167 SCRA 99 (1988).

[6] 173 SCRA 155 (1989).

[7] 241 SCRA 380 (1995).

[8] Espino v. Cleofe, 52 SCRA 92 (1973).

[9] U. S. v. Estapia, 37 Phil. 17 (1917).

[10] Sec. 22. Repealing Clause.-All laws, decrees, orders, rules or regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

[11] 201 SCRA 593 (1991).

[12] E. Rodriguez, Inc. v. Collector of Internal Revenue, 28 SCRA 1119 (1969).

[13] Cebu Portland Cement Co. v. de Jesus, 7 SCRA 572 (1963).

[14] Grace Christian High School v. Court of Appeals, 281 SCRA 133 (1997).

[15] R.A. No. 6686, §1.

[16] Laysa v. Commission on Audit, G. R. No. 128134, October 18, 2000.

[17] 294 SCRA 152 (1998).

[18] 214 SCRA 653 (1992).

[19] 238 SCRA 714 (1994).

[20] Tierra International Construction Corp. v. NLRC, 256 SCRA 36 (1996).

[21] P. D. 198, §18.

[22] Alliance of Government Workers (AGW) v. The Minister of Labor, 209 Phil. 1 (1983).

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