EN BANC

[G.R. No. 272465. January 21, 2026]

CONCORDIA S. PAGKALIWANGAN, ALEX B. BALDE, AND OTHER OFFICERS AND EMPLOYEES OF THE CIVIL AVIATION AUTHORITY OF THE PHILIPPINES (CAAP), REPRESENTED HEREIN BY CAPTAIN MANUEL ANTONIO L. TAMAYO, PETITIONERS, VS. COMMISSION ON AUDIT AND LEILA S. PARAS (IN HER CAPACITY AS DIRECTOR IV, CLUSTER IV, CORPORATE GOVERNMENT SECTOR), RESPONDENTS.

D E C I S I O N

INTING, J.:

Before the Court is a Petition for *Certiorari*[1] under Rule 64 in relation to Rule 65 of the Rules of Court filed by petitioners who are the officers and employees of the Civil Aviation Authority of the Philippines (CAAP) assailing Decision No. 2022-401[2] dated January 28, 2022, and Resolution No. 2024-027[3] dated October 26, 2023, of the Commission on Audit (COA). In the assailed issuances, COA affirmed Notice of Disallowance (ND) No. 13-002 (2011)[4] dated March 18, 2013, which disallowed the payment of Flying Risk Pay (FRP) to CAAP officials and personnel for the year 2011 in the total amount of PHP 323,579.50.

The Antecedents

The FRP payments subject of the present case are additional amounts granted to selected CAAP officials and personnel who take flights to international and/or domestic destinations in connection with their official CAAP functions. These are granted at the discretion of the Administrator—CAAP's chief of office[5]—as authorized under Section 30 of Republic Act No. 776, otherwise known as the "Civil Aeronautics Act of the Philippines,"[6] viz.:

> SECTION 30. *Officials and employees*. – Upon recommendation of the Administrator, such officers, assistants and employees as may be necessary for the proper functioning of the Civil Aeronautics Administration shall be appointed by the Secretary of Commerce and Industry. The Administrator may assign within the limits of available funds officers, assistants, and other personnel for study and training abroad.

> All rated and/or licensed airmen *and such other authorized personnel* of the Civil Aeronautics Board and/or Civil Aeronautics Administration *who may be required to undertake or perform regular and frequent aerial flights in connection with their duties*, shall at the discretion of the head of the office receive an increase in compensation equivalent to fifty per centum of their respective base pay: Provided, however, That the total flying hours per month shall not be less than four hours.
>
> Whenever the Administrator shall require the personnel of the Civil Aeronautics Administration to work beyond the usual office hours, the employees concerned shall in all cases be entitled to receive, as additional compensation for the overtime work performed, at least twenty-five per centum of their regular salaries. (Emphasis supplied)

Sometime in 2004, the COA disallowed CAAP's FRP payments. However, in Decision No. 2009-125[7] dated November 18, 2009 (COA Decision No. 2009-125), the COA Proper lifted the disallowance. It underscored that entitlement to FRP is not limited to "rated and/or licensed airmen,"[8] but shall also extend to "such other authorized [CAAP] personnel."[9]

The payments questioned in the instant case were granted on January 17, 2011, through Board Resolution No. 2011-007,[10] Series of 2011. This authorized the CAAP Director General (DG) to grant FRP/flying pay to qualified personnel who have rendered at least four hours of flight per month at the rate of 50% of their basic monthly salary.[11]

Consequently, Col. Ramon S. Gutierrez, then DG of CAAP, issued Authority Order (AO) No. 320-11[12] dated November 2, 2011, granting the payment of FRP to the CAAP officials and personnel occupying different positions:[13]

> Considering the nature of their job, the Chief of Staff (Corporate Executive Officer V–SG 27) and the Head Executive Assistant (Corporate Executive Officer V–SG 26) shall be entitled to monthly flying pay with the minimum required hours of four (4) and six (6), respectively. Also, by virtue of their position and rank (Assistant Director General II–SG 27), the Chiefs of non-technical CAAP Security and Intelligence Service (CSIS), the Enforcement and Legal Service (ELS), and the Administrative and Finance Service, shall also be entitled to flying pay after completing the minimum six (6) hours requirement.
>
> Other personnel who are on official travel, except for training or participation in conference, symposium and the like, may be entitled to flying pay provided that the claims shall not exceed six (6) times a year and the following are complied with:
>
> a. Approval of the Director General of the request for the entitlement with a clear showing of the minimum numbers of flying time hours in

one calendar month;

b. Endorsement for the entitlement from the respective Service Head and certification on the availability of funds from the Finance Department;

c. Submission of Travel Order and Travel Report.[14]

In line with AO No. 320-11, the CAAP paid FRP to the following employees on account of their travel:

Name	Position	Purpose of Travel
Mr. Napoleon Garcia	Deputy DG for Administration/Office of the DG (ODG)	To attend the Global Airports Council International-International Civil Aviation International Organization Airport Management Professional Accreditation Program in Beijing, China[.]
Mr. Ramon S. Gutierrez	DG	To conduct airport and flight inspection of Laoag and Basco airports, Navaids/Visual-Aids facilities[.]
Mr. Jose Tapnio	CEO IV/ODG	a) To conduct airport and flight inspection of Laoag and Basco airports, Navaids/Visual-Aids facilities[;] b) Inspection of Davao airport[;] c) To attend meeting Re: Puerto Princesa Underground River[;] d) To verify cases against CAAP filed in Puerto Princesa[;] and e) To attend the 17th ASEAN Transport Minister Meeting/32nd Senior Transport Officials Meeting from December 11 to 17, 2011 in Phnom [Penh], Cambodia[.]
Atty. Rodrigo G. Artuz	CEO V/ODG	To attend the 13th Cooperative Development of Operational Safety and Continuing Airworthiness Program Steering Committee Meeting from November 29 to December 1, 2011 in [Yangon], Myanmar[.]
Mr. Abner Bondoc	Chief Financial Officer/ODG	a) To conduct inspection of Gender and Development Project in Kalibo and Legazpi airports, and Davao International airport[; b) To conduct ocular inspection on the effect of Typhoon Sendong in Cagayan de Oro[;] and c) To conduct oath taking ceremony for the newly appointed employees of Area Center V (Iloilo)[.]
Mr. Raul G. Glorioso	Acting Chief, Engineering Department/Aerodrome	a) To attend the 2nd SOCCSKSARGEN ADP Board Committee Meeting in General Santos

	Development and Management Service	City[;] b) To conduct ocular inspection and acceptance Management Service Siargao Airport and to conduct research on [L]ot No. 884-A and [Lot] No. 891-A owned by Antonio Y. Tandan at Surigao Airport[;] c) To conduct inspection of aircraft movement areas and other facilities at Cagayan De Oro airport[;] d) To confer with the Area Manager, Area Center V, on the proposed implementation of the increase of terminal fee at Caticlan airport[.] e) To conduct inspection and acceptance by DOTC-PMS at Maasin airport[;] f) To conduct joint inspection together with Airphil Express, in connection with their proposed commercial flight operation at Pagadian airport[;] g) To conduct research in connection with the issuance of Special Patent by the Department of Environmental and Natural Resources of the properties occupied by General Santos airport; and to assess the intention of Sagittarius Mines, Inc. to improve General Santos airport appearance through reforestation[; and] h) To conduct inspection and acceptance of project undertaken by DOTC-PMS at Antique airport[;]
Mr. Nepthali G. Velasco	Communication, Navigation and Surveillance (CNS) Systems Officer IV Aerodrome and Air Navigation Service Safety Oversight Office (AAANSOO)	a) To conduct safety inspection at SUMIFRU, Davao City[;] b) To conduct orientation briefing on Aerodrome Safety reporting at the Lepanto Aerodrome, Mankayan, Benguet[;] c) To conduct safety inspection at Steag State Power Heliport[; and] d) To conduct re-inspection at TADECO I & II Aerodrome, Davao[.]
Mr. Deogracios A. Pulmano Jr.	Supervising Air Traffic Controller (AANSOO)	a) To conduct final safety inspection at Dapco, Lunga-og Neda and Maragusan Aerodrome, Davao Del Norte[; and] b) To conduct aerodrome safety inspection at the BUGSUK AIRSTRIP, Balabac, Palawan[;]
Mr. B. Alex Balde	CNS Systems Officer IV (AANSOO)	a) To conduct re-inspection at TADECO I & II Aerodrome, Davao[;] b) To conduct safety inspection at Steag State Power Heliport

		c) To conduct follow up site inspection on Riotuba Aerodrome[;] d) To conduct safety inspection at SUMIFRU, Davao City[; and] e) To conduct orientation briefing on Aerodrome Safety Reporting at the Lepanto Aerodrome, Mankayan, Benguet[.][15]

On post-audit, the FRP payments to the above-enumerated CAAP officials and personnel, with a total amount of PHP 323,579.50, were tagged as irregular expenditures in ND No. 13-002 (2011) dated March 18, 2013, based on the following grounds:

1. The payment of FRP is not in accordance with Section 30 of Republic Act No. 776 and Section 315 of the Government Accounting and Auditing Manual (GAAM) Volume 1; and

2. The positions held by the recipients are not included in the Department of Budget and Management (DBM)-approved Corporate Operating Budget (COB) for 2011, which specified the positions allowed to be granted the FRP.[16]

The above-enumerated officials and personnel as *payees*, and the following persons, as *approving and/or certifying officers*, were determined to be liable for the disallowance:

Name	Position/Designation	Participation
Ramon S. Gutierrez	Director General	For approving the payment; For certifying that payment be charged to appropriation/allotment necessary, lawful, and under his/her direct supervision and its supporting documents are valid, proper, and legal; and For receiving the FRP[.]
Regino V. Hofileña	Acting Department Manager III	For approving the payment; For signing the checks; and For signing the Authority to Debit/Credit Account (ADA)[.]
Raul P. Eusebio	OIC - Accounting Division	For certifying that the supporting documents are complete, cash is available and subject to Authority to Debit Account (when applicable) [.]

Fe L. Evangelista	Acting Assistant Chief, Budget Section	For certifying that budget are available and obligated for the purpose as indicated[.]
Rosario V. Nalugon	OIC Budget Division	
Edgardo L. Costes	Assistant Director General II (ADMS)	For certifying that payment be charged to appropriation/allotment necessary, lawful, and under his/her direct supervision and its supporting documents are valid, proper, and legal
Inocencio T. Yncierto	Chief, AANSOO	
Jocelyn L. Ching	Acting Finance Department Manager	For signing the checks; and For signing the Authority to Debit/Credit Account (ADA)[.]
Elvira O. Sieja	Chief Checking Account Unit	For signing the checks; and For signing the Authority to Debit/Credit Account (ADA).
Concordia S. Pagkaliwangan	OIC, Administrative and Finance Service	For signing the Authority to Debit/Credit Account (ADA)[.][17]

On August 8, 2013, petitioners Concordia S. Pagkaliwangan, Jocelyn L. Ching, Fe L. Evangelista, Elvira O. Sieja, Regino V. Hofileña, Rosario V. Nalugon, Raul P. Eusebio, Edgardo L. Costes, Raul G. Glorioso, Alex B. Balde, Nephtali G. Velasco, and Deogracias A. Pulmano, Jr., (hereinafter collectively referred to as petitioners) appealed ND No. 13-002 (2011) before the COA-Corporate Government Sector (CGS) Cluster IV.[18]

The Ruling of the COA-CGS Cluster IV

In CGS-Cluster 4 Decision No. 2016-03[19] dated March 4, 2016, the COA-CGS Cluster IV denied the Appeal and affirmed the disallowance, to wit:

> In the present case, CAAP clearly committed excessive expenditures when they paid the flying pay as it was unreasonable to grant it on top of its personnel's salaries, *per diem* and other regular allowances when they go on official travels.
>
> WHEREFORE, foregoing premises considered, the instant Appeals are hereby DENIED. Accordingly, the solidary liability of the Appellants under the Notice of Disallowance (ND) No. 13-002 (2011) dated March 8, 2013 in the amount of [PHP] 323,579.50 is hereby AFFIRMED.[20]

The COA-CGS Cluster IV ruled that Section 30 of Republic Act No. 776 means that only those whose functions are *essentially related* to the performance of aerial flights are entitled to the FRP.[21] Thus, the AO granting FRP to CAAP personnel other than those whose functions are related to performance of aerial flight was issued beyond the ambit of Section 30 of Republic Act No. 776.[22]

Petitioners received the decision through the CAAP on March 10, 2016. Thereafter, petitioners Pagkaliwangan et al. and Balde et al. filed separate Petitions for Review on April 13, 2016, and April 11, 2016, respectively.

The Ruling of the COA Proper

On January 28, 2022, the COA issued the assailed Decision denying the Petition for Review and affirming ND No. 13-002 (2011).

The *fallo* of the Decision reads:

> WHEREFORE, the Petitions for Review of Ms. Concordia S. Pagkaliwangan et al. and Mr. Alex B. Balde et al., all of the Civil Aviation Authority of the Philippines (CAAP) are DENIED. Accordingly, Commission on Audit Corporate Government Sector-Cluster 4 Decision No. 2016-03 dated March 4, 2016 and Notice of Disallowance No. 13-002 (2011) dated March 18, 2013, on the payment of Hazard Pay/Flying Risk Pay to the CAAP officials and employees for the calendar year 2011, in the total amount of [PHP] 323,579.50, are AFFIRMED. The approving and certifying officers are solidarily liable for the total disallowance which shall be reduced by the refunds made by the payees who are liable to return the amounts they actually received.[23] (Emphasis omitted)

The COA Proper explained as follows:

First, the payment of the FRP contravenes Section 30 of Republic Act No. 776 and Section 315(c) of the GAAM Volume 1, both of which provide that FRP recipients must be those whose functions are related to aerial and flight missions. In this case, the COA Proper found that the FRP was granted to petitioners whose functions and responsibilities merely involve administrative and financial matters, which ordinary duties are not related to aircraft operations and aerial missions. The petitioners were granted FRP for having attended "conferences and seminars, airport inspections, public hearings, pre-bid conferences, and the like."[24]

Second, petitioners' reliance on COA Decision No. 2009-125 is misplaced. In that Decision, the payees were qualified to receive the FRP because their accumulated flight time was related to aircraft operations and flight missions, unlike the petitioners' accumulated flight time which was incurred on activities related to administrative and financial matters only.[25]

Third, the payees are liable to return the amounts they actually received, applying the principles of unjust enrichment and *solutio indebiti*.[26]

On March 20, 2023, petitioners seasonably filed their Motion for Reconsideration,[27] which the COA denied in COA Resolution No. 2024-027[28] dated October 26, 2023, for lack of merit.

Hence, petitioners filed the present action.

The Petitioners' Arguments

Petitioners maintain that the COA committed grave abuse of discretion amounting to lack or excess of jurisdiction when it affirmed ND No. 13-002 (2011). They allege that the flying pay under Section 30 of Republic Act No. 776 and the FRP under Section 315(c) of GAAM Volume 1 pertain to two completely different sets of recipients, such that the GAAM cannot be interpreted to limit the application of Republic Act No. 776.[29] Thus, "other authorized personnel of the Civil Aeronautics Board and/or Civil Aeronautics Administration who may be required to undertake or perform regular and frequent aerial flights in connection with their duties" may be granted flying pay at the discretion of the head of the office, *regardless* of whether their functions or responsibilities are related to aerial and flight missions.[30]

Moreover, petitioners argue the application of COA Decision No. 2009-125 to the present case.[31] In COA Decision No. 2009-125, flying pay were granted to lawyers and/or administrative personnel whose work are not directly related to aerial and flight missions, but were necessarily performed in relation to the strengthening of the operations of different Air Transportation Office (ATO) satellites. By analogy, the petitioners, although administrative personnel, reasoned that they are likewise entitled to flying pay in performing their functions in relation to strengthening the operations of the CAAP.[32]

Finally, citing the case of *Madera v. Commission on Audit*,[33] petitioners insist that the CAAP officials and personnel received the disallowed benefits in good faith, and should not be made liable to refund the same.[34]

To be sure, petitioners submit the foregoing allegations in support of its prayer for the issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction (WPI) to preserve the status *quo* until the merits of the case can be heard.

In the Resolution[35] dated April 3, 2024, the Court required respondent COA to file its comment on the Petition and prayer for TRO and/or WPI.

The Respondent COA's Arguments

In its Comment,[36] respondent COA, through the Office of the Solicitor General, contends that in both Section 30 of Republic Act No. 776 and Section 315(c) of the GAAM Volume 1, the grant of FRP is predicated on aerial and flight missions, which necessarily require the performance of *duties inherent in aircraft operations*.[37] Because the duties of petitioners herein are limited to administrative and financial matters, they are not entitled to FRP.[38]

The COA further contends that, contrary to petitioners' argument, the COA Decision No. 2009-125 is inapplicable in the instant case. COA maintains that the payees therein were given FRP because their duties were related to aircraft operations and flight missions, unlike petitioners who merely performed administrative and financial duties excluded from aircraft operations and/or aerial missions.[39]

In addition, respondent COA argues that petitioners cannot claim good faith to exempt them from the liability to refund the disallowed amounts they received.[40]

Finally, in response to petitioners' prayer for the issuance of TRO and/or WPI, respondent COA avers that petitioners failed to establish their clear and unmistakable right to the grant of FRP; neither did they substantiate the urgency or necessity of the issuance of the reliefs prayed for.[41]

Petitioners filed a Reply[42] on August 12, 2024, reiterating the same arguments laid down in their Petition.

The Issues

The central issue in this case is whether the COA Proper acted with grave abuse of discretion amounting to lack or excess of jurisdiction in affirming ND No. 13-002 (2011). The resolution of the issue turns upon the following questions:

1. Are the FRP payments in question sanctioned by Section 30 of Republic Act No. 776?

2. If the FRP payments in question are disallowed, are the certifying and approving officers, as well as the recipient-payees thereof liable to return the disallowed amount?

The Ruling of the Court

The Petition is without merit.

The COA Proper's disallowance of the FRP payments was proper for being contrary to the conditions set under Section 30 of Republic Act No. 776, Section 315(c) of the GAAM, and the DBM's approved COB for 2011.

The clear text of Section 30 of Republic Act No. 776 confines FRP to personnel whose

duties inherently involve aerial operations

The second paragraph of Section 30 of Republic Act No. 776 reads:

> *All rated and/or licensed airmen and such other authorized personnel of the Civil Aeronautics Board and/or Civil Aeronautics Administration who may be required to undertake or perform regular and frequent aerial flights in connection with their duties*, shall at the discretion of the head of the office receive an increase in compensation equivalent to fifty per centum of their respective base pay: *Provided, however,* That the total flying hours per month shall not be less than four hours. (Emphasis supplied)

Clearly, the law limits the FRP to the following group of persons:

1. all rated and/or licensed airmen; and
2. such other authorized personnel who may be required to undertake or perform regular and frequent aerial flights in connection with their duties.

Section 3(l) of the same law comprehensively and extensively defines an "airman" as follows:

> SECTION 3. *Words and phrases defined –*
>
> (l) "Airman" means any individual who engages, as the person in command or as pilot, mechanic, flight radio operator or member of the crew, in the navigation of aircraft while under way; and any individual who is directly in charge of inspection, maintenance, overhauling, or repair of aircraft, aircraft engine, propellers, or appliances; and any individual who serves in the capacity of aircraft dispatcher or air-traffic control operator.

Notably, the enumerated positions involve functions that are *inherently* connected to aircraft operation and navigation, none of which pertains to the CAAP officials and personnel who received the FRP payments in question.

Anent the second group, petitioners argue that any "authorized personnel of the Civil Aeronautics Board and/or Civil Aeronautics Administration" may be granted flying pay at the discretion of the head of the office, *irrespective* of whether their functions involve aerial and flight missions.[43] To bolster their position, petitioners invoke COA Decision No. 2009-125, where flying pay had been previously granted to lawyers and administrative personnel whose work did not directly relate to aerial and flight missions.

The Court is not persuaded.

To determine who constitute "such other authorized personnel" entitled to FRP under Section 30 of Republic Act No. 776, the critical statutory condition is that the personnel must be required to "undertake or perform regular and frequent aerial flights in connection with their duties." The law itself imposes a functional limitation, grounded

not on the designation by or discretion of the agency head, but on the *nature of the duties performed* and their connection to aerial operations.

Black's Law Dictionary defines the term "*undertake*" as "to take on an obligation or task"[44] or "to make oneself responsible for (a person, fact, or the like)."[45] In turn, to "*perform*" means "to carry out or bring about"[46] or "to make available or do in line of duty."[47] These definitions reinforce that the law expressly refers to *actual execution* of duties which, by their nature, necessitate "regular and frequent aerial flights." Had the legislative intent been to allow any personnel designated as "authorized" by the CAAP, *regardless* of function or responsibility, the Congress could have clearly and unequivocally so provided. The absence of such language precludes the expansive interpretation urged by the petitioners. *Verba legis non est recedendum*, or from the words of a statute there should be no departure.

Nevertheless, applying the maxim *noscitur a sociis*, any ambiguity in the phrase "such other authorized personnel" must be reviewed by reference to the preceding term "airmen." Where a particular word or phrase is ambiguous in itself or is equally susceptible of various meanings, its correct construction may be made clear and specific by considering the company of words in which it is founded or with which it is associated.[48] As used in Republic Act No. 776, "airmen" refers to individuals engaged in aeronautical activities, whose functions are *inherently* connected with aircraft operation, inspection and navigation. Thus, the phrase "such other authorized personnel" necessarily pertains to those who perform duties akin to or sharing the character of those executed by "airmen," i.e., technical and operational in nature, involving exposure to risks peculiar to flight.

The particular words, clauses, and phrases should not be studied as detached and isolated expressions; rather, the whole and every part of the statute must be considered in fixing the meaning of any of its parts in order to produce a harmonious whole.[49] As emphasized by Associate Justice Alfredo Benjamin S. Caguioa, Section 30 of Republic Act No. 776, when read in its entirety, contemplates individuals whose regular duties entail a technical or operational responsibility that exposes them to the risks of flight or involves control over flight safety. Consequently, the statutory text cannot be extended to cover administrative personnel who merely undertake air travel for meetings, conferences, or inspections.

Moreover, GAAM Volume 1 reinforces this limitation through Section 315(c), which provides:

> Section 315. Duty hazards. – Duty hazard pay may be granted to personnel in these cases:
>
> . . . .
>
> (c) Flying risk pay – the payment of additional compensation not exceeding 50% of their monthly base pay of 1980 rate shall be restricted to those airmen performing duties *inherent in the operation of the aircraft while in*

> *flight* and such other airmen as may be required to fly with the aircraft, *excluding passengers* as such, when it performs its assigned mission. The duties of the airmen assigned to flying status must involve frequent and regular participation in aerial flights of not less than four (4) hours per month. (Emphasis supplied)

Section 315(c) of the GAAM Volume 1 thus underscores that FRP is strictly limited to personnel whose duties *inherently* involve active participation in aircraft operations. Other personnel who travel *as mere passengers* are explicitly excluded from this category.

Additionally, as astutely observed by Associate Justice Maria Filomena D. Singh, a survey of statutes and other issuances granting flying pay similar to Section 30 of Republic Act No. 776 reveals a consistent legislative and administrative intent: flying pay is granted as a form of hazard pay in recognition of the risk to which "airmen" and other personnel *directly* involved in aircraft operation and navigation are exposed due to regular and frequent flight missions. These laws and issuances are as follows:

Law or Executive Issuance	**Date of Enactment or Issuance**	**Personnel Entitled to Flying Pay**
Executive Order No. 10[50]	July 31, 1946	Flight personnel of the Philippine Army Air Force
Republic Act No. 25[51]	September 25, 1946	Flight officers and enlisted men of the Air Corps of the Philippine Army.
Executive Order No. 453[52]	December 4, 1961	Officers of the Philippine Navy who are engaged in regular and frequent aerial flights and whose duties are inherent in the operation of the aircraft while in flight.

Applying the foregoing construction to the present case, it is undisputed that the CAAP officials and personnel who received the FRP payments occupied positions involving managerial, administrative, and financial functions that bear no relation to the participation in, supervision of, or direct involvement in aircraft operations. While it is true that their duties occasionally require travel, these are purely *incidental* to the discharge of their administrative responsibilities. Records show that their travels consisted of attending international conferences and meetings, inspecting airports and facilities, verifying legal cases, and overseeing projects and ceremonies in various domestic and foreign locations. While these were unquestionably legitimate and work-related, they did not entail performing duties in connection with "regular and frequent aerial flights" as contemplated under Section 30 of Republic Act No. 776 that would justify the payment of FRP. On the contrary, the CAAP officials and personnel boarded the aircraft solely as passengers to reach the venues of their official engagements.

Equally significant is the fact that the positions of the subject payees are not among those authorized by the DBM in CAAP's COB for 2011. The approved COB expressly

enumerates the positions eligible for FRP which are confined to personnel directly engaged in aircraft operations, such as those under the Aircraft Accident Investigation and Inquiry Board, Flight Inspection and Calibration Group, Flight Standards Inspectorate Service, Airworthiness Department, Flight Operations Department, Licensing and Certification Department, Airmen Examination Board, Office of the Flight Surgeon, and Air Traffic Service.[53] The deliberate inclusion of these positions and exclusion of purely administrative and managerial offices demonstrates DBM's clear intent to restrict FRP payments only to officials and personnel whose regular functions expose them to flight-related hazards. As correctly pointed out by COA, petitioners' positions do not appear in the DBM-approved roster of FRP-eligible posts.[54]

As such, no grave abuse of discretion may be imputed on the COA Proper when it affirmed the disallowance of FRP payments which lack legal basis and constitute an unauthorized disbursement of public funds. Verily, the grant of FRP to the CAAP officials and personnel whose duties are administrative in nature and who traveled only as passengers is contrary to Section 30 of Republic Act No. 776, Section 315(c) of the GAAM Volume 1, and the DBM' approved COB for 2011.

The approving and certifying officers were in good faith and should be absolved from the solidary liability to return the disallowed amounts

The affirmation of the COA Proper's disallowance of the FRP payments, however, does not automatically cast liability upon the approving and certifying officers to return the disallowed amounts.

In determining the civil liability of approving/authorizing/certifying officers for disallowances issued by the COA, the Court's ruling in *Madera* is instructive:

> In view of the foregoing discussion, the Court pronounces:
>
> 1. If a Notice of Disallowance is set aside by the Court, no return shall be required from any of the persons held liable therein.
>
> 2. If a Notice of Disallowance is upheld, the rules on return are as follows:
>
> a. Approving and certifying officers *who acted in good faith, in regular performance of official functions*, and with the diligence of a good father of the family are not civilly liable to return consistent with Section 38 of the Administrative Code of 1987.
>
> b. Approving and certifying officers who are clearly shown to have acted in bad faith, malice, or gross negligence are,

pursuant to Section 43 of the Administrative Code of 1987, solidarily liable to return only the net disallowed amount which, as discussed herein, excludes amounts excused under the following sections 2c and 2d.

c. Recipients — whether approving or certifying officers or mere passive recipients — are liable to return the disallowed amounts respectively received by them, unless they are able to show that the amounts they received were genuinely given in consideration of services rendered.

d. The Court may likewise excuse the return of recipients based on undue prejudice, social justice considerations, and other [bona fide] exceptions as it may determine on a [case-to-case] basis.[55]

As explained in *Madera*, the assessment of the presumptions of good faith and regularity in the performance of official functions and proof thereof will be done by the Court on a *case-to-case* basis. Additionally, the Court adopts the following badges for the determination of whether an approving or certifying officer exercised the diligence of a good father of a family:

> For one to be absolved of liability the following requisites [may be considered]: (1) Certificates of Availability of Funds pursuant to Section 40 of the Administrative Code, (2) In-house or Department of Justice legal opinion, *(3) that there is no precedent disallowing a similar case in jurisprudence*, (4) that it is traditionally practiced within the agency and no prior disallowance has been issued, [or] *(5) with regard the question of law, that there is a reasonable textual interpretation on its legality*.[56] (Emphasis supplied)

In the instant case, badges (3) and (5) apply.

First, when the FRP was granted in 2011 under Board Resolution No. 2011-007 and AO No. 320-11, jurisprudence was bereft of cases squarely interpreting Section 30 of Republic Act No. 776. At that point, the prevailing administrative guidance was found in COA Decision No. 2009-125 dated November 18, 2009, which lifted a prior disallowance of similar FRP payments. The approving and certifying officers of CAAP thus cannot be faulted for relying on the aforementioned COA Decision. As the constitutionally-mandated auditing institution, COA's pronouncements carry a persuasive and controlling weight in matters of public expenditure. COA Decision No. 2009-125, therefore, supplied a colorable legal basis for granting the FRP at the time.

Second, Section 30 of Republic Act No. 776 is susceptible of differing interpretations, as demonstrated by the COA in COA Decision No. 2009-125. In that ruling, the COA construed the terms "airmen" and "such other authorized personnel" as referring to two different classes of individuals. The COA reasoned that limiting the phrase "such other authorized personnel" to those similar to "airmen" would render the statutory text

redundant and superfluous.[57] COA's interpretation, although later rejected by the Court, represented at the time a plausible textual reading of Section 30.

In view of the foregoing, the approving and certifying officers in this case acted in good faith. They relied on a then-prevailing interpretation issued by the COA itself, an agency with recognized technical expertise in government accounting and auditing matters. In the absence of any judicial pronouncement disallowing FRP payments to personnel performing administrative duties at the time, their reliance on COA's construction was reasonable, "it is unfair to penalize public officials based on overly stretched and strained interpretations of rules which were not that readily capable of being understood at the time such functionaries acted in good faith."[58] They should not be held liable for an act performed under a then-existing administrative construction of the law that had yet to be overturned.

The recipient-payees are required to return the disallowed amount pursuant to the principle of solutio indebiti

Conversely, the recipient-payees are required to return the amounts they received. As declared in *Madera*, payees shall be liable to return the disallowed amount, regardless of good faith or the passive nature of their receipt thereof, in accordance with the principle of unjust enrichment or *solutio indebiti.* They may be excused from this obligation only when (1) they are able to show that the amounts they received were genuinely given in consideration of the services rendered (Rule 2c of *Madera*), or (2) the Court excuses them based on undue prejudice, social justice considerations, or the bona fide exceptions as will be determined on a case-to-case basis (rule 2d of *Madera*).[59] As later clarified in *Abellanosa v. Commission on Audit*,[60] a payee may benefit from exception under Rule 2c of *Madera* only when the following conditions concur: (a) if the personnel incentive or benefit has proper basis in law but is only disallowed due to irregularities that are merely procedural in nature; and (b) the personnel incentive or benefit must have a clear, direct, and reasonable connection to the actual performance of the payee recipient's official work and functions for which the benefit or incentive was intended as further compensation.[61]

None of these circumstances obtain in the present case. The payees cannot invoke that the FRP was received "in consideration of services rendered." The disallowance was not a mere procedural irregularity—the payees were not entitled to FRP precisely because their positions did not involve the performance of aerial flight duties as contemplated under Section 30 of Republic Act No. 776. The absence of legal entitlement negates any claim that the amount received was legitimately earned. In the absence of bona fide exceptions manifest on the record, the Court shall remain stringent in appreciating the defense of good faith when determining a payee's liability over disallowed expenses.[62]

All told, the COA properly disallowed the excessive and unlawful payment of FRP to CAAP officials and personnel in the amount of PHP 323,579.50. The disallowance itself is proper, as the payments lacked statutory basis and were granted to individuals

who were not legally entitled thereto. However, the COA erred in holding the approving and certifying officers solidarily liable for the disallowed amount. The records clearly show that these officers relied in good faith on COA Decision No. 2009-125, the prevailing administrative interpretation at the time, which provided a reasonable legal basis for the grant of FRP. Absent any showing of bad faith, malice, or gross negligence, the approving and certifying officers should be absolved from liability.

Finally, the Court acknowledges the use of the terms *airman* and *airmen* when quoting the pertinent provisions of Republic Act No. 776, in fidelity to the language of the law as presently written. On the same note, the Court emphasizes that the use of gender-fair language is essential to ensure inclusivity and to reflect the equal dignity and participation of all persons in the aviation sector. Accordingly, the Court respectfully urges Congress to revisit Republic Act No. 776 and consider adopting gender-sensitive and gender-fair language terminology in its provisions.

ACCORDINGLY, the Petition for *Certiorari* is **PARTLY GRANTED**. The Decision No. 2022-401 dated January 28, 2022, and the Resolution No. 2024-027 dated October 26, 2023, of the Commission on Audit are **AFFIRMED** with **MODIFICATION** in that the approving and certifying officers of the Civil Aviation Authority of the Philippines are **ABSOLVED** from the solidary liability to return the net disallowed amount.

Meanwhile, the recipients of the flying risk pay in the total amount of PHP 323,579.50 **REMAIN** individually liable for the return of the disallowed amounts they respectively received.

Let copies of this Decision be **FURNISHED** to the Congress of the Philippines, for their information and guidance.

SO ORDERED.

Gesmundo, C.J., Leonen, SAJ., Hernando, Lazaro-Javier, Zalameda, Gaerlan, Rosario, Lopez, Dimaampao, Marquez, Kho, Jr., Singh, and *Villanueva, JJ*., concur.
Caguioa, J., see concurring.

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[1] *Rollo*, pp. 3-29.

[2] *Id.* at 30-39. Signed by Chairperson Michael G. Aguinaldo and Commissioners Roland C. Pondoc and Mario G. Lipana, as attested by Commission Secretary and Director IV Bresilo R. Sabaldan of the Commission on Audit, Quezon City.

[3] *Id.* at 44. Signed by Commission Secretary Joel S. Estolatan of the Office of the Secretariat, Commission Proper, Commission on Audit, Quezon City.

[4] *Id.* at 40-43. Signed by Audit Team Leader – Teams 1 and 3 and Concurrent OIC-Supervising Auditor Gina Maria P. Molina.

[5] SECTION 25. Organization of the Civil Aeronautics Administration. — The Civil Aeronautics Administration shall be under the administrative supervision and control of the Department of Commerce and Industry. The Civil Aeronautics Administration shall have one chief and one deputy chief who shall be known as "Administrator" and "Deputy Administrator," respectively.

[6] "An Act to Reorganize the Civil Aeronautics Board and the Civil Aeronautics Administration, to Provide for the Regulation of Civil Aeronautics in the Philippines and Authorizing the Appropriation of Funds Therefor, approved on June 20, 1952.

[7] *Rollo*, pp. 101-105. Signed by Chairperson Reynaldo A. Villar and Commissioner Juanito G. Espino, Jr., as attested by Commission Secretariat, Director IV Fortunata M. Rubico of the Commission on Audit, Quezon City.

[8] The Court uses the term "airman" or "airmen" when citing the pertinent provisions of Republic Act No. 776 in order to remain faithful to the statutory language. Nonetheless, gender-sensitive terminology is observed throughout this Decision where direct textual citation is not involved.

[9] *Rollo*, p. 83.

[10] *Id.* at 86-87.

[11] *Id.* at 87.

[12] *Id.* at 82.

[13] *Id.* at 31.

[14] *Id.* at 82.

[15] *Id.* at 31-33.

[16] *Id.* at 41.

[17] *Id.* at 69-70.

[18] *Id.* at 67.

[19] *Id.* at 90-100. Signed by Director IV Leila S. Paras.

[20] *Id.* at 99.

[21] *Id.* at 98.

[22] *Id.* at 99.

[23] *Id.* at 37.

[24] *Id.* at 34-35.

[25] *Id.* at 35.

[26] *Id.* at 36.

[27] *Id.* 45-64.

[28] *Id.* at 44.

[29] *Id.* at 9-10.

[30] *Id.* at 10-11.

[31] *Id.*

[32] *Id.* at 16.

[33] 882 Phil. 744 (2020) [Per J. Caguioa, *En Banc*].

[34] *Id.* at 786; *rollo*, p. 16.

[35] *Rollo*, pp. 106-107.

[36] *Id.* at 126-141.

[37] *Id.* at 130. (Emphasis supplied)

[38] *Id.*

[39] *Id.* at 132.

[40] *Id.* at 134.

[41] *Id.* at 134-135.

[42] *Id.* at 155-167.

[43] *Id.* at 11.

[44] BLACK'S LAW DICTIONARY 1837 (11th ED., 2.019).

[45] *Id.*

[46] WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1678 (1993).

[47] *Id.*

[48] **Chavez v. Judicial and Bar Council**, 691 Phil. 173, 200 (2012) [Per J. Mendoza, *En Banc*].

[49] *Id.*

[50] Fixing the Allowances of the flight Personnel of the Philippine Army Air Force, Restoring the Longevity Pay for the Philippine Army, and for Other Purposes.

[51] An Act to Increase the Compensation of Flight Officers and Enlisted Men of the Air Corps of the Philippine Army.

[52] Granting Flying Pay to Officers of the Philippine Navy Who are Engaged in Regular and Frequent Aerial Flights and Whose Duties are Inherent in the Operation of the Aircraft While in Flight.

[53] *Rollo*, pp. 74-76.

[54] *Id.* at 33.

[55] **Madera v. Commission or Audit**, 882 Phil. 744, 817-818 (2020) [Per J. Caguioa, *En Banc*].

[56] *Id.* at 797-798.

[57] *Rollo*, p. 103.

[58] **Philippine Economic Zone Authority v. Commission on Audit**, 797 Phil. 117, 142 (2016) [Per J. Peralta, *En Banc*].

[59] **Philippine Health Insurance Corp. v. Commission on Audit**, 930 Phil. 323, 343 (2022) [Per J. Inting, *En Banc*].

[60] 890 Phil. 413 (2020) [Per J. Perlas-Bernabe, *En Banc*].

[61] *Id.* at 430.

[62] **National Transmission Corp. v. Commission on on Audit**, 891 Phil. 107, 122 (2020) [Per J. Inting, *En Banc*].

CONCURRING OPINION

CAGUIOA, *J.*:

I concur.

This case involves the disallowance by the Commission on Audit (COA) of the payment of Flying Risk Pay (FRP) to certain officials and employees of the Civil Aviation Authority of the Philippines (CAAP) for the year 2011 for being contrary to Section 30 of Republic Act No. 776[1] and Section 315(c) of the Government Accounting and Auditing Manual Volume I (GAAM).[2] According to COA, the recipients' functions were not related to aircraft operations or aerial missions and their positions were not included in the Department of Budget and Management (DBM)-approved Corporate Operating Budget for 2011.[3] COA thus considered the disbursement an irregular expenditure and held the approving and certifying officers solidarily liable for the total disallowance which shall be reduced by the refunds made by the payees who are liable to return the amounts they actually received.[4]

It has been my (and now, the *ponencia*'s) position that the FRP payments in this case were properly disallowed for being contrary to Section 30 of Republic Act No. 776 and Section 315(c) of the GAAM. Notwithstanding the disallowance, the approving and certifying officers are absolved from solidary liability. On the other hand, the payees are individually liable to return the amounts that they received.

The clear text of Section 30 of Republic Act No. 776 confines the FRP to personnel whose duties inherently involve aerial operations. Hence, COA's disallowance was proper.

The starting point is Section 30 of Republic Act No. 776, which reads:

> SECTION 30. *Officials and employees*. — Upon recommendation of the Administrator, such officers, assistants and employees as may be necessary for the proper functioning of the Civil Aeronautics Administration shall be appointed by the Secretary of Commerce and Industry. The Administrator

> may assign within the limits of available funds, officers, assistants, and other personnel for study and training abroad.
>
> **All rated and/or licensed airmen and <u>such other authorized personnel of the Civil Aeronautics Board and/or Civil Aeronautics Administration who may be required to undertake or perform regular and frequent aerial flights in connection with their duties</u>**, shall at the discretion of the head of the office receive an increase in compensation equivalent to fifty *per centum* of their respective base pay: *Provided, however*, That the total flying hours per month shall not be less than four hours.
>
> Whenever the Administrator shall require the personnel of the Civil Aeronautics Administration to work beyond the usual office hours, the employees concerned shall in all cases be entitled to receive, as additional compensation for the overtime work performed, at least twenty-five *per centum* of their regular salaries. (Emphasis supplied)

Clearly, Section 30 of Republic Act No. 776 limits the FRP to "[a]ll rated and/or licensed airmen and such other authorized personnel . . . who may be required to undertake or perform regular and frequent aerial flights in connection with their duties." The critical statutory condition is that the employee's duties themselves must necessitate regular and frequent aerial flights. The intent of the provision is to compensate those who face the peculiar hazards of flight as part of their assigned mission—and not those who merely use aircraft as a mode of transportation. GAAM Volume I, clarifies this limitation in Section 315(c), which reads:

> Section 315. Duty hazards. — Duty hazard pay may be granted to personnel in these cases:
>
> . . . .
>
> (c) Flying risk pay - the payment of additional compensation not exceeding 50% of their monthly base pay of 1980 rate **shall be restricted to those airmen performing duties <u>inherent in the operation of the aircraft while in flight</u> and such other airmen as may be required to fly with the aircraft, <u>excluding passengers</u> as such, when it performs its assigned mission.** The duties of the airmen assigned to flying status must involve frequent and regular participation in aerial flights of not less than four (4) hours per month.[5] (Emphasis supplied)

Section 315(c) of the GAAM reinforces that the FRP is strictly limited to personnel whose duties involve participation in aircraft operations while in flight. **Administrative officers who travel as passengers do not fall within this category.**

In support of their argument that the FRP payments in question are legal and regular, petitioners argue the application of COA Decision No. 2009-125[6] dated November 18, 2009 (COA Decision No. 2009-125) to the present case.[7] Said COA Decision had lifted a similar disallowance, holding that construing the phrase "such other authorized

personnel" under Section 30 of Republic Act No. 776 as limited only to individuals similar to airmen would render the statute redundant. If that were the case, the second paragraph of Section 30 of Republic Act No. 776 would in effect read "[a]ll rated and/or licensed airmen and such other airmen," which is clearly superfluous. As such, the phrase "such other authorized personnel" should be understood to refer to individuals distinct from "airmen."[8]

I had earlier advanced the view that Section 30 of Republic Act No. 776 confines the FRP to personnel whose duties inherently involve aerial operations. This view is adopted in the *ponencia*. I take this opportunity to set out the reasons underlying this interpretation.

Section 3(1) of Republic Act No. 776 defines an airman as follows:

> SECTION 3. *Words and phrases defined*. — . . .
>
> . . . .
>
> (1) "Airman" means any individual who engages, as the person in command or as pilot, mechanic, flight radio operator or member of the crew, in the navigation of aircraft while under way; and any individual who is directly in charge of inspection, maintenance, overhauling, or repair of aircraft, aircraft engine, propellers, or appliances; and any individual who serves in the capacity of aircraft dispatcher or air-traffic control operator.

The above definition covers three principal categories of aviation personnel:

> (a) pilot, mechanic, flight radio operator, or member of the crew, in the navigation of aircraft while under way;
>
> (b) any individual who is directly in charge of inspection, maintenance, overhauling, or repair of aircraft, aircraft engine, propellers, or appliances; and
>
> (c) any individual who serves in the capacity of aircraft dispatcher or air-traffic control operator.

What binds all of these positions together is that their functions are inherently connected to aircraft operation and navigation. Each entails a **technical or operational responsibility** that exposes the employee to the risks of flight or involves control over flight safety.

By contrast, the officials in the present case perform managerial and support functions. Their work may require travel, but it does not involve participation in or supervision of aircraft operation. To be sure, in this case, it is clear that their travel by plane was for purposes unrelated to aircraft operations and aerial missions. To recall, the CAAP paid the FRP to the following nine employees on account of their travel:

Name	Position	Purpose of Travel
Mr. Napoleon Garcia	Deputy [Director General (DG)] for Administration/Office of the DG (ODG)	**To attend the Global Airports Council** International-International Civil Aviation International Organization Airport Management Professional Accreditation **Program** in Beijing, China[.]
Mr. Ramon S. Gutierrez	DG	To conduct **airport and flight inspection** of Laoag and Basco airports, Navaids/Visual-Aids facilities[.]
Mr. Jose Tapnio	CEO IV/ODG	a) To conduct **airport and flight inspection** of Laoag and Basco airports, Navaids/Visual-Aids facilities[;] b) Inspection of Davao airport[;] c) **To attend meeting** Re: Puerto Princesa Underground River[;] d) **To verify cases against CAAP** filed in Puerto Princesa[;] and e) **To attend** the 17th ASEAN Transport Minister **Meeting**/32nd Senior Transport Officials Meeting from December 11 to 17, 2011 in Phnom [Penh], Cambodia[.]
Atty. Rodrigo G. Artuz	CEO V/ODG	**To attend the** 13th Cooperative Development of Operational Safety and Continuing Airworthiness Program Steering Committee **Meeting** from November 29 to December 1, 2011 in [Yangon], Myanmar[.]
Mr. Abner Bondoc	Chief Financial Officer/ODG	a) To conduct **inspection** of Gender and Development Project in Kalibo and Legazpi airports, and Davao International airport[;] b) To conduct **ocular inspection** on the effect of Typhoon Sendong in Cagayan de Oro[;] and

		c) To conduct **oath taking ceremony** for the newly appointed employees of Area Center V (Iloilo)[.]
Mr. Raul G. Glorioso	Acting Chief, Engineering Department/ Aerodrome Development and Management Service	a) To attend the 2nd SOCCSKSARGEN ADP Board Committee **Meeting** in General Santos City[;] b) To conduct **ocular inspection** and acceptance of project undertaken by PMS-DOTC at Siargao Airport and to conduct research on [L]ot No. 884-A and [Lot] No. 891-A owned by Antonio Y. Tandan at Surigao Airport[;] c) To conduct **inspection of aircraft movement areas** and other facilities at Cagayan De Oro airport[;] d) To **confer with the Area Manager**, Area Center V, on the proposed implementation of the increase of terminal fee at Caticlan airport[;] e) To conduct **inspection** and acceptance by DOTC-PMS at Maasin airport[;] f) To conduct joint **inspection** together with Airphil Express, in connection with their proposed commercial flight operation at Pagadian airport[;] g) To **conduct research** in connection with the issuance of Special Patent by the Department of Environmental and Natural Resources of the properties occupied by General Santos airport; and to assess the intention of Sagittarius Mines, Inc. to

		improve General Santos airport appearance through reforestation[; and] h) To conduct **inspection** and acceptance of project undertaken by DOTC-PMS at Antique airport[.]
Mr. Nepthali G. Velasco	Communication, Navigation and Surveillance (CNS) Systems Officer IV Aerodrome and Air Navigation Service Safety Oversight Office (AANSOO)	a) To conduct **safety inspection** at SUMIFRU, Davao City[;] b) To conduct **orientation briefing** on Aerodrome Safety reporting at the Lepanto Aerodrome, Mankayan, Benguet[;] c) To conduct **safety inspection** at Steag State Power Heliport[; and] d) To conduct **re-inspection** at TADECO I & II Aerodrome, Davao[.]
Mr. Deogracios A. Pulmano[,] Jr.	Supervising Air Traffic Controller (AANSOO)	a) To conduct **final safety inspection** at Dapco, Lunga-og Neda and Maragusan Aerodrome, Davao Del Norte[; and] b) To conduct **aerodrome safety inspection** at the BUGSUK AIRSTRIP, Balabac, Palawan[.]
Mr. Alex B. Balde	CNS Systems Officer IV (AANSOO)	a) To conduct **re-inspection** at TADECO I & II Aerodrome, Davao[;] b) To conduct **safety inspection** at Steag State Power Heliport[;] c) To conduct follow up **site inspection** on Riotuba Aerodrome[;] d) To conduct **safety inspection** at SUMIFRU, Davao City[; and] e) To conduct **orientation briefing** on Aerodrome Safety Reporting at the Lepanto

		Aerodrome, Mankayan, Benguet[.][9] (Emphasis supplied)

It is undisputed that the CAAP employees' official travels, as tabulated above, were administrative in nature and bore no connection to aerial and flight missions. Their trips consisted of attending international conferences and meetings, inspecting airports and facilities, verifying legal cases, and overseeing projects and ceremonies in various domestic and foreign locations. While these travels were unquestionably legitimate and related to their functions, they did not entail performing duties in connection with "regular and frequent aerial flights" as contemplated under Section 30 of Republic Act No. 776 that necessitated payment of the FRP. The officials boarded aircraft merely as passengers to reach the venues of their engagements. Pursuant to Section 315(c) of the GAAM, the FRP is restricted to airmen and other personnel who perform duties inherent in aircraft operation, that is, those who fly with the aircraft as part of its assigned mission, and expressly excludes passengers as such.

Petitioners' interpretation, drawn from COA Decision No. 2009-125, isolates the phrase "such other authorized personnel" from its qualifying condition, which is "who may be required to undertake or perform regular and frequent aerial flights in connection with their duties." To my mind, this qualifying clause confines entitlement to those whose official duties inherently involve aerial participation. Reading the provision otherwise would expand the coverage of the FRP beyond the risk it was intended to address.

In fact, the grant of the FRP in 2011, which was authorized under CAAP Board Resolution No. 2011-007, s. 2011, declared:

BOARD RESOLUTION NO. 2011-007
Series of 2011

A RESOLUTION AUTHORIZING THE CAAP DIRECTOR GENERAL TO GRANT FLYING PAY TO QUALIFIED PERSONNEL OF CAAP

WHEREAS, there are identifiable personnel positions in the organization of the Civil Aviation Authority of the Philippines (CAAP) **whose nature of functions and responsibilities [require them] to undertake or perform regular or frequent . . . aerial and flight missions**[;]

WHEREAS, the performance of the said aerial and flight missions **endanger the lives and limbs of the aforesaid personnel**[;]

WHEREAS, excerpt of Section 30 of Republic Act No. 776, provides –

. . . .

WHEREAS, for several years, by virtue of the foregoing provisions of Republic Act [No.] 776, qualified personnel of the defunct Air Transportation Office performing aerial and flight missions regularly received an additional fifty percent (50%) of their basic monthly pay after

completing/engaging four (4) hours of flight in a month.[10] (Emphasis supplied)

CAAP Board Resolution No. 2011-007 shows that CAAP sought to implement Section 30 in line with its underlying purpose to compensate personnel whose duties "involve aerial and flight missions that endanger their lives and limbs. In that sense, the Board Resolution complements the statute by explicitly recognizing that the grant of the FRP is predicated on the hazardous nature of the functions performed by the recipients.

However, while CAAP Board Resolution No. 2011-007 correctly emphasized the hazard-based nature of the FRP, its implementation extended beyond the law's intended scope. CAAP ultimately conferred the benefit to personnel whose air travel was incidental to their responsibilities.

Properly construed, Section 30 of Republic Act No. 776 limits the grant of the FRP to airmen and to those authorized personnel whose duties require them to participate in or assist with aircraft operations, thereby subjecting them to the same risks and dangers to life and limb that accompany aerial missions. The phrase "such other authorized personnel" cannot be read in isolation from the term "airmen" with which it is associated. Under the doctrine of *noscitur a sociis*, the construction of a particular word or phrase, which is in itself ambiguous, or is equally susceptible of various meanings, may be made clear and specific by considering the company of words in which it is found or with which it is associated. In other words, the obscurity or doubt of the word or phrase may be reviewed by reference to associated words.[11]

As applied here, the obscurity or breadth of "authorized personnel" must be reviewed by reference to the preceding term "airmen." Section 30 of Republic Act No. 776, when read as a whole, contemplates individuals whose regular duties involve direct participation in or exposure to flight operations. Consequently, "authorized personnel" cannot be expanded to include administrative or managerial staff who merely undertake air travel for conferences, meetings, or inspections.

This reading does not render the statute redundant. The inclusion of "authorized personnel" merely broadens the category of eligible recipients to encompass those who share the same exposure to flight hazards as airmen but are not necessarily licensed airmen or called airmen. Interpreting otherwise would distort the purpose of the law and extend a risk-based allowance to those whose duties are unconnected to aircraft operations.

Equally significant, the positions of the payees were not among those authorized by the DBM in CAAP's Corporate Operating Budget for 2011, which expressly enumerated the positions eligible for the FRP. These were confined to personnel directly engaged in aircraft operations, such as those under the Aircraft Accident Investigation and Inquiry Board, Flight Inspection and Calibration Group, Flight Standards Inspectorate Service, Airworthiness Department, Flight Operations Department, Licensing and Certification Department, Airmen Examination Board, Office of the Flight Surgeon, and Air Traffic Service.[12] The inclusion of these

positions shows that the DBM intended the FRP to apply only to officials whose regular functions involve exposure to flight-related hazards. As pointed out by COA, petitioners' positions were not among those listed/allowed to be granted the FRP.[13]

Therefore, COA's disallowance of the FRP payments was proper for being irregular as they did not adhere to established rules, regulations, procedural guidelines, policies, principles, or practices that have gained recognition in laws.[14] Simply put, the grant of the FRP to officials whose duties are administrative in nature and who traveled only as passengers is contrary to Section 30 of Republic Act No. 776, Section 315(c) of the GAAM, and the DBM's approved Corporate Operating Budget for 2011.

Approving and certifying officers were in good faith and should not be made solidarily liable to return the disallowed amount.

Notwithstanding the erroneous grant of the FRP in question, the approving and certifying officers here ought to be exempt from the obligation to refund the disallowed amount on the ground of good faith.

In *Madera v. Commission on Audit*,[15] the Court prescribed the Rules on Return to clarify the effect of good faith on the liability to refund amounts which were disallowed by COA. Of particular interest here is Rule 2a which states:

2. If a Notice of Disallowance is upheld, the rules on return are as follows:

    a. Approving and certifying officers who acted in good faith, in regular performance of official functions, and with the diligence of a good father of the family are not civilly liable to return consistent with Section 38 of the Administrative Code of 1987.[16]

As explained in *Madera*, the liability of recipients of disallowed amounts and the liability of approving or certifying officers for the entire amount disbursed to all recipients differ in nature and legal basis. The liability of approving and/or certifying officers is based on Sections 38,[17] 39,[18] and 43[19] of the Administrative Code. These provisions hinge the relevant officials' liability for illegal or unauthorized expenditures on the fact that they allowed or effected the expenditures in bad faith, malice, or gross negligence. Hence, good faith excuses approving or certifying officers from solidary liability to return the entire amount, but it does not excuse recipients from returning the amounts they respectively received. The liability of payees is based on civil law principles such as *solutio indebiti* and unjust enrichment.[20]

Furthermore, the following badges for the determination of whether an approving or certifying officer exercised the diligence of a good father of a family are instructive:

> For one to be absolved of liability the following requisites [may be considered]: (1) Certificates of Availability of Funds pursuant to Section 40

> of the Administrative Code, (2) In-house or Department of Justice legal opinion, (3) **that there is no precedent disallowing a similar case in jurisprudence**, (4) that it is traditionally practiced within the agency and no prior disallowance has been issued, [or] (5) **with regard [to] the question of law, that there is a reasonable textual interpretation on its legality**. [21] (Emphasis supplied)

As I had submitted during the deliberations in this case, which the *ponencia* fully adopts, badges (3) and (5) are applicable here.

First, when the FRP was granted in 2011 under Board Resolution No. 2011-007 and Authority Order No. 320-11,[22] there was as yet no precedent set by the Court squarely interpreting Section 30 of Republic Act No. 776. At that time, the prevailing administrative interpretation came from COA's own Decision No. 2009-125, which had lifted an earlier disallowance of similar FRP payments.

In COA Decision No. 2009-125, COA expressly held that the terms "airmen" and "such other authorized personnel" under Section 30 refer to two different classes of individuals. COA reasoned that limiting the phrase "such other authorized personnel" to those akin to airmen would make the law redundant, and it recognized that even administrative officials could be granted the FRP when their duties required them to undertake aerial flights in connection with their functions. COA also found that the claimants therein had actually undertaken at least four flying hours per month and therefore satisfied the statutory criteria for entitlement. On this basis, COA lifted the disallowance and upheld the payments.[23]

Thus, at the time of the 2011 grant of the FRP, CAAP's interpretation of Section 30 was supported by an existing COA ruling. In line with *Development Bank of the Philippines v. Commission on Audit*,[24] good faith may be appreciated in favor of the responsible officers under the Notice of Disallowance provided they comply with the following requisites: (1) that they acted in good faith believing that they could disburse the disallowed amounts based on the provisions of the law; and (2) that they lacked knowledge of facts or circumstances which would render the disbursements illegal, such as when there is no similar ruling by the Court prohibiting a particular disbursement or when there is no clear and unequivocal law or administrative order barring the same.[25]

Second, as to badge (5), even on its face, Section 30 of Republic Act No. 776 is susceptible of differing interpretations. The phrase "such other authorized personnel" is broad and does not expressly limit the allowance to pilots and crew members. The CAAP's construction, which extended the benefit to authorized personnel whose official travel involved aerial flights, represented a plausible textual reading of Section 30, and therefore satisfies the reasonable textual interpretation contemplated in *Madera*.

In *Torcuator v. Commission on Audit*,[26] the Court emphasized that:

> **[I]t is unfair to penalize public officials based on overly stretched and strained interpretations of rules, which were not that readily capable of being understood at the time such functionaries acted in good faith.** If there is any ambiguity, which is actually clarified years later, then it should only be applied prospectively. A contrary rule would be counterproductive. It could result in paralysis, or lack of innovative ideas getting tried. In addition, it could dissuade others from joining the government. When government service becomes unattractive, it could only have adverse consequences for society.[27] (Emphasis supplied; citation omitted)

The approving and certifying officers in this case acted in good faith and with the diligence required of public officers. They relied on a then-prevailing interpretation issued by COA itself, an agency with recognized expertise in accounting and auditing matters. In the absence of a Court ruling disallowing the FRP to officials performing administrative or financial matters at the time, their reliance was reasonable. Their actions, therefore, cannot be characterized as tainted by bad faith or gross negligence. Their understanding of Section 30, while ultimately mistaken, demonstrates "honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry."[28] In other words, good faith, in the context of disallowed disbursements, refers to the honest belief that the payments were legal and authorized at the time they were made.

Accordingly, while COA's disallowance of the FRP payments was proper for being irregular, the approving and certifying officers should be absolved from the solidary liability to refund the disallowed amount. Their reliance on COA Decision No. 2009-125 and their adherence to a reasonable textual interpretation of the statute sufficiently establish good faith.

Payees are required to return the amounts received pursuant to the principle of solutio indebiti.

While the approving and certifying officers may be excused from the solidary liability to return due to good faith, the passive recipients or payees of the disallowed FRP may not be excused on the same ground. The applicable rules on the civil liability of recipients of disallowed amounts are Rule 2c and 2d of the *Madera* Rules on Return:

> 2. If a Notice of Disallowance is upheld, the rules on return are as follows:
>
> . . . .
>
> c. Recipients — whether approving or certifying officers or mere passive recipients — are liable to return the disallowed amounts respectively received by them, unless they are able to show that the amounts they received were genuinely given in consideration of services rendered.

d. The Court may likewise excuse the return of recipients based on undue prejudice, social justice considerations, and other bona fide exceptions as it may determine on a case to case basis.[29]

Madera further clarifies that these rules also apply to approving officers insofar as they are also payees or recipients, notwithstanding their good faith or bad faith.[30]

As the *ponencia* **now** states, the recipients of the FRP remain individually liable for the return of the disallowed amounts they respectively received. In *Abellanosa v. Commission on Audit*,[31] the Court clarified that in order for recipients to be excused from return under Rule 2c of the *Madera* Rules on Return, the following must concur:

(a) the personnel incentive or benefit **has proper basis in law** but is only disallowed due to irregularities that are merely procedural in nature; **and**

(b) the personnel incentive or benefit must have a clear, direct, and reasonable connection to the actual performance of the payee-recipient's official work and functions for which the benefit or incentive was intended as further compensation.[32]

Applying the foregoing to this case, the defect in the payment of the FRP to the CAAP employees was not merely procedural; there was, at the time that these benefits were paid out, no legal basis therefor. Hence, refund cannot be excused on the basis of Rule 2c. The principle of *solutio indebiti*, thus, applies.

Neither can refund be excused on the basis of Rule 2d, which requires that there be bona fide exceptions, such as circumstances which would cause undue prejudice to the recipients, or social justice considerations, such as when the disallowed amounts were meant to serve as much-needed financial assistance on the occasion of extraordinary and exigent circumstances. I find no such bona fide exception in this case, and indeed, petitioners have not alleged any in their Petition.

There being no grounds to excuse return by petitioners-payees of the FRP they respectively received, the Court should require them to refund said amounts.

For clarity, the liability of passive recipients (Mr. Napoleon Garcia, Mr. Jose Tapnio, Atty. Rodrigo G. Artuz, Mr. Abner Bondoc, Mr. Raul G. Glorioso, Mr. Nepthali G. Velasco, Mr. Deogracios A. Pulmano, Jr., and Mr. Alex B. Balde) differs from the liability of Mr. Ramon S. Gutierrez (Gutierrez) as payee,[33] considering that he also participated as an approving and certifying officer. Hence, Gutierrez must return the amount of the FRP which he personally received.

ACCORDINGLY, I concur with the *ponencia* that the Petition for *Certiorari* should be **PARTLY GRANTED**. The disallowance of the FRP is proper for being in violation of Section 30 of Republic Act No. 776. The approving and certifying officers should be **EXONERATED** from their solidary liability to return the disallowed amount for having acted in good faith. However, the CAAP employees who received the FRP,

including Gutierrez as approving and certifying officer, who had received the disallowed amount as payee, should be **ORDERED** to **REFUND** the amount they respectively received.

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[1] An Act to Reorganize the Civil Aeronautics Board and the Civil Aeronautics Administration, to Provide for the Regulation of Civil Aeronautics in the Philippines and Authorizing the Appropriation of Funds Therefor otherwise known as the "Civil Aeronautics Act of the Philippines" (1952).

[2] *Ponencia*, pp. 2, 8.

[3] *Id.* at 6, 8.

[4] *Id.* at 7-8.

[5] *See ponencia*, p. 14; *see also rollo*, p. 92.

[6] *Rollo*, pp. 101-105.

[7] *Ponencia*, p. 9.

[8] *Rollo*, p. 103.

[9] *Ponencia*, pp. 4-6.

[10] *Rollo*, p. 86.

[11] **Government Service Insurance System v. Commission on Audit**, 674 Phil. 578, 600-601 (2011) [Per J. Leonardo-De Castro, *En Banc*].

[12] *Rollo*, pp. 74-76.

[13] *Id.* at 33.

[14] *See* **Power Sector Assets and Liabilities Management Corp. v. Commission on Audit**, 915 Phil. 164, 189 (2021) [Per J. J. Lopez, *En Banc*].

[15] 882 Phil. 744 (2020) [Per J. Caguioa, *En Banc*].

[16] *Id.* at 817.

[17] ADMINISTRATIVE CODE, Book I, Chapter 9, sec. 38(3) states:

SECTION 38. *Liability of Superior Officers*. — (1) A public officer shall not be civilly liable for acts done in the performance of his [or her] official duties, unless there is a clear showing of bad faith, malice[,] or gross negligence.

. . . .

(3) A head of a department or a superior officer shall not be civilly liable for the wrongful acts, omissions of duty, negligence, or misfeasance of his [or her] subordinates, unless he [or she] has actually authorized by written order the specific act or misconduct complained of.

[18] ADMINISTRATIVE CODE, Book I, Chapter 9, sec. 39 states:

SECTION 39. *Liability of Subordinate Officers*. — No subordinate officer or employee shall be civilly liable for acts done by him [or her] in good faith in the performance of his [or her] duties. However, he [or she] shall be liable for willful or negligent acts done by him [or her] which are contrary to law, morals, public policy[,] and good customs even if he [or she] acted under orders or instructions of his [or her] superiors.

[19] ADMINISTRATIVE CODE, Book VI, Chapter 5, sec. 43 states:

SECTION 43. *Liability for Illegal Expenditures*. — Every expenditure or obligation authorized or incurred in violation of the provisions of this Code or of the general and special provisions contained in the annual General or other Appropriations Act shall be void. Every payment made in violation of said provisions shall be illegal and every official or employee authorizing or making such payment, or taking part therein, and every person receiving such payment shall be jointly and severally liable to the Government for the full amount so paid or received.

[20] *See* **Madera v. Commission on Audit**, *supra* note 15, at 796-797.

[21] *Id.* at 797-798.

[22] *Rollo*, p. 82.

[23] *Id.* at 103-105.

[24] 827 Phil. 818 (2018) [Per J. Gesmundo (now Chief Justice), *En Banc*].

[25] *Id.* at 835-836.

[26] 849 Phil. 101 (2019) [Per J. Gesmundo (now Chief Justice), *En Banc*].

[27] *Id.* at 119.

[28] **Balayan Water District v. Commission on Audit**, 845 Phil. 968, 978 (2019) [Per J. J. Reyes, Jr., *En Banc*].

[29] *Madera v. Commission on Audit*, *supra* note 15, at 817-818.

[30] *See id.* at 814.

[31] 890 Phil. 413 (2020) [Per J. Perlas-Bernabe, *En Banc*].

[32] *Id.* at 430.

[33] *See ponencia*, pp. 4-6.

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