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EN BANC

[G.R. No. 195395. September 10, 2013]

ENGINEER MANOLITO P. MENDOZA, *petitioner, vs.* **COMMISSION ON AUDIT,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; ADMINISTRATIVE DUE PROCESS; NO DENIAL OF DUE PROCESS WHERE A PARTY HAS BEEN DULY AFFORDED AN OPPORTUNITY TO EXPLAIN HIS SIDE AND SEEK RECONSIDERATION OF THE RULING HE ASSAILS.— The Commission on Audit issued the Notice of Disallowance/s on May 28, 2007. x x x. [C]opies of the Notice of Disallowance/s were received on May 29, 2007 by "the Agency Head," "Accountant," and "Persons Liable" with their signatures appearing beside the three designations. Petitioner Mendoza never disputed this fact. After his receipt of the Notice of Finality of COA Decision on August 27, 2009, petitioner Mendoza filed the Motion for Reconsideration dated September 10, 2009. The Commission on Audit gave due course to the Motion for Reconsideration and issued the assailed Decision two (2) years after the issuance of the Notice of Disallowance/s. It ruled that petitioner Mendoza's salary is covered by the Salary Standardization Law. These circumstances show that the Notice of Disallowance/s was served on the necessary officers in accordance with the 1997 Revised Rules of Procedure of the Commission on Audit. Moreover, this Court *En Banc* in *Gannapao v. Civil Service Commission* ruled that: Time and again, we have held that the essence of due process is simply an opportunity to be heard or, as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of. **In the application of the principle of due process, what is sought to be safeguarded is not lack of previous notice but the denial of the opportunity to be heard**. As long as a party was given the opportunity to defend his interests

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in due course, he was not denied due process. Petitioner Mendoza was afforded due process despite his claim that he had never personally received a copy of the Notice of Disallowance/s. He was able to file the Motion for Reconsideration. The Commission gave due course to the Motion and ruled on the merits. Petitioner Mendoza, therefore, has been duly afforded an opportunity to explain his side and seek a reconsideration of the ruling he assails, which is the "essence of administrative due process." For these reasons, We rule that the Commission on Audit issued the "Notice of Finality of COA Decision" without grave abuse of discretion, and the Notice of Disallowance/s had become final and executory.

2. ID.; ID.; SALARY STANDARDIZATION LAW; RATIONALE AND COVERAGE THEREOF; REPUBLIC ACT NO. 6758 OR THE "COMPENSATION AND POSITION CLASSIFICATION ACT OF 1989" GOVERNS THE COMPENSATION AND POSITION CLASSIFICATION SYSTEM IN GOVERNMENT AND THE SAME APPLIES TO THE ENTIRE GOVERNMENT WITHOUT QUALIFICATION.— Legislation on the compensation and position classification of government employees reflects the policy of the State to provide "equal pay for substantially equal work" in government and "to base differences in pay upon substantive differences in duties and responsibilities, and qualification requirements of the positions." At present, Republic Act No. 6758 or the "Compensation and Position Classification Act of 1989" governs the compensation and position classification system in government. The Compensation and Position Classification System established under Republic Act No. 6758 applies to "all 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." The term "government" in Republic Act No. 6758 "refers to the Executive, the Legislative and the Judicial Branches and the Constitutional Commissions and shall include all, but shall not be limited to, departments, bureaus, offices, boards, commissions, courts, tribunals, councils, authorities, administrations, centers, institutes, state colleges and universities, local government

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units, and the armed forces." "Government-owned or controlled corporations and financial institutions," on the other hand, include "all corporations and financial institutions owned or controlled by the National Government, whether such corporations and financial institutions perform governmental or proprietary functions." The coverage of Republic Act No. 6758 is comprehensive. In *Commission on Human Rights Employees' Association v. Commission on Human Rights*, this Court ruled that Republic Act No. 6758 applies to the entire government without qualification: The disputation of the Court of Appeals that the CHR is exempt from the long arm of the Salary Standardization Law is flawed considering that the coverage thereof, as defined above, **encompasses the entire gamut of government offices, *sans* qualification.**

3. ID.; ID.; ID.; GOVERNMENT ENTITIES EXEMPTED FROM THE SALARY STANDARDIZATION LAW.— Republic Act No. 6758 became effective on July 1, 1989. Since then, laws have been passed exempting some government entities from the Salary Standardization Law. These entities were allowed to create their own compensation and position classification systems that apply to their respective offices. x x x. In *Intia, Jr. v. Commission on Audit*, this Court affirmed the Philippine Postal Corporation's exemption from the Salary Standardization Law. However, the corporation should report the details of its salary and compensation system to the Department of Budget and Management. x x x. This Court in *Trade and Investment Development Corporation of the Philippines v. Civil Service Commission* recognized the Trade and Investment Development Corporation's exemption from the Salary Standardization Law. The Corporation should, however, "endeavor" to conform to the principles and modes of the Salary Standardization Law in making its own system of compensation and position classification. x x x. From 1995 to 2004, laws were passed exempting several government financial institutions from the Salary Standardization Law. Among these financial institutions are the Land Bank of the Philippines, Social Security System, Small Business Guarantee and Finance Corporation, Government Service Insurance System, Development Bank of the Philippines,

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Home Guaranty Corporation, and the Philippine Deposit Insurance Corporation.

4. ID.; ID.; ID.; THE PROVINCIAL WATER UTILITIES ACT OF 1973 (P.D. NO. 198); WATER UTILITIES ARE GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS CREATED PURSUANT TO PD 198, NOT RA NO. 10149, OTHERWISE KNOWN AS THE "GOCC GOVERNANCE ACT OF 2011".— Water utilities are government-owned or controlled corporations created pursuant to a special law, the Presidential Decree No. 198 or "the Provincial Water Utilities Act of 1973." This Court held in *Davao City Water District v. Civil Service Commission*: After a fair consideration of the parties' arguments coupled with a careful study of the applicable laws as well as the constitutional provisions involved, We rule against the petitioners and reiterate Our ruling in Tanjay case **declaring water districts government-owned or controlled corporations with original charter**. x x x In *Feliciano v. Commission on Audit*, this Court reiterated that local water districts are government-owned or controlled corporations existing pursuant to Presidential Decree No. 198 x x x. Water utilities are not covered by Republic Act No. 10149, otherwise known as the "GOCC Governance Act of 2011." This recognizes that despite being government-owned or controlled corporations, water utilities are governed by a special law, that is, Presidential Decree No. 198 or the "Provincial Water Utilities Act of 1973."

5. ID.; ID.; ID.; THE SALARY STANDARDIZATION LAW APPLIES TO ALL GOVERNMENT POSITIONS INCLUDING THOSE IN GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS, WITHOUT QUALIFICATION, EXCEPT WHEN THE GOVERNMENT-OWNED OR CONTROLLED CORPORATION'S CHARTER EXEMPTS THE CORPORATION FROM THE COVERAGE OF THE LAW; PD NO. 198 DID NOT EXEMPT WATER UTILITIES FROM THE COVERAGE OF THE SALARY STANDARDIZATION LAW.— The Salary Standardization Law applies to all government positions, including those in government-owned or controlled corporations, without qualification. The exception to this rule

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is when the government-owned or controlled corporation's charter specifically exempts the corporation from the coverage of the Salary Standardization Law. [W]e examine the provisions of Presidential Decree No. 198 exempting water utilities from the Salary Standardization Law. x x x. We are not convinced that Section 23 of Presidential Decree No. 198, as amended, or any of its provisions, exempts water utilities from the coverage of the Salary Standardization Law. In statutes subsequent to Republic Act No. 6758, Congress consistently provided not only for the power to fix compensation but also the agency's or corporation's exemption from the Salary Standardization Law. If Congress had intended to exempt water utilities from the coverage of the Salary Standardization Law and other laws on compensation and position classification, it could have expressly provided in Presidential Decree No. 198 an exemption clause similar to those provided in the respective charters of the Philippine Postal Corporation, Trade Investment and Development Corporation, Land Bank of the Philippines, Social Security System, Small Business Guarantee and Finance Corporation, Government Service Insurance System, Development Bank of the Philippines, Home Guaranty Corporation, and the Philippine Deposit Insurance Corporation. Congress could have amended Section 23 of Presidential Decree No. 198 to expressly provide that the compensation of a general manager is exempted from the Salary Standardization Law. However, Congress did not. Section 23 was amended to emphasize that the general manager "shall not be removed from office, except for cause and after due process."

6. ID.; ID.; ID.; THE WATER UTILITY'S BOARD OF DIRECTORS HAS THE POWER TO DEFINE THE DUTIES AND FIX THE COMPENSATION OF A GENERAL MANAGER PROVIDED THE COMPENSATION FIXED MUST BE IN ACCORDANCE WITH THE POSITION CLASSIFICATION ITEM UNDER THE SALARY STANDARDIZATION LAW; THE MAXIMUM SALARY GRADE FOR A GENERAL MANAGER OF A GOVERNMENT-OWNED OR CONTROLLED CORPORATION IS SALARY GRADE 30.— This does not mean that water utilities cannot fix the compensation of their respective general managers.

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Section 23 of Presidential Decree No. 198 clearly provides that a water utility's board of directors has the power to define the duties and fix the compensation of a general manager. However, the compensation fixed must be in accordance with the position classification system under the Salary Standardization Law. Section 5 of the law provides: **Section 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. x x x. Thus, a general manager's position will be classified under one of the categories in Section 5 of the Salary Standardization Law depending on the duties as defined by the board of directors. After determining the category to which a general manager's position belongs, the board of directors must set the salary compensation package within Salary Steps 1 to 8 of the appropriate salary grade. The salary grade assigned, however, cannot exceed Salary Grade 30 by virtue of Section 9 of the Salary Standardization Law, which reads: x x x. The rationale for setting the maximum salary grade for a general manager of a government-owned or controlled corporation to Salary Grade 30 is to maintain, as much as possible, the same salary of general managers across all government-owned or controlled corporations and financial institutions. All told, the general manager position of a water district is covered by the Salary Standardization Law. The Commission on Audit did not gravely abuse its discretion in disallowing petitioner Mendoza's compensation for exceeding the rate provided in the Salary Standardization Law.

7. ID.; ID.; ID.; THE EMPLOYEE IS NOT REQUIRED TO REFUND THE DISALLOWED AMOUNTS WHERE HE RECEIVED THE SAME IN GOOD FAITH.— Petitioner Mendoza argued that he received the disallowed amounts in good faith, relying on Section 23 of Presidential Decree No. 198. He cited the 2004 case of *De Jesus v. Commission on Audit* as his authority. In *De Jesus v. Commission on Audit*, members of the Metro Cariaga Water District board of directors questioned the Commission

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on Audit's disallowance of certain allowances and bonuses they had received under the Local Water Utilities Administration Resolution No. 313, Series of 1995. Resolution No. 313 granted the board of directors of water utilities representation and transportation allowance (RATA), rice allowance, clothing allowance, Christmas bonus, productivity pay, and honorarium. This Court voided Local Water Utilities Administration Resolution No. 313 for being contrary to Section 13 of Presidential Decree No. 198, which only allows for *per diems*. x x x. However, We excused the refund of the disallowed amounts because at the time the board members had received the allowances and benefits, this Court had not yet promulgated *Baybay Water District v. Commission on Audit*. x x x The salaries petitioner Mendoza received were fixed by the Talisay Water District's board of directors pursuant to Section 23 of the Presidential Decree No. 198. Petitioner Mendoza had no hand in fixing the amount of compensation he received. Moreover, at the time petitioner Mendoza received the disputed amount in 2005 and 2006, there was no jurisprudence yet ruling that water utilities are not exempted from the Salary Standardization Law. Pursuant to *De Jesus v. Commission on Audit*, petitioner Mendoza received the disallowed salaries in good faith. He need not refund the disallowed amount.

APPEARANCES OF COUNSEL

Dennis M. Cortes for petitioner.
The Solicitor General for respondent.

D E C I S I O N

LEONEN, *J.*:

The salary of a water district's general manager is covered by the Salary Standardization Law despite Section 23 of the Provincial Water Utilities Act of 1973. The law grants water districts the power to fix the compensation of their respective general managers, but it should be consistent with Republic

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Act No. 6758 or the "Compensation and Position Classification Act of 1989."

We are asked in this Petition[1] for *Certiorari* to set aside respondent Commission on Audit's Decision[2] denying petitioner Manolito P. Mendoza's Motion for Reconsideration of the "Notice of Finality of COA Decision."[3] The Commission on Audit ordered petitioner Mendoza to restitute to the government amounts he had received illegally as salary, thus, violating the Salary Standardization Law.

Petitioner Mendoza is the general manager of Talisay Water District in Talisay City, Negros Occidental. The Water District was formed pursuant to Presidential Decree No. 198, otherwise known as the "Provincial Water Utilities Act of 1973."

The Commission on Audit disallowed a total amount of Three Hundred Eighty Thousand Two Hundred Eight Pesos (₱380,208.00) which Mendoza received as part of his salary as the Water District's general manager from 2005 to 2006.[4] The Commission found that petitioner Mendoza's salary as general manager "was not in consonance with the rate prescribed under [Republic Act No.] 6758, otherwise known as the Salary Standardization Law and the approved Plantilla of Position of the district."[5] The Commission also found that petitioner Mendoza's claim of salary was "not supported with an Appointment duly attested by the Civil Service Commission."[6] Payment to petitioner Mendoza was, therefore, "illegal."[7]

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[1] Petitioner filed a Petition for *Certiorari* under Rule 65 of the 1997 Rules of Civil Procedure.

[2] November 25, 2010; *Rollo*, pp. 9-15.

[3] July 6, 2009; *Rollo*, p. 26.

[4] This was reported by the Commission on Audit's Notice of Disallowance/s dated May 28, 2007; *Rollo*, pp. 24-25.

[5] *Rollo*, p. 24.

[6] *Id*.

[7] *Id*.

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On July 6, 2009, the Commission on Audit issued the "Notice of Finality of COA Decision"[8] informing petitioner Mendoza of the finality of the Notice of Disallowance/s. The Commission then instructed the Talisay Water District cashier to withhold petitioner Mendoza's salaries corresponding to the amount disallowed and apply them in settlement of the audit disallowance in accordance with Rule XII, Section 3 of the Revised Rules of Procedure of the Commission on Audit.[9]

Petitioner Mendoza filed his Motion for Reconsideration[10] of the "Notice of Finality of COA Decision."[11] He assailed the finality of the Notice of Disallowance/s, arguing that he had not personally received a copy of this. This deprived him of the opportunity to answer the Notice immediately. He also argued that Section 23 of the Provincial Water Utilities Act of 1973 gives Talisay Water District board of directors the right to fix and increase his salary as general manager and is an exception to the Salary Standardization Law. Finally, he argued that he had relied on Section 23 in good faith. As such, he cannot be ordered to refund the salaries he had received.

The Commission on Audit denied petitioner Mendoza's Motion for Reconsideration for lack of merit.[12] It found that the Notice of Disallowance/s had been received by petitioner Mendoza's employee and ruled that petitioner Mendoza is deemed to have received the Notice of Disallowance/s constructively. It likened the service of the Notice of Disallowance/s to the service of summons. As a general rule, summons must be personally served on the person to whom it is directed, but substituted service is allowed in certain cases. The Commission also noted that "technical rules of procedure and evidence are not strictly applied"[13] in

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[8] *Id*. at 26.

[9] *Id*. at 27.

[10] September 10, 2009; *Rollo*, pp. 16-23.

[11] *Rollo*, p. 26.

[12] Decision dated November 25, 2010; *Rollo*, pp. 9-15.

[13] *Rollo*, p. 12.

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administrative proceedings; therefore, petitioner Mendoza "cannot invoke the defense of technicality."[14]

On the merits, the Commission ruled that Section 23 of the Provincial Water Utilities Act is not an exception to the Salary Standardization Law. According to the Commission, Section 23 of Presidential Decree No. 198 "could be reconciled with the salary standardization policy of the [Salary Standardization Law]."[15] The authority of water districts to fix the salary of a general manager "is not a blanket authority to be exercised without regard to, or outside the strictures of, [Republic Act No.] 6758."[16]

The Commission on Audit determined petitioner Mendoza's proper salary package was "within Salary Steps (1 to 8) in the appropriate Salary Grade, depending on the Position Classification Category of the General Manager under Section 5 of [Republic Act No.] 6758."[17] The case of *Baybay Water District v. Commission on Audit*[18] cited by petitioner Mendoza does not apply to him. In *Baybay*, this Court held that only board members of local water districts are not covered by the Salary Standardization Law. The dispositive portion of its Decision[19] reads:

WHEREFORE, premises considered, the instant motion for reconsideration is **DENIED** for lack of merit. The ATL, Talisay Water District, Talisay City, is hereby directed to enforce the implementation of the FOA dated July 6, 2009 in accordance with the provisions of Section 23.4, Chapter V, of the 2009 Rules and Regulations on the Settlement of Accounts.[20]

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[14] *Id*.

[15] *Id*. at 13.

[16] *Id*.

[17] *Id*.

[18] 425 Phil. 326 (2002).

[19] November 25, 2010; *Rollo*, pp. 9-15.

[20] *Rollo*, p. 14.

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On February 11, 2011, petitioner Mendoza filed this Petition[21] to set aside the Commission on Audit's Decision. He alleged that the Commission on Audit had committed grave abuse of discretion amounting to lack or excess of jurisdiction in rendering the Decision.

In its Comment,[22] the Commission on Audit argued that the rules on personal service of summons are not strictly applied to administrative proceedings, and substantial compliance is sufficient. Considering that the "Agency Head" in petitioner Mendoza's office received the Notice of Disallowance/s, the receipt is sufficient to notify him of his salary's disallowance. At the very least, there was substantial compliance with the service of the Notice of Disallowance/s.

The Commission also argued that Section 23 of Presidential Decree No. 198 can be reconciled with the Salary Standardization Law. Although Section 23 grants a water district the power to fix the compensation of its general manager, this power is not absolute. The salary of a general manager is limited by the Salary Standardization Law to a grade of Salary Grade 30 maximum. The alleged good faith of petitioner Mendoza in relying on Section 23 does not excuse him from reimbursing the government the amounts unduly disbursed to him.

Petitioner Mendoza filed his Reply to Comment,[23] after which the parties filed their respective Memoranda.

The issues for resolution are the following:

(1) Whether the Notice of Disallowance/s became final and executory despite lack of personal service on petitioner Mendoza;

(2) Whether the salary of a water district's general manager is covered by the Salary Standardization Law; and

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[21] *Id*. at 3-8. Petitioner filed a Petition for *Certiorari* under Rule 65 of the 1997 Rules of Civil Procedure.

[22] *Id*. at 45-58.

[23] September 28, 2011; *Rollo*, pp. 64-66.

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(3) Whether petitioner Mendoza's alleged good faith reliance on Section 23 of the Provincial Water Utilities Act of 1973 excuses him from reimbursing the government the amounts unduly disbursed to him.

The Petition is partly meritorious.

The Notice of Disallowance/s became final and executory.

Petitioner Mendoza argued that the Commission on Audit gravely abused its discretion in issuing the "Notice of Finality of COA Decision."[24] He stated that the Notice of Disallowance/s never became final and executory considering that he was never personally served a copy of the Notice.

Petitioner Mendoza is mistaken.

The Commission on Audit issued the Notice of Disallowance/s on May 28, 2007. The 1997 Revised Rules of Procedure of the Commission on Audit governed pleading and practice in the Commission during this period. Sections 5 and 6 of Rule IV state:

> Sec. 5. ***Number of Copies and Distribution***. - The report, Certificate of Settlement and Balances, notice of disallowances and charges, and order or decision of the Auditor shall be prepared in such number of copies as may be necessary for distribution to the following: (1) original to the head of agency being audited; (2) one copy to the Auditor for his record; (3) one copy to the Director who has jurisdiction over the agency of the government under audit; (4) other copies to the agency officials directly affected by the audit findings.
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> Sec. 6. ***Finality of the Report, Certificate of Settlement and Balances, Order or Decision.*** - Unless a request for reconsideration in filed or an appeal is taken, the report, Certificate of Settlement and Balances, order or decision of the Auditor shall become final upon the expiration of six (6) months after notice thereof to the parties concerned.

In this case, copies of the Notice of Disallowance/s were received on May 29, 2007 by "the Agency Head," "Accountant,"

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[24] *Rollo*, p. 26.

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and "Persons Liable" with their signatures appearing beside the three designations.[25] Petitioner Mendoza never disputed this fact. After his receipt of the Notice of Finality of COA Decision on August 27, 2009, petitioner Mendoza filed the Motion for Reconsideration dated September 10, 2009. The Commission on Audit gave due course to the Motion for Reconsideration and issued the assailed Decision two (2) years after the issuance of the Notice of Disallowance/s. It ruled that petitioner Mendoza's salary is covered by the Salary Standardization Law.

These circumstances show that the Notice of Disallowance/s was served on the necessary officers in accordance with the 1997 Revised Rules of Procedure of the Commission on Audit.

Moreover, this Court *En Banc* in *Gannapao v. Civil Service Commission*[26] ruled that:

> Time and again, we have held that the essence of due process is simply an opportunity to be heard or, as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of. **In the application of the principle of due process, what is sought to be safeguarded is not lack of previous notice but the denial of the opportunity to be heard**. As long as a party was given the opportunity to defend his interests in due course, he was not denied due process.[27] (Emphasis supplied)

Petitioner Mendoza was afforded due process despite his claim that he had never personally received a copy of the Notice of Disallowance/s. He was able to file the Motion for Reconsideration. The Commission gave due course to the Motion and ruled on the merits. Petitioner Mendoza, therefore, has been duly afforded an opportunity to explain his side and seek a reconsideration of the ruling he assails, which is the "essence of administrative due process."[28]

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[25] *Id.* at 25.

[26] G.R. No. 180141, May 31, 2011, 649 SCRA 595.

[27] *Id.* at 603-604.

[28] *Id.* at 603.

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For these reasons, We rule that the Commission on Audit issued the "Notice of Finality of COA Decision"[29] without grave abuse of discretion, and the Notice of Disallowance/s had become final and executory.

The salary of a water utility general manager is covered by the Salary Standardization Law.

To resolve whether water utilities are covered by the Salary Standardization Law, a discussion of the entities covered by and exempted from the Salary Standardization Law must be made.

A. Rationale and Coverage of the Salary Standardization Law

Legislation on the compensation and position classification of government employees reflects the policy of the State to provide "equal pay for substantially equal work"[30] in government and "to base differences in pay upon substantive differences in duties and responsibilities, and qualification requirements of the positions."[31] At present, Republic Act No. 6758 or the "Compensation and Position Classification Act of 1989" governs the compensation and position classification system in government.[32]

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[29] *Rollo*, p. 26.

[30] Republic Act No. 6758 (1989), Sec. 2.

[31] Republic Act No. 6758 (1989), Sec. 2; Presidential Decree No. 985 (1976), Sec. 2.

[32] Republic Act No. 6758 (1989), Sec. 2 provides:

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

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The Compensation and Position Classification System established under Republic Act No. 6758 applies to "all 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."[33]

The term "government" in Republic Act No. 6758 "refers to the Executive, the Legislative and the Judicial Branches and the Constitutional Commissions and shall include all, but shall not be limited to, departments, bureaus, offices, boards, commissions, courts, tribunals, councils, authorities, administrations, centers, institutes, state colleges and universities, local government units, and the armed forces."[34] "Government-owned or controlled corporations and financial institutions," on the other hand, include "all corporations and financial institutions owned or controlled by the National Government, whether such corporations and financial institutions perform governmental or proprietary functions."[35]

The coverage of Republic Act No. 6758 is comprehensive. In *Commission on Human Rights Employees' Association v. Commission on Human Rights*,[36] this Court ruled that Republic Act No. 6758 applies to the entire government without qualification:

> The disputation of the Court of Appeals that the CHR is exempt from the long arm of the Salary Standardization Law is flawed considering that the coverage thereof, as defined above, **encompasses the entire gamut of government offices, *sans* qualification.**[37] (Emphasis supplied)

B. Government Entities Exempted from the Salary Standardization Law

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[33] Republic Act No. 6758 (1989), Sec. 4.

[34] *Id*.

[35] *Id*.

[36] 486 Phil. 509 (2004).

[37] *Id*. at 527.

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Republic Act No. 6758 became effective on July 1, 1989. Since then, laws have been passed exempting some government entities from the Salary Standardization Law. These entities were allowed to create their own compensation and position classification systems that apply to their respective offices.

We examine some of these laws for Our guidance.

1. Philippine Postal Corporation

Sections 22 and 25 of Republic Act No. 7354 or the "Postal Service Act of 1992" state:

> Sec. 22. Merit System. — **The Corporation shall establish a human resources management system which shall govern the selection, hiring, appointment, transfer, promotion, or dismissal of all personnel.** Such system shall aim to establish professionalism and excellence at all levels of the postal organization in accordance with sound principles of management.
>
> A progressive compensation structure, which shall be based on job evaluation studies and wage surveys and subject to the Board's approval, shall be instituted as an integral component of the Corporation's human resources development program. The Corporation, however, may grant across-the-board salary increase or modify its compensation structure as to result in higher salaries, subject to either of the following conditions:
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> (a) there are evidences of prior improvement in employee productivity, measured by such quantitative indicators as mail volume per employee and delivery times.
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> (b) a law raising the minimum wage has been enacted with application to all government employees or has the effect of classifying some positions in the postal service as below the floor wage.
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> x x x x x x x x x
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> Sec. 25. Exemption from Rules and Regulations of the Compensation and Position Classification Office. — All personnel and positions of the Corporation shall be governed by Section 22 hereof, and as such **shall be exempt from the coverage of the rules and regulations of the Compensation and Position Classification Office.** The Corporation, however, shall see to it that its own system conforms as closely as possible with that provided for under Republic Act No. 6758. (Emphasis supplied)

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In *Intia, Jr. v. Commission on Audit*,[38] this Court affirmed the Philippine Postal Corporation's exemption from the Salary Standardization Law. However, the corporation should report the details of its salary and compensation system to the Department of Budget and Management.

First, it is conceded that the PPC, by virtue of its charter, R.A. No. 7354, has the power to fix the salaries and emoluments of its employees. This function, being lodged in the Postmaster General, the same must be exercised with the approval of the Board of Directors. This is clear from Sections 21 and 22 of said charter.

Petitioners correctly noted that since the PPC Board of Directors are authorized to approve the Corporation's compensation structure, it is also within the Board's power to grant or increase the allowances of PPC officials or employees. As can be gleaned from Sections 10 and 17 of P.D No. 985 (A Decree Revising the Position Classification and Compensation System in the National Government, and Integrating the Same), the term "compensation" includes salaries, wages, allowances, and other benefits.

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While the PPC Board of Directors admittedly acted within its powers when it granted the RATA increases in question, the same should have first been reviewed by the DBM before they were implemented Sections 21, 22, and 25 of the PPC charter should be read in conjunction with Section 6 of P.D. No. 1597:

Sec 6. **Exemption from OCPC Rules and Regulations.** Agencies, positions or groups of officials and employees of the national government, including government-owned and controlled corporations, who are hereafter exempted by law from OCPC coverage, shall observe such guidelines and policies as may be issued by the President governing position classification, salary rates, levels of allowances, project and other honoraria, overtime rates, and other forms of compensation and fringe benefits. **Exemptions notwithstanding, agencies shall report to the President, through the Budget Commission, on their position classification and compensation plans, policies, rates and other related details, following such specifications as may be prescribed by the President.** (Emphasis supplied).

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[38] 366 Phil. 273 (1999).

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As the Solicitor General correctly observed, there is no express repeal of Section 6, P.D. No. 1597 by RA No. 7354. Neither is there an implied repeal thereof because there is no irreconcilable conflict between the two laws. On the one hand, Section 25 of R.A. No. 7354 provides for the exemption of PPC from the rules and regulations of the CPCO. On the other hand, Section 6 of P.D. 1597 requires PPC to report to the President, through the DBM, the details of its salary and compensation system. **Thus, while the PPC is allowed to fix its own personnel compensation structure through its Board of Directors, the latter is required to follow certain standards in formulating said compensation system. One such standard is specifically stated in Section 25 of R.A. No. 7354.**[39] (Emphasis supplied)

2. Trade and Investment Development Corporation of the Philippines

The Trade and Investment Development Corporation of the Philippines is also exempted from the Salary Standardization Law as provided in Section 7 of Republic Act No. 8494:[40]

Sec. 7. The Board of Directors shall provide for an organizational structure and staffing pattern for officers and employees of the Trade and Investment Development Corporation of the Philippines (TIDCORP) and upon recommendation of its President, appoint and fix their remuneration, emoluments and fringe benefits: Provided, That the Board shall have exclusive and final authority to appoint, promote, transfer, assign and re-assign personnel of the TIDCORP, any provision of existing law to the contrary notwithstanding.

All positions in TIDCORP shall be governed by a compensation and position classification system and qualification standards approved by TIDCORP's Board of Directors based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the

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[39] *Id*. at 298-290; pp. 605-608..

[40] An Act Further Amending Presidential Decree No. 1080, As Amended, by Reorganizing And Renaming the Philippine Export and Foreign Loan Guarantee Corporation, Expanding Its Primary Purpose, and for Other Purposes, Republic Act No. 8494 (1998).

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prevailing compensation plans in the private sector and shall be subject to periodic review by the Board no more than once every four (4) years without prejudice to yearly merit reviews or increases based on productivity and profitability. **TIDCORP shall be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards.** It shall, however, endeavor to make the system to conform as closely as possible to the principles and modes provided in Republic Act No. 6758. (Emphasis supplied)

This Court in *Trade and Investment Development Corporation of the Philippines v. Civil Service Commission*[41] recognized the Trade and Investment Development Corporation's exemption from the Salary Standardization Law. The Corporation should, however, "endeavor" to conform to the principles and modes of the Salary Standardization Law in making its own system of compensation and position classification.

The phrase "to endeavor" means "to devote serious and sustained effort" and "to make an effort to do." It is synonymous with the words to strive, to struggle and to seek. The use of "to endeavor" in the context of Section 7 of R.A. 8494 means that despite TIDCORP's exemption from laws involving compensation, position classification and qualification standards, it should still strive to conform as closely as possible with the principles and modes provided in R.A. 6758. The phrase "as closely as possible," which qualifies TIDCORP's duty "to endeavor to conform," **recognizes that the law allows TIDCORP to deviate from RA 6758, but it should still try to hew closely with its principles and modes.** Had the intent of Congress been to require TIDCORP to fully, exactly and strictly comply with R.A. 6758, it would have so stated in unequivocal terms. Instead, the mandate it gave TIDCORP was to endeavor to conform to the principles and modes of R.A. 6758, and not to the entirety of this law. (Emphasis supplied)

3. Land Bank of the Philippines, Social Security System, Small Business Guarantee and Finance Corporation, Government Service Insurance System, Development Bank of the Philippines, Home Guaranty Corporation, and the Philippine Deposit Insurance Corporation

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[41] G.R. No. 182249, March 5, 2013.

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From 1995 to 2004, laws were passed exempting several government financial institutions from the Salary Standardization Law. Among these financial institutions are the Land Bank of the Philippines, Social Security System, Small Business Guarantee and Finance Corporation, Government Service Insurance System, Development Bank of the Philippines, Home Guaranty Corporation, and the Philippine Deposit Insurance Corporation.

This Court has taken judicial notice of this development in *Central Bank (now Bangko Sentral ng Pilipinas) Employees Association, Inc. v. Bangko Sentral ng Pilipinas*:[42]

> Indeed, we take judicial notice that after the new BSP charter was enacted in 1993, Congress also undertook the amendment of the charters of the GSIS, LBP, DBP and SSS, and three other GFIs, from 1995 to 2004, *viz*:
>
> 1. R.A. No. 7907 (1995) for Land Bank of the Philippines (LBP);
> 2. R.A. No. 8282 (1997) for Social Security System (SSS);
> 3. R.A. No. 8289 (1997) for Small Business Guarantee and Finance Corporation, (SBGFC);
> 4. R.A. No. 8291 (1997) for Government Service Insurance System (GSIS);
> 5. R.A. No. 8523 (1998) for Development Bank of the Philippines (DBP);
> 6. R.A. No. 8763 (2000) for Home Guaranty Corporation (HGC); and
> 7. R.A. No. 9302 (2004) for Philippine Deposit Insurance Corporation (PDIC).

It is noteworthy, as petitioner points out, **that the subsequent charters of the seven other GFIs share this common *proviso*:** a blanket exemption of **all their employees** from the coverage of the SSL, expressly or impliedly, as illustrated below:

1. Land Bank of the Philippines (Republic Act No. 7907)

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[42] 487 Phil. 531 (2004).

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Section 10. Section 90 of [Republic Act No. 3844] is hereby amended to read as follows:

Section 90. *Personnel.* –

x x x x x x x x x

All positions in the Bank shall be governed by a compensation, position classification system and qualification standards approved by the Bank's Board of Directors based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans in the private sector and shall be subject to periodic review by the Board no more than once every two (2) years without prejudice to yearly merit reviews or increases based on productivity and profitability. **The Bank shall therefore be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards.** It shall however endeavor to make its system conform as closely as possible with the principles under Republic Act No. 6758. (Emphasis supplied)

x x x x x x x x x

2. Social Security System (Republic Act No. 8282)

Section 1. [Amending Republic Act No. 1161, Section 3(c)]:

x x x x x x x x x

(c) The Commission, upon the recommendation of the SSS President, shall appoint an actuary and such other personnel as may [be] deemed necessary; fix their reasonable compensation, allowances and other benefits; prescribe their duties and establish such methods and procedures as may be necessary to insure the efficient, honest and economical administration of the provisions and purposes of this Act: *Provided, however,* That the personnel of the SSS below the rank of Vice President shall be appointed by the SSS President: *Provided, further,* That the personnel appointed by the SSS President, except those below the rank of assistant manager, shall be subject to the confirmation by the Commission; *Provided further,* That the personnel of the SSS shall be selected only from civil service eligibles and be subject to civil service rules and regulations: *Provided, finally,* **That the SSS shall be exempt from the provisions of Republic Act No. 6758 and Republic Act No. 7430.** (Emphasis supplied)

3. Small Business Guarantee and Finance Corporation (Republic Act No. 8289)

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Section 8. [Amending Republic Act No. 6977, Section 11]:

(e) **notwithstanding the provisions of Republic Act No. 6758, and Compensation Circular No. 10, series of 1989** issued by the Department of Budget and Management, **the Board of Directors of [the Small Business Guarantee and Finance Corporation] shall have the authority to extend to the employees and personnel thereof the allowance and fringe benefits similar to those extended to and currently enjoyed by the employees and personnel of other government financial institutions.** (Emphases supplied)

4. Government Service Insurance System (Republic Act No. 8291)

Section 1. [Amending Section 43(d) of Presidential Decree No. 1146].

x x x x x x x x x

Sec. 43. *Powers and Functions of the Board of Trustees.* - The Board of Trustees shall have the following powers and functions:

x x x x x x x x x

(d) upon the recommendation of the President and General Manager, to approve the GSIS' organizational and administrative structures and staffing pattern, and to establish, fix, review, revise and adjust the appropriate compensation package for the officers and employees of the GSIS with reasonable allowances, incentives, bonuses, privileges and other benefits as may be necessary or proper for the effective management, operation and administration of the **GSIS, which shall be exempt from Republic Act No. 6758, otherwise known as the Salary Standardization Law and Republic Act No. 7430, otherwise known as the Attrition Law.** (Emphasis supplied)

x x x x x x x x x

5. Development Bank of the Philippines (Republic Act No. 8523)

Section 6. [Amending Executive Order No. 81, Section 13]:

Section 13. *Other Officers and Employees.* - The Board of Directors shall provide for an organization and staff of officers and employees of the Bank and upon recommendation of the President of the Bank, fix their remunerations and other emoluments. All positions in the Bank shall be governed by the compensation, position classification system and qualification standards approved by the Board of Directors based on a comprehensive job analysis of actual duties and

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responsibilities. The compensation plan shall be comparable with the prevailing compensation plans in the private sector and shall be subject to periodic review by the Board of Directors once every two (2) years, without prejudice to yearly merit or increases based on the Bank's productivity and profitability. **The Bank shall, therefore, be exempt from existing laws, rules, and regulations on compensation, position classification and qualification standards. The Bank shall however, endeavor to make its system conform as closely as possible with the principles under Compensation and Position Classification Act of 1989 (Republic Act No. 6758, as amended).** (Emphasis supplied)

6. Home Guaranty Corporation (Republic Act No. 8763)

Section 9. *Powers, Functions and Duties of the Board of Directors*.

- The Board shall have the following powers, functions and duties:

x x x x x x x x x

(e) To create offices or positions necessary for the efficient management, operation and administration of the Corporation: *Provided*, That all positions in the Home Guaranty Corporation (HGC) shall be governed by a compensation and position classification system and qualifications standards approved by the Corporation's Board of Directors based on a comprehensive job analysis and audit of actual duties and responsibilities: *Provided, further,* **That the compensation plan shall be comparable with the prevailing compensation plans in the private sector and which shall be exempt from Republic Act No. 6758, otherwise known as the Salary Standardization Law, and from other laws, rules and regulations on salaries and compensations;** and to establish a Provident Fund and determine the Corporation's and the employee's contributions to the Fund; (Emphasis supplied)

x x x x x x x x x

7. Philippine Deposit Insurance Corporation (Republic Act No. 9302)

Section 2. Section 2 of [Republic Act No. 3591, as amended] is hereby further amended to read:

x x x x x x x x x

3.

x x x x x x x x x

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A compensation structure, based on job evaluation studies and wage surveys and subject to the Board's approval, shall be instituted as an integral component of the Corporation's human resource development program: *Provided*, That all positions in the Corporation shall be governed by a compensation, position classification system and qualification standards approved by the Board based on a comprehensive job analysis and audit of actual duties and responsibilities. **The compensation plan shall be comparable with the prevailing compensation plans of other government financial institutions** and shall be subject to review by the Board no more than once every two (2) years without prejudice to yearly merit reviews or increases based on productivity and profitability. **The Corporation shall therefore be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards.** It shall however endeavor to make its system conform as closely as possible with the principles under Republic Act No. 6758, as amended.[43] (Emphases supplied)

C. Water utilities are government-owned or controlled corporations created pursuant to a special law.

Water utilities are government-owned or controlled corporations created pursuant to a special law, the Presidential Decree No. 198 or "the Provincial Water Utilities Act of 1973." This Court held in *Davao City Water District v. Civil Service Commission*:[44]

After a fair consideration of the parties' arguments coupled with a careful study of the applicable laws as well as the constitutional provisions involved, We rule against the petitioners and reiterate Our ruling in Tanjay case **declaring water districts government-owned or controlled corporations with original charter**.

As early as *Baguio Water District v. Trajano, et al.*, (G.R. No. 65428, February 20, 1984, 127 SCRA 730), We already ruled **that a water district is a corporation created pursuant to a special law — P.D. No. 198, as amended**, and as such its officers and employees are covered by the Civil Service Law.

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[43] *Id*. at 568-577.

[44] 278 Phil. 605 (1991).

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In another case (*Hagonoy Water District v. NLRC*, G.R. No. 81490, August 31, 1988, 165 SCRA 272), We ruled once again that local water districts are quasi-public corporations whose employees belong to the Civil Service. x x x.

Ascertained from a consideration of the whole statute, PD 198 is a special law applicable only to the different water districts created pursuant thereto. In all its essential terms, it is obvious that it pertains to a special purpose which is intended to meet a particular set of conditions and circumstances. The fact that said decree generally applies to all water districts throughout the country does not change the fact that PD 198 is a special law. Accordingly, this Court's resolution in Metro Iloilo case declaring PD 198 as a general legislation is hereby abandoned.

x x x x x x x x x

No consideration may thus be given to petitioners' contention that the operative act which created the water districts are the resolutions of the respective local sanggunians and that consequently, PD 198, as amended, cannot be considered as their charter.

It is to be noted that PD 198, as amended is the source of authorization and power to form and maintain a district. Section 6 of said decree provides:

> Sec. 6. *Formation of District*. — This Act is the source of authorization and power to form and maintain a district. Once formed, a district is subject to the provisions of this Act and not under the jurisdiction of any political subdivision. x x x.

Moreover, it must be observed that PD 198, [sic] contains all the essential terms necessary to constitute a charter creating a juridical person. x x x.

x x x x x x x x x

Noteworthy, the above quoted provisions of PD 198, as amended, are similar to those which are actually contained in other corporate charters. **The conclusion is inescapable that the said decree is in truth and in fact the charter of the different water districts for it clearly defines the latter's primary purpose and its basic organizational set-up. In other words, PD 198, as amended, is the very law which gives a water district juridical personality.** While it is true that a resolution of a local sanggunian is still necessary for

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the final creation of a district, this Court is of the opinion that said resolution cannot be considered as its charter, the same being intended only to implement the provisions of said decree. In passing a resolution forming a water district, the local sanggunian is entrusted with no authority or discretion to grant a charter for the creation of a private corporation. It is merely given the authority for the formation of a water district, on a local option basis, to be exercised under and in pursuance of PD 198.[45] (Emphasis supplied)

In *Feliciano v. Commission on Audit*,[46] this Court reiterated that local water districts are government-owned or controlled corporations existing pursuant to Presidential Decree No. 198, thus:

LWDs exist by virtue of PD 198, which constitutes their special charter. Since under the Constitution only government-owned or controlled corporations may have special charters, LWDs can validly exist only if they are government-owned or controlled. To claim that LWDs are private corporations with a special charter is to admit that their existence is constitutionally infirm.

Unlike private corporations, which derive their legal existence and power from the Corporation Code, LWDs derive their legal existence and power from PD 198. Sections 6 and 25 of PD 198[14] provide:

> Section 6. Formation of District. — **This Act is the source of authorization and power to form and maintain a district. For purposes of this Act, a district shall be considered as a quasi-public corporation performing public service and supplying public wants. As such, a district shall exercise the powers, rights and privileges given to private corporations under existing laws, in addition to the powers granted in, and subject to such restrictions imposed, under this Act.**

xxx x x x xxx

Clearly, LWDs exist as corporations only by virtue of PD 198, which **expressly confers on LWDs corporate powers**. Section 6 of PD 198 provides that LWDs "shall exercise the powers, rights and privileges given to private corporations under existing laws." Without PD 198, LWDs would have no corporate powers. Thus, PD 198

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[45] *Id.* at 610-616.

[46] 464 Phil. 439 (2004).

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constitutes the special enabling charter of LWDs. **The ineluctable conclusion is that LWDs are government-owned and controlled corporations with a special charter.**[47] (Emphasis supplied)

Water utilities are not covered by Republic Act No. 10149, otherwise known as the "GOCC Governance Act of 2011."[48] This recognizes that despite being government-owned or controlled corporations, water utilities are governed by a special law, that is, Presidential Decree No. 198 or the "Provincial Water Utilities Act of 1973."

Given that water utilities are government-owned or controlled corporations existing under the Provincial Water Utilities Act of 1973, the question whether water utilities are covered by the Salary Standardization Law remains.

The Salary Standardization Law applies to all government positions, including those in government-owned or controlled corporations, without qualification.[49] The exception to this rule is when the government-owned or controlled corporation's charter specifically exempts the corporation from the coverage of the Salary Standardization Law. To resolve this case, We examine the provisions of Presidential Decree No. 198 exempting water utilities from the Salary Standardization Law. The petitioner asserts that it is Section 23 of Presidential Decree No. 198, as amended, which grants water utilities this exemption.

Section 23 of Presidential Decree No. 198, promulgated on May 25, 1973, was originally phrased as follows:

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[47] *Id*. at 455-457.

[48] Republic Act No. 10149 (2011), Sec. 4 states:

SEC. 4. Coverage.—This Act shall be applicable to all GOCCs, GICPs/GCEs, and government financial institutions, including their subsidiaries, **but excluding** the Bangko Sentral ng Pilipinas, state universities and colleges, cooperatives, **local water districts**, economic zone authorities and research institutions: Provided, That in economic zone authorities and research institutions, the President shall appoint one-third (1/3) of the board members from the list submitted by the GCG. (Emphasis supplied)

[49] Republic Act No. 6758 (1989), Sec. 4.

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Section 23. *Additional Officers*. - At the first meeting of the board, or as soon thereafter as practicable, the board shall appoint, by a majority vote, a general manager, an auditor, and an attorney, and shall define their duties and fix their compensation. Said officers shall service at the pleasure of the board.

On April 2, 2004, Republic Act No. 9286 was passed amending certain provisions of Presidential Decree No. 198, including its Section 23, thus:

Sec. 23. *The General Manager*. - At the first meeting of the Board, or as soon thereafter as practicable, the Board shall appoint, by a majority vote, a general manager and shall define his duties and fix his compensation. **Said officer shall not be removed from office, except for cause and after due process.** (Emphasis supplied)

We are not convinced that Section 23 of Presidential Decree No. 198, as amended, or any of its provisions, exempts water utilities from the coverage of the Salary Standardization Law. In statutes subsequent to Republic Act No. 6758,[50] Congress

[50] An Act Amending Republic Act Numbered Three Thousand Five Hundred Ninety-One, as Amended, Otherwise Known as the "Charter Of The Philippine Deposit Insurance Corporation" and for Other Purposes, Republic Act No. 9302 (2004); Home Guaranty Corporation Act of 2000, Republic Act No. 8763 (2000); An Act Strengthening the Development Bank of the Philippines, Amending for the Purpose Executive Order No. 81, Republic Act No. 8523 (1998); An Act Regulating the Issuance and Use of Access Devices, Prohibiting Fraudulent Acts Committed Relative thereto, Providing Penalties and for Other Purposes, Republic Act No. 8484 (1998); An Act Amending Presidential Decree No. 1146, As Amended, Expanding and Increasing the Coverage and Benefits of the Government Service Insurance System, Instituting Reforms Therein and for Other Purposes, Republic Act No. 8291 (1997); An Act to Strengthen the Promotion and Development of, and Assistance to Small and Medium Scale Enterprises, Amending for that Purpose Republic Act No. 6977, Otherwise Known as the "Magna Carta For Small Enterprises" and for Other Purposes, Republic Act No. 8289 (1997); An Act Further Strengthening the Social Security System Thereby Amending for this Purpose Republic Act No. 1161, as Amended, Otherwise Known as the Social Security Law, Republic Act No. 8282 (1997); An Act Amending Republic Act Numbered Thirty-Eight Hundred Forty-Four, as Amended, Otherwise Known as the "Code of Agrarian Reform in the Philippines," Republic Act No. 7907 (1995); The Postal Service Act of 1992, Republic Act No. 7354 (1992).

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consistently provided not only for the power to fix compensation but also the agency's or corporation's exemption from the Salary Standardization Law. If Congress had intended to exempt water utilities from the coverage of the Salary Standardization Law and other laws on compensation and position classification, it could have expressly provided in Presidential Decree No. 198 an exemption clause similar to those provided in the respective charters of the Philippine Postal Corporation, Trade Investment and Development Corporation, Land Bank of the Philippines, Social Security System, Small Business Guarantee and Finance Corporation, Government Service Insurance System, Development Bank of the Philippines, Home Guaranty Corporation, and the Philippine Deposit Insurance Corporation.

Congress could have amended Section 23 of Presidential Decree No. 198 to expressly provide that the compensation of a general manager is exempted from the Salary Standardization Law. However, Congress did not. Section 23 was amended to emphasize that the general manager "shall not be removed from office, except for cause and after due process."[51]

This does not mean that water utilities cannot fix the compensation of their respective general managers. Section 23 of Presidential Decree No. 198 clearly provides that a water utility's board of directors has the power to define the duties and fix the compensation of a general manager. However, the compensation fixed must be in accordance with the position classification system under the Salary Standardization Law. Section 5 of the law provides:

Section 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.

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[51] This is without prejudice to *Baybay Water District v. Commission on Audit*, 425 Phil. 326 (2002) where this Court held that members of the board of directors of water utilities are not covered by the Salary Standardization Law.

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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 task 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

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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 involves 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 of 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.

Thus, a general manager's position will be classified under one of the categories in Section 5 of the Salary Standardization Law depending on the duties as defined by the board of directors. After determining the category to which a general manager's position belongs, the board of directors must set the salary compensation package within Salary Steps 1 to 8 of the appropriate salary grade. The salary grade assigned, however, cannot exceed Salary Grade 30 by virtue of Section 9 of the Salary Standardization Law, which reads:

Section 9. ***Salary Grade Assignments for Other Positions*****.** - For positions below the Officials mentioned under Section 8 hereof and their equivalent, whether in the National Government, local government units, government-owned or controlled corporations or financial institutions, the Department of Budget and Management is hereby directed to prepare the Index of Occupational Services to be guided by the Benchmark Position Schedule prescribed hereunder and the following factors: (1) the education and experience required to perform the duties and responsibilities of the positions; (2) the nature and complexity of the work to be performed; (3) the kind of supervision received; (4) mental and/or physical strain required in the completion of the work; (5) nature and extent of internal and external relationships; (6) kind of supervision exercised; (7) decision-making responsibility; (8) responsibility for accuracy of records and reports; (9) accountability for funds, properties and equipment; and (10) hardship, hazard and personal risk involved in the job.

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x x x x x x x x x

In no case shall the salary of the chairman, president, **general manager** or administrator, and the board of directors **of government-owned or controlled corporations and financial institutions exceed Salary Grade 30**: Provided, That the President may, in truly exceptional cases, approve higher compensation for the aforesaid officials. (Emphasis supplied)

The rationale for setting the maximum salary grade for a general manager of a government-owned or controlled corporation to Salary Grade 30 is to maintain, as much as possible, the same salary of general managers across all government-owned or controlled corporations and financial institutions.

All told, the general manager position of a water district is covered by the Salary Standardization Law. The Commission on Audit did not gravely abuse its discretion in disallowing petitioner Mendoza's compensation for exceeding the rate provided in the Salary Standardization Law.

Petitioner Mendoza is excused from refunding the disallowed amount due to his good faith.

Petitioner Mendoza argued that he received the disallowed amounts in good faith, relying on Section 23 of Presidential Decree No. 198. He cited the 2004 case of *De Jesus v. Commission on Audit*[52] as his authority.

In *De Jesus v. Commission on Audit*, members of the Metro Cariaga Water District board of directors questioned the Commission on Audit's disallowance of certain allowances and bonuses they had received under the Local Water Utilities Administration Resolution No. 313, Series of 1995. Resolution No. 313 granted the board of directors of water utilities representation and transportation allowance (RATA), rice allowance, clothing allowance, Christmas bonus, productivity pay, and honorarium. This Court voided Local Water Utilities Administration Resolution No. 313 for being contrary to Section

[52] 466 Phil. 912 (2004).

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13 of Presidential Decree No. 198, which only allows for *per diems*. Section 13 of Presidential Decree No. 198 states:

> *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 ₱50 shall be subject to approval of the Administration. (Emphasis supplied)

However, We excused the refund of the disallowed amounts because at the time the board members had received the allowances and benefits, this Court had not yet promulgated *Baybay Water District v. Commission on Audit*.[53]

In *Baybay Water District v. Commission on Audit*, members of the water district's board of directors questioned Commission on Audit's disallowance of their representation, transportation allowance, and rice allowances. This Court affirmed the disallowance and ruled that under Section 18 of the Provincial Water Utilities Act of 1973, members of the board of directors of water districts are only entitled to *per diems* and nothing more.

> x x x 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, due regard being given to the context in which the words and phrases are used. 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

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[53] *Baybay Water District v. Commission on Audit*, *supra* note 18.

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per diem authorized by law and no other compensation or allowance in whatever form.[54]

The salaries petitioner Mendoza received were fixed by the Talisay Water District's board of directors pursuant to Section 23 of the Presidential Decree No. 198. Petitioner Mendoza had no hand in fixing the amount of compensation he received. Moreover, at the time petitioner Mendoza received the disputed amount in 2005 and 2006, there was no jurisprudence yet ruling that water utilities are not exempted from the Salary Standardization Law.

Pursuant to *De Jesus v. Commission on Audit*, petitioner Mendoza received the disallowed salaries in good faith. He need not refund the disallowed amount.

WHEREFORE, the Decision of the Commission on Audit dated November 25, 2010 is **AFFIRMED** with **MODIFICATION**. Petitioner Manolito P. Mendoza need not refund the disallowed amount of Three Hundred Eighty Thousand Two Hundred Eight Pesos (₱380,208.00).

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-de Castro, Brion, Peralta, Bersamin, del Castillo, Abad, Villarama, Jr., Perez, Mendoza, Reyes, and *Perlas-Bernabe, JJ.*, concur.

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[54] *Id.* at 337.