Supreme Court E-Library

EN BANC

[G.R. No. 236725; February 2, 2021]

IRENE G. ANCHETA, *ET AL.*, (RANK-AND-FILE EMPLOYEES OF THE SUBIC WATER DISTRICT), *Petitioners*, *v.* **COMMISSION ON AUDIT (COA),** *Respondent*.

APPEARANCES OF COUNSEL

The Solicitor General for respondent.

D E C I S I O N

M. LOPEZ, *J.*:

In this Petition for *Certiorari*[1] under Rule 64, in relation to Rule 65 of the Revised Rules of Court, petitioner Irene G. Ancheta (Ancheta) with the officers and the rank-and-file employees[2] of the Subic Water District (SWD) impute grave abuse of discretion on respondent Commission on Audit (COA) in issuing Decision No. 2016-473[3] dated December 28, 2016 and Resolution[4] dated December 27, 2017.

Facts

SWD is a government-owned and controlled corporation (GOCC) organized under Presidential Decree (PD) No. 198,[5]

---

[1] *Rollo*, pp. 1-18.

[2] Irene G. Ancheta signed the Petition and the Verification and Certification of Non-Forum Shopping as "petitioner and representative of the affected officers and employees of SWD"; *id.* at 16 and 18.

[3] *Id.* at 26-32.

[4] *Id.* at 33-37.

[5] DECLARING A NATIONAL POLICY FAVORING LOCAL OPERATION AND CONTROL OF WATER SYSTEMS; AUTHORIZING THE FORMATION OF LOCAL WATER DISTRICTS AND PROVIDING FOR THE GOVERNMENT AND ADMINISTRATION OF SUCH DISTRICTS;

Supreme Court E-Library

as amended. In 2010, it released an aggregate amount of ₱3,354,123.50 worth of benefits, which include: rice allowance,[6] medical allowance,[7] Christmas groceries,[8] year-end financial assistance,[9] mid-year bonus,[10] and year-end bonus[11] for its officers and employees; and Christmas groceries[12] for its Board of Directors.[13] These disbursements were disallowed in Notice of Disallowance (ND) No. 2011-002[14] dated August 22, 2011 because they were granted to persons employed after June 30, 1989, in violation of Department of Budget and Management (DBM) Corporate Compensation Circular (CCC) No. 10 dated February 15, 1999.

DBM CCC No. 10 provides guidelines in the implementation of Republic Act (RA) No. 6758[15] or the "Salary Standardization Law." The COA Audit Team particularly cited paragraph 5.5[16]

CHARTERING A NATIONAL ADMINISTRATION TO FACILITATE IMPROVEMENT OF LOCAL WATER UTILITIES; GRANTING SAID ADMINISTRATION SUCH POWERS AS ARE NECESSARY TO OPTIMIZE PUBLIC SERVICE FROM WATER UTILITY OPERATIONS, AND FOR OTHER PURPOSES; approved on May 25, 1973.

[6] *Rollo*, pp. 40-41.

[7] *Id.* at 42-43.

[8] *Id.* at 44-45 and 47.

[9] *Id.* at 48-49.

[10] *Id.* at 50-51.

[11] *Id.* at 52-53.

[12] *Id.* at 46.

[13] These benefits were granted pursuant to previous board resolutions dating from 1995 to 1999; *id.* at 60.

[14] *Id.* at 38-39.

[15] AN ACT PRESCRIBING A REVISED COMPENSATION AND POSITION CLASSIFICATION SYSTEM IN THE GOVERNMENT AND FOR OTHER PURPOSES; approved on July 1, 1989.

[16] 5.5 The following allowances/fringe benefits authorized to GOCCs/GFIs pursuant to the aforementioned issuances **are not likewise to be integrated into the basic salary and allowed to be continued only for incumbents of positions as of June 30, 1989 who are authorized and**

of DBM CCC No. 10, which enumerated the additional allowances that are not integrated in the standardized salary rate, and allowed to be continuously given only to incumbent employees, who are actually receiving such benefits as of June 30, 1989. Considering that the SWD officers and employees who received the additional benefits in 2010 were employed after June 30, 1989, the COA Audit Team concluded that the grants were unauthorized.[17]

The following persons were charged responsible to settle the disallowed amounts: (1) Ancheta, General Manager, who approved the transaction; (2) Ariel Rapsing (Rapsing), Corporate Budget Specialist, who certified that the expenses were necessary; (3) Agnes Corpuz (Corpuz), Cashier A, as the disbursing officer; and (4) the other officers and employees who received the disallowed benefits, except those incumbents as of June 30, 1989.[18]

Ancheta appealed to the COA Regional Office No. 3 (COA-RO3).

COA-RO3 Ruling

In COA-RO3 Decision No. 2012-14[19] dated March 28, 2012, the benefits were declared illegal for violating Section 12[20] of RA No. 6758, which limited the grant of additional allowances

---

actually receiving said allowances/benefits as of said date at the same terms and conditions prescribed in said issuances:

5.5.1 Rice Subsidy;
5.5.2 Sugar Subsidy;
5.5.3 Death Benefits other than those granted by the GSIS;
5.5.4 Medical/dental/optical allowances/benefits;
5.5.5 Children's Allowance;
5.5.6 Special Duty Pay/Allowance;
5.5.7 Meal Subsidy;
5.5.8 Longevity Pay; and
5.5.9. Teller's Allowance. (Emphases supplied.)

[17] *Rollo*, p. 38.

[18] *Id.*

[19] *Id.* at 54-57.

[20] Sec. 12. *Consolidation of Allowances and Compensation*. — All allowances, except for representation and transportation allowances; clothing and laundry

Supreme Court E-Library

only to employees who are incumbent and receiving such benefits as of July 1, 1989, thus:

> WHEREFORE, premises considered, we concur and affirm the stand taken by the Audit Team Leader in her Notice of Disallowance No. 2011-002 dated August 22, 2011 in the total amount of [₱]3,354,123.50. Consequently, the herein Appeal to set aside the herein disallowance is hereby **DENIED**.[21] (Emphasis in the original.)

Ancheta, representing the officers and rank-and-file employees of SWD, then filed a Petition for Review[22] with the COA Proper.

COA Proper Ruling

COA Decision No. 2016-473[23] dated December 28, 2016 affirmed the COA-RO3 ruling:

> **WHEREFORE**, premises considered, the Petition for Review is hereby **DENIED** for lack of merit. Accordingly, [the COA-RO3] Decision No. 2012-14 dated March 28, 2012, affirming [ND No. 2011-002] dated August 22, 2011, on the payment of various benefits and allowances granted to officials and employees of [SWD] in the total amount of [₱]3,354,123.50 is **AFFIRMED**.[24] (Emphasis in the original.)

Ancheta belatedly moved for reconsideration.[25] But, in a Resolution[26] dated December 27, 2017, the COA Proper sustained

---

allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM, shall be deemed included in the standardized salary rates herein prescribed. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized.

[21] *Rollo*, p. 57.

[22] *Id.* at 58-63.

[23] *Id.* at 26-32.

[24] *Id.* at 30-31.

[25] *Id.* at 64-75.

[26] *Id.* at 33-37.

Supreme Court E-Library

its Decision with modification as to the liability of the persons held responsible for the return of the disallowed amounts:

> **WHEREFORE**, premises considered, the [MR] is hereby **PARTIALLY GRANTED**. Accordingly, [COA] Decision No. 2016-473 dated December 28, 2016, which denied the Petition for Review of [Ancheta] x x x, is **AFFIRMED**, insofar as the propriety of [ND] No. 2011-002 dated August 22, 2011, relative to the payment of various benefits and allowances to SWD officials and employees for the year 2010 in the total amount of [₱]3,354,123.50. **However, the regular, casual, and contractual employees need not refund the amounts they received for being passive recipients of the subject benefits**. All the approving and certifying officers for the payments, and the members of the Board of Directors who authorized the grant of the benefits shall remain solidarily liable for the total amount of disallowance. **[Corpuz] is excluded from solidary liability under the ND**.
>
> **Moreover, the Audit Team Leader and Supervising Auditor are hereby directed to issue a Supplemental ND to include the members of the Board of Directors of SWD as persons solidarily liable for the total disallowance under ND No. 2011-002 in the total amount of [₱]3,354,123.50, for authorizing the grant of Medical Allowance, Christmas Groceries, Financial Assistance, and Rice Allowance**.[27] (Emphases supplied.)

Unconvinced, petitioners are before this Court, insisting that the disbursements were authorized by DBM Secretary Benjamin Diokno's (Secretary Diokno) Letter[28] dated November 8, 2000 addressed to certain local water districts (LWD), namely, the Davao City Water District and Metropolitan Cebu Water District. Secretary Diokno opined that:

> **LWDs were created by virtue of a special law, PD No. 198, as amended by PD Nos. 768 and 1749. Although LWDs were created by a special law, they operated as private corporations, independent of and free from the coverage, mandatory review and examination of national government agencies, such as DBM, CSC and COA.**

---

[27] *Id.* at 36.

[28] *Id.* at 76-78.

Supreme Court E-Library

A Supreme Court ruling with "Entry of Final Judgment on March 12, 1992 in the case of *Davao City Water District, et al. v. Civil Service Commission and Commission on Audit*, G.R. No. 95237-38 declared all LWDs as government-owned corporations subject to policies, rules and regulations of, and to the usual mandatory review and examination by above oversight agencies.

The grant of allowances/fringe benefits has long been an established and existing practice in LWDs when they were still treated as private entities and prior to said Supreme Court ruling. Said benefits were granted to the employees by virtue of Collective Bargaining Agreements and Board Resolutions executed before the said SC ruling and their coverage under RA 67[5]8 which were well within the inherent powers of the Board of Directors of LWDs. However, certain modifications which were limited only to the rates and nomenclature of their benefits were effected after their coverage under RA 6758 and CCC No. 10 to reflect the rationale behind the grant thereof.

While the SC ruling was effective March 12, 1992, LWDs were not yet formally placed under the coverage of RA 6758 as of January 1, 1997.

The same requisites and considerations for LWDs existed in cases of GOCCs/GFIs which were resolved favorably in the latter's favor such that they were allowed to continue to grant allowances/fringe benefits being enjoyed prior to the implementation of RA 6758.

Premised on considerations (1) that the grant of allowances/fringe benefits in question has long been an established and existing practice of LWDs prior to their coverage under RA 6758/CCC No. 10 and to said Supreme Court ruling that they are GOCCs; (2) that LWDs are self-sustaining GOCCs and they receive no funding support from the National Government; and **(3) of the Supreme Court position/interpretation of the provisions of Section 12 of RA No. 6758, we are hereby authorizing the following**:

- **The subject LWDs shall be allowed to continue the grant of allowances/fringe benefits that are found to be an established and existing practice as of December 31, 1999**, details are in Annex A; and
- Confirmation of the allowances/fringe benefits already granted as of December 31, 1999, to resolve the disallowances made by COA.

Supreme Court E-Library

The above authority, however, is subject to the following conditions:

1. **That the grant shall be limited only to Incumbents as of December 31, 1999**, of regular positions in the Plantilla of Positions (POP) duly approved by DBM and whose appointments were duly approved/attested by CSC;

2. That casual and contractual personnel hired outside of the regular POP as of December 31, 1999 may also be allowed said allowances/fringe benefits, provided they were hired with prior approval by DBM and appointment papers duly approved by CSC;

3. That the grant of allowances/fringe benefits that are outside of what has been prescribed by law and other compensation issuances and were being enjoyed prior to the declaration by the Supreme Court that LWDs are GOCCs, will be allowed only if the following are met by the concerned LWD:[29] (Emphases supplied.)

Petitioners also invoked the Letter[30] dated April 27, 2001 addressed to the Philippine Association of Water Districts, Inc. (PAWDI), of DBM Secretary Emilia Boncodin that echoed Secretary Diokno's opinion and explained that:

Subject authority is, however, subject to certain conditions, among which, are that the grant of allowances/fringe benefits that are outside of what has been prescribed by law and other compensation issuances and were being enjoyed prior to the declaration by the Supreme Court that LWDs are GOCCs will be allowed only if the financial and operational parameters are met as indicated in condition number 3 of said authorization.

As contemplated in said authorization, the grant of allowances and fringe benefits that are **found to be an established and existing practice and already granted as of December 31, 1999** shall not be subject to the said condition to resolve the disallowances made by the Commission on Audit (COA). **Subject allowances/benefits already form part of the compensation being regularly received by LWD personnel, hence, any disallowance action constitute**

---

[29] *Id.* at 76-77.

[30] *Id.* at 81-82.

Supreme Court E-Library

violation of the established policy on "non-diminution in pay." On the other hand, such condition shall be prospective in application and shall apply only to the continued grant after December 31, 1999 of already existing allowances/fringe benefits as of said date. The grant of new benefits after December 31, 1999, however, shall not be allowed even if such conditions are met.[31] (Emphasis supplied.)

In fine, subject only to certain conditions,[32] the DBM Letters authorized the continuous grant of allowances or fringe benefits found to be an established practice of LWDs as of December 31, 1999 despite the effectivity of RA No. 6758 on July 1, 1989.

Guided by the foregoing Letters, petitioners contend that the endowment of additional benefits to incumbents as of December 31, 1999 is authorized; and that assuming the disallowance is sustained, they should not be held liable for the refund considering their good faith. In addition to their reliance upon the DBM opinions, petitioners argue that the power to grant allowances is with the Board of Directors, and the approving and certifying officers merely implemented the board resolutions as a matter of duty. They further invoke the authority given by the DBM to the former general manager of SWD, Isaias Q. Vindua (Vindua), to continue with the payment of specific allowances or fringe benefits in 2002 and 2003.[33]

---

[31] *Id.*

[32] 1) That the grant shall be limited only to incumbents as of December 31, 1999 or regular positions in the Plantilla of Positions (POP) duly approved by DMB and whose appointments were duly approved/attested by CSC; 2) That casual and contractual personnel hired outside of the regular POP as of December 31, 1999 may also be allowed said allowances/fringe benefits, provided they were hired with prior approval by the DBM and appointment papers duly approved by CSC; 3) That the grant of allowances/fringe benefits that are outside of what has been prescribed by law and other compensation issuances and were being enjoyed prior to the declaration by the Supreme Court that LWDs are GOCCs, will be allowed only if the [requirements of Financial and Operational Efficiency] are met by the concerned LWD; *rollo*, pp. 77-78.

[33] *Rollo*, pp. 92-94.

Supreme Court E-Library

On the other hand, the COA maintains that LWDs are GOCCs upon their creation under PD No. 198. The COA stands firm that only those additional compensations given to incumbents as of July 1, 1989 shall be allowed in accordance with RA No. 6758. The violation of this law renders the approving and certifying officers' solidarily liable to settle the disallowed amounts.[34]

Issues

I. Was SWD already covered by RA No. 6758 when the 2010 benefits were granted?

II. Was the disallowance of the 2010 benefits proper?

III. In the affirmative, should petitioners be held liable for the refund of the disallowed amounts?

Ruling

RA No. 6758 took effect on July 1, 1989 to standardize the salary rates of government officials and employees, amending PD No. 985[35] and PD No. 1597.[36] Section 12 of RA No. 6758 provides:

SEC. 12. *Consolidation of Allowances and Compensation*. — **All allowances**, except for representation and transportation allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM, **shall be deemed included in the standardized salary rates herein prescribed**. Such other additional compensation, whether in cash or in kind, being received

---

[34] Comment, *id.* at 107-129.

[35] A DECREE REVISING THE POSITION CLASSIFICATION AND COMPENSATION SYSTEMS IN THE NATIONAL GOVERNMENT, AND INTEGRATING THE SAME; approved on August 18, 1976.

[36] FURTHER RATIONALIZING THE SYSTEM OF COMPENSATION AND POSITION CLASSIFICATION IN THE NATIONAL GOVERNMENT; approved on June 11, 1978.

Supreme Court E-Library

by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized. (Emphasis supplied.)

Hence, at present, the overarching rule is that **all allowances are deemed included in the standardized salary rate, unless excluded by law or by a DBM issuance**.[37] This rule was premised upon the distinct policy to eliminate multiple allowances and other incentive packages, resulting in differences of compensation among government personnel.

Nonetheless, due to the inequity and injustice that RA No. 6758 may cause to incumbents, the legislature cushioned its effect and adopted the policy of non-diminution of pay as embodied under Sections 12 and 17 of RA No. 6758. The second sentence of Section 12 allows government workers to continue receiving non-integrated remuneration and benefits provided that: (1) they were incumbents when RA No. 6758 took effect on July 1, 1989; (2) they were actually receiving such benefits as of that date; and (3) such additional compensation is distinct and separate from the specific allowances enumerated in the first sentence of Section 12.[38] As well, Section 17 states:

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

Coverage of RA No. 6758

Section 4 of RA No. 6758 provides that its provisions "shall apply to all positions, appointive or elective, on full or part-

---

[37] *Id.*

[38] *Philippine International Trading Corporation v. Commission on Audit*, 461 Phil. 737, 747 (2003).

Supreme Court E-Library

time basis, now existing and hereafter created in the government, **including [GOCCs]** and government financial institutions." SWD **is a GOCC with a special charter**, created and organized pursuant to PD No. 198, which took effect in 1973. This was confirmed in the case of *Davao City Water District v. Civil Service Commission and Commission on Audit*,[39] citing the earlier cases of *Baguio Water District v. Hon. Trajano*[40] and *Tanjay Water District v. Gabaton*, thus:[41]

> 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.
>
> x x x x
>
> By "government-owned or controlled corporation with original charter," We mean government owned or controlled corporation created by a special law and not under the Corporation Code of the Philippines.
>
> x x x x
>
> [PD No.] 198, as amended, is the very law which gives a water district juridical personality.
>
> x x x x
>
> ACCORDINGLY, the petition is hereby DISMISSED. **Petitioners are declared "government-owned or controlled corporations with original charter"** which fall under the jurisdiction of the public respondents CSC and COA.[42] (Emphases supplied.)

---

[39] 278 Phil. 605 (1991).

[40] 212 Phil. 674 (1984).

[41] 254 Phil. 253 (1989).

[42] *Davao City Water District v. Civil Service Commission and Commission on Audit*, *supra* note 39 at 617.

Supreme Court E-Library

This confirmation was iterated in the recent cases of *De Jesus v. Commission on Audit*,[43] *Feliciano v. Commission on Audit*,[44] *Mendoza v. Commission on Audit*,[45] and *Metropolitan Naga Water District v. Commission on Audit*[46] to cite a few. Thus, it is erroneous for petitioners to insist that SWD became a GOCC only on March 12, 1992 or after the finality of the Court's decision in *Davao City Water District*. The decision of the Court merely interpreted PD No. 198 in declaring LWDs as GOCCs. The Court's interpretation constitutes part of the law, effective from the date it was originally passed, because it merely established the contemporaneous legislative intent that the interpreted law carried into effect.[47] Accordingly, upon its creation by PD No. 198, SWD was already a GOCC covered by RA No. 6758 effective July 1, 1989.

The only exception to the extensive coverage of the Salary Standardization Law is when the GOCC's charter specifically exempts the corporation from it.[48] In the case of LWDs, there is no provision in PD No. 198, as amended, which exempts them from RA No. 6758's application. However, it was clarified that only LWD officers and employees are covered by RA No. 6758. In the landmark case of *Baybay Water District v. Commission on Audit*,[49] the Court explained that RA No. 6758 does not apply to LWD directors because their functions are not those contemplated in the "positions" described under Sections 4[50] and 5[51] of RA No. 6758, and also because of the nature of their compensation, thus:

---

[43] 451 Phil. 812 (2003).

[44] 464 Phil. 439 (2004).

[45] 717 Phil. 491 (2013).

[46] 782 Phil. 281 (2016).

[47] *Metropolitan Naga Water District v. Commission on Audit*, *id.* at 287.

[48] *Mendoza v. Commission on Audit*, *supra* note 45 at 517.

[49] 425 Phil. 326 (2002).

[50] SEC. 4. *Coverage*. — The Compensation and Position Classification System herein provided shall apply to all positions, appointive or elective,

Supreme Court E-Library

It is obvious that [RA No. 6758] does not apply to petitioners because directors of water districts are in fact limited to policy-

---

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" 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. The term "government-owned or controlled corporations and financial institutions" shall include all corporations and financial institutions owned or controlled by the National Government, whether such corporations and financial institutions perform governmental or proprietary functions.

[51] SEC. 5. *Position Classification System*. — The Position Classification System shall consist of classes of positions grouped into four main categories, namely: professional supervisory, professional non-supervisory, sub-professional supervisory, and sub-professional non-supervisory, and the rules and regulations for its implementation.

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

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

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

(b) *Professional Non-Supervisory Category*. — This category includes positions performing 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.

Supreme Court E-Library

making and are prohibited from the management of the districts. [PD] No. 198, [Sec.] 18 described the functions of members of boards of directors of water districts as follows:

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

Furthermore, the fact that [Sections] 12 and 17 of [RA No. 6758] speak of allowances as "benefits" paid in addition to the salaries incumbents are presently receiving makes it clear that the law does not refer to the compensation of board of directors of water districts as these directors do not receive salaries but *per diems* for their compensation.

It is noteworthy that even the Local Water Utilities Administration (LWUA), in Resolution No. 313, s. 1995, entitled "Policy Guidelines on Compensation and Other Benefits to WD Board of Directors," on which petitioners rely for authority to grant themselves additional benefits, acknowledges that **directors of water districts are not organic personnel and, as such, are deemed excluded from the**

These positions require thorough knowledge in the field of arts and sciences or learning acquired through completion of at least four (4) years of college studies.

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

(c) *Sub-Professional Supervisory Category*. — This category includes positions performing supervisory functions over a group of employees engaged in responsible work along technical, manual or clerical lines of work which are short of professional work, requiring training and moderate experience or lower training but considerable experience and knowledge of a limited subject matter or skills in arts, crafts or trades. These positions require knowledge acquired from secondary or vocational education or completion of up to two (2) years of college education.

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

(d) *Sub-Professional Non-Supervisory Category*. — This category includes positions 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.

Supreme Court E-Library

coverage of [RA No. 6758]. Memorandum Circular No. 94-002 of the DBM-CSC-LWUA-PAWD Oversight Committee states in part:

> **As the [L]WD Board of Directors' function is limited to policy-making under Section 18 of [PD No. 198], as amended, it is the position of the Oversight Committee that said WD Directors are not to be treated as organic personnel, and as such are deemed excluded from the coverage of RA [No.] 6758, and that their powers, rights and privileges are governed by the pertinent provisions of PD [No.] 198, as amended, not by RA [No.] 6758 or Executive Order No. 164, s. 1994**.[52] (Emphases supplied.)

In the light of the foregoing, we now examine whether the 2010 allowances were correctly disallowed.

Propriety of the Disallowance

I. Rice allowance, medical allowance, Christmas groceries, year-end financial assistance, mid-year bonus, and year-end bonus granted to SWD officers and employees

By virtue of the authority given to the DBM under the first sentence of Section 12 of RA No. 6758, DBM CCC No. 10 was issued. Sub-paragraphs 5.4[53] and 5.5[54] of DBM CCC No.

---

[52] *Baybay Water District v. Commission on Audit*, *supra* note 49 at 341; See also *Molen, Jr. v. Commission on Audit*, 493 Phil. 874 (2005); and *Magno v. Commission on Audit*, 558 Phil. 76 (2007).

[53] 5.4 The following allowances/fringe benefits which were authorized to GOCCs/GFIs under the standardized Position Classification and Compensation Plan prescribed for each of the five (5) sectoral groupings of GOCCs/GFIs pursuant to P.D. No. 985, as amended by P.D. No. 1597, the Compensation Standardization Law in operation prior to R.A. No. 6758, and to other related issuances are not to be integrated into the basic salary and allowed to be continued after June 30, 1989 only to incumbents of positions who are authorized and actually receiving such allowances/benefits as of said date, at the same terms and conditions provided in said issuances:

5.4.1 Representation and Transportation Allowances (RATA);
5.4.2 Uniform and Clothing Allowance;
5.4.3 Hazard Pay as authorized by law;
5.4.4 Honoraria/additional compensation for employees on detail with special projects or inter-agency undertakings;

Supreme Court E-Library

10 allowed the grant of benefits, other than those specifically enumerated in the first sentence of Section 12, **conditioned upon the incumbency requirement** and the authority from the DBM, Office of the President, or other legislative issuances. Among those listed are rice subsidy and medical benefits. Petitioners are, however, not incumbents as of July 1, 1989.

We stress that the Court has consistently construed the qualifying date to be July 1, 1989 or the effectivity date of RA No. 6758, in determining whether an employee was an incumbent and actually receiving the non-integrated remunerations to be continuously entitled to them.[55] Accordingly, the DBM Letters, which authorized the grant of these disallowed benefits as an established practice since December 31, 1999 were erroneous and cannot be relied upon. Petitioners cannot, by their own interpretation, change the meaning and intent of the law. In *Torcuator v. Commission on Audit*,[56] the Court emphatically

---

5.4.5 Honoraria for services rendered by researchers, experts and specialists who are of acknowledged authorities in their fields of specialization;
5.4.7 Overtime Pay as authorized by law;
5.4.8 Laundry and subsistence allowances of marine officers and crew on board GOCCs/GFIs-owned vessels and used in their operations, and of hospital personnel who attend directly to patients and who by nature of their duties are required to wear uniforms;
5.4.9 Quarters Allowance of officials and employees who are entitled to the same;
5.4.10 Overseas Living Quarters and other allowances presently authorized for personnel stationed abroad;
5.4.11 Night Differential of personnel on night duty;
5.4.12 Per Diems of members of the governing Boards of GOCCs/GFIs at the rate as prescribed in their respective Charters;
5.4.13 Flying Pay of personnel undertaking aerial flights;
5.4.14 Per Diems/Allowances of Chairman and Members/Staff of Collegial bodies and Committees; and
5.4.15 Per Diems/Allowances of officials and employees on official foreign and local travel outside of their official station.

[54] *Supra* note 16.

[55] *Ambros v. Commission on Audit*, 501 Phil. 255, 268-269 (2005).

[56] G.R. No. 210631, March 12, 2019.

Supreme Court E-Library

ruled that these Letters, which prescribed a different date cannot be validly invoked to replace the specific date provided by law. The Court also observed that the opinions lacked any explanation as to why December 31, 1999 was prescribed as the reckoning date. In *Agra v. Commission on Audit*,[57] it was ordained that "if a benefit was not yet existing when the law took effect on July 1, 1989, there [is] nothing to continue and no basis for applying the policy [of non-diminution of pay]." Hence, the COA did not commit grave abuse of discretion in disallowing the rice subsidy and medical allowance that the non-incumbent petitioners received.

On the other hand, the Christmas groceries, year-end financial assistance, mid-year bonus, and year-end bonus are not excluded from the standardized salary under the first sentence of Section 12 of RA No. 6758 or under any DBM issuance. Petitioners could not cite any specific authority for their grant except the DBM Letters. Again, these Letters are not the authority contemplated in RA No. 6758 because they were merely advisory opinions, which do not have the force and effect of a valid rule or law considering that they went beyond the scope of the statutory authority that they were supposed to implement by arbitrarily prescribing a different date to replace that which the legislature fixed.[58] To be sure, the invoked DBM Letters cannot legitimize the grant of benefits beyond what was authorized by the law. Thus, the grant of the Christmas groceries, year-end financial assistance, mid-year bonus, and year-end bonus to SWD's officers and employees, being based on mere advisories, are unauthorized and appropriately disallowed regardless of incumbency.

II. Christmas groceries granted to the Board of Directors

As earlier intimated, RA No. 6758 does not apply to LWD board of directors. As such, the additional compensation given to the SWD Board of Directors is governed under PD No. 198,

---

[57] 677 Phil. 608, 634 (2011).

[58] See *Victorias Milling Company, Inc. v. Social Security Commission,* 114 Phil. 555, 558 (1962).

Supreme Court E-Library

as amended by RA No. 9286.[59] Section 13[60] of PD No. 198, as amended by RA No. 9286, allows the grant of allowances and benefits to LWD directors, in addition to the *per diems* that they receive as compensation, **subject to the board's prescription and the approval of the Local Water Utilities Administration (LWUA)**. However, no board resolution or LWUA approval for the additional benefits to SWD directors was alleged or proved in this case. Thus, the grant of such benefits to the Board of Directors was unauthorized and properly disallowed.

Considering the propriety of the disallowance, we now proceed to discuss petitioners' liability in the disallowed transactions.

Liability to Refund

We note that the following matters were no longer raised in this Petition: (1) Corpuz's exemption from solidary liability; and (2) the recipients' absolution from liability. As such, the COA Resolution dated December 27, 2017 is considered final and immutable insofar as they are concerned. We further note that the SWD Board of Directors, who were not included in the original ND, but made liable in the COA Resolution dated December 27, 2017 and are yet to be included in a Supplemental ND, are not represented in the present Petition. Consequently, this resolution shall be limited to the disposition of the civil liabilities of the SWD approving and certifying officers.

Ancheta and Rapsing, as approving and certifying officers, invoke good faith to justify exoneration from civil liability.[61]

---

[59] See *Baybay Water District v. Commission on Audit*, *supra* note 49 at 337.

[60] SEC. 13. *Compensation*. — Each director shall receive *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 diem* of four meetings in any given month.

Any *per diem* in excess of One hundred fifty pesos (₱150.00) shall be subject to the approval of the Administration. **In addition thereto, each director shall receive allowances and benefits as the Board may prescribe subject to the approval of the Administration**. (Emphasis supplied.)

[61] *Rollo*, p. 15.

Supreme Court E-Library

They argue that they only relied on the DBM Letters and board resolutions, which they ought to implement as a matter of duty.[62]

The Court is not impressed.

In *Madera v. Commission on Audit*,[63] we said that the civil liability of approving or certifying officers provided under Sections 38[64] and 39,[65] Chapter 9, Book I of the Administrative Code of 1987, and the treatment of such liability as solidary under Section 43,[66] Chapter 5, Book VI of the same Code, are grounded upon the manifest bad faith, malice, or gross negligence of the public officers in the performance of their official duties because of the presumption of good faith and regularity in the

---

[62] *Id.* at 200-204.

[63] G.R. No. 244128, September 8, 2020.

[64] SEC. 38. Liability of Superior Officers. — (1) A public officer shall not be civilly liable for acts done in the performance of his official duties, unless there is a clear showing of bad faith, malice or gross negligence.
x x x x x x x x x
(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 subordinates, unless he has actually authorized by written order the specific act or misconduct complained of.

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

[66] SEC. 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.
Any official or employee of the Government knowingly incurring any obligation, or authorizing any expenditure in violation of the provisions herein, or taking part therein, shall be dismissed from the service, after due notice and hearing by the duly authorized appointing official. If the appointing official is other than the President and should he fail to remove such official or employee, the President may exercise the power of removal.

Supreme Court E-Library

performance of official duty in their favor.[67] Good faith has been defined in disallowance cases as:

> that state of mind denoting honesty of intention, and **freedom from knowledge of circumstances which ought to put the holder upon inquiry**; an honest intention to abstain from taking any unconscientious advantage of another, even though technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transactions unconscientious.[68] (Emphasis supplied.)

Whereas, gross negligence refers to:

> [N]egligence characterized by the **want of even slight care**, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with a **conscious indifference to the consequences**, insofar as other persons may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to give to their own property. **It denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty**. In cases involving public officials, gross negligence occurs when a breach of duty is flagrant and palpable.[69] (Emphases supplied.)

We recognized the following badges of good faith and diligence that may be considered to absolve the approving or certifying officers' liability, *viz.*:

> (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.

---

[67] *Blaquera v. Hon. Alcala*, 356 Phil. 678, 765 (1998).

[68] *Philippine Health Insurance Corporation v. Commission on Audit*, G.R. No. 222838, September 4, 2018, citing *Zamboanga Water District v. Commission on Audit*, 779 Phil. 225 (2016); *Maritime Industry Authority v. Commission on Audit*, 750 Phil. 288 (2015); and *Philippine Economic Zone Authority (PEZA) v. Commission on Audit*; 690 Phil. 104 (2012).

[69] *Office of the Ombudsman v. De Leon*, 705 Phil. 26, 37-38 (2013).

Supreme Court E-Library

Gleaned from the rules and prevailing jurisprudence, the presumption of good faith and regularity in the performance of official duty is negated, not only by evident bad faith, but also by the gross negligence of the approving and certifying officers in the performance of their duties.[70]

There are no hard and fast rules to establish good faith or bad faith. *Madera* reminds us that the ultimate analysis of good faith or bad faith for purposes of liability determination will still depend on the unique facts obtaining in every case. Here, Ancheta and Rapsing utterly neglected existing factual, legal, and jurisprudential circumstances when they approved and certified the release of the challenged benefits in 2010, *viz.*:

First. SWD's own charter, PD 198, as amended by RA No. 9286, explicitly requires authority from the board of directors and approval of the LWUA before additional allowances and benefits may be granted to its directors.[71] Thus, the release of Christmas groceries to the Board of Directors without the corresponding board resolution and LWUA approval is a patent violation of the clear provisions of SWD's own charter, PD 198, as amended by RA No. 9286.

Second. Well-established case laws with regard to the application of Section 12 of RA No. 6758 were prevailing at the time of the disbursements in 2010.[72] In 2005, the case of *De Jesus vs. Commission on Audit*[73] settled that Section 12 of RA No. 6758 applies to LWDs. In that case, the Court ruled that additional allowances other than those authorized by RA No. 6758 may be continuously given only to incumbents as of July 1, 1989 consistent with the policy of non-diminution

---

[70] *Supra* note 64 and 65; *Madera v. Commission on Audit*, *supra* note 63.

[71] *Supra* note 60.

[72] See *Bureau of Fisheries and Aquatic Resources Employees Union v. Commission on Audit*, 584 Phil. 132 (2008); *Benguet State University v. Commission on Audit*, 551 Phil. 878 (2007); *Public Estates Authority v. Commission on Audit*, 541 Phil. 412 (2007); *Ambros v. Commission on Audit*, 501 Phil. 255 (2005); *De Jesus vs. Commission on Audit*, 497 Phil. 675 (2005).

[73] 497 Phil. 675 (2005).

Supreme Court E-Library

of benefits, citing the earlier cases of *Philippine Ports Authority v. Commission on Audit* (1992)[74] and *Philippine International Trading Corp. v. Commission on Audit* (1999).[75] Without doubt, the ambiguities raised by SWD in the application of RA No. 6758 had long been settled by these case laws before the release of the disallowed benefits in 2010. Ancheta and Rapsing cannot be permitted to conveniently feign ignorance to these jurisprudential precedents to legitimize illegal disbursements of public funds.

Third. Ancheta and Rapsing's failure to exercise due diligence is further demonstrated by the following circumstances:

(1) the 2010 benefits were based on board resolutions dating back from 1995 to 1999;[76]

(2) the DBM opinions heavily relied upon were issued in 2000 and 2001 upon inquiry and request for authority to grant specific benefits posed by officers of **other LWDs**;

(3) the authority given to SWD's former general manager, Vindua, was also for the grant of particular benefits in 2002[77] and 2003,[78] when he also requested for such authority; and

---

[74] 289 Phil. 266 (1992).

[75] 368 Phil. 478 (1999).

[76] Board Resolution No. 032-96-03 dated August 29, 1996, which granted **medical benefits**, which was reiterated under Board Resolution No. 013-99-03 dated June 14, 1999; Board Resolution No. 014-98-03 dated May 28, 1998, which granted **mid-year bonus**; Board Resolution No. 013-99-03 dated June 14, 1999, which granted **rice allowance**; and Board Resolution No. 027-98-03 dated December 14, 1998, which granted **year-end financial assistance**; *rollo,* p. 60.

[77] Rice allowance (equivalent to one sack or cash equivalent per month); Christmas groceries (₱3,000.00); Mid-year bonus (equivalent to one month basic salary); and Yearly anniversary bonus (₱3,000.00 per employee), *id.* at 92.

[78] Medical benefits; Life Insurance; and Pension Plans to officials and employees; *id.* at 94.

Supreme Court E-Library

(4) some of the benefits released (Christmas groceries and additional year-end bonus) were not supported by any board resolution.[79]

Evidently, unlike Vindua and the other LWD officers, who had the initiative to clarify and request authority from the DBM before disbursing public funds for payment of benefits,[80] Ancheta and Rapsing took it upon themselves to continue the grant of benefits based on previous SWD board resolutions and DBM authorizations despite contrary prevailing rules and jurisprudence.

Undeniably, Ancheta and Rapsing's reliance upon the DBM Letters, previous board resolutions, and dated authorizations fell short of the standard of good faith and diligence required in the discharge of their duties to sustain exoneration from solidary liability. The established rules and prevailing case laws at the time of the disbursements are notice enough for them to inquire as responsible and diligent public officers before approving and certifying the release of public funds.[81] Ancheta and Rapsing failed to abide faithfully with the clear and explicit provisions of PD No. 198, as amended, and RA No. 6758, read in conjunction with DBM CCC No. 10 and the relevant case laws. By jurisprudence, the palpable disregard of laws, prevailing jurisprudence, and other applicable directives amounts to gross negligence, which betrays the presumption of good faith and regularity in the performance of official functions enjoyed by public officers.[82] Accordingly,

---

[79] The board resolutions stated involved medical benefits, mid-year bonus, rice allowance, and year-end financial assistance. No board resolution was mentioned with regard to Christmas groceries and additional year-end bonus, *id.* at 92.

[80] *Id.* at 83-89.

[81] See *Sambo v. Commission on Audit*, 811 Phil. 344, 357 (2017), citing *Casal v. Commission on Audit*, 538 Phil. 634 (2006); and *Dr. Velasco v. Commission on Audit*, 695 Phil 226 (2012); see also *Zamboanga City Water District v. Commission on Audit*, *supra* note 68; and *De Guzman v. Commission on Audit*, 791 Phil. 376 (2016).

[82] *Metropolitan Waterworks and Sewerage System v. Commission on Audit*, 821 Phil. 117, 139-140 (2017); *Tetangco, Jr. v. Commission on Audit*, 810 Phil. 459, 467 (2017).

Supreme Court E-Library

the COA correctly held Ancheta and Rapsing solidarily liable to refund the disallowed amounts.

Their liability should, however, be limited to the "net disallowed amounts" or the total disallowed amount less the amounts excused to be returned by the other recipients. To rule otherwise would impose an inequitable burden upon the approving and certifying officers of shouldering the entire amount disbursed, when some recipients were already allowed to retain the amounts that they received. As we have exhaustively explained in *Madera*:

> [A]ny amounts allowed to be retained by payees shall reduce the solidary liability of officers found to have acted in bad faith, malice, and gross negligence. In this regard, Justice Bernabe coins the term "net disallowed amount" to refer to the total disallowed amount minus the amounts excused to be returned by the payees. Likewise, Justice Leonen is of the same view that the officers held liable have a solidary obligation only to the extent of what should be refunded and this does not include the amounts received by those absolved of liability. In short, the net disallowed amount shall be solidarily shared by the approving/authorizing officers who were clearly shown to have acted in bad faith, with malice, or were grossly negligent.[83] (Citations omitted.)

FOR THESE REASONS, the Decision No. 2016-473 dated December 28, 2016 and Resolution dated December 27, 2017 of the Commission on Audit are **AFFIRMED with MODIFICATION** in that petitioners Irene Ancheta and Ariel Rapsing, as approving and certifying officers, are solidarily liable to return only the net disallowed amounts.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, Leonen, Caguioa, Gesmundo, Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Delos Santos, Gaerlan, Rosario, and *J. Lopez, JJ.*, concur.

---

[83] *Supra* note 63.