

EN BANC

[G.R. No. 200418, November 10, 2020]

**CONFEDERATION FOR UNITY, RECOGNITION AND
ADVANCEMENT OF GOVERNMENT EMPLOYEES [COURAGE],
REPRESENTED BY ITS NATIONAL PRESIDENT FERDINAND
GAITE, SOCIAL WELFARE EMPLOYEES ASSOCIATION OF THE
PHILIPPINES [SWEAP-DSWD], REPRESENTED BY ITS NATIONAL
PRESIDENT RAMON FELIPE E. LOZA, NATIONAL FEDERATION OF
EMPLOYEES ASSOCIATIONS IN THE DEPARTMENT OF
AGRICULTURE [NAFEDA], REPRESENTED BY ITS NATIONAL
PRESIDENT SANTIAGO Y. DASMARIÑAS, JR. AND DEPARTMENT
OF AGRARIAN REFORM EMPLOYEES ASSOCIATION [DAREA],
REPRESENTED BY ITS NATIONAL PRESIDENT ANTONIA H.
PASCUAL, PETITIONERS, VS. FLORENCIO B. ABAD, IN HIS
CAPACITY AS THE SECRETARY OF THE DEPARTMENT OF BUDGET
AND MANAGEMENT AND CORAZON J. SOLIMAN, IN HER
CAPACITY AS SECRETARY OF THE DEPARTMENT OF SOCIAL
WELFARE AND DEVELOPMENT, RESPONDENTS.**

D E C I S I O N

LEONEN, J.:

The grant of benefits to government employees under collective negotiation agreements is conditioned on all applicable laws, rules, and regulations, including those issued by the Department of Budget and Management and the Public Sector Labor-Management Council.

This Court resolves a Petition for Certiorari/Prohibition with Prayer for Issuance of a Temporary Restraining Order and/or Writ of Preliminary/Mandatory Injunction^[1] seeking to declare Department of Budget and Management Circular No. 2011-5 as unconstitutional, and to enjoin Social Welfare and Development Secretary Corazon Soliman (Secretary Soliman) from enforcing the Circular in her department.

The Circular in question had placed a P25,000.00 ceiling on the amount of the Collective Negotiations Agreement (CNA) incentive for 2011. The Department of Social Welfare and Development initially authorized the payment of CNA incentives in two tranches for 2011, totaling P30,000.00. It later issued a January 20, 2012 Memorandum directing its employees to refund the excess, prompting this Petition's filing.^[2]

Petitioners before this Court pray that upon the filing of the Petition, a temporary restraining order and/or writ of preliminary injunction be issued enjoining the implementation of Budget Circular No. 2011-5, the January 20, 2012 Memorandum, and other issuances to enforce the Circular. They seek that, after notice and hearing, the Circular, as with the Memorandum, be declared void for being unconstitutional, contrary to law, or issued with grave abuse of discretion.^[3]

Among the petitioners is the Social Welfare Employees Association of the Philippines (SWEAP-DSWD) which, on November 16, 2007, entered into a CNA with the Department of Social Welfare and Development's Management. This CNA would last for three years or until a new agreement is signed.^[4] Article XI, Section 1 of the CNA grants a yearly cash incentive, pursuant to Budget Circular No. 2006-1,^[5] which states:

SECTION 1. The DEPARTMENT and the ASSOCIATION shall jointly institute cost-cutting measures to generate savings for the grant of yearly Collective Negotiation Agreement (C.N.A.) Cash Incentives in accordance with the provisions of Budget Circular No. 2006-1 dated February 1, 2006. For this purpose, the parties herein shall work together to generate savings and aim to *save at least 10%* of its MOOE from the regular programs/ projects/ activities of the Department.^[6] (Emphasis supplied)

On September 29, 2011, the Department of Budget and Management issued Circular Letter 2011-9, with subject "Reminder on the Observance of the Guidelines on the Grant of the Collective Negotiation Agreement (CNA) Incentive."^[7] Its Section 3.0 reiterates Budget Circular No. 2006-1 by mentioning the Senate and the House of Representatives' Joint Resolution No. 4, series of 2009, approving the grant of CNA incentives to both management and rank-and-file employees:

3.0. Pursuant to item (4)(h)(ii)(aa) of the Senate and House of Representatives Joint Resolution No. 4, s. 2009, the CNA Incentive may be granted to *both management and rank-and-file employees* of agencies with approved and successfully implemented CNAs in recognition of their joint efforts in accomplishing performance targets at lesser cost, and in attaining more efficient and viable operations through cost-cutting measures and systems improvement. (Emphasis supplied)

On October 26, 2011, Secretary Soliman issued a Memorandum authorizing the CNA incentive grant of P10,000.00, "to be paid to existing regular, contractual and casual employees" and released not later than October 28, 2011.^[8] On December 3, 2011, she issued another Memorandum for a second tranche of CNA incentive, worth P20,000.00, to be released on or before the third week of December 2011.^[9]

On December 26, 2011, the Department of Budget and Management issued the assailed Budget Circular No. 2011-5, which provides the supplemental policy and procedural guidelines for the grant of CNA incentives.^[10] Among others, it set a P25,000.00 ceiling on the amount of the CNA incentives for 2011:

3.5 The CNA Incentive for FY 2011 shall be determined based on the amount of savings generated by an agency following the guidelines herein, but not to exceed P25,000 per qualified employee.

On December 28, 2011, Social Welfare and Development Assistant Secretary Ma. Chona O. David-Casis (Assistant Secretary David-Casis) issued a Memorandum directing every employee to refund the CNA incentive received in excess of P25,000.00 through salary deductions.^[11] Subsequently, she issued the assailed January 20, 2012 Memorandum, which directed the employees to refund the P5,000.00 received in excess, and to sign the conforme form consenting to the

refund, made through monthly salary deductions of P500.00 for 10 months beginning February 2012.^[12]

Aggrieved, the associations filed this Petition^[13] on February 21, 2012.

On March 28, 2012, petitioners filed an Urgent Motion for the Issuance of a Temporary Restraining Order/Writ of Preliminary Injunction (with Compliance to the Resolution dated February 28, 2012).^[14] They cite cases^[15] on the requisites of Rule 58, Section 3 of the Rules of Court for the issuance of a writ of preliminary injunction.^[16]

In the same pleading, petitioners attached a copy of the Commission on Audit's March 14, 2002 Audit Observation Memorandum, where it had been observed that the P35,500.00 worth of CNA incentives paid to employees of the Protected Areas and Wildlife Bureau exceeded the P25,000.00 ceiling amount prescribed in Budget Circular No. 2011-5.^[17]

In his Comment to the Urgent Motion, respondent Secretary Florencio Abad (Secretary Abad) of the Department of Budget and Management discussed that CNAs create no vested rights, and the grant of 2011 CNA incentives suffers from irregularities.^[18] He submits that Budget Circular No. 2011-5 enjoys the presumption of regularity, and that this did not cause petitioners irreparable injury.^[19]

Respondent Secretary Soliman manifested that she adopts her Comment to the Petition, which she says has extensively discussed the grounds to deny the prayer for injunctive relief. She reiterates the irrelevance of the refund in the attached Audit Memorandum, since the Protected Areas and Wildlife Bureau is not a party to this case.^[20]

This Court noted respondents' respective comments to the Petition^[21] and the Urgent Motion.^[22] Petitioners' Consolidated Reply^[23] and the parties' respective memoranda^[24] were likewise noted.

In a February 10, 2015 Resolution,^[25] this Court included issues to be addressed for a complete resolution of the case, and the parties filed the required supplemental memoranda.^[26]

The issues for this Court's resolution are the following:

First, whether or not petitioners have legal standing;

Second, whether or not petitioners violated the doctrine on the hierarchy of courts;

Third, whether or not petitioners availed the proper remedy, considering: (a) the doctrine on exhaustion of administrative remedies; (b) the requisites for availing the writs of certiorari and prohibition; (c) the requisites when invoking transcendental interest;

Fourth, whether or not the issuance of Budget Circular No. 2011-5 is within the jurisdiction and authority of respondent Secretary Abad;

Fifth, whether or not Budget Circular No. 2011-5's provisions limiting the source and amount of the CNA incentive are contrary to, or improperly amend, Administrative Order No. 135, series of 2005;

Sixth, whether or not Budget Circular No. 2011-5 modifies or nullifies provisions of validly executed CNAs and violates the constitutional provision on the non-impairment of obligations;

Seventh, whether or not petitioners have a vested right to CNA incentives;

Eighth, whether or not the January 20, 2012 Memorandum directing the refund violates Section 43 of the General Appropriations Act of 2011, which enumerates the allowed deductions from employees' salaries;

Ninth, whether or not Section 5 of Public Sector Labor-Management Council (PSLMC) Resolution No. 4, series of 2002, as well as subsequent issuances implementing this provision, is unconstitutional for violating Article VI, Section 25(5) of the Constitution by:

- a. authorizing the PSLMC to declare where savings are to be allocated; and/or
- b. authorizing government agencies, instrumentalities, and offices other than the President, the Senate President, the House of Representatives Speaker, the Supreme Court Chief Justice, and the heads of constitutional commissions, to allocate savings by contract or collective negotiation agreements; and

Tenth, whether or not Section 15 of Executive Order No. 180, series of 1987, which created the PSLMC, is unconstitutional in that:

- a. it subsumes the Civil Service Commission or its Chair under the executive branch to implement this law, in violation of Article IX A, Section 1 of the Constitution; or
- b. it grants the Civil Service Commission or its Chair powers other than those enumerated under Article IX-B of the Constitution.

I

Any determination of whether this Court may answer a question posed to it begins with the issue of jurisdiction. Jurisdiction is the authority to hear and decide a case as conferred by the Constitution. Similarly, the Constitution grants Congress the power to "define, prescribe, and apportion"^[27] the jurisdiction of various courts.^[28]

The Constitution itself confers upon this Court original jurisdiction over petitions for certiorari, prohibition, mandamus, *quo warranto*, and *habeas corpus*.^[29] In this regard, Rule 65 of the Rules of Court enumerates the requisites of a petition for certiorari and prohibition. The rules require that the acts to be assailed were done in the exercise of judicial, quasi-judicial, or ministerial functions:

SECTION 1. *Petition for certiorari.* — When any tribunal, board or officer ***exercising judicial or quasi-judicial functions*** has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require. . . .

SECTION 2. *Petition for prohibition.* – When the proceedings of any tribunal, corporation, board, officer or person, whether ***exercising judicial, quasi-judicial or ministerial functions***, are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court alleging the facts with certainty and praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require[.] (Emphasis supplied)

Quasi-judicial or adjudicatory functions refer to "the power to hear and determine questions of fact to which the legislative policy is to apply and to decide in accordance with the standards laid down by the law itself in enforcing and administering the same law."^[30] Quasi-legislative or rule-making functions refer to "the power to make rules and regulations which results in delegated legislation that is within the confines of the granting statute and the doctrine of non-delegability and separability of powers."^[31]

The nature of the governmental functions affects the available remedies of those who seek to assail an act. Rule 65 specifies that the remedy of certiorari assails acts in the exercise of judicial and quasi-judicial functions, with the addition of ministerial functions for the remedy of prohibition.

In several cases, this Court has dismissed petitions for certiorari and prohibition for being the wrong remedy to assail the issuance of an executive order,^[32] department order,^[33] and a republic act,^[34] as these were not done in the exercise of judicial or quasi-judicial functions.

Here, respondent Secretary Abad was exercising rule-making functions when he issued Budget Circular No. 2011-5. Several laws enumerating the Department of Budget and Management's powers and functions include providing guidelines for allowance grants to government employees.^[35] Yet, petitioners filed a petition for certiorari and prohibition.

Nonetheless, beyond the conception of certiorari and prohibition under Rule 65 of the Rules of Court, the power of judicial review in Article VIII, Section 1 of the Constitution contemplates the correction, by way of petitions for certiorari and prohibition, of grave abuses of discretion by any governmental branch or instrumentality. This may lie even if no judicial, quasi-judicial, or ministerial function was exercised.^[36]