

EN BANC

[G.R. No. 215746, October 08, 2019]

ANG NARS PARTY-LIST, REPRESENTED BY CONGRESSWOMAN LEAH PRIMITIVA G. SAMACO-PAQUIZ, AND PUBLIC SERVICES LABOR INDEPENDENT CONFEDERATION, REPRESENTED BY ITS GENERAL SECRETARY ANNIE E. GERON, PETITIONERS, VS. THE EXECUTIVE SECRETARY, THE SECRETARY OF BUDGET AND MANAGEMENT, AND THE SECRETARY OF HEALTH, RESPONDENTS.

D E C I S I O N

CARPIO, J.:

The Case

Ang Nars Party-List (Ang Nars), represented by Congresswoman Leah Primitiva G. Samaco-Paquiz (Rep. Paquiz), and Public Services Labor Independent Confederation (PSLINK), represented by its General Secretary Annie E. Geron (Geron), filed a petition for certiorari and mandamus^[1] before this Court assailing the validity of Section 6 of Executive Order No. 811^[2] (EO No. 811), with prayer for the Court to compel the Executive Secretary, the Secretary of Budget and Management, and the Secretary of Health (respondents) to implement Section 32 of Republic Act No. 9173^[3] (R.A. No. 9173), otherwise known as the Philippine Nursing Act of 2002.

Ang Nars is "an accredited party-list organization that promotes the socio-economic, political, and professional rights of nurses with the responsibility and accountability to provide safe and quality nursing care to the Filipino people,"^[4] while PSLINK is "an umbrella organization of 481 public sector unions representing over 85,000 public sectors in the government."^[5] Ang Nars and PSLINK are collectively referred to here as petitioners.

The Antecedent Facts

On 21 October 2002, then President Gloria Macapagal-Arroyo (President Macapagal-Arroyo) approved R.A. No. 9173. Section 32 of R.A. No. 9173 provides:

SEC. 32. *Salary.* - In order to enhance the general welfare, commitment to service and professionalism of nurses, the minimum base pay of nurses working in the public health institutions **shall not be lower than salary grade 15** prescribed under Republic Act No. 6758, otherwise known as the "Compensation and Classification Act of 1989": *Provided*, That for nurses working in local government units, adjustments to their salaries shall be in accordance with Section 10 of the said law. (Emphasis supplied)

On 28 July 2008, then Senate President Juan Ponce Enrile and then Speaker of the House of Representatives Prospero C. Nograles approved Joint Resolution No. 4, authorizing the President of the Philippines "to Modify the Compensation and Position Classification System of Civilian Personnel and the Base Pay Schedule of Military and Uniformed Personnel in the Government, and For Other Purposes." Joint Resolution No. 4 is a consolidation of House Joint Resolution No. 36 and Senate Joint Resolution No. 26 that were adopted by the House of Representatives and the Senate on 1 June 2009 and 2 June 2009, respectively.

On 17 June 2009, President Macapagal-Arroyo approved Joint Resolution No. 4, which provides:

x x x x

(16) Amendment of Existing Laws - The provisions of all laws, decrees, executive orders, corporate charters, rules, regulations, circulars, approvals and other issuances or parts thereof that are inconsistent with the provisions of this Joint Resolution such as, but not limited to Republic Act No. 4670, Republic Act No. 7160, Republic Act No. 7305, Republic Act No. 8439, Republic Act No. 8551, Executive Order No. 107 dated June 10, 1999, Republic Act No. 9286, Republic Act No. 9166, Republic Act No. 9173 and Republic Act No. 9433 **are hereby amended.**

All provisions of laws, executive orders, corporate charters, implementing rules and regulations prescribing salary grades for government officials and employees other than those in Section 8 of Republic Act No. 6758 are hereby repealed. (Emphasis supplied)

Also on 17 June 2009, President Macapagal-Arroyo signed EO No. 811 to implement Joint Resolution No. 4. Section 6 of EO No. 811 provides:

SECTION 6. Changes in Position Titles and Salary Grade Assignments of Certain Positions -

The position titles and salary grade assignments of the entry levels of the following positions are hereby modified:

Position Title	Salary Grade	
	From	To
Teacher I	10	11
Nurse I	10	11
Medical Officer I	14	16
Accountant I	11	12
[Legal Officer I] Attorney I	[14]	16

The DBM, in coordination with the Civil Service Commission (CSC), shall review the other levels of the above-listed positions and other classes of positions to determine their appropriate levels, and to allocate them to their proper salary grades.

Accordingly, the DBM, in coordination with the CSC, shall update the Index of Occupational Services, Occupational Groups, Classes, and Salary

Grades, in accordance with organizational, technological, professional and other developments. (Emphasis supplied)

On 21 May 2014, Rep. Paquiz wrote a letter^[6] to then Secretary Enrique T. Ona (Secretary Ona) of the Department of Health (DOH) inquiring about the non-implementation of Section 32 of R.A. No. 9173 mandating that the salary base pay for nurses shall be Salary Grade 15. On even date, Rep. Paquiz wrote a similar letter^[7] to then Secretary Florencio B. Abad (Secretary Abad) of the Department of Budget and Management (DBM). Rep. Paquiz's identical letters to the DOH and the DBM stated:

Greetings of peace and good health to you and your bureaucracy!

ANG NARS advocates for "KALUSUGAN PARA SA BAYAN" through an empowered health workforce. We are passionate in our advocacy of improving the plight of our nurses especially those who struggle in precarious working conditions.

The enactment of Republic Act No. 9173, otherwise known as "The Philippine Nursing Act of 2002", mandated that the minimum base pay of nurses shall be at least Salary Grade 15, to wit:

SEC. 32. Salary. In order to enhance the general welfare, commitment to service and professionalism of nurses[,], the minimum base pay of nurses working in the public health institutions shall not be lower than salary grade 15 prescribed under Republic Act No. 6758, otherwise known as the "Compensation and Classification Act of 1989": Provided, That for nurses working in local government units, adjustments to their salaries shall be in accordance with Section 10 of the said law.

Thus, I would like to inquire about the **non-implementation of Salary Grade 15** as minimum base pay for nurses despite the fact that this provision has been in effect since 2002. x x x.

I am hoping that we will all work together towards a healthier nation.^[8]
(Emphasis in the original)

On 27 May 2014, Secretary Ona replied, as follows:

x x x x

As per your communication letter received by our office last May 26, 2014, we would like to clarify that our staffing standards and salary grade classification at the Department is based on policies and guidelines issued by the Department of Budget and Management (DBM), pursuant to Republic Act No. 6758 "Compensation and Classification Act of 1989" and Senate Joint Resolution No. 26 "Joint Resolution Authorizing the President of the Philippines to Modify the Compensation and Classification System of Civilian Personnel...".

The Manual on Position Classification and Compensation by the DBM prescribes a detailed classification process for every occupational group

identified. This manual states as a general rule that: "only the duties and responsibilities of the position are considered in position classification..". Therefore, our agency has carefully studied and analyzed each of our position classification based on the tasks and weight of responsibility assigned for each position. Thus, a Nurse I position with a salary grade 11 might have less complicated tasks and fewer range of responsibility than a Nurse II with salary grade 15.^[9]

Secretary Ona recommended that Rep. Paquiz direct her inquiries about the implementation of R.A. No. 9173 to the DBM.

On 26 May 2014, the DBM, through its then Officer-in-Charge and Assistant Director Edgardo M. Macaranas, replied to Rep. Paquiz stating that:

x x x x

Under Section 34 of National Budget Circular No. 521 implementing Senate and House of Representatives Joint Resolution No. 4, s. 2009, certain medical and allied medical positions requiring PRC license examination were re-allocated to give meaning to the long-honored truism of "equal pay for equal work" wherein positions which have substantially equal qualifications, skills, effort and responsibility under similar conditions shall be paid similar salaries. In particular, the entry level for Nurses in government hospitals was upgraded from SG-10 to SG 11.

While the law expressly provides for SG-15 as the entry level for Nurses, its implementation would distort the hierarchical relationships of medical, and allied positions, as well as other positions in the bureaucracy.

Likewise, the proposed upgrading of entry level 4,787 Nurse I positions would require additional PS costs of Php438,109,687 per annum that would further strain the government coffers. Necessarily, the corresponding higher level nurses and other allied medical positions will require additional PS cost.

Meanwhile, the DBM has conducted a salary survey of the private sector for benchmark jobs predominant in the government like Nurses, Medical Officers and allied medical positions, among others. The survey results shall be the basis for recommendations for future salary adjustments.^[10]

On 13 October 2014, Rep. Paquiz wrote then Secretary Leila De Lima (Secretary De Lima) of the Department of Justice (DOJ) requesting for a legal opinion on whether the DBM can disregard the implementation of Section 32 of R.A. No. 9173.^[11] On 22 October 2014, Secretary De Lima declined to render a legal opinion and replied, as follows:

x x x x

With regret, we have to decline to render the opinion requested.

It must be stressed, at the outset, that the ruling assailed was rendered by the bureau under the DBM specifically empowered to "classify positions and determine appropriate salaries for specific position classes

and review the compensation benefits programs of agencies" and "design job evaluation programs." Since the DBM Secretary not only has "supervision and control" but also the power of "jurisdiction over all bureaus, offices, agencies and corporations" under his Department, which power necessarily include[s] the authority to review, approve, reverse or modify acts and decisions of subordinate officials or units, the DBM Secretary, more than any other government official, is in the best position to assist your query. This is especially because it is the DBM that is mandated to be responsible both "for the formulation and implementation of the National Budget with the goal of attaining our national socio-economic plans and objectives" and "for the efficient and sound utilization of government funds and revenues to effectively achieve our country's development objectives."

Moreover, this Department cannot rule on the issue raised without passing upon National Budget Circular No. 521 which was issued by the DBM. Pursuant to settled practice and precedents, however, the Secretary of Justice does not render opinion or express any comment on questions involving the interpretation and application of duly issued administrative rules and regulations, unless requested by the promulgating agency, since such matters are best left to the determination of the said agency by reason of its knowledge of the specific intent and purposes of the issuance and the extent of the application thereof.

Finally, even if we want to rule on your query, we cannot. Under Section 38 of R.A. No. 9173, it is the Board of Nursing and the Professional Regulation Commission, in coordination with the DBM and Department of Health, among other concerned agencies, that is mandated to issue the law's Implementing Rule[s] and Regulations, and had, in fact, already issued one through Board of Nursing's Board Resolution No. 425, s. 2003.

Being essentially advisory in nature, the opinion of the Secretary of Justice need not bind the Board of Nursing (and the DBM), if that be their pleasure. As the government agencies primarily responsible for the implementation, administration and enforcement of the law (and Senate and House Resolution No. 4, s. 2009), they may, if they so decide, formally adopt the position they take on the issue raised and assume responsibility therefor.

It is suggested that you elevate the matter to the DBM Secretary.^[12]

Finding the replies of the DOH, DBM, and DOJ unsatisfactory, petitioners filed this petition before the Court.

The Issues

Petitioners raised the following issues in their petition:

- (1) Whether respondents committed grave abuse of discretion and exceeded the authority granted by Joint Resolution No. 4 when they downgraded the salary grade for government nurses in