

EN BANC

[G.R. No. 218363, May 31, 2016]

**ENGR. ARTEMIO A. QUINTERO, JR., GENERAL MANAGER,
CAUAYAN CITY WATER DISTRICT (CCWD) CAUAYAN CITY,
ISABELA, PETITIONER, VS. COMMISSION ON AUDIT,
RESPONDENT.**

DECISION

MENDOZA, J.:

This petition for *certiorari* under Rule 64 of the Revised Rules of Court seeks to reverse and set aside the July 18, 2014 Decision^[1] and the March 9, 2015 Resolution^[2] of the Commission on Audit (COA), which affirmed the April 25, 2011 Decision^[3] of the COA Regional Office No. II (*Regional Office*), upholding Notice of Disallowance (ND) No. 2010-01-101,^[4] dated March 9, 2010, representing the overpayment of salary and year-end bonus of petitioner Engr. Artemio A. Quintero, Jr. (*Quintero*), the General Manager (GM) of Cauayan City Water District (CCWD).

On March 28, 2008, the Board of Directors (BOD) of CCWD passed Board Resolution No. 004, Series of 2008,^[5] which upgraded the monthly salary of the GM from P25,392.00 to P45,738.00 on the basis of Section 2 of Republic Act (R.A.) No. 9286.^[6] The CCWD's Plantilla of Personnel and Salary Adjustment was thereafter submitted to the Department of Budget and Management (DBM) for approval. After going over the plantilla, the DBM informed Quintero through a letter that although Section 2 of R.A. No. 9286 empowered the BOD of LWDs to fix the compensation of the GM, it should comply with the compensation standardization policy laid down in R.A. No. 6758 or the Salary Standardization Law (SSL).^[7]

After the COA'S audit and advice,^[8] on December 2009, Quintero voluntarily stopped receiving his salary based on the adjusted rates.^[9] On March 9, 2010, the COA, through Auditor Mercedes V. Reyes, issued ND No. 2010-01-101 disallowing the overpayment in Quintero's adjusted salary, which amounted to P364,659.50.^[10]

Disagreeing with the findings of the COA Auditor, Quintero appealed before the COA Regional Office.

The Regional Office Ruling

In its April 25, 2011 decision, the COA Regional Office upheld ND No. 2010-01-101 and stated that the BOD of CCWD should have taken into consideration the provisions of R.A. No. 6758 or the SSL when it issued the resolution fixing the salary of its GM. The Regional Office pointed out that if it were the intent of the Congress to exempt the local water district (LWD) from the coverage of R.A. No. 6758, then it

should have expressly provided it in R.A. No. 9286.

Also, the COA Regional Office disagreed with Quintero that the upgraded salary of the GM was subject to Section 7 of Executive Order (E.O.) No. 811^[11] on non-diminution in the salary of incumbent employees. The Regional Office noted that the provision of the E.O. presupposed that the basic salary given was sanctioned under the law because no vested right could be derived from the upgrading of salary made in contravention of the law. It explained that the BOD of CCWD could upgrade Quintero's salary of P25,392.00, but it should be within the provision of R.A. No. 6758 which fixed it at no more than P35,615.00 a month for the year 2008 and 2009.

Unsatisfied with the decision, Quintero appealed before the COA.

The COA Ruling

In its July 18, 2014 decision, the COA upheld the decision of its Regional Office. Although it agreed with Quintero that the BOD had the authority to fix the compensation of the GM, it stated that the said authority was not absolute as the compensation of the GM should conform to the provisions of R.A. No. 6758, or the SSL, and to existing rules and regulations. Further, the COA reiterated that no vested right could be derived from the salary increase of Quintero as it emanated from an erroneous interpretation of law.

Aggrieved, Quintero moved for reconsideration of the decision but his motion was denied by the COA in its March 9, 2015 resolution.

Hence, this present petition raising the following:

ISSUES

A] WHETHER OR NOT COA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DECLARING THAT THE CCWD BOARD HAS NO AUTHORITY TO FIX THE SALARY OF THE GENERAL MANAGER, THAT RA 9286 IS NOT INCONSISTENT WITH THE PROVISIONS OF THE SSL.

B] WHETHER OR NOT COA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN NOT RECOGNIZING THAT SECTION 23 OF PD 198, AS AMENDED BY RA 9286, IS NOT AN EXCEPTION TO THE SSL.

C] WHETHER OR NOT ENGR. ARTEMIO A. QUINTERO SHOULD BE HELD LIABLE TO REFUND THE AMOUNT RECEIVED AND DISALLOWED.^[12]

Basically, the main issue to be resolved is whether the salary increase of Quintero was rightfully disallowed by the COA.

Quintero argues that by the express provision of Section 23 of Presidential Decree (P.D.) No. 198,^[13] as amended by R.A. No. 9286, the BOD of LWDs is empowered to fix the compensation of its GM. He claims that this legislative grant of authority is

clear and unequivocal. He posits that in enacting R.A. No. 9286, Congress knew of the provisions of the SSL but it still chose to delegate to the BOD of LWDs the authority to fix the compensation of the GM. Thus, he concludes that the salary of the GM cannot be limited by the SSL provision because to do so will diminish the authority bestowed upon the BOD of LWDs.

Quintero also avers that R.A. No. 9286, a later law, repealed the SSL, a prior law, because the provisions of the latter were inconsistent with the provisions of the former. He further stated that his salary as fixed by the BOD of CCWD was valid because it should be deemed an exception from the coverage of the SSL.

Quintero then points out that the LWDs did not receive any budget from the DBM or the national government and, therefore, it might be deemed from the provisions of P.D. No. 198 that the BOD of LWDs had the full authority to fix the compensation of its GM. He is of the view that his salary could not be adversely affected even with the provisions of the SSL claiming protection under Section 7 of E.O. No. 811 on diminution of salaries. He, nevertheless, insists that in the event that his adjusted salary would be ultimately disapproved, he should not be required to refund the same on the basis of good faith.

In its Comment,^[14] dated October 5, 2015, the COA countered that R.A. No. 9286 did not impliedly repeal the SSL because an implied repeal was disfavored by law. It noted that the amendment introduced by R.A. No. 9286 only changed the last sentence of Section 23 of P.D. No. 198 to state that the GM should not be removed from office except for cause and after due process.

The COA explained that R.A. No. 9286 did not give additional power to the BOD to determine the compensation of the GM beyond the rate prescribed by the SSL and, as such, no inconsistency was created as regards the power of the BOD to fix the salary of the GM. It likewise opined that R.A. No. 9286 did not constitute an exception to the coverage of the SSL.

Moreover, the COA assailed Quintero's claim of good faith contending that no sufficient evidence on record was available to establish that the latter received the disallowed amount in good faith. It also held that good faith was raised for the first time on appeal because Quintero's position before the COA Regional Office was that he had acquired a vested right over the adjusted salary.

In his Reply,^[15] dated February 29, 2016, Quintero alleged that the Congress, by virtue of its Joint Resolution No. 4,^[16] expressly recognized that R.A. No. 9286 was inconsistent with the SSL. Due to the inconsistency, he argued that there could be no other conclusion but that R.A. No. 9286 had amended provisions of the SSL which was incongruous therewith particularly the authority of the BOD to fix and determine the salary of the GM.

Quintero once again invoked good faith claiming that he was a mere recipient of the salary and that there was neither evidence nor any allegation that it was he who caused the increase of his salary beyond the limit provided under the SSL. He manifested that the BOD merely relied on the provisions of R.A. No. 9286 and that he immediately stopped the processing of his adjusted salary when so advised by

the COA sometime in 2009.

The Court's Ruling

Central to the resolution of the issue at hand is the power of the BOD to fix the compensation of its GM, as vested by Section 23 of P.D. No. 198, as amended by Section 2 of R.A. No. 9286.

Section 23 of P.D. No. 198 reads:

At the first meeting of the Board, or as soon thereafter practicable, the Board shall appoint, by a majority vote, a general manager and shall define his duties and fix his compensation. Said officer shall serve at the pleasure of the Board.

Section 2 of R.A. No. 9286 amended Section 23 of P.D. No. 198, which now provides:

At the first meeting of the Board, or as soon thereafter 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.

A reading of the above-cited provisions reveals that R.A No. 9286 reiterated the power of the BOD to set the salary of the GM and that it merely amended the provisions of P.D. No. 198 to provide the GMs with security of tenure preventing their removal without cause and due process. Indubitably, the Congress empowered the BOD of LWDs to fix the salary of its GM.

Quintero views this power to be immutable as the BOD may fix the salary of its GM even beyond the limits prescribed by the SSL. The COA, on the other hand, concedes that the BOD of CCWD has the power to increase Quintero's salary. It opines, however, that this power is not an unbridled power and the salary to be set by the BOD must always be within the standards set by the SSL.

The question on whether the salaries of GMs of LWDs are covered by the provisions of the SSL is not a novel one as it had long been laid to rest by the Court. In *Mendoza v. COA (Mendoza)*,^[17] the Court categorically ruled that the LWDs must observe the limits provided in the SSL in fixing the salaries of their GMs, to wit:

The Salary Standardization Law applies to all government positions, including those in government-owned or controlled corporations, without qualification. **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: