

EN BANC

[G.R. No. 210940, September 06, 2016]

SOCIAL SECURITY SYSTEM, PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.

D E C I S I O N

MENDOZA, J.:

This petition for review on certiorari under Rule 64 of the Rules of Court seeks to reverse and set aside the January 30, 2013 Decision^[1] and the December 6, 2013 Resolution^[2] of the Commission on Audit (COA), which affirmed Notice of Disallowance (ND) No. SSS-2207-02 (2004)^[3] relative to the payment of Extraordinary and Miscellaneous Expenses (EME), medical expenses, rice allowance, and provident fund (other benefits) to the members of the Social Security Commission (SSC) in the total amount of P4,314,683.99.

The Antecedents

On May 14, 1997, the SSC of the Social Security System (SSS) approved Resolution No. 360^[4] granting a new compensation package for its members, including medical benefits, rice allowance, and a provident fund. These benefits were incorporated in the SSS Manual on Personnel Policies, Rules and Regulations or commonly known in the SSS as the "Blue Book."^[5]

On September 22, 1999, the SSC issued Resolution No. 790^[6] granting EME to its members at similar rates then given to members of the Government Service Insurance System (GSIS). EME included, but was not limited to, expenses incurred for meetings, seminars, conferences, official entertainment, and public relations. In the same resolution, the SSC further approved additional budgetary appropriations in the amount of approximately P 4.49 million to cover the payment of EME. It also covered the increase in EME of its Chairman to P750,000.00 per year, which was the rate being given to his counterpart in the GSIS.

On July 4, 2007, the Legal and Adjudication Office-Corporate Government Sector (LAO-CGS) of the COA issued ND No. SSS-2007-02 (2004) disallowing the total amount of P4,314,683.99, broken down as follows:

P 3,877,199.96	-	EME
P 70,992.03	-	medical benefits
P 106,992.00	-	rice benefits
P 259,500.00	-	provident fund

The disallowance of the above amounts was anchored on these grounds:

1. For Extraordinary and Miscellaneous Expenses (*EME*) - The same is disallowed in audit for lack of legal authority of the SSC Commissioners to claim EME either under the SSS Charter (Section 3 of R.A. 8282) or under the General Appropriations Act as provided under COA Circular No. 2006-001, dated January 3, 2006. The General Appropriations Act (GAA) does not include members of the Board of Directors in the enumeration of persons allowed to claim the same.. Hence, the payment is considered "irregular" expenditures, in violation of COA Circular No. 85-55 A dated September 8, 1985.

2. Medical expenses, rice allowances and provident fund -These allowances/benefits which are included in the Collective Negotiation Agreement (*CNA*) were disallowed in audit pursuant to Section 1 of Public Sector Labor Management Council Resolution (PSLMC) No. 2, s. 2003. Said Resolution provides that only rank and file employees of the GOCC are entitled to CNA Incentives. Members of the Commission are considered high-level employees, whose functions are normally considered as policy making or managerial, hence, they are not allowed to join the organization by virtue of Executive Order No. 180.^[7]

Not in conformity, the SSS filed a Motion for Reconsideration^[8] of the disallowance and proffered the following arguments:

a) While there was no specific provision in Republic Act (R.A) No. 8282, otherwise known as the Social Security Law (SS Law), which directly authorized the SSC to grant its members EME, its act was amply supported by other provisions therein. The power of the SSC to control and direct the SSS was based on Section 3 of the said law. In turn, Section 4 (a) (7) empowers the SSC "to approve, confirm, pass upon or review any and all actions of the SSS in the proper and necessary exercise of its powers and duties" and Section 4 (b) (5) provides that the SSC may "adopt, from time to time, a budget of expenditures including salaries of personnel, against all funds available to the SSS";

b) Section 3 (c)^[9] thereof empowers the SSC to fix reasonable compensation, allowances and other benefits for its employees and officials, including those of the SSC. Further, Section 4 (a) (3)^[10] of the same law provides that the SSS and the SSC are authorized to maintain a provident fund for its employees and officials;

c) The SSC adopted its own position classification and compensation structure. Included in such compensation structure was a benefit package that granted medical benefits, rice allowance and provident fund to all employees of the SSS and SSC. Consistent with numerous rulings of the COA, the members of the SSC, as hearing officers, were full-time government officials, thus, entitling them to the benefits accorded to SSS employees and officials. Besides, the functions and operations of the SSC were so closely intertwined with those of SSS, so that both of them were governed by the same charter and thus accorded the same benefits. Besides, no law provided for an express prohibition against the receipt of additional allowance for the members of the SSC;

d) Section 25^[11] of the SS Law reinforces the fiscal autonomy of the office which is authorized by law to spend a certain percentage of the annual collections, in order to adopt its own budget of expenditures including the compensation and benefits of its own personnel. The mandate of this provision coupled with the exemption of the SSS from the Salary Standardization Law (SSL), should be taken to mean that it is fully empowered to manage its own funds so long as it conforms with statutory requirements and general principles of budgetary allocations. Simply put, the authority of the SSC to grant EME to its members emanates from the SS Law and not from the GAA, thus, putting it beyond the ambit of COA Circular No. 2006-001. Had it been the intention of Congress to place the SSS and the SSC under the coverage of the GAA, it would have expressly provided therefor. In any case, the SSS and the SSC do not depend upon the national government for its budget but they instead rely on the very funds generated from contributions and other sources of income;

e) Applying the plain meaning of COA Circular No. 2006-001, the GAA is applicable only to Government-Owned and Controlled Corporations (GOCCs) and Government Financial Institutions (GFIs) whose authority to grant EME is derived merely from the GAA. Its authority to fix the questioned allowance being derived from its own charter, independently of the GAA, the SSC should not be covered by the ceilings provided therein;

f) The SSS also disputed the COA's ground for disallowance, arguing that the 2000-2002 CNA between the management and ACCESS, the labor organization in SSS, did not include a provision granting medical benefits, rice allowance, and provident fund to either the employees or the officials of the SSS. In other words, the CNA was not the source of the benefits which were disallowed by the COA. While Sections 1 and 3, Article II of the CNA, require the SSS to continue extending all benefits existing during the signing thereof and to implement all government legislated wages and benefits covering the employees in the civil service, such existing benefits referred to were those provided under the benefits and compensation package adopted by the SSS and the SSC, pursuant to law.

The COA-LSS Decision

In its August 10, 2009 Decision,^[12] the COA-Legal Services Sector (COA-LSS) denied the motion for reconsideration filed by the SSS. It ruled that while it may be argued that the power of the SSC to grant EME emanated from the SS Law itself, it was undeniable that the SSC was still bound by the provisions of COA Circular No. 2006-001. The COA-LSS explained that the said circular was issued to serve as audit guidelines on the disbursements for EME in GOCCs/GFIs and their subsidiaries, without any distinction whatsoever. Further, it stressed that COA Circular No. 2006-001 applied even if it was issued after SSC Resolution No. 790 because its repealing clause categorically stated that any and all issuances inconsistent therewith were amended or repealed. The COA-LSS averred that SSC members were not entitled to other allowances except for those specifically provided in Section 3(a) of the SS Law.

Likewise, it opined that the power of the SSS to adopt its own position, classification and compensation structure was not absolute as it was required to comply with administrative issuances or directives related to compensation or employees benefits. The COA-LSS noted that Memorandum Order (M.O.) No. 20 required all GOCCs and GFIs exempted from the SSL to immediately suspend the grant of any salary increase and new or increased benefits to all senior officer level positions and to secure approval from the President for any increase in salary or compensation of GOCCs/GFIs that was not in accordance with the SSL.

Aggrieved, the SSS appealed before the COA.

The COA Decision

In its January 30, 2013 decision, the COA upheld the disallowance of the disbursements in question. It explained that the SS Law did not grant an authority to the SSC to fix the compensation, allowances and other benefits of its members. The COA posited that if Congress intended to grant the SSC the authority to fix the compensation, allowances and other benefits of its members, then Section 3(a) of the SS Law would not have stated the amounts which the members of the SSC may receive. Likewise, it opined that it had been long settled that pursuant to Section 13 of Presidential Decree (*P.D.*) No. 198,^[13] members of the board were prohibited to receive compensation other than the per diems they received.

The COA further stated that whether the other benefits were CNA incentives was immaterial because the grant had no legal basis, notwithstanding the SSS Blue Book. It elucidated that the SS Law set the limit on the amount of the compensation which the members of the SSC could receive, and the said benefits were not among those included.

Aggrieved, the SSS moved for reconsideration of the decision but its motion was denied by the COA in its December 6, 2013 resolution.

Hence, this present petition raising this

SOLE ISSUE

Whether the members of the SSC are entitled to the EME, medical benefit, rice allowance and the provident fund.

The SSS insists that the SS Law empowers the SSC to grant EME and other benefits to SSC members. It explains that pursuant to the pertinent provisions of the SS Law, the SSS enjoys fiscal autonomy having been vested with the power to spend a certain percentage of the amount it annually collects and being exempted from the SSL coverage. Thus, the SSS posits that as long as it conforms to the requirements of the SS Law and the general principles of budgetary allocations, it is fully authorized to manage its own funds and fix its own budget—including the grant of EME and other benefits to SSC members. It concludes that it is not necessary for the SSC to refer to the GAA for legal basis and funding because it generates its own income and it does not rely on the national government for funding.

Moreover, the SSS argues that the other benefits granted to SSC members are not

covered by M.O. No. 20 as they are neither new nor increased benefits. It cited *GSIS v. CSC and Dr. Manuel Baradero*^[14] (Baradero), where the Court ruled that the per diem, which then SSC member Inocencio V. Ferrer (*Commissioner Ferrer*) received as hearing officer, was considered as compensation for purposes of retirement benefits. Hence, the SSS claims that the COA cannot disallow the other benefits subject of the ND when it has been previously ruled that former SSC members were entitled to retirement benefits, year-end bonus and leave credits.

In its Comment,^[15] dated May 19, 2014, the COA countered that Section 3(a) of the SS Law specified the benefits which SSC members may receive. It emphasized that the limitation on benefits was not subject to any exception and, as such, EME and other benefits were without legal basis as they were not included in Section 3(a) of the said law. The COA expounded that the reliance on Section 3(c) of the SS Law by the SSS was misplaced because it merely granted to the SSC the authority to fix the reasonable compensation, allowances and other benefits of the employees it may appoint. The COA reiterated that there was no showing that the other benefits were approved by the President, as required by M.O. No. 20.

On its claimed fiscal autonomy, the COA disagreed with the SSS that it had fiscal autonomy as only the Court, the Constitutional Commissions and the Ombudsman enjoyed fiscal autonomy. It opined that the SSS having no fiscal autonomy, it was not free from outside control in allocating and utilizing funds.

In its Reply,^[16] dated August 27, 2014, the SSS asserted that the cited provisions of the SS Law were enough bases for the grant of additional benefits other than those provided in Section 3(a) thereof. It reiterated that M.O. No. 20 was inapplicable as it was issued after the other benefits were granted to SSC members. Further, the SSS averred that it had complied with the DBM reportorial requirement because the latter issued a certification stating that the SSS was no longer required to seek prior approval for its salary structure from the DBM. Lastly, it stressed that the other benefits granted to SSC members were not CNA incentives as they were granted after the SSS was exempted from the SSL and without intervention from the employees' union.

The Court's Ruling

*Compensation and/or
benefits which may be
received by SSC
members*

The crux of the controversy is the extent of the SSC's authority to grant allowances and benefits to its members pursuant to the SS Law. The COA posits that Section 3(a) of the SS Law limits the benefits which may be received by SSC members. Section 3(a) reads:

SECTION 3. *Social Security System*. — (a) To carry out the purposes of this Act, the Social Security System, hereinafter referred to as 'SSS', a corporate body, with principal place of business in Metro Manila, Philippines, is hereby created. The SSS shall be directed and controlled by a Social Security Commission, hereinafter referred to as 'Commission',