

EN BANC

[G.R. No. 210903, October 11, 2016]

**PHILIPPINE ECONOMIC ZONE AUTHORITY (PEZA), PETITIONER,
VS. COMMISSION ON AUDIT (COA) AND HON. MA. GRACIA M.
PULIDO TAN, CHAIRPERSON, COMMISSION ON AUDIT,
RESPONDENTS.**

DECISION

PERALTA, J.:

In much of law, as in life, there is a constant need to balance competing values, interests and other considerations. In a free society, there is a need to carefully calibrate the proper balance between liberty and authority, between peace and order and privacy, and, between responsible public service and unreasonable or arbitrary rules retroactively applied to public officials and employees. To allow one value to dominate the counterpart could lead to undesirable consequences.^[1]

In the present case, the Court is confronted with the need to provide for an equitable and acceptable equilibrium between accountability of public officials and the degree of responsibility and diligence by which they are to be adjudged. While it is a basic postulate of the republican form of government that we have that public office is a public trust^[2] - that individuals who join the government are expected to abide by the guiding principles and policies by which public service is to be performed - it also values the dignity of every human person.^[3] It should ever be kept in mind that the people are not mere creatures of the State. They should not be considered as mere automatons, unthinking individuals who are not to experiment, or innovate, lest they may be made to shoulder the monetary cost of such endeavors if subsequently found to be in violation of rules which were not clearly established or understood at the time the action was performed.

Government employment should be seen as an opportunity for individuals of good will to render honest-to-goodness public service, not a trap for the unwary. It should be an attractive alternative to private employment, not an undesirable undertaking grudgingly accepted, to therefore regret. It should present a fulfilling environment where those who enter could realize their potentials, and the public could benefit from their contributions.

For this Court's consideration is the Petition for *Certiorari*,^[4] under Rule 64, in relation to Rule 65, of the Rules of Court, dated February 6, 2014 of petitioner Philippine Economic Zone Authority (*PEZA*), seeking the annulment of Commission on Audit (*COA*) Decision No. 2013-231 dated December 23, 2013 which affirmed Corporate Government Sector-B Decision No. 2011-008 dated August 31, 2011 and Notice of Disallowance No. 10-001-101-(05-08) dated May 27, 2010 disallowing the payment of additional Christmas bonus/cash gifts to *PEZA* officers and employees for Calendar Years (*CY*) 2005 to 2008.

The facts follow.

The PEZA Charter, Republic Act (R.A.) No. 7916, was amended by R.A. No. 8748 in 1999 exempting PEZA from existing laws, rules and regulations on compensation, position classification and qualification standards. Section 16 of R.A. No. 7916, as amended, reads as follows:

Sec. 16. *Personnel.* - The PEZA Board of Directors shall provide for an organization and staff of officers and employees of the PEZA, and upon recommendation of the director general with the approval of the secretary of the Department of Trade and Industry, appoint and fix the remunerations and other emoluments: Provided, The the Board shall have exclusive and final authority to promote, transfer, assign and reassign officers of the PEZA, any provision of existing law to the contrary notwithstanding: Provided, further, That the director general may carry out removal of such officers and employees.

All positions in the PEZA shall be governed by a compensation, position classification system and qualification standards approved by the director general with the concurrence of the Board of Directors based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans in the Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (BCDA) and the private sector and shall be subject to the periodic review by the Board no more than once every two (2) years without prejudice to yearly merit reviews or increases based on productivity and profitability. **The PEZA shall therefore be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards. It shall however endeavor to make its systems conform as closely as possible with the principles under Republic Act No. 6758.**^[5]

The PEZA Board in Resolution No. M-99-266 dated October 29, 1999, adjusted PEZA's compensation plan and included in the said compensation plan is the grant of Christmas bonus in such amount as may be fixed by the Board and such other emoluments.

Petitioner PEZA had been granting Christmas bonus in the amount of Fifty Thousand Pesos (P50,000.00) to each of its officers and employees for CY 2000 to 2004, however, for the years 2005 to 2008, the Christmas bonus was gradually increased per PEZA Board Resolution Nos. 05-450 and 06-462 dated November 28, 2005 and September 26, 2006, respectively. For 2005, the Christmas bonus was increased to P60,000.00 and was again increased to P70,000.00 in 2006 and 2007. In 2008, the Christmas bonus was increased to P75,000.00 per PEZA officer/employee.

State Auditor V Aurora Liveta-Funa, on May 27, 2010, issued Notice of Disallowance (ND) No. 10-001-101-(05-08)^[6] that was received by PEZA on May 31, 2010. The ND stated that the payment of additional Christmas bonus to PEZA officers and employees for calendar years 2005-2008 violated Section 3 of Memorandum Order (M.O.) No. 20 dated June 25, 2001 which provides that any increase in salary or compensation of government-owned and controlled corporations (GOCCs) and

government financial institutions (*GFI*s) that is not in accordance with the Salary Standardization Law shall be subject to the approval of the President.

The matter was brought to the Corporate Government Sector-B which later on rendered the Decision No. 2011-008^[7] dated August 31, 2011 not giving credence to the arguments of petitioner and affirmed the Notice of Disallowance No. 10-001-101-(05-08) dated May 27, 2010 in the aggregate amount of Php20,438,750.00. Thereafter, pursuant to Rules V and VII of the 2009 Revised Rules of Procedure of the COA, petitioner filed the Petition for Review with respondent COA.

The COA in its Decision No. 2013-231^[8] dated December 23, 2013 ruled that notwithstanding Section 16 of the PEZA Charter, petitioner is still duty-bound to observe the guidelines and policies as may be issued by the President citing *Intia, Jr. v. COA*^[9] where this Court ruled that the power of the board to fix the compensation of the employees is not absolute. The COA further cited Section 6 of Presidential Decree (*P.D.*) No. 1597 which mandates presidential review and approval, through the Department of Budget and Management (*DBM*), of the position classification and compensation plan of an agency exempt from the Office of Compensation and Position Classification (*OCPC*) coverage.

Furthermore, according to the COA, M.O. No. 20 requires presidential approval on salary increases, while Administrative Order (*A.O.*) No. 103 suspends the grant of new or additional benefits in line with the austerity measures of the government. The COA added that these presidential issuances are not abhorrent to the authority of the PEZA Board of Directors to fix the remuneration of PEZA officers and employees. It stated that the requirement of presidential approval does not remove from the board the power to fix the compensation and allowances of PEZA officers and employees but is meant to determine whether or not the standards set by law have been complied with.

Hence, petitioner filed the present petition assigning the following error:

RESPONDENT ERRED WHEN IT RULED THAT THE GRANT OF ADDITIONAL CHRISTMAS BONUS TO PEZA OFFICERS AND EMPLOYEES NEEDS THE APPROVAL OF THE OFFICE OF THE PRESIDENT BECAUSE REPUBLIC ACT NO. 7916, AS AMENDED BY REPUBLIC ACT NO. 8748, AUTHORIZES THE PEZA BOARD OF DIRECTORS TO FIX THE REMUNERATIONS AND OTHER EMOLUMENTS OF PEZA OFFICERS AND EMPLOYEES.

Petitioner argues that it is not covered by P.D. No. 1597 because its provisions are inconsistent with R.A. No. 7916, as amended, which authorizes the PEZA Board to determine the compensation of its officers and employees and that even assuming without admitting that it is covered by P.D. No. 1597, the law mentions of reporting to the President through the Budget Commission and does not say that the approval of the President, through the Budget Commission, should be secured.

The Office of the Solicitor General (*OSG*),^[10] on the other hand, claims that despite the exception clause in Section 16 of R.A. No. 7916, as amended, said provision should nonetheless be read in conjunction with the existing laws pertaining to compensation among government agencies, as it is undoubtedly a GOCC over which the President exercises his power of control, through the DBM, aside from the parameter set by the provision itself, *i.e.*, that PEZA "shall, however, endeavor to

make its system conform as closely as possible with the principles under Republic Act. No. 6758."

In its Reply^[11] dated October 22, 2014, petitioner reiterated its earlier arguments.

After a careful study of the arguments of both petitioner and respondent, this Court finds no merit to the petition.

It is not disputed that after the enactment of the Salary Standardization Law (Republic Act No. 6758 became effective on July 1, 1989), laws have been passed exempting some government entities from its coverage. The said government entities were allowed to create their own compensation and position classification systems that apply to their respective offices, usually through their Board of Directors. In *Engr. Mendoza v. Commission on Audit*,^[12] this Court mentioned several of those government entities that are now exempt from the salary standardization law, to wit:

1. Philippine Postal Corporation

Sections 22 and 25 of Republic Act No. 7354 or the "Postal Service Act of 1992" state:

Sec. 22. Merit System. — The Corporation shall establish a human resources management system which shall govern the selection, hiring, appointment, transfer, promotion, or dismissal of all personnel. Such system shall aim to establish professionalism and excellence at all levels of the postal organization in accordance with sound principles of management.

A progressive compensation structure, which shall be based on job evaluation studies and wage surveys and subject to the Board's approval, shall be instituted as an integral component of the Corporation's human resources development program. The Corporation, however, may grant across-the-board salary increase or modify its compensation structure as to result in higher salaries, subject to either of the following conditions:

(a) there are evidences of prior improvement in employee productivity, measured by such quantitative indicators as mail volume per employee and delivery times.

(b) a law raising the minimum wage has been enacted with application to all government employees or has the effect of classifying some positions in the postal service as below the floor wage.

x x x x

Sec. 25. Exemption from Rules and Regulations of the Compensation and Position Classification Office. — All personnel and positions of the Corporation shall be governed

by Section 22 hereof, and as such shall be exempt from the coverage of the rules and regulations of the Compensation and Position Classification Office. The Corporation, however, shall see to it that its own system conforms as closely as possible with that provided for under Republic Act No. 6758.

In *Intia, Jr. v. Commission on Audit*,^[13] this Court affirmed the Philippine Postal Corporation's exemption from the Salary Standardization Law. However, the corporation should report the details of its salary and compensation system to the Department of Budget and Management.

x x x x

2. Trade and Investment Development Corporation of the Philippines

The Trade and Investment Development Corporation of the Philippines is also exempted from the Salary Standardization Law as provided in Section 7 of Republic Act No. 8494:^[14]

Sec. 7. The Board of Directors shall provide for an organizational structure and staffing pattern for officers and employees of the Trade and Investment Development Corporation of the Philippines (*TIDCORP*) and upon recommendation of its President, appoint and fix their remuneration, emoluments and fringe benefits: Provided, That the Board shall have exclusive and final authority to appoint, promote, transfer, assign and re-assign personnel of the *TIDCORP*, any provision of existing law to the contrary notwithstanding.

All positions in *TIDCORP* shall be governed by a compensation and position classification system and qualification standards approved by *TIDCORP*'s Board of Directors based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans in the private sector and shall be subject to periodic review by the Board no more than once every four (4) years without prejudice to yearly merit reviews or increases based on productivity and profitability. *TIDCORP* shall be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards. It shall, however, endeavor to make the system to conform as closely as possible to the principles and modes provided in Republic Act No. 6758.

x x x x

3. Land Bank of the Philippines, Social Security System, Small Business Guarantee and Finance Corporation, Government Service Insurance System, Development Bank of the Philippines, Home Guaranty Corporation, and the Philippine Deposit Insurance Corporation