

EN BANC

[G.R. No. 195395, September 10, 2013]

ENGINEER MANOLITO P. MENDOZA, PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.

DECISION

LEONEN, J.:

The salary of a water district's general manager is covered by the Salary Standardization Law despite Section 23 of the Provincial Water Utilities Act of 1973. The law grants water districts the power to fix the compensation of their respective general managers, but it should be consistent with Republic Act No. 6758 or the "Compensation and Position Classification Act of 1989."

We are asked in this Petition^[1] for *Certiorari* to set aside respondent Commission on Audit's Decision^[2] denying petitioner Manolito P. Mendoza's Motion for Reconsideration of the "Notice of Finality of COA Decision."^[3] The Commission on Audit ordered petitioner Mendoza to reconstitute to the government amounts he had received illegally as salary, thus, violating the Salary Standardization Law.

Petitioner Mendoza is the general manager of Talisay Water District in Talisay City, Negros Occidental. The Water District was formed pursuant to Presidential Decree No. 198, otherwise known as the "Provincial Water Utilities Act of 1973."

The Commission on Audit disallowed a total amount of Three Hundred Eighty Thousand Two Hundred Eight Pesos (P3 80,208.00) which Mendoza received as part of his salary as the Water District's general manager from 2005 to 2006.^[4] The Commission found that petitioner Mendoza's salary as general manager "was not in consonance with the rate prescribed under [Republic Act No.] 6758, otherwise known as the Salary Standardization Law and the approved Plantilla of Position of the district."^[5] The Commission also found that petitioner Mendoza's claim of salary was "not supported with an Appointment duly attested by the Civil Service Commission."^[6] Payment to petitioner Mendoza was, therefore, "illegal."^[7]

On July 6, 2009, the Commission on Audit issued the "Notice of Finality of COA Decision"^[8] informing petitioner Mendoza of the finality of the Notice of Disallowance/s. The Commission then instructed the Talisay Water District cashier to withhold petitioner Mendoza's salaries corresponding to the amount disallowed and apply them in settlement of the audit disallowance in accordance with Rule XII, Section 3 of the Revised Rules of Procedure of the Commission on Audit.^[9]

Petitioner Mendoza filed his Motion for Reconsideration^[10] of the "Notice of Finality of COA Decision."^[11] He assailed the finality of the Notice of Disallowance/s,

arguing that he had not personally received a copy of this. This deprived him of the opportunity to answer the Notice immediately. He also argued that Section 23 of the Provincial Water Utilities Act of 1973 gives Talisay Water District board of directors the right to fix and increase his salary as general manager and is an exception to the Salary Standardization Law. Finally, he argued that he had relied on Section 23 in good faith. As such, he cannot be ordered to refund the salaries he had received.

The Commission on Audit denied petitioner Mendoza's Motion for Reconsideration for lack of merit.^[12] It found that the Notice of Disallowance/s had been received by petitioner Mendoza's employee and ruled that petitioner Mendoza is deemed to have received, the Notice of Disallowance/s constructively. It likened the service of the Notice of Disallowance/s to the service of summons. As a general rule, summons must be personally served on the person to whom it is directed, but substituted service is allowed in certain cases. The Commission also noted that "technical rules of procedure and evidence are not strictly applied"^[13] in administrative proceedings; therefore, petitioner Mendoza "cannot invoke the defense of technicality."^[14]

On the merits, the Commission ruled that Section 23 of the Provincial Water Utilities Act is not an exception to the Salary Standardization Law. According to the Commission, Section 23 of Presidential Decree No. 198 "could be reconciled with the salary standardization policy of the [Salary Standardization Law]."^[15] The authority of water districts to fix the salary of a general manager "is not a blanket authority to be exercised without regard to, or outside the strictures of, [Republic Act No.] 6758."^[16]

The Commission on Audit determined petitioner Mendoza's proper salary package was "within Salary Steps (1 to 8) in the appropriate Salary Grade, depending on the Position Classification Category of the General Manager under Section 5 of [Republic Act No.] 6758."^[17] The case of *Baybay Water District v. Commission on Audit*^[18] cited by petitioner Mendoza does not apply to him. In *Baybay*, this Court held that only board members of local water districts are not covered by the Salary Standardization Law. The dispositive portion of its Decision^[19] reads:

WHEREFORE, premises considered, the instant motion for reconsideration is **DENIED** for lack of merit. The ATL, Talisay Water District, Talisay City, is hereby directed to enforce, the implementation of the FOA dated July 6, 2009 in accordance with the provisions of Section 23.4, Chapter V, of the 2009 Rules and Regulations on the Settlement of Accounts.^[20]

On February 11, 2011, petitioner Mendoza filed this Petition^[21] to set aside the Commission on Audit's Decision. He alleged that the Commission on Audit had committed grave abuse of discretion amounting to lack or excess of jurisdiction in rendering the Decision.

In its Comment,^[22] the Commission on Audit argued that the rules on personal service of summons are not strictly applied to administrative proceedings, and substantial compliance is sufficient. Considering that the "Agency Head" in petitioner Mendoza's office received the Notice of Disallowance/s, the receipt is sufficient to

notify him of his salary's disallowance. At the very least, there was substantial compliance with the service of the Notice of Disallowance/s.

The Commission also argued that Section 23 of Presidential Decree No. 198 can be reconciled with the Salary Standardization Law. Although Section 23 grants a water district the power to fix the compensation of its general manager, this power is not absolute. The salary of a general manager is limited by the Salary Standardization Law to a grade of Salary Grade 30 maximum. The alleged good faith of petitioner Mendoza in relying on Section 23 does not excuse him from reimbursing the government the amounts unduly disbursed to him.

Petitioner Mendoza filed his Reply to Comment,^[23] after which the parties filed their respective Memoranda.

The issues for resolution are the following:

- (1) Whether the Notice of Disallowance/s became final and executory despite lack of personal service on petitioner Mendoza;
- (2) Whether the salary of a water district's general manager is covered by the Salary Standardization Law; and
- (3) Whether petitioner Mendoza's alleged good faith reliance on Section 23 of the Provincial Water Utilities Act of 1973 excuses him from reimbursing the government the amounts unduly disbursed to him.

The Petition is partly meritorious.

The Notice of Disallowance/s became final and executory.

Petitioner Mendoza argued that the Commission on Audit gravely abused its discretion in issuing the "Notice of Finality of COA Decision."^[24] He stated that the Notice of Disallowance/s never became final and executory considering that he was never personally served a copy of the Notice.

Petitioner Mendoza is mistaken.

The Commission on Audit issued the Notice of Disallowance/s on May 28, 2007. The 1997 Revised Rules of Procedure of the Commission on Audit governed pleading and practice in the Commission during this period. Sections 5 and 6 of Rule IV state:

Sec. 5. ***Number of Copies and Distribution.*** - The report, Certificate of Settlement and Balances, notice of disallowances and charges, and order or decision of the Auditor shall be prepared in such number of copies as may be necessary for distribution to the following: (1) original to the head of agency being audited; (2) one copy to the Auditor for his record; (3) one copy to the Director who has jurisdiction over the agency of the government under audit; (4) other copies to the agency officials directly affected by the audit findings.

Sec. 6. ***Finality of the Report, Certificate of Settlement and Balances, Order or Decision.*** - Unless a request for reconsideration in filed or an appeal is taken, the report, Certificate of Settlement and

Balances, order or decision of the Auditor shall become final upon the expiration of six (6) months after notice thereof to the parties concerned.

In this case, copies of the Notice of Disallowance/s were received on May 29, 2007 by "the Agency Head," "Accountant," and "Persons Liable" with their signatures appearing beside the three designations.^[25] Petitioner Mendoza never disputed this fact. After his receipt of the Notice of Finality of COA Decision on August 27, 2009, petitioner Mendoza filed the Motion for Reconsideration dated September 10, 2009. The Commission on Audit gave due course to the Motion for Reconsideration and issued the assailed Decision two (2) years after the issuance of the Notice of Disallowance/s. It ruled that petitioner Mendoza's salary is covered by the Salary Standardization Law.

These circumstances show that the Notice of Disallowance/s was served on the necessary officers in accordance with the 1997 Revised Rules of Procedure of the Commission on Audit.

Moreover, this Court *En Banc* in *Gannapao v. Civil Service Commission*^[26] ruled that:

Time and again, we have held that the essence of due process is simply an opportunity to be heard or, as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek a reconsideration of the action or ruling complained of. **In the application of the principle of due process, what is sought to be safeguarded is not lack of previous notice but the denial of the opportunity to be heard.** As long as a party was given the opportunity to defend his interests in due course, he was not denied due process.^[27] (Emphasis supplied)

Petitioner Mendoza was afforded due process despite his claim that he had never personally received a copy of the Notice of Disallowance/s. He was able to file the Motion for Reconsideration. The Commission gave due course to the Motion and ruled on the merits. Petitioner Mendoza, therefore, has been duly afforded an opportunity to explain his side and seek a reconsideration of the ruling he assails, which is the "essence of administrative due process."^[28]

For these reasons, We rule that the Commission on Audit issued the "Notice of Finality of COA Decision"^[29] without grave abuse of discretion, and the Notice of Disallowance/s had become final and executory.

The salary of a water utility general manager is covered by the Salary Standardization Law.

To resolve whether water utilities are covered by the Salary Standardization Law, a discussion of the entities covered by and exempted from the Salary Standardization Law must be made.

A. Rationale and Coverage of the Salary Standardization Law

Legislation on the compensation and position classification of government employees reflects the policy of the State to provide "equal pay for substantially

equal work"^[30] in government and "to base differences in pay upon substantive differences in duties and responsibilities, and qualification requirements of the positions."^[31] At present, Republic Act No. 6758 or the "Compensation and Position Classification Act of 1989" governs the compensation and position classification system in government.^[32]

The Compensation and Position Classification System established under Republic Act No. 6758 applies to "all positions, appointive or elective, on full or part-time basis, now existing or hereafter created in the government, including government-owned or controlled corporations and government financial institutions."^[33]

The term "government" in Republic Act No. 6758 "refers to the Executive, the Legislative and the Judicial Branches and the Constitutional Commissions and shall include all, but shall not be limited to, departments, bureaus, offices, boards, commissions, courts, tribunals, councils, authorities, administrations, centers, institutes, state colleges and universities, local government units, and the armed forces."^[34] "Government-owned or controlled corporations and financial institutions," on the other hand, include "all corporations and financial institutions owned or controlled by the National Government, whether such corporations and financial institutions perform governmental or proprietary functions."^[35]

The coverage of Republic Act No. 6758 is comprehensive. In *Commission on Human Rights Employees' Association v. Commission on Human Rights*,^[36] this Court ruled that Republic Act No. 6758 applies to the entire government without qualification:

The disputation of the Court of Appeals that the CHR is exempt from the long arm of the Salary Standardization Law is flawed considering that the coverage thereof, as defined above, **encompasses the entire gamut of government offices, sans qualification.**^[37] (Emphasis supplied)

B. Government Entities Exempted from the Salary Standardization Law

Republic Act No. 6758 became effective on July 1, 1989. Since then, laws have been passed exempting some government entities from the Salary Standardization Law. These entities were allowed to create their own compensation and position classification systems that apply to their respective offices.

We examine some of these laws for Our guidance.

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.