

EN BANC

[G.R. No. 194710, February 14, 2012]

**MANILA INTERNATIONAL AIRPORT AUTHORITY, PETITIONER,
VS. COMMISSION ON AUDIT, RESPONDENT.**

DECISION

REYES, J.:

This is a petition for *certiorari* under Rule 64 of the Revised Rules of Procedure filed by Manila International Airport Authority (MIAA) from the Commission on Audit (COA) Decision No. 2010-118^[1] dated November 19, 2010, the dispositive portion of which states:

WHEREFORE, all premises considered, the herein appeal is **DENIED** and ND No. MIAA-2006-001 dated August 31, 2006 in the total amount of P44,790,000.00 is hereby **AFFIRMED**. Accordingly, **LAO**-Corporate Decision No. 2008-006 dated February 18, 2008 is hereby **AFFIRMED**.^[2]

Factual Antecedents

On July 30, 2003, the Board of Directors of MIAA issued Resolution No. 2003-067,^[3] which approved the Collective Negotiation Agreement (CNA) between MIAA and Samahang Manggagawa sa Paliparan ng Pilipinas (SMPP) and authorized the grant of P30,000.00 to all MIAA officials and employees as "contract signing bonus". Specifically:

"RESOLVED, That, the authority of MIAA General Manager to sign the renewal of the Collective Negotiation Agreement (CNA) between Manila International Airport Authority (MIAA) and Samahang Manggagawa sa Paliparan ng Pilipinas (SMPP), the duly accredited employee union at MIAA, be approved, as it is hereby approved".

"RESOLVED, FURTHER, That, the AUTHORITY shall grant all MIAA officials and employees the amount of P30,000.00 each as contract Signing Bonus to be sourced from the savings of personal services, following the provision of Article XII of the CNA."^[4]

On post-audit, Mr. Ireneo B. Manalo (Manalo), the then Corporate Auditor, issued Audit Observation Memorandum (AOM) No. JPA 03-35^[5] dated November 4, 2003, stating that the payment of the said contract signing bonus had been previously declared improper by this Court in *Social Security System v. Commission on Audit*.

[6] Thus:

In your letter dated October 7, 2003, it was explained that the grant of signing bonus was sanctioned by Resolution No. 2, Series of 2003, known as Grant of Collective Negotiation Agreement (CNA) Incentive for Government-Owned and/or Controlled Corporation (GOCCs) and Government Financial Institution (GFIs). The same explanation, the gratuity emanated from CNA executed after the effectivity of RA 6758, was invoked by the petitioner in SSS vs. COA. In its decision, the Supreme Court affirmed the COA decision disallowing the payment of signing bonus to each employee and officer of the SSS. (Please refer to the attached Supreme Court Decision)

The payment of signing bonus made by MIAA, therefore, was improper and has no legal basis.[7]

The COA's Legal and Adjudication Office-Corporate (LAO-Corporate) reviewed AOM No. JPA 03-35 and in a Notice of Disallowance (N.D.) No. MIAA-2006-001[8] dated August 31, 2006, Director IV Janet D. Nacion (Director Nacion) disallowed the subject disbursement in the total amount of P44,790,000.00 for being contrary to Section 1 of Public Sector Labor Management Council (PSLMC) Resolution No. 2, Series of 2003 and the May 2, 2002 letter of Emilia T. Boncodin (Boncodin), the former Secretary of the Department of Budget and Management (DBM), to Guillermo N. Carague (Carague), the former Chairman of the COA. The relevant portions thereof state:

Please be informed that the payment for the year 2003 of Collective Negotiation Agreement (CNA)/Signing Bonus of P30,000.00 each to the officials and employees of the MIAA granted under Board Resolution No. 2003-067 passed on July 30, 2003 has been disallowed in audit being in (sic) contrary to Section 1 of Public Sector Labor Management Council (PSLMC) Resolution No. 02 dated May 19, 2003 which states that "**x x x a CNA Incentive may be provided in the CNA to be granted to the rank-and-file.**" The MIAA CNA/Signing Bonus included not only the rank-and-file but all officers and employees, MIAA Board of Directors, Board Secretariat and EXECOM.

It was also noted that although the MIAA General Manager, in his memorandum dated January 28, 2003 stated categorically that "**x x x all the requirements under Section 3 of the Public Sector Labor Management Council (PSLMC) Resolution No. 2 has been complied with x x x**", there were no documents submitted to support this statement.

Moreover, the grant/payment of CNA Signing Bonus has been stopped/discontinued per letter dated May 15, 2002 of the former DBM Secretary Emilia T. Boncodin to COA Chairman Guillermo N. Carague.[9]

Furthermore, Director Nacion directed the members of the Board of Directors who approved Resolution No. 2003-067, the employees who approved and signed the request for payment and those who certified that the disbursement is lawful and supported by necessary documents, to refund and all recipients to refund the disallowed benefit.^[10]

MIAA, through its Assistant General Manager for Finance and Administration, Herminia D. Castillo (Castillo), appealed N.D. No. MIAA-2006-01 stating that: (a) the CNA Incentive was granted to all officers and employees of MIAA, including those who do not occupy rank-and-file positions, since the achievement of MIAA's performance targets and the success of its fiscal reforms is a collaborative effort; and (b) MIAA's performance in 2003 justified the grant of the CNA Incentive. In her letter dated December 19, 2006,^[11] Castillo alleged that:

On the basis of the foregoing, hereunder is an assessment of MIAA's financial performance for CY 2003 as justification in the grant of [Collective] Negotiation Agreement (CNA)/Signing Bonus pursuant to PSLMC Resolution No. 2, s. 2003.

1. Actual corporate operating income of Php 4.567 billion surpassed income projection of Php 4.371 billion. Favorable variance is Php 196 million.
2. Actual cash operating expenses of Php 2.034 billion is less than what was appropriated at Php 2.210 billion in the board-approved COB. Favorable variance is Php 176.57 million.
3. Of the total excess in operating expense budget of Php 176.57 million, only Php 118.70 million may be considered savings that are attributable to cost-saving measures and unutilized allocation for Personal Services pertaining to vacant positions.
4. Under PSLMC Resolution No. 2, s. 2003, the Php 118.70 million savings may be granted as CNA Incentive. Amount paid in CY 2003 subject of the Notice of Disallowance totalled Php 44.79 million.
5. Dividends totaling (sic) Php 231.489 million representing 50% of MIAA's Net Income for CY 2003 was remitted to the Bureau of Treasury on June 1 & 9, 2004. (Copy of disbursement vouchers hereto attached as Annex F & G)

The CNA Incentive was granted to all officers and employees including those who do not belong to the rank-and-file since MIAA's financial reforms and performance beyond expected targets CY 2003 were due to the collaborative effort of the whole organization as a corporate body exercising powers thru the MIAA Board pursuant to Executive 903 otherwise known as MIAA's Charter.^[12]

In its Decision No. 2008-006^[13] dated February 18, 2008, the LAO-Corporate, thru Director Nacion, denied MIAA's appeal, the dispositive portion of which states:

WHEREFORE, foregoing premises considered, the instant request for reconsideration of the disallowed CNA Signing Bonus paid in 2003 in the total amount of P44,790,000.00 is hereby **DENIED**. Accordingly, N.D. No. MIAA-2006-001 dated August 31, 2006 is hereby **AFFIRMED**.^[14]

According to Director Nacion, the President's decision to disallow the grant of signing bonus is clear from former DBM Secretary Boncodin's May 15, 2002 letter to former COA Chairman Carague. Contrary to MIAA's claim, the grant is actually a signing bonus and cannot be considered a CNA Incentive since it was released on August and October, or immediately after the approval of the CNA between MIAA and SMPP and before MIAA had determined its savings from Maintenance and Other Operating Expenses (MOOE). Under DBM Budget Circular No. 2006-01 dated February 1, 2006, the CNA Incentive is a one-time benefit, the payment of which is subject to the successful implementation of projects and achievement of performance targets, and should be exclusively sourced from the MOOE based on the cost-cutting measures specified in the CNA.

Even assuming that the subject grant was a CNA Incentive, MIAA violated Section 1 of PSLMC Resolution No. 2 as implemented by DBM Budget Circular No. 2006-01, limiting the grant of the CNA Incentive to rank-and-file employees. MIAA also failed to comply with Section 3 of PSLMC Resolution No. 2 when it failed to submit its Corporate Operating Budget (COB) to the DBM and the Office of the President (OP) for approval. To quote:

It must be emphasized however, that the grant of the CNA Signing bonus is no longer allowed. The President of the Philippines had set a moratorium on the grant of the said signing bonus due to some problems raised on the payment and fund source thereof. This is clear from the letter dated May 15, 2002 of the former Department of Budget and Management (DBM) Secretary Emilia T. Boncodin addressed to the Commission on Audit Chairman, Guillermo N. Carague. Said letter further stated that the PSLMC considered the grant of incentives instead of the CNA Signing Bonus in order to resolve the issue. Thus, on December 27, 2005, the Office of the President (OP) issued Administrative Order (A.O.) No. 135 authorizing the grant of CNA Incentive to Employees in Government Agencies. The AO confirmed the grant of the CNA Incentive in strict compliance with PSLMC Resolution No. 02, series of 2003. The moratorium, however, on the grant of CNA Signing Bonus was not lifted under the said AO.

Granting arguendo that the MIAA treated the subject incentive as a CNA Incentive instead of Signing Bonus since they used as their basis PSLMC Resolution No. 02, series of 2003, which was approved on May 19, 2003, still, their argument is untenable. Under Section 1 of the aforesaid PSLMC Resolution as implemented by DBM Budget Circular No. 2006-1 dated

February 1, 2006, a CNA Incentive may be provided in the CNA to be granted to the rank and file employees. In the instant case, however, the CNA incentive was paid not only to the rank and file employees but also to the officials of the MIAA i.e., Board of Directors, Board Secretariat and EXCOM Members including those occupying the position of Assistant Department Manager (ADM)/Division Chief, who are not considered rank-and-file employees per opinion of the Civil Service Commission-COA Field Office, contrary to Section 1 of the aforesaid resolution.

Moreover, while it is true that in said PSLMC Resolution, the CNA incentive may be granted to the rank-and-file employees, the grant thereof is not absolute or automatic as the conditions set forth under Section 3 thereof have to be complied with by the MIAA before it can grant the CNA incentive bonus, which states:

“Section 3. The CNA Incentive may be granted if the following conditions are met by the GOCC/GFI:

a) Actual operating income at least meets the targeted operating income in the Corporate Operating Budget (COB) approved by the Department of Budget and Management (DBM)/Office of the President for the year;
x x x”

b) Actual operating expenses are less than the DBM approved level of operating expenses in the COB as to generate sufficient source of funds for the payment of CNA Incentive; and

c) For income generating GOCCs/GFIs, dividends amounting to at least 50% of their annual earnings have been remitted to the National Treasury in accordance with the provisions of Republic Act No. 7656 dated November 9, 1993.

x x x x

However, a careful scrutiny of the COB submitted by the MIAA as basis for the grant of the CNA Incentive would show that the same was just approved by the MIAA Board of Directors. There is no indication that the same was approved by the DBM/OP as required by the said PSLMC Resolution. Hence, the grant/payment of the CNA Incentive to its officials and employees may be considered as an irregular expenditure.

In addition, as provided under the aforesaid DBM Budget Circular No. 2006-1, the CNA Incentive for the year shall be paid as a one-time benefit after the end of the year, provided that the planned programs/activities/projects have been implemented and completed in accordance with the performance targets for the year. This is so, since it shall be sourced solely from savings from released Maintenance and