

EN BANC

[G.R. No. 169815, August 13, 2008]

**BUREAU OF FISHERIES AND AQUATIC RESOURCES (BFAR)
EMPLOYEES UNION, REGIONAL OFFICE NO. VII, CEBU CITY,
PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.**

D E C I S I O N

PUNO, CJ.:

On appeal are the Decision^[1] dated April 8, 2005 of respondent Commission on Audit (COA) in LAO-N-2005-119 upholding the disallowance by the COA Legal and Adjudication Office (COA-LAO), Regional Office No. VII, Cebu City of the P10,000.00 Food Basket Allowance granted by BFAR to each of its employees in 1999, and COA Resolution^[2] dated August 5, 2005, denying petitioner's motion for reconsideration of said Decision.

First, the facts:

On October 18, 1999, petitioner Bureau of Fisheries and Aquatic Resources (BFAR) Employees Union, Regional Office No. VII, Cebu City issued Resolution No. 01, series of 1999 requesting the BFAR Central Office for a Food Basket Allowance. It justified its request on the high cost of living, *i.e.*, "the increase in prices of petroleum products which catapulted the cost of food commodities, has greatly affected the economic conditions and living standard of the government employees of BFAR Region VII and could hardly sustain its need to cope up with the four (4) basic needs, *i.e.*, food, shelter, clothing and education."^[3] It also relied on the Employees Suggestions and Incentive Awards System (ESIAS), pursuant to Book V of Executive Order No. 292, or the Administrative Code of 1987, and approved by the Civil Service Commission on December 3, 1996. The ESIAS "includes the granting of incentives that will help employees overcome present economic difficulties, boost their morale, and further commitment and dedication to public service."^[4] Regional Director Corazon M. Corrales of BFAR Region VII indorsed the Resolution, and Malcolm I. Sarmiento, Jr., Director of BFAR recommended its approval. Honorable Cesar M. Drilon, Jr., Undersecretary for Fisheries and Livestock of the Department of Agriculture, approved the request for Authority to Grant a Gift Check or the Food Basket Allowance at the rate of P10,000.00 each to the 130 employees of BFAR Region VII, or in the total amount of P1,322,682.00.^[5] On the strength of the approval, Regional Director Corrales released the allowance to the BFAR employees.

On post audit, the Commission on Audit – Legal and Adjudication Office (COA-LAO) Regional Office No. VII, Cebu City disallowed the grant of Food Basket Allowance under Notice of Disallowance No. 2003-022-101 (1999) dated September 19, 2003. It ruled that the allowance had no legal basis and that it violated: a) Sec. 15(d) of the General Appropriations Act of 1999, prohibiting the payment of honoraria,

allowances, or other forms of compensation to any government official or employee, except those specifically authorized by law; b) par. 4.5 of Budget Circular No. 16 dated November 28, 1998, prohibiting the grant of food, rice, gift checks, or any other form of incentives/allowances, except those authorized via Administrative Order by the Office of the President; and c) Sec. 12 of Republic Act (R.A.) No. 6758, or the Salary Standardization Law of 1989, which includes all allowances in the standardized salary rates, subject to certain exceptions.

On February 26, 2004, BFAR Regional Office No. VII, through Regional Director Corrales, moved for reconsideration and prayed for the lifting of the disallowance. It argued that the grant of Food Basket Allowance would enhance the welfare and productivity of the employees. Further, it contended that the approval by the Honorable Drilon, Undersecretary for Fisheries and Livestock, of the said benefit was the law itself which vested the specific authority for its release. The Commission on Audit –Legal and Adjudication Office (COA-LAO) Regional Office No. VII, Cebu City denied the motion.

Petitioner appealed to the Commission on Audit –Legal and Adjudication Office (COA-LAO) National, Quezon City. The appeal was denied in a Decision dated April 8, 2005. Petitioner's motion for reconsideration was likewise denied in a Resolution dated August 5, 2005.

Hence, this appeal.

Petitioner cites the following grounds for its appeal:

1. The disallowance in question is unconstitutional as it contravenes the fundamental principle of the State enshrined under Sections 9 and 10, Article II of the 1987 Constitution, which provide as follows:

SEC. 9. The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all.

SEC. 10. The State shall promote social justice in all phases of national development.^[6]

2. The Undersecretary for Fisheries and Livestock is an extension of the Secretary of Agriculture who is an alter-ego of the President. His approval was tantamount to the authority from the Office of the President, as contemplated in DBM Budget Circular No. 16, dated November 28, 1998.^[7]
3. The grant of the Food Basket Allowance is in conformity with Sec. 12 of the Salary Standardization Law.^[8]

We deny the petition.

First, we rule on the issue of constitutionality. Petitioner invokes the provisions of

the 1987 Constitution on social justice to warrant the grant of the Food Basket Allowance. Time and again, we have ruled that the social justice provisions of the Constitution are not self-executing principles ready for enforcement through the courts. They are merely statements of principles and policies. To give them effect, legislative enactment is required. As we held in **Kilosbayan, Incorporated v. Morato**,^[9] the principles and state policies enumerated in Article II and some sections of Article XII are "not self-executing provisions, the disregard of which can give rise to a cause of action in the courts. They do not embody judicially enforceable constitutional rights but guidelines for legislation."^[10]

Second, petitioner contends that the approval of the Department of Agriculture (DA) Undersecretary for Fisheries and Livestock of the Food Basket Allowance is the law which authorizes its release. It is crystal clear that the DA Undersecretary has no authority to grant any allowance to the employees of BFAR. Section 4.5 of Budget Circular No. 16 dated November 28, 1998 states:

All agencies are hereby prohibited from granting any food, rice, gift checks, or any other form of incentives/allowances **except those authorized via Administrative Order by the Office of the President.**

In the instant case, no Administrative Order has been issued by the Office of the President to exempt BFAR from the express prohibition against the grant of any food, rice, gift checks, or any other form of incentive/allowance to its employees.

Petitioner argues that the grant of the Food Basket Allowance does not violate Sec. 12 of R.A. No. 6758 or the Salary Standardization Law. This law was passed to standardize salary rates among government personnel and do away with multiple allowances and other incentive packages and the resulting differences in compensation among them.^[11] Sec. 12 of the law provides:

Consolidation of Allowances and Compensation. — All allowances, except for representation and transportation allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM [Department of Budget and Management], shall be deemed included in the standardized salary rates herein prescribed. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized.

Existing additional compensation of any national government official or employee paid from local funds of a local government unit shall be absorbed into the basic salary of said official or employee and shall be paid by the National Government.

Under Sec. 12, as quoted, all kinds of allowances are integrated in the standardized salary rates. The exceptions are:

1. representation and transportation allowance (RATA);

2. clothing and laundry allowance;
3. subsistence allowance of marine officers and crew on board government vessels;
4. subsistence allowance of hospital personnel;
5. hazard pay;
6. allowances of foreign service personnel stationed abroad; and
7. such other additional compensation not otherwise specified herein as may be determined by the DBM.

Petitioner contends that the Food Basket Allowance falls under the 7th category above, that of "other additional compensation not otherwise specified herein as may be determined by the DBM."

The Court has had the occasion to interpret Sec. 12 of R.A. No. 6758. In **National Tobacco Administration v. Commission on Audit**,^[12] we held that under the first sentence of Section 12, the benefits excluded from the standardized salary rates are the "allowances" or those which are usually granted to officials and employees of the government to defray or reimburse the expenses incurred in the performance of their official functions. These are the RATA, clothing and laundry allowance, subsistence allowance of marine officers and crew on board government vessels and hospital personnel, hazard pay, and others, as enumerated in the first sentence of Section 12. We further ruled that the phrase "and such other additional compensation not otherwise specified herein as may be determined by the DBM" is a catch-all proviso for benefits in the nature of allowances similar to those enumerated. In **Philippine Ports Authority v. Commission on Audit**,^[13] we explained that if these allowances were consolidated with the standardized salary rates, then government officials or employees would be compelled to spend their personal funds in attending to their duties.

In the instant case, the Food Basket Allowance is definitely not in the nature of an allowance to reimburse expenses incurred by officials and employees of the government in the performance of their official functions. It is not payment in consideration of the fulfillment of official duty. It is a form of financial assistance to all officials and employees of BFAR. Petitioner itself stated that the Food Basket Allowance has the purpose of alleviating the economic condition of BFAR employees.

Next, petitioner relies on National Compensation Circular No. 59 dated September 30, 1989, issued by the DBM, which is the "List of Allowances/Additional Compensation of Government Officials and Employees which shall be Deemed Integrated into the Basic Salary." The list enumerates the following allowances/additional compensation which shall be incorporated in the basic salary, hence, may no longer be granted to government employees:

1. Cost of Living Allowance (COLA);
2. Inflation connected allowance;