

FIRST DIVISION

[G.R. NO. 127301, March 14, 2007]

**DEPARTMENT OF BUDGET AND MANAGEMENT AND HONORABLE
SECRETARY SALVADOR M. ENRIQUEZ, JR., PETITIONERS, VS.
THE CITY GOVERNMENT OF CEBU, RESPONDENT.**

DECISION

AZCUNA, J.:

This is a petition for review on certiorari of the Resolution of the Court of Appeals (CA) dated November 20, 1996 denying petitioners' motion for clarification of the Decision of the CA promulgated on February 22, 1996.

The facts are:

Respondent City Government of Cebu, through an appropriation ordinance, granted additional allowances to the judges and fiscals of the city in an amount more than P1,000 per month.

On November 14, 1994, Atty. Carmelita P. Cabahug, City Auditor of Cebu, in her first indorsement, disallowed in post audit the grant of additional allowances to judges and fiscals for being in violation of Local Budget Circular No. 55, dated March 15, 1994, issued by petitioner Department of Budget and Management (DBM).

On August 9, 1993, respondent passed and approved Ordinance No. 1468, which provided appropriations for the salary adjustments of department heads and assistant department heads.

According to petitioners, Ordinance No. 1468 would cover salary differentials and adjustments of the salaries of the city officials and employees in the full implementation of a seventh-step increase (from second step to eighth step) of their salary schedule for the period of 1993, contrary to the provisions of DBM Regional Memorandum Circular No. 92-1.

Regional Memorandum Circular No. 92-1,^[1] dated March 23, 1992, disallowed the granting on a full implementation ("one-shot" affair) basis of the eighth step of the Salary Schedule of Joint Circular No. 36,^[2] since it violated Republic Act (RA) No. 6758^[3] and CSC-DBM Joint Circular No. 1 mandating that the grant of step increments must be based on merit and/or length of service. Regional Memorandum Circular No. 92-1 enjoined the local government units, including respondent, that have granted step increments/salary increases not in accordance with CSC-DBM Joint Circular No. 1 to adjust said salary increase and any excess received by incumbents should be returned/refunded accordingly.

On May 19, 1993, respondent passed and approved Ordinance No. 1450, which

abolished the positions of Legal Officers III and IV and created ten Assistant City Attorneys and accordingly upgraded the salaries of said legal officers from P6,798 and P8,250, respectively, to P10,130.20 per month effective June 1, 1993.

In a letter dated September 14, 1993, Cebu City Mayor Tomas R. Osmeña requested the DBM Secretary's approval, through Ordinance No. 1450, for the reclassification of two Legal Officer IV (Salary Grade 22) and eight Legal Officer III (Salary Grade 20) to Assistant City Attorney (proposed Salary Grade 24), under the Office of the City Legal Officer.

In a letter-reply^[4] dated November 19, 1993, DBM Secretary Salvador M. Enriquez, Jr. impliedly disallowed the ordinance, thus:

x x x

An evaluation of the justification/documents submitted and the present organizational structure of the City based on existing classification standards/criteria under RA 6758 reveals the following:

1. The City Attorney, classified as City Government Department Head I is assisted by an Assistant City Attorney, classified as City Government Assistant Department Head I;
2. The 2 LO IV are actually chiefs of divisions, each supported by 4 LO III; and
3. The CLO performs court litigation activities for civil/administrative cases and legal counseling tasks.

In view of the foregoing and based on the changes in the classification of the positions of local executives for a highly urbanized City like Cebu under JCLGPA Bulletin No. 10 dated March 7, 1991, the positions under the CLU are reclassified as follows:

No. of Pos.	From		To	
	Position Title	Salary Grade	Position Title	Salary Grade
1	City Government Department Head I	25	City Government Department Head II	26
1	City Government Assistant Department Head I	23	City Government Assistant Department Head II	24
2	Legal Officer IV	22	Attorney IV	23

x x x

The proposed salary grade assignment at SG-24 for the two (2) Legal Officer IV positions is not feasible since if allowed [it] will result in an

overlap with that of the City Government Assistant Department Head, their immediate supervisor, which is SG-24. x x x

On February 2, 1995, respondent City Government of Cebu filed a petition for certiorari with this Court assailing the legality of the following:

(1) DBM Local Budget Circular No. 55 dated March 15, 1994 which set the guidelines on compensation and position classification in the Local Government Units, particularly Cebu City in this instance, vis-a-vis the granting of additional allowances and other benefits to national government officials and employees assigned within its jurisdiction in the form of honorarium at rates not exceeding P1,000;

(2) DBM Regional Memorandum Circular No. 92-1 dated March 23, 1992 enjoining respondent, among other local government units, from granting step increments/salary increases not in accordance with CSC-DBM Joint Circular No. 1 and requiring the same to adjust the salary increase and the incumbents to return/refund accordingly any excess received by them; and

(3) the letter-reply dated November 19, 1993.

In a Resolution dated June 20, 1995, this Court *en banc* resolved to refer the case to the CA pursuant to Revised Administrative Circular No. 1-95.

In its Decision promulgated on February 22, 1996, the CA denied the petition for lack of merit.

As to the issue on the validity of Local Budget Circular No. 55 dated March 15, 1994, the CA ruled that the arguments of respondent are without merit as petitioners denied that they disallowed the grant, through an appropriation ordinance, of more than P1,000 additional allowances to judges and prosecutors. Petitioners explained that while Local Budget Circular No. 55 indeed prohibits the grant of additional allowances in an amount more than P1,000, the Circular, however, does not apply to the appropriation ordinance of respondent because it was passed before the effectivity of the Circular.

Next, Regional Memorandum Circular No. 92-1, which respondent alleged to have been issued in excess of the authority granted to DBM and alleged to militate against the autonomy of the local government units to fix the compensation of their employees, was held to be valid by the CA.

The CA ruled:

Republic Act No. 6758, otherwise known as Compensation and Position Classification Act of 1989 expressly directed respondent DBM to establish and administer a Unified Compensation and Position Classification System that shall be applied to all government entities.

The law likewise authorized respondent DBM to promulgate rules and regulations relative to grant of step increments. Section 13 of R.A. 6758 reads:

"Sec. 13. Pay Adjustments.-Paragraphs (b) and (c), Section 15 of Presidential Decree No. 985 are here amended to read as follows:

x x x

(c) Step Increments - Effective January 1, 1990 step increments shall be granted based on merit and/or length of service in accordance with rules and regulations that will be promulgated jointly by the DBM and the Civil Service Commission."

Pursuant to Section 13 of R.A. No. 6758, respondent DBM issued [Regional] Memorandum Circular No. 92-1 which disallowed any grants by any local government units of step increments not based on merit and length of service. The circular reads:

"2.0. In line with this, the Secretary of Budget and Management issued a memorandum directing that the opinion/views of the Executive Director of the Bureau of Local Government Supervision, JCLGPA, should be set aside/inasmuch as granting full implementation (one-shot affair) of the 8th step of the Salary Schedule of Joint Commission Circular No. 36 is not allowed under the Salary Standardization Law. Furthermore, such step increment/step increase is not in accordance with the provisions of CSC-DBM Joint Circular #1, which allows the grant of merit and longevity pay."

x x x

It is very evident from R.A. No. 6758 that grants of step increments must be based on merit and length of service.

[Regional] Memorandum Circular No. 92-1 issued by respondent DBM disallowed only grants of step increments not based on merit and length of service. [Regional] Memorandum Circular No. 92-1 is well within the mandate of R.A. No. 6758. The acts of respondent DBM is well within the purview of R.A. No. 6758. Respondent DBM did not exceed its authority.

Neither can it be said that the issuance of [Regional] Memorandum Circular No. 92-1 undermines the authority of the petitioner's power of local autonomy.

Indeed under R.A. No. 7160, local government units like petitioner are with powers to determine the compensation of their local officials and employees. However, the powers granted under R.A. No. 7160 is not without any limitations. R.A. No. 7160 mandates that any increases in compensation are subject to certain conditions one of which is that it may be based upon the pertinent provision of R. A. No. 6758. **Section 81 of R.A. No. 7160** reads:

"Sec. 81. Compensation of Local Officials and Employees. The compensation of local officials and personnel shall be determined by the sanggunian concerned: Provided, That the increase in compensation of elective local officials shall take effect only after the terms of office of those approving such increase shall have expired: Provided, further, That the increase in compensation of the appointive officials and employees shall take effect as provided in the ordinance shall not exceed the limitations on budgetary allocations for personal services provided under Title Five, Book II of this code: Provided, finally, That such compensation may be based upon the pertinent provisions of Republic Act Numbered Sixty-seven fifty-eight, (R.A. No. 6758), otherwise known as the 'Compensation and Position Classification Act of 1989'."

As earlier pointed out, R.A. No. 6758 provides that step increments must be based on merit and length of service, as required by respondents in their [Regional] Memorandum Circular No. 92-1.

On these premises therefore, We conclude that [Regional] Memorandum Circular No. 92-1 is a valid issuance.^[5]

As regards Ordinance No. 1468, the CA ruled that it does not violate Regional Memorandum Circular No. 92-1, thus:

. . . Ordinance No. 1468 increased the salary of concerned personnel not through a step increment but through changes in position titles and in their corresponding salary grades. The position titles of Department Heads and Assistant Department Heads were changed. Correspondingly, a change in salary grades, in this case, from a lower grade to a higher grade. Correspondingly, an increase in salary. This is not step-increment. The salary increased because the position titles and salary grades were changed. Ordinance No. 1468 is not a grant of step-increment. Therefore, its passage cannot be in violation of Memorandum Circular No. 92-1.^[6]

Further, the CA declared as void Ordinance No. 1450, which abolished the existing positions of Legal Officers III and IV and mandated the creation of Assistant City Attorney with a monthly salary of P10,135. The CA reasoned that allowing the ordinance would result in the overlap of the salary grade of both the City Government Assistant Department Head (Salary Grade 24) and the proposed Assistant City Attorneys (Salary Grade 24) in violation of the State policy to provide equal pay only for substantially equal work under R.A. No. 6758.^[7]

The dispositive portion of the Decision reads:

WHEREFORE, foregoing considered, the petition is hereby **DENIED** for lack of merit. Memorandum Circular No. 55 dated November 19, 1993, Regional Memorandum Circular No. 92-1 dated March 23, 1992 and letter dated November 19, 1993 disapproving Special Ordinance No. 1450 are declared **VALID** and **EFFECTIVE**.