

EN BANC

[G.R. No. 158791, July 22, 2005]

CIVIL SERVICE COMMISSION, PETITIONER, VS. DEPARTMENT OF BUDGET AND MANAGEMENT, RESPONDENT.

D E C I S I O N

CARPIO MORALES, J.:

The Civil Service Commission (petitioner) via the present petition for mandamus seeks to compel the Department of Budget and Management (respondent) to release the balance of its budget for fiscal year 2002. At the same time, it seeks a determination by this Court of the extent of the constitutional concept of fiscal autonomy.

By petitioner's claim, the amount of P215,270,000.00 was appropriated for its Central Office by the General Appropriations Act (GAA) of 2002, while the total allocations for the same Office, if all sources of funds are considered, amount to P285,660,790.44.^[1] It complains, however, that the total fund releases by respondent to its Central Office during the fiscal year 2002 was only P279,853,398.14, thereby leaving an unreleased balance of P5,807,392.30.

To petitioner, this balance was intentionally withheld by respondent on the basis of its "no report, no release" policy whereby allocations for agencies are withheld pending their submission of the documents mentioned in Sections 3.8 to 3.10 and Section 7.0 of National Budget Circular No. 478 on Guidelines on the Release of the FY 2002 Funds,^[2] which documents are:

1. Annual Cash Program (ACP)
2. Requests for the Release of Special Allotment Release Order (SARO) and Notice of Cash Allocation (NCA)
3. Summary List of Checks Issued and Cancelled
4. Statement of Allotment, Obligations and Balances
5. Monthly Statement of Charges to Accounts Payable
6. Quarterly Report of Actual Income
7. Quarterly Financial Report of Operations
8. Quarterly Physical Report of Operations
9. FY 2001 Preliminary and Final Trial Balance
10. Statement of Accounts Payable

Petitioner contends that the application of the "no report, no release" policy upon independent constitutional bodies of which it is one is a violation of the principle of fiscal autonomy and, therefore, unconstitutional.

Respondent, at the outset, opposes the petition on procedural grounds. It contends that first, petitioner did not exhaust administrative remedies as it could have sought

clarification from respondent's Secretary regarding the extent of fiscal autonomy before resorting to this Court. Second, even assuming that administrative remedies were exhausted, there are no exceptional and compelling reasons to justify the direct filing of the petition with this Court instead of the trial court, thus violating the hierarchy of courts.

On the merits, respondent, glossing over the issue raised by petitioner on the constitutionality of enforcing the "no report, no release" policy, denies having strictly enforced the policy upon offices vested with fiscal autonomy, it claiming that it has applied by extension to these offices the **Resolution of this Court in A.M. No. 92-9-029-SC** (Constitutional Mandate on the Judiciary's Fiscal Autonomy) issued on June 3, 1993,^[3] particularly one of the guiding principles established therein governing the budget of the Judiciary, to wit:

5. The Supreme Court may submit to the Department of Budget and Management reports of operation and income, current plantilla of personnel, work and financial plans and similar reports only for recording purposes. The submission thereof concerning funds previously released shall not be a condition precedent for subsequent fund releases. (Emphasis and underscoring supplied)

Respondent proffers at any rate that the delay in releasing the balance of petitioner's budget was not on account of any failure on petitioner's part to submit the required reports; rather, it was due to a shortfall in revenues.^[4]

The rule on exhaustion of administrative remedies invoked by respondent applies only where there is an express legal provision requiring such administrative step as a condition precedent to taking action in court.^[5] As petitioner is not mandated by any law to seek clarification from the Secretary of Budget and Management prior to filing the present action, its failure to do so does not call for the application of the rule.

As for the rule on hierarchy of courts, it is not absolute. A direct invocation of this Court's original jurisdiction may be allowed where there are special and important reasons therefor, clearly and specifically set out in the petition.^[6] Petitioner justifies its direct filing of the petition with this Court "as the matter involves the concept of fiscal autonomy granted to [it] as well as other constitutional bodies, a legal question not heretofore determined and which only the Honorable Supreme Court can decide with authority and finality".^[7] To this Court, such justification suffices for allowing the petition.

Now on the substantive issues.

That the "no report, no release" policy may not be validly enforced against offices vested with fiscal autonomy is not disputed. Indeed, such policy cannot be enforced against offices possessing fiscal autonomy without violating Article IX (A), Section 5 of the Constitution which provides:

Sec. 5. The Commission shall enjoy fiscal autonomy. Their approved appropriations shall be automatically and regularly released.

In *Province of Batangas v. Romulo*,^[8] this Court, in construing the phrase "automatic release" in Section 6, Article X of the Constitution reading:

Section 6. Local government units shall have a just share, as determined by law, in the national taxes which shall be automatically released to them,

held:

Webster's Third New International Dictionary defines "automatic" as "involuntary either wholly or to a major extent so that any activity of the will is largely negligible; of a reflex nature; without volition; mechanical; like or suggestive of an automaton." Further, the word "automatically" is defined as "in an automatic manner: without thought or conscious intention." Being "automatic," thus, connotes something mechanical, spontaneous and perfunctory. As such the LGUs **are not required to perform any act** to receive the "just share" accruing to them from the national coffers. x x x" (Emphasis and underscoring supplied)^[9]

By parity of construction, "automatic release" of approved annual appropriations to petitioner, a constitutional commission which is vested with fiscal autonomy, should thus be construed to mean that no condition to fund releases to it may be imposed. This conclusion is consistent with the above-cited June 3, 1993 Resolution of this Court which effectively prohibited the enforcement of a "no report, no release" policy against the Judiciary which has also been granted fiscal autonomy by the Constitution.^[10]

Respecting respondent's justification for the withholding of funds from petitioner as due to a shortfall in revenues, the same does not lie. In the first place, the alleged shortfall is totally unsubstantiated. In the second place, even assuming that there was indeed such a shortfall, that does not justify non-compliance with the mandate of above-quoted Article IX (A), Section 5 of the Constitution.

Asturias Sugar Central, Inc. v. Commissioner of Customs teaches that "[a]n interpretation should, if possible, be avoided under which a statute or provision being construed is defeated, or as otherwise expressed, nullified, destroyed, emasculated, repealed, explained away, or rendered insignificant, meaningless, inoperative, or nugatory."^[11]

If respondent's theory were adopted, then the constitutional mandate to automatically and regularly release approved appropriations would be suspended every year, or even every month^[12] that there is a shortfall in revenues, thereby emasculating to a significant degree, if not rendering insignificant altogether, such mandate.

Furthermore, the Constitution grants the enjoyment of fiscal autonomy only to the Judiciary, the Constitutional Commissions of which petitioner is one, and the Ombudsman. To hold that petitioner may be subjected to withholding or reduction of funds in the event of a revenue shortfall would, to that extent, place petitioner and the other entities vested with fiscal autonomy on equal footing with all others which are not granted the same autonomy, thereby reducing to naught the distinction established by the Constitution.