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[G.R. No. 138381, April 16, 2002]

GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.

[G.R. No. 141625. April 16, 2002]

GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS. ALFREDO D. PINEDA, DANIEL GO, FELINO BULANDUS, FELICIMO J. FERRARIS, JR., BEN HUR PORLUCAS, LUIS HIPONIA, MARIA LUISA A. FERNANDEZ, VICTORINA JOVEN, CORAZON S. ALIWANAG, SILVER L. MARTINES, SR., RENATO PEREZ, LOLITA CAYLAN, DOUGLAS VALLEJO AND LETICIA ALMAZAN, ON THEIR OWN BEHALF AND ON BEHALF OF ALL GSIS RETIREES WITH ALL OF WHOM THEY SHARE A COMMON AND GENERAL INTEREST, RESPONDENTS.

DECISION

YNARES-SANTIAGO, J.:

At the core of these two consolidated petitions is the determination of whether the Commission on Audit (COA) properly disallowed on post-audit, certain allowances and/or fringe benefits granted to employees of the Government Service Insurance System (GSIS), after the effectivity of Republic Act No. 6758, otherwise known as the Salary Standardization Law on July 1, 1989.

I. G.R. No. 138381

In this special civil action for certiorari under Rule 65 in relation to Rule 64 of the 1997 Rules of Civil Procedure, petitioner GSIS seeks the annulment of COA Decision No. 98-337 dated August 25, 1998, which affirmed the Resident Auditor's disallowance of monetary benefits granted to or paid by GSIS in behalf of its employees.

After the effectivity of R.A. No. 6758 on July 1, 1989, petitioner GSIS *increased* the following benefits of its personnel: a) longevity pay; b) children's allowance; c) housing allowance for its branch and assistant branch managers; and d) employer's share in the GSIS Provident Fund from 20% to 45% of basic salary for incumbent employees as of June 30, 1989.

The GSIS also *remitted* employer's share to the GSIS Provident Fund for new employees hired after June 30, 1989, *continued* the payment of premiums for group personnel accident insurance and *granted* loyalty cash award to its employees in addition to a service cash award.

Upon post-audit and examination, the GSIS Corporate Auditor disallowed the aforementioned allowances and benefits, citing Section 12 of R.A. No. 6758 in relation to sub-paragraphs 5.4 and 5.5 of its implementing rules, DBM Corporate Compensation Circular No. 10 (CCC No. 10). The first paragraph of Section 12, R.A. No. 6758 reads:

> SEC. 12. 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, 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. x x x

Sub-paragraphs 5.4 and 5.5 of CCC No. 10,[1] meanwhile, supplemented Section 12 above by enumerating the additional compensation authorized to be continued for incumbent employees as of July 1, 1989.

According to the Corporate Auditor, R.A. No. 6758 authorized the continued grant of allowances/fringe benefits not integrated into the standardized salary for incumbents as of June 30, 1989. However, these non-integrated benefits may not be increased after effectivity of the statute, without prior approval of the DBM or Office of the President or in the absence of legislative authorization in accordance with CCC No. 10. Explaining this position, the Corporate Auditor invoked COA Memorandum No. 90-653 dated June 4, 1990, which states:

> x x x While it is true that R.A. 6758 and Corporate Compensation Circular (CCC) No. 10 are silent with respect to the increase of allowances/fringe benefits not integrated into the basic salary and allowed to be continued only for incumbents as of June 30, 1989, it would be inconsistent to allow further increase in said allowances and fringe benefits after July 1, 1989 since continuance thereof for incumbents is merely being tolerated until they vacate their present positions for which they have been authorized to receive allowances/fringe benefits.[2]

The Corporate Auditor also did not allow in audit the remittance of employer's share to the GSIS Provident Fund for new-hires because the continuation of said benefit was only in favor of incumbents, as explicitly stated in the law. The payment of group insurance premiums covering all employees was likewise disallowed, for the reason that under sub-paragraph 5.6 of CCC No. 10,[3] all fringe benefits granted on top of basic salary not otherwise enumerated under sub-paragraphs 5.4 and 5.5 thereof were already discontinued effective November 1, 1989. As for the loyalty cash award and the service cash award, the Corporate Auditor opined that only one of the two monetary incentives may be availed of by GSIS personnel.

On February 26, 1993, Mr. Julio Navarrete, Vice-President of the GSIS Human Resources Group, wrote to respondent COA appealing, in behalf of GSIS, the afore-stated disallowances by the Corporate Auditor. Mr. Navarrete averred that although

it may be conceded that the Salary Standardization Law did not extend the subject benefits to new-hires after the law's effectivity, the increase thereof should nonetheless be allowed for incumbents since these benefits have been enjoyed by said employees even prior to the passage of said law.[4]

In the case of *Philippine Ports Authority v. Commission on Audit*,[5] which involved a similar increase, after the enactment of R.A. No. 6758, in the representation and transportation allowance (RATA) of Philippine Ports Authority (PPA) employees, it was held that:

> x x x the date July 1, 1989 does not serve as a cut-off date with respect to the amount of RATA. The date July 1, 1989 becomes crucial only to determine that as of said date, the officer was an *incumbent* and was receiving the RATA, for purposes of entitling him to its continued grant. *This given date should not be interpreted as fixing the maximum amount of RATA to be received by the official.*[6]

It was further alleged that contrary to the Corporate Auditor's contention, the GSIS Board of Trustees retained its power to fix and determine the compensation package for GSIS employees despite the passage of the Salary Standardization Law, pursuant to Section 36 of Presidential Decree No. 1146, as amended by Presidential Decree No. 1981, to wit:

> Sec. 36. x x x
>
> The Board of Trustees has the following powers and functions, among others:
>
> x x x x x x x x x
>
> (d) Upon the recommendation of the President and General Manager, to approve the System's organizational and administrative structure and staffing pattern, and "to establish, fix, review, revise and adjust the appropriate compensation package for the officers and employees of the System, with reasonable allowances, incentives, bonuses, privileges and other benefits as may be necessary or proper for the effective management, operation and administration of the System." For the purpose of this and the preceding subsection, the System shall be exempt from the rules and requirements of the Office of the Budget and Management and the Office of the Compensation and Position Classification;
>
> x x x x x x x x x

Pursuant thereto, the GSIS Board of Trustees may validly increase and grant the subject benefits, even without securing the *imprimatur* of the DBM, Office of the President or Congress.

On August 25, 1998, the COA affirmed the disallowances made by the Corporate Auditor and held that Section 36 of P.D. No. 1146, as amended, was already repealed by Section 16 of R.A. No. 6758.[7] The COA similarly concluded that the GSIS Board of Trustees may not unilaterally augment or grant benefits to its

personnel, without the necessary authorization required under CCC No. 10.[8]

GSIS filed a motion for reconsideration of the COA decision, invoking the ruling in *De Jesus, et al. v. COA and Jamoralin*.[9] Corporate Compensation Circular No. 10 (CCC No. 10) was declared to be of no legal force or effect due to its non-publication in the Official Gazette or a newspaper of general circulation. In view of this development, GSIS posited that the questioned disallowances no longer had any leg to stand on and that COA should consequently lift the disallowances premised on CCC No. 10.

On March 23, 1999, the COA denied the motion for reconsideration stating:

> Although CCC No. 10 has been declared ineffective due to its non-publication as provided for in Article 2 of the Civil Code of the Philippines, the disallowances on the increased rates of the allowances/fringe benefits can still be sustained because as ruled earlier, the power of the governing boards of corporations to fix compensation and allowances of personnel, including the authority to increase the rates, pursuant to their specific charters had already been repealed by Sec. 3 of P.D. 1597 and Section 16 of R.A. 6758. The other reasons or grounds relied upon by the petitioner upon which the Motion is predicated have already been judiciously passed upon by this Commission when it rendered the subject COA Decision No. 98-337.
>
> Accordingly, there being no new, sufficient and material evidence adduced as would warrant a reversal or modification of the decision herein sought to be reconsidered, this Commission denies with finality the instant motion for reconsideration for utter lack of merit.[10]

Hence, this petition, challenging the above decision and resolution of the COA on the following grounds:

> A.) RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN HOLDING THAT THE POWER SPECIFICALLY GRANTED BY PRESIDENTIAL DECREE NO. 1146, AS AMENDED, TO THE GSIS BOARD OF TRUSTEES, TO ESTABLISH AND FIX THE APPROPRIATE COMPENSATION PACKAGE FOR GSIS OFFICERS AND EMPLOYEES HAS ALREADY BEEN REPEALED BY REPUBLIC ACT NO. 6758.
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> B.) RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING PETITONER'S MOTION FOR RECONSIDERATION DESPITE THE DECLARATION BY THIS HONORABLE COURT IN THE CASE OF ***RODOLFO S. DE JESUS et al. vs. COMMISSION ON AUDIT and LEONARDO L. JAMORALIN***, THAT CCC NO. 10 - THE MAIN BASIS OF THE QUESTIONED DISALLOWANCE - IS INVALID AND INEFFECTIVE FOR LACK OF THE REQUIRED PUBLICATION.[11]

II. G.R. No. 141625

This petition for review on certiorari under Rule 45 of the Rules of Court was precipitated by the factual antecedents of G.R. No. 138381. While GSIS was appealing the disallowances made by the Corporate Auditor above, some of its employees retired and submitted the requisite papers for the processing of their retirement benefits. Since the retired employees received allowances and benefits which had been disallowed by the Corporate Auditor, GSIS required them to execute deeds of consent that would authorize GSIS to deduct from their retirement benefits the previously paid allowances, in case these were finally adjudged to be improper. Some of the retired employees agreed to sign the deed, while others did not. Nonetheless, GSIS went ahead with the deductions.

On April 16, 1998, a number of these retired GSIS employees[12] (hereafter referred to as "retirees") brought Case No. 001-98 before the GSIS Board of Trustees (hereafter referred to as "GSIS Board") questioning the legality of the deductions. They claimed that COA disallowances can not be deducted from retirement benefits, considering that these were explicitly exempted from such deductions under the last paragraph of Section 39, Republic Act No. 8291, which states:

> SEC. 39. Exemption from Tax, Legal Process and Lien. - x x x
>
> x x x x x x x x x
>
> The funds and/or the properties referred to herein as well as the benefits, sums or monies corresponding to the benefits under this Act shall be exempt from attachment, garnishment, execution, levy or other processes issued by the courts, quasi-judicial agencies or administrative bodies including Commission on Audit (COA) disallowances and from all financial obligations of the members, including his pecuniary accountability arising from or caused or occasioned by his exercise or performance of his official functions or duties, or incurred relative to or in connection with his position or work except when his monetary liability, contractual or otherwise, is in favor of the GSIS.

The GSIS Board subsequently referred the case for hearing to its Corporate Secretary, Atty. Alicia Albert. Thereafter, the retirees and GSIS, through its Legal Services Group (LSG), entered into a stipulation of facts and agreed on a focal issue, namely: whether the COA disallowances may be legally deducted from the retirement benefits, on the premise that the same are *monetary liabilities of the retirees in favor of GSIS* under Section 39 above. GSIS also insisted that since the deductions were anchored on the disallowances made by the COA, the retirees' remedy was to ventilate the issue before said Commission and not the GSIS Board.

Meanwhile, the *De Jesus* case mentioned in G.R. No. 138381 was promulgated, rendering CCC No. 10 legally ineffective. This prompted the hearing officer to suggest that the parties enter into an agreement as to what allowances and benefits are covered by CCC No. 10, so that a partial decision can be rendered thereon. The retirees thus filed a motion for partial decision, submitting that there no longer existed any obstacle to the increase in allowances and benefits covered by CCC No. 10. These allegedly include: a) GSIS management's share in the Provident Fund; b) initial payment of the productivity bonus; c) acceleration implementation of the new