

EN BANC

[G.R. No. 128001, September 22, 1999]

**MINERVA FRANCO, PETITIONER, VS. COMMISSION ON AUDIT
AND SECRETARY OF THE DEPARTMENT OF BUDGET AND
MANAGEMENT, RESPONDENTS.**

D E C I S I O N**MENDOZA, J.:**

This is a petition for certiorari to set aside the decision,^[1] dated November 21, 1996, of respondent Commission on Audit (COA) disallowing the disbursement by the Product Development and Design Center of the Philippines (PDDCP) of the amount of P379,200.00 for the payment in 1990 of loyalty awards to its officers and employees. In the alternative, the petition seeks, by way of mandamus, to compel respondent Department of Budget and Management (DBM) to act on two letters of PDDCP requesting authority to use its savings for the payment of the loyalty awards in question.

The facts of the instant case are not in dispute.

Petitioner Minerva P. Franco is the Executive Director of PDDCP, an agency under the Office of the Undersecretary for International Trade. In December 1990, she granted incentive awards to the officers and employees of PDDCP itemized as follows:

| | |
|--------------------|----------------------------------|
| Performance Awards | P140,900.00 |
| Loyalty Awards | <u>379,200.00</u> ^[2] |
| Total | P520,100.00 |

The disbursement was suspended by State Auditor Lourdes S. de la Cruz for lack of authority from the DBM to use savings of PDDCP for the payment of incentive awards and for lack of approval from the Civil Service Commission (CSC) of proposed guidelines for the grant of the awards. In her letter, dated September 2, 1991, State Auditor de la Cruz stated:

This has reference to the justification submitted to this Office for payment made to officials and employees of the Center representing their incentive cash awards CY 1990 in the total amount of P509,950.00 which were suspended in post-audit.

The said justification narrated Section 27 of Republic Act No. 2260; Section 33 of Presidential Decree No. 807; Section 35 of Executive Order No. 282; Sections 18 and 19 of the Rules, Regulations and Standards on Employee Suggestions and Incentive Award System by the Civil Service

Commission and Sections 1, 2, 3, 6 and 7 of Rule V of Republic Act No. 6713.

The above-mentioned provisions of laws which were made as the basis for giving incentive cash awards were already considered in post-audit since said laws were enumerated as part of the memorandum issued to officials and employees of PDDCP for their guidance in receiving their cash incentive award.

It may be mentioned that the above laws authorized the head of agency to incur expenses necessary for the implementation of the said Program. However, approval from the Commissioner of Budget is required under Section 55 of PD 1177 quoted as follows:

Sec. 55. Authority to use Savings for Certain Purposes. Savings in the appropriations provided in the General Appropriations Act may be used for the settlement of the following obligations incurred during a current fiscal year or previous fiscal years as may be approved by the Commissioner in accordance with rules and procedures as may be approved by the President;

e. Cash awards to deserving officials and employees in accordance with civil service law;

In this connection, the requirements to be submitted to lift the suspensions for payment made to officials and employees of PDDCP representing their cash awards are reiterated.^[3]

Accordingly, on September 20, 1991, petitioner wrote then DBM Secretary Guillermo N. Carague for authority to use savings of PDDCP for the payment of performance and loyalty awards. On September 23, 1991, she wrote then CSC Chairman Patricia A. Sto. Tomas seeking approval of the guidelines for the grant of the same.

It does not appear that Secretary Carague ever replied to the letter of petitioner. On the other hand, in a letter, dated November 25, 1992, Chairman Sto. Tomas, in response to petitioner's request, opined that the grant by PDDCP of the incentive awards was in order and that its guidelines did not need the approval of the CSC since they were made in 1990, prior to the effectivity of the Omnibus Rules Implementing Book V of Executive Order No. 292 requiring such approval. Chairman Sto. Tomas stated:

It is represented that one reason cited by the COA Resident Auditor for the disallowance of expenses incurred by that Agency in granting the incentive award is the non-approval of the PDDCP-IAS by the Civil Service Commission.

It may be mentioned that Section 35 of EO # 292 states that:

"There shall be established a government-wide employee suggestions and incentive award system which shall be administered under such rules, regulations, and standards as may be promulgated by the Commission.