

EN BANC

[G.R. No. 112371, October 07, 1998]

**AIDA DOMINGO, PETITIONER, VS. COMMISSION ON AUDIT,
RESPONDENT.**

D E C I S I O N

PURISIMA, J.:

This is an original petition for certiorari under Rule 65 of the Rules of Court seeking to nullify Decision No. 93-3081 of respondent Commission on Audit.

The antecedent facts that matter are, as follows:

On March 23, 1987, petitioner Aida Domingo was appointed by the President as Regional Director, Region V of the Department of Social Welfare and Development, and she assumed office as such.

Several government vehicles were thereafter endorsed to her office for the use of the personnel of the entire Region V of DSWD, including a Toyota Land Cruiser Jeep, a Kaiser Cargo Truck, a Trailer Jeep, a Willy's Army Rebuilt Jeep, and a Nissan Double Cab.

On November 14, 1989, Regional Auditor Manuel Cañares sent a communication to the petitioner informing her that post-audit reports on the DSWD Regional Office disbursement accounts showed that officials provided with government vehicles were still collecting transportation allowances. The said Auditor then requested the petitioner, in her capacity as Regional Director, to instruct all persons concerned to cease from collecting the transportation allowances in question.

However, despite the assignment to her of a vehicle for her official use, the petitioner asserted entitlement to a commutable transportation allowance and collected a total amount of P48, 600.00 as transportation allowance for the period from July 1, 1988 to December 31, 1990.

Petitioner asked for reconsideration of the auditor's directive; contending that she should only be disallowed to claim transportation allowance on the days she actually used a government vehicle. According to petitioner, she already refunded P1,600.00 for the thirty two (32) days she actually utilized a government vehicle.

But on May 18, 1990, the auditor denied petitioner's motion for reconsideration, and issued to petitioner CSB No. 92-003-101, dated July 8, 1992, with the following notation:

"A special audit of your TA account was disallowed in accordance with COA Decision No. 1745 dated February 26, 1991 by the Commission

proper less payment made under OR No. 7714009 dated December 6, 1990 - P1,600.00."

On August 8, 1992, the petitioner appealed the auditor's action to the Commission on Audit, which handed down its decision of August 25, 1993, finding petitioner's appeal devoid of merit.

Respondent Commission based its aforesaid decision on an earlier COA decision No. 1745, dated February 26, 1991, wherein it was held that a government official assigned a vehicle for his/her official use, is not entitled to collect transportation allowance whether or not he/she actually used such vehicle.

Undaunted, petitioner found her way to this court via the present petition, posing the issue of whether or not a commutable transportation allowance may still be claimed by a government official provided with a government vehicle, for the days the official did not actually use the vehicle.

The provision of law in point is found in Section 28 of Republic Act 6688, otherwise known as the General Appropriations Act of 1989, to wit:

Section 28. Representation and Transportation Allowances - x x x "The transportation allowance herein authorized shall not be granted to officials who are assigned a government vehicle or - use government motor transportation, except as may be approved by the President of the Philippines. Unless otherwise provided by law, no amount appropriated in this Act shall be used to pay for representation and/or transportation allowances, whether commutable or reimbursable, which exceed the rates authorized under this Section. Previous administrative authorization not consistent with the rates and conditions herein specified shall no longer be valid and payment shall not be allowed."

The General Appropriations Acts of 1988, 1990 and 1991 provide:

"The transportation allowance herein authorized shall not be granted to officials who are assigned a government vehicle or use a government motor transportation, except as may be approved by the President of the Philippines." (GAA 1988)

"The transportation allowance herein authorized shall not be granted to officials who are assigned a government vehicle or use government transportation, except as may be approved by the President of the Philippines." (GAA 1990)

"The transportation allowance herein authorized shall not be granted to officials who are assigned a government vehicle or use government motor transportation." (GAA 1991)

The aforesaid provision in the General Appropriations Law is based on Presidential Decree 733 and Commission on Audit Circular No. 75-6 dated November 7, 1975, regulating the use of government vehicles, aircrafts and watercrafts. Portion of said circular, reads: