



Republic of the Philippines  
**Supreme Court**  
 Manila

**EN BANC**

**DEVELOPMENT ACADEMY OF THE PHILIPPINES,**      **G.R. No. 203072**

Petitioner,

Present:

SERENO, *C.J.*,  
 CARPIO,  
 VELASCO, JR.,  
 LEONARDO-DE CASTRO,  
 BRION,  
 PERALTA,  
 BERSAMIN,  
 DEL CASTILLO,  
 PEREZ,  
 MENDOZA,  
 REYES,  
 PERLAS-BERNABE,  
 LEONEN,  
 JARDELEZA,\* and  
 CAGUIOA, *JJ.*

**-versus-**

**CHAIRPERSON MA. GRACIA M. PULIDO TAN, COMMISSIONER JUANITO G. ESPINO, JR., COMMISSIONER HEIDI L. MENDOZA, and COMMISSION ON AUDIT,**

Respondents.

**Promulgated:**

October 18, 2016

*Perlongan-Brane*

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**DECISION**

**LEONEN, J.:**

Under Republic Act No. 6758, otherwise known as the Compensation and Position Classification Act of 1989, “all allowances are deemed

\* No part.

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included in the standardized salary.”<sup>1</sup> However, certain specified allowances are permitted to be given in addition to standardized salaries “due to the unique nature of the office and of the work performed by the employee.”<sup>2</sup> Without a showing of any such uniqueness, additional financial awards cannot be sanctioned and the Commission on Audit would be right to have them disallowed. Still, even in the event of a disallowance, the approving officers and recipients incur no liability to refund for as long as they acted in good faith.

This resolves a Petition for Certiorari<sup>3</sup> praying that the assailed Decision No. 2012-119<sup>4</sup> dated July 17, 2012 filed by respondent Commission on Audit be set aside and that an order be issued lifting Notice of Disallowance No. DAP-06-001-(04)<sup>5</sup> dated June 27, 2006.

Notice of Disallowance No. DAP-06-001-(04) disallowed the amount of ₱4,862,845.71 representing petitioner Development Academy of the Philippines’ payment of Financial Performance Award to its employees “for want of legal basis”<sup>6</sup> and for several deficiencies.

The Decision No. 2012-119 of the Commission on Audit affirmed Notice of Disallowance No. DAP-06-001-(04).<sup>7</sup>

In calendar year 2002, the Development Academy of the Philippines obligated ₱3,613,998.72 for the grant of Financial Performance Award to its officers and employees.<sup>8</sup>

Though the award was obligated in 2002, it was only in 2004 that implementing rules for its grant was issued: DAP Memorandum Circular No. MC-2004-003,<sup>9</sup> dated April 1, 2004; and its addendum, DAP Memorandum Circular No. MC-2004-003A<sup>10</sup> dated December 21, 2004. With these implementing rules in place, the release and grant of the Financial Performance Award, inclusive of the so-called “MANCOM Fee” and “Star Award,” followed.

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<sup>1</sup> *Maritime Industry Authority v. Commission on Audit*, G.R. No. 185812, January 13, 2015 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/january2015/185812.pdf>> 13 [Per J. Leonen, En Banc], citing Rep. Act No. 6758 (1989), sec. 12.

<sup>2</sup> Id. at 18.

<sup>3</sup> *Rollo*, pp. 3–21. The Petition was filed under Rule 64, in relation to Rule 65, of the 1997 Rules of Civil Procedure.

<sup>4</sup> Id. at 22–29. The Decision was signed by (now respondents) Chairperson Ma. Gracia M. Pulido Tan, Commissioner Juanito G. Espino, Jr., and Commissioner Heidi L. Mendoza.

<sup>5</sup> Id. at 31–39. The Order was signed by Director Janet D. Nacion.

<sup>6</sup> Id. at 31.

<sup>7</sup> Id. at 29.

<sup>8</sup> Id. at 132.

<sup>9</sup> Id. at 128–129.

<sup>10</sup> Id. at 130.

DAP Memorandum Circular No. MC-2004-003 stipulated that the following were entitled to the award, which was to be released in two (2) tranches:

- All regular employees (on board and/or separated as of release of the 1<sup>st</sup> tranche) who have rendered full-time service for at least six months in 2002; and,
- [Letter of Invitation]-based staff who have rendered service of at least a total of six months in 2002, and who are currently engaged as of date of release.<sup>11</sup>

Only “[e]mployees who are administratively charged and meted a penalty of suspension in CY 2002”<sup>12</sup> were expressly excluded by DAP Memorandum Circular No. MC-2004-003A from the award. *In effect, the Financial Performance Award was made available to the Development Academy of the Philippines’ employees en masse.*

On post-audit, Corporate Auditor Ignacio I. Alfonso issued Audit Observation Memorandum No. 05-003<sup>13</sup> dated March 8, 2005 and noted the following:

- (1) That an excess of ₱1,277,976.65 was paid, relative to the amount obligated in calendar year 2002 (i.e., ₱3,613,998.72), “which is eight (8%) percent of the annual basic salaries of employees;”<sup>14</sup> and that this excess amount was sourced from the 10% service charges paid by the Development Academy of the Philippines’ clients, which service charges must – in accordance with the DAP Service Charge Scheme – be distributed only to employees in the DAP Conference Center, Tagaytay, as well as to some employees based in Pasig City;<sup>15</sup>
- (2) That the payment made in 2004 included some employees not included in the payroll, which was attached to the obligation made in calendar year 2002, and that there was no document supporting these additional employees’ entitlement to the award;<sup>16</sup>
- (3) That there was no computation sheet for the award to each employee, which should have been “attached to the vouchers to facilitate validation of the correctness of the amount paid”;<sup>17</sup>

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<sup>11</sup> Id. at 129.

<sup>12</sup> Id. at 130.

<sup>13</sup> Id. at 132–134.

<sup>14</sup> Id. at 132.

<sup>15</sup> Id.

<sup>16</sup> Id. at 133.

<sup>17</sup> Id.

- (4) That there was no legal basis for the payment and release of the MANCOM Fee and Star Award, and that there were also no computation sheets attached to the vouchers prepared for these;<sup>18</sup>
- (5) That the award was made without the approval and/or confirmation of the Development Academy of the Philippines' Board of Trustees and Executive Committee, considering that its Charter "specifically provides that . . . the President of the Academy is tasked to submit for consideration of the Board of Trustees and the Executive Committee the policies and measures which he believes to be necessary to carry out the purpose of the Academy";<sup>19</sup>
- (6) That Letter of Invitation-based staff were not entitled to the Financial Performance Award;<sup>20</sup> and
- (7) That in calendar year 2004, another obligation for the award was made in the amount of ₱2,335,664.00.<sup>21</sup>

Acting on this Audit Observation Memorandum, the Commission on Audit's Legal and Adjudication Office–Corporate issued Notice of Disallowance No. DAP-06-001-(04)<sup>22</sup> disallowing the payment of ₱4,862,845.71, representing the Development Academy of the Philippines' payment of the Financial Performance Award to its employees "for want of legal basis"<sup>23</sup> and for the following deficiencies:

- (1) Lack of approval of the Development Academy of the Philippines' Board of Trustees and Executive Committee;
- (2) Lack of a Request for Obligation Allotments for the initial amount obligated (i.e., ₱3,613,998.72);
- (3) Lack of a clear-cut policy on the award computations made for each employee;
- (4) The amount paid exceeded the amount obligated in calendar year 2002 by ₱1,248,846.99;

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<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> Id.

<sup>22</sup> Id. at 31–39.

<sup>23</sup> Id. at 31.

- (5) That this excess amount was taken from the service charges paid by clients of the Development Academy of the Philippines, intended to be distributed to DAP Conference Center Tagaytay employees and DAP Pasig staff;
- (6) That consultants serving under letters of invitation were given the award despite not being entitled to it;
- (7) That no approval from the Civil Service Commission was obtained for the Development Academy of the Philippines' Program on Awards and Incentives for Service Excellence (PRAISE); and
- (8) That there were no documents to support or validate the entitlement of additional employees who were not listed on the payroll attached to the obligation made in calendar year 2002.<sup>24</sup>

Notice of Disallowance No. DAP-06-001-(04) identified the following liable persons:

- (a) Eduardo T. Gonzales, DAP President;
- (b) Segundo E. Romero, Jr., DAP Executive Vice President;
- (c) Lilian L. De Guzman, DAP Finance Department Officer-in-Charge;
- (d) Jocelyn Y. Ybañez, DAP Finance Department Supervisor;
- (e) Judilyn L. Aguinaldo, Payroll Officer;
- (f) Jocelyn Y. Denaco, DAP Treasury Office Supervisor;
- (g) Carolyn L. Rivera, DAP Human Resource Management and Development Office Officer-in-Charge;
- (h) Ramonesa R. Ricardo, DAP Human Resource Management and Development Office Director;
- (i) Angela R. Manikan, DAP Finance Department Director
- (j) Leonida D. Apolinario, Cash Disbursing Officer;
- (k) Danilo Filarca;
- (l) Paraluman S. Landicho, Cashier; and
- (m) All officers and employees who received the Financial Performance Award.

Thereafter, the Development Academy of the Philippines filed its Response to Notice of Disallowance ND No. DAP-06-001-(04)<sup>25</sup> addressed to Director Janet D. Nacion of the Commission on Audit's Legal and Adjudication Office—Corporate. This was forwarded to the Commission on Audit proper and treated as an appeal.<sup>26</sup>

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<sup>24</sup> Id. at 31–32.

<sup>25</sup> Id. at 40–48.

<sup>26</sup> Id. at 247.

In this Response, the Development Academy of the Philippines asserted that there was ample legal basis for the Financial Performance Award. Specifically, it cited:

First, Presidential Decree No. 807, otherwise known as the Civil Service Decree of the Philippines (the Civil Service Decree), Section 33<sup>27</sup> of which provides for the Employee Suggestions and Incentive Award System (ESIAS);

Second, Rule X, Section 5<sup>28</sup> of the Omnibus Rules Implementing Book V of the Administrative Code of 1987; and

Third, Rule V, Sections 2<sup>29</sup> and 3<sup>30</sup> of the Implementing Rules and

<sup>27</sup> Pres. Decree No. 807, sec. 33 provides:

SECTION 33. Employee Suggestions and Incentive Award System. — There shall be established a government-wide employee suggestions and incentive awards system which shall be administered under such rules, regulations, and standards as may be promulgated by the Commission.

In accordance with rules, regulations, and standards promulgated by the Commission, the President or the head of each department or agency is authorized to incur whatever necessary expenses involved in the honorary recognition of subordinate officers and employees of the government who by their suggestions, inventions, superior accomplishments, and other personal efforts contribute to the efficiency, economy, or other improvement of government operations, or who perform such other extraordinary acts or services in the public interest in connection with, or in relation to, their official employment.

<sup>28</sup> Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws (1995), RULE X, sec. 5 provides:

SECTION 5. Awards under the System shall consist of honor awards and incentive awards. The head of department or agency may, however, upon recommendation of the Department or Agency Suggestions and Incentive Award Committee created in accordance with Section 11 hereof, consider an employee for both incentive and honor awards.

<sup>29</sup> Implementing Rules and Regulations of Rep. Act No. 6713, RULE V, sec. 2 provides:

SECTION 2. The following criteria shall be considered in the conferment of awards:

- (a) Years of service;
- (b) Quality and consistency of performance;
- (c) Obscurity of the position;
- (d) Level of salary;
- (e) Unique and exemplary quality of achievement;
- (f) Risk or temptation inherent in the work; and
- (g) Any similar circumstances or considerations in favor of the particular awardee.

<sup>30</sup> Implementing Rules and Regulations of Rep. Act No. 6713, RULE V, sec. 3 provides:

SECTION 3. Incentives and rewards to government officials and employees of the year may take the form of any of the following, as may be determined by the Committee on Awards established under the Code:

- (a) Bonuses; or
- (b) Citations; or
- (c) Directorships in government-owned or controlled corporations; or
- (d) Local and foreign scholarships grants; or
- (e) Paid vacations; and
- (f) Automatic promotion to the next higher position suitable to his qualifications and with commensurate salary; provided, that if there is no next higher position or it is not vacant, said position shall be included in the next budget of the office; except when the creation of a new position will result in distortion in the organizational structure of the department, office or agency. Where there is no next higher position immediately available, a salary increase equivalent to the next higher position shall be given and incorporated in the base pay. When a new position is created, that which is vacated shall be deemed abolished.

The grants of awards shall be governed by the merit and fitness principle.

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Regulations of Republic Act No. 6713.<sup>31</sup>

It addressed the specific deficiencies noted by Notice of Disallowance No. DAP-06-001-(04), as follows:

- (1) The Board of Trustees noted/confirmed the payment of the Financial Performance Award as indicated by the minutes of its May 12, 2005 meeting.<sup>32</sup>
- (2) There was no Request for Obligation Allotments because the Development Academy of the Philippines is a government-owned and controlled corporation with its own funds and system of obligating expenditures.<sup>33</sup>
- (3) It had a clear-cut policy on the Financial Performance Award computations as embodied in DAP Memorandum Circular No. MC-2004-003 dated April 1, 2004, and its addendum, DAP Memorandum Circular No. MC-2004-003A dated December 21, 2004.<sup>34</sup>
- (4) Additional employees were included after validation from the total list of personnel actually working in it; hence, the increase relative to the amount obligated in calendar year 2002.<sup>35</sup>
- (5) Its management had the prerogative to utilize amounts collected from service charges. This position was borne by Opinion No. 215, series of 2003, of the Office of the Government Corporate Counsel,<sup>36</sup> which explained that restrictions imposed by the Labor Code on the distribution of proceeds of service charges to employees applies only to the private sector, and not to a government corporation such as the Development Academy of the Philippines.<sup>37</sup>
- (6) Social justice and equity dictated that consultants whose services were engaged through letters of invitation be also given the Financial Performance Award.<sup>38</sup>

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<sup>31</sup> The Code of Conduct and Ethical Standards for Public Officers and Employees.

<sup>32</sup> *Rollo*, p. 44.

<sup>33</sup> *Id.* at 45.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at 93-95.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 46.

- (7) As evidenced in Civil Service Commission Director Velda C. Cornelio's June 6, 2006 letter,<sup>39</sup> the Civil Service Commission approved the Development Academy of the Philippines' Employee Suggestions and Incentive Award System, which encompasses the Financial Performance Award.<sup>40</sup>
- (8) The payroll attached to the original obligation made in calendar year 2002 was based on personnel estimates at the start of the year. This was revised to reflect the personnel who actually served in 2002, as could be validated in the "Employees Master List."<sup>41</sup> It added that this master list indicated the corresponding criteria for the award.<sup>42</sup>

In its assailed Decision No. 2012-119,<sup>43</sup> the Commission on Audit affirmed Notice of Disallowance No. DAP-06-001-(04). It noted that, the Development Academy of the Philippines' specific responses to each of the eight (8) deficiencies notwithstanding, it remained that there was no legal authority for the Financial Performance Award: "the grant of [Financial Performance Award] from its inception was not valid, and therefore, created no legal obligation and right."<sup>44</sup>

On September 5, 2012, the Development Academy of the Philippines filed the present Petition for Certiorari<sup>45</sup> ascribing grave abuse of discretion on the part of respondent Commission on Audit.

For resolution is the issue of whether respondent Commission on Audit acted with grave abuse of discretion amounting to lack or excess of jurisdiction in sustaining Notice of Disallowance No. DAP-06-001-(04), proceeding from the premise that there was no legal authority for petitioner's payment of the Financial Performance Award to its employees.

## I

Petitioner asserts that its Employee Suggestions and Incentive Award System was drafted in 1993, pursuant to Section 33 of the Civil Service Decree of the Philippines<sup>46</sup> and consistent with Rule X, Section 5 of the Omnibus Rules Implementing Book V of the Administrative Code of 1987.

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<sup>39</sup> Id. at 97.

<sup>40</sup> Id. at 46-47.

<sup>41</sup> Id. at 99-114.

<sup>42</sup> Id. at 47.

<sup>43</sup> Id. at 22-29.

<sup>44</sup> Id. at 28.

<sup>45</sup> Id. at 3-9.

<sup>46</sup> Id. at 247.

It notes that this Employee Suggestions and Incentive Award System “contained a specific provision on the grant of [the Financial Performance Award] recognizing not only individual but [even] collective effort for the furtherance of [the Development Academy of the Philippines’] mandate.”<sup>47</sup> It adds that on October 2, 1993, the Civil Service Commission issued a Letter of Approval, which never indicated any instruction to modify or remove the grant of the Financial Performance Award.<sup>48</sup>

Petitioner further recalls that following the issuance of Corporate Auditor Ignacio I. Alfonso’s Audit Observation Memorandum No. 05-003, Ramonesa R. Ricardo, Director in petitioner’s Human Resource Management and Development Office, wrote the Civil Service Commission inquiring on whether petitioner’s Employee Suggestions and Incentive Award System could still be enforced pending the finalization of the Civil Service Commission’s Program on Awards and Incentives for Service Excellence. In a letter<sup>49</sup> dated June 6, 2006, Civil Service Commission Director Vida C. Cornelio supposedly indicated that petitioner’s Employee Suggestions and Incentive Award System could still be implemented as it bore no inconsistency with any of the Civil Service Commission’s rules and regulations.<sup>50</sup>

Petitioner insists that the “[Civil Service Commission] is the competent government authority on the matter.”<sup>51</sup> It implies that, by the Civil Service Commission’s acquiescence to its Financial Performance Award, as contained in its Employee Suggestions and Incentive Award System, the same Financial Performance Award must be considered valid.

Respondents counter that proceeds from the Financial Performance Award are not among the items permitted by Section 12<sup>52</sup> of Republic Act No. 6758 to be given to public employees on top of their standardized salary rates.<sup>53</sup>

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<sup>47</sup> Id. at 254.

<sup>48</sup> Id.

<sup>49</sup> Id. at 97.

<sup>50</sup> Id. at 249.

<sup>51</sup> Id. at 255.

<sup>52</sup> Rep. Act No. 6758 (1989), sec. 12 provides:

SECTION 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.

Existing additional compensation of any national government official or employee paid from local funds of a local government unit shall be absorbed into the basic salary of said official or employee and shall be paid by the National Government.

<sup>53</sup> Id. at 240–241.

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They add that neither is the Financial Performance Award sustained by the Employee Suggestions and Incentive Award System sanctioned by Section 33 of the Civil Service Decree. Citing *Bureau of Fisheries and Aquatic Resources Employees Union v. Commission on Audit*,<sup>54</sup> respondents emphasize that this Court has settled that the Employee Suggestions and Incentive Award System pertains only to “*personal efforts* contributed by an employee to the efficiency, economy, or other improvement of government operations.”<sup>55</sup> This precludes the indiscriminate grant of benefits to all employees, or the en masse payment of the award, which petitioner did.<sup>56</sup>

We sustain respondents’ position.

## II

Republic Act No. 6758 “was passed to standardize salary rates among government personnel and do away with multiple allowances and other incentive packages and the resulting differences in compensation among them.”<sup>57</sup>

As a guide in the standardization of salary rates Republic Act No. 6758

[Section 9] lists down the factors that should guide the Department of Budget and Management in preparing the index of occupational services, to wit:

1. the education and excellence required to perform the duties and responsibilities of the position;
2. the nature and complexity of the work to be performed;
3. the kind of supervision received;
4. mental and/or physical strain required in the completion of the work;
5. nature and extent of internal and external relationships;
6. kind of supervision exercised;
7. decision-making responsibility;
8. responsibility for accuracy of records and reports;
9. accountability for funds, properties, and equipment;
- and
10. hardship, hazard, and personal risk involved in the job.<sup>58</sup>

<sup>54</sup> 584 Phil.132 (2008) [Per C.J. Puno, En Banc].

<sup>55</sup> Id. at 143.

<sup>56</sup> *Rollo*, p. 241, Respondents’ Memorandum.

<sup>57</sup> *Bureau of Fisheries and Aquatic Resources Employees Union v. Commission on Audit*, 584 Phil.132, 138 (2008) [Per C.J. Puno, En Banc], citing *Ambros v. Commission on Audit*, 501 Phil. 255, 279 (2005) [Per J. Callero, Sr., En Banc].

<sup>58</sup> *Maritime Industry Authority v. Commission on Audit*, G.R. No. 185812, January 13, 2015 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/january2015/185812.pdf>> 18

Precisely for the purpose of standardization, “the general rule is that all allowances are deemed included in the standardized salary.”<sup>59</sup> However, Republic Act No. 6758’s standardized salary rates and guidelines in Section 9 “do not take into consideration the peculiar characteristics of each government office where performance of the same work may entail different necessary expenses for the employee.”<sup>60</sup> By way of examples, marine officers and crew stationed in government vessels, as well as foreign service officers stationed abroad incur certain expenses by the mere fact of their stations. Avoiding these expenses would be tantamount to preventing the performance of their functions. Considering the value of these expenses as already included in the concerned personnel’s salary would mean that they would then have to exhaust their personal funds, just so they could perform their official functions.<sup>61</sup>

It is in recognition of these peculiarities that, through Section 12 of Republic Act No. 6758, certain specified allowances are permitted to be given, on top of or in addition to standardized salaries. Section 12 of Republic Act No. 6758 provides:

Section 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 [Department of Budget and Management], 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.

Existing additional compensation of any national government official or employee paid from local funds of a local government unit shall be absorbed into the basic salary of said official or employee and shall be paid by the National Government.

*Bureau of Fisheries and Aquatic Resources Employees Union* expounds on the nature of the exceptional allowances permitted by Section 12, as well as on the significance of the phrase “and such other additional compensation not otherwise specified herein as may be determined by the [Department of Budget and Management]”:

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[Per J. Leonen, En Banc], citing Rep. Act No. 6758 (1989), sec. 9.

<sup>59</sup> Id. at 13.

<sup>60</sup> Id. at 18.

<sup>61</sup> See *Philippine Ports Authority v. Commission on Audit*, G.R. No. 100773, October 16, 1992, 214 SCRA 653, 659 [Per J. Gutierrez, Jr., En Banc].



The Court has had the occasion to interpret Sec. 12 of R.A. No. 6758. In *National Tobacco Administration v. Commission on Audit*, we held that under the first sentence of Section 12, the benefits excluded from the standardized salary rates are the "allowances" or those which are usually granted to officials and employees of the government to defray or reimburse the expenses incurred in the performance of their official functions. These are the RATA, clothing and laundry allowance, subsistence allowance of marine officers and crew on board government vessels and hospital personnel, hazard pay, and others, as enumerated in the first sentence of Section 12. We further ruled that the phrase "and such other additional compensation not otherwise specified herein as may be determined by the DBM" is a catch-all proviso for benefits in the nature of allowances similar to those enumerated. In *Philippine Ports Authority v. Commission on Audit*, we explained that if these allowances were consolidated with the standardized salary rates, then government officials or employees would be compelled to spend their personal funds in attending to their duties.<sup>62</sup> (Citations omitted)

Thus, the key consideration for allowances and other incentive packages to be deemed exceptional and permissible under Section 12 is a showing that they "are given to government employees of certain offices due to the unique nature of the office and of the work performed by the employee."<sup>63</sup>

Petitioner has not shown that its Financial Performance Award, as obligated and paid for calendar year 2002, is an exceptional incentive package sanctioned by Section 12 of Republic Act No. 6758. Petitioner has neither alleged nor established that it (as an office) or the work done by each of its employee-recipients is of such a "unique nature" that a deviation from Republic Act No. 6758's standardization must be resorted to. On the contrary, it justifies the award by claiming its employee's "*collective effort* for the furtherance of [its] mandate."<sup>64</sup>

### III

This same justification of its employees' purported "collective effort" repudiates petitioner's claim that the disallowed amount of ₱4,862,845.71 under Notice of Disallowance No. DAP-06-001-(04) is justified under the Employee Suggestions and Incentive Award System.

Section 33 of the Civil Service Decree put in place the Employee Suggestions and Incentive Award System:

<sup>62</sup> *Bureau of Fisheries and Aquatic Resources Employees Union v. Commission on Audit*, 584 Phil.132, 139-140 (2008) [Per C.J. Puno, En Banc].

<sup>63</sup> *Maritime Industry Authority v. Commission on Audit*, G.R. No. 185812, January 13, 2015 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/january2015/185812.pdf>> 18 [Per J. Leonen, En Banc].

<sup>64</sup> *Rollo*, p. 254, Petitioner's Memorandum.

SECTION 33. Employee Suggestions and Incentive Award System. — There shall be established a government-wide employee suggestions and incentive awards system which shall be administered under such rules, regulations, and standards as may be promulgated by the Commission.

In accordance with rules, regulations, and standards promulgated by the Commission, the President or the head of each department or agency is authorized to incur whatever necessary expenses involved in the honorary recognition of subordinate officers and employees of the government who by their suggestions, inventions, superior accomplishments, and other personal efforts contribute to the efficiency, economy, or other improvement of government operations, or who perform such other extraordinary acts or services in the public interest in connection with, or in relation to, their official employment.

Section 33 of the Civil Service Decree is restated verbatim in Book V, Section 35 of the Administrative Code of 1987.<sup>65</sup> The rules for implementing Section 35 of the Administrative Code are, in turn, articulated in Rule X of the Omnibus Rules Implementing Book V of the Administrative Code.

Rule X, Section 1<sup>66</sup> of these Omnibus Rules enables government-owned and controlled corporations with original charters—such as petitioner—to establish their respective Employee Suggestions and Incentive Award System, subject to the approval of the Civil Service Commission. Conformably, petitioner drafted its own Employee Suggestions and Incentive Award System, to which the Civil Service Commission subsequently issued a letter of approval. It is this letter that petitioner capitalizes on, noting that it never indicated any instruction to modify or remove the grant of Financial Performance Award<sup>67</sup> despite a specific provision in its submitted draft to the effect that a “[Financial Performance Award] recognizing not only individual but [even] collective effort for the furtherance of [its] mandate” shall be extended to its employees.<sup>68</sup>

<sup>65</sup> Exec. Order No. 292, Book V, sec. 35 provides:

SECTION 35. Employee Suggestions and Incentive Award System. — There shall be established a government-wide employee suggestions and incentive awards system which shall be administered under such rules, regulations, and standards as may be promulgated by the Commission.

In accordance with rules, regulations, and standards promulgated by the Commission, the President or the head of each department or agency is authorized to incur whatever necessary expenses involved in the honorary recognition of subordinate officers and employees of the government who by their suggestions, inventions, superior accomplishments, and other personal efforts contribute to the efficiency, economy, or other improvement of government operations, or who perform such other extraordinary acts or services in the public interest in connection with, or in relation to, their official employment.

<sup>66</sup> Omnibus Rules Implementing Book V of Executive Order No. 292, Rule X, sec. 1 provides:

SECTION 1. Each department or agency of government, whether national or local, including bureaus and agencies, state colleges and universities; and government-owned and controlled corporations with original charters, shall establish its own Department or Agency Employee Suggestions and Incentives Award System in accordance with these Rules and shall submit the same to the Commission for approval.

<sup>67</sup> *Rollo*, p. 254, Petitioner’s Memorandum.

<sup>68</sup> *Id.*

Petitioner's claims are antithetical to the very nature of the Employee Suggestions and Incentive Award System.

The matter of an en masse grant of incentives under the Employee Suggestions and Incentives Award System is not a novel question in jurisprudence. In *Bureau of Fisheries and Aquatic Resources Employees Union*, this Court sustained the disallowance of the indiscriminate “[g]rant [of a] Food Basket Allowance at the rate of ₱10,000.00 each to the 130 employees of [Bureau of Fisheries and Aquatic Resources] Region VII, or in the total amount of ₱1,322,682.00”:<sup>69</sup>

Sec. 33 of P.D. No. 807 or the Civil Service Decree of the Philippines does not exempt the Food Basket Allowance from the general rule. Sec. 33 states:

.....

We are not convinced that the Food Basket Allowance falls under the incentive award system contemplated above. *The decree speaks of suggestions, inventions, superior accomplishments, and other personal efforts* contributed by an employee to the efficiency, economy, or other improvement of government operations, or other extraordinary acts or services performed by an employee in the public interest in connection with, or in relation to, his official employment. *In the instant case, the Food Basket Allowance was granted to all BFAR employees, without distinction. It was not granted due to any extraordinary contribution or exceptional accomplishment by an employee.* The Food Basket Allowance was primarily an economic monetary assistance to the employees.<sup>70</sup> (Emphasis supplied)

The quoted statements from *Bureau of Fisheries and Aquatic Resources Employees Union*'s are a superfluity and a mere reiteration of what is self-evident and plainly stated in the texts of Section 33 of the Civil Service Decree, Section 35 of Book 5 of the Administrative Code, and Section 2 of Rule X of the Omnibus Rules implementing Book 5 of the Administrative Code.

Section 33 of the Civil Service Decree and Section 35 of Book 5 of the Administrative Code, which are identical to each other, refer to:

the honorary recognition of subordinate officers and employees of the government who by their suggestions, inventions, superior accomplishments, and other *personal efforts* contribute to the efficiency, economy, or other improvement of government operations, or who

<sup>69</sup> *Bureau of Fisheries and Aquatic Resources Employees Union v. Commission on Audit*, 584 Phil.132, 134-135 (2008) [Per C.J. Puno, En Banc].

<sup>70</sup> *Id.* at 142-143.

perform such other *extraordinary acts or services* in the public interest in connection with, or in relation to, their official employment. (Emphasis supplied)

For its part, Section 2 of Rule X of the Omnibus Rules, implementing Book 5 of the Administrative Code, provides:

SECTION 2. The System is designed to encourage creativity, innovativeness, efficiency, integrity and productivity in the public service by recognizing and rewarding officials and employees, individually or in groups, for their suggestions, inventions, superior accomplishments, and other *personal efforts* which contribute to the efficiency, economy, or other improvement in government operations, or for other *extraordinary acts or services* in the public interest. (Emphasis supplied)

Respondents are, therefore, correct. There is no room for the Employee Suggestions and Incentive Award System for the indiscriminate grant of an incentive package to all employees, or the en masse payment of the Financial Performance Award, as petitioner did.

The entire point of the Employee Suggestions and Incentive Award System is the recognition of exemplary *personal* effort. Contributions beyond the ordinary are its essence. Even as Section 2 of Rule X of the Omnibus Rules implementing Book 5 of the Administrative Code refers to “rewarding officials and employees . . . *in groups*,” the pivotal consideration remains to be innovations or accomplishments of an exceptional nature, that is, those that may be set apart from what the remainder of work force has attained. To use the Employee Suggestions and Incentive Award System to grant incentive packages to all employees (excepting only those with disciplinary liabilities) is to run afoul of its very nature.

#### IV

Presidential Decree No. 1445, otherwise known as the Government Auditing Code of the Philippines, spells out the rule on general liability for unlawful expenditures:

Section 103. General liability for unlawful expenditures. Expenditures of government funds or uses of government property in violation of law or regulations *shall be a personal liability of the official or employee found to be directly responsible therefor.*<sup>71</sup> (Emphasis supplied)

Section 19 of Commission on Audit Circular No. 94-001, the Manual

<sup>71</sup> A similar provision is also found in 1987 ADM. CODE, book V, chap. 9, sec. 52.



of Certificate of Settlement and Balances, spells out the bases for determining the extent of personal liability:

19.1. The liability of public officers and other persons for audit disallowances shall be determined on the basis of: (a) the nature of the disallowance; (b) the duties, responsibilities or obligations of the officers/persons concerned; (c) the extent of their participation or involvement in the disallowed transaction; and (d) the amount of losses or damages suffered by the government thereby. The following are illustrative examples:

....

19.1.3. Public officers who approve or authorize transactions involving the expenditure of government funds and uses of government properties shall be liable for all losses arising out of their negligence or failure to exercise the diligence of a good father of a family.

A public officer's good faith does not dispense with personal liability for unauthorized disbursements. In *Vicencio v. Villar*:<sup>72</sup>

Section 103 of P.D. 1445 declares that expenditures of government funds or uses of government property in violation of law or regulations shall be a personal liability of the official or employee found to be directly responsible therefor. The public official's personal liability arises only if the expenditure of government funds was made in violation of law. In this case, petitioner's act of entering into a contract on behalf of the local government unit without the requisite authority therefor was in violation of the Local Government Code. While petitioner may have relied on the opinion of the City Legal Officer, such reliance only serves to buttress his good faith. It does not, however, exculpate him from his personal liability under P.D. 1445.<sup>73</sup>

Nevertheless, in cases involving the disallowance of salaries, emoluments, benefits, and allowances due to government employees, jurisprudence<sup>74</sup> has settled that recipients or payees in good faith need not

<sup>72</sup> 690 Phil. 59 (2012) [Per J. Sereno, En Banc].

<sup>73</sup> Id. at 71.

<sup>74</sup> See *Mendoza v. Commission on Audit*, 717 Phil. 491 (2013) [Per J. Leonen, En Banc]; *Magno v. Commission on Audit*, 558 Phil. 76 (2007) [Per J. Chico-Nazario, En Banc]; *Singson v. Commission on Audit*, 641 Phil. 154 (2010) [Per J. Peralta, En Banc]; *Lumayna v. Commission on Audit*, 616 Phil. 928 (2009) [Per J. del Castillo, En Banc]; *Barbo v. Commission on Audit*, 589 Phil. 289 (2008) [Per J. Leonardo-De Castro, En Banc]; *Kapisanan ng mga Manggagawa sa Government Service Insurance System v. Commission on Audit, et al.*, 480 Phil. 861 (2004) [Per J. Tinga, En Banc]; *Veloso v. Commission on Audit*, 672 Phil. 419 (2011) [Per J. Peralta, En Banc]; *Abanilla v. Commission on Audit*, 505 Phil. 202 (2005) [Per J. Sandoval-Gutierrez, En Banc]; *Home Development Mutual Fund v. Commission on Audit*, 483 Phil. 666 (2004) [Per J. Carpio, En Banc]; *Public Estates Authority v. Commission on Audit*, 541 Phil. 412 (2007) [Per J. Sandoval-Gutierrez, En Banc]; *Bases Conversion and Development Authority v. Commission on Audit*, 599 Phil. 455 (2009) [Per J. Carpio, En Banc]; *Benguet State University v. Commission on Audit*, 551 Phil. 878 (2007) [Per J. Nachura, En Banc]; *Agra v. Commission on Audit*, 661 Phil. 563 (2011) [Per J. Leonardo-De Castro, En Banc]; and

refund these disallowed amounts.<sup>75</sup> For as long as there is no showing of ill intent and the disbursement was made in good faith, public officers and employees who receive subsequently disallowed benefits or allowances may keep the amounts disbursed to them.<sup>76</sup>

On the part of the approving officers, they shall only be required to refund if they are found to have acted in bad faith or were grossly negligent amounting to bad faith.<sup>77</sup>

*Philippine Economic Zone Authority v. Commission on Audit*<sup>78</sup> has expounded on good faith in the context of a controversy on the refund of disallowed benefits or allowances:

In common usage, the term “good faith” is ordinarily used to describe that state of mind denoting “honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry; an honest intention to abstain from taking any unconscientious advantage of another, even through technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transaction unconscientious.”<sup>79</sup>

Thus, in *De Jesus v. Commission on Audit*:<sup>80</sup>

Nevertheless, our pronouncement in *Blaquera v. Alcala* supports petitioners' position on the refund of the benefits they received. In *Blaquera*, the officials and employees of several government departments and agencies were paid incentive benefits which the COA disallowed on the ground that Administrative Order No. 29 dated 19 January 1993 prohibited payment of these benefits. While the Court sustained the COA on the disallowance, it nevertheless declared that:

Considering, however, that all the parties here acted in good faith, we cannot countenance the refund of subject incentive benefits for the year 1992, which amounts the petitioners have already received. Indeed, no indicia of bad faith can be detected under the attendant facts and circumstances. The officials and chiefs of offices concerned disbursed such incentive benefits in the honest belief that the amounts given were due to the recipients and

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*Blaquera v. Commission on Audit*, 356 Phil. 678 (1998) [Per J. Purisima, En Banc].

<sup>75</sup> *Manila International Airport Authority v. Commission on Audit*, 681 Phil. 644, 668–670 (2012) [Per J. Reyes, En Banc]; *Benguet State University v. Commission on Audit*, 551 Phil. 878, 888 (2007) [Per J. Nachura, En Banc].

<sup>76</sup> J. Brion, Concurring and Dissenting Opinion in *Technical Education and Skills Development Authority v. Commission on Audit*, G.R. No. 204869, March 11, 2014, 718 SCRA 402, 449 [Per J. Carpio, En Banc].

<sup>77</sup> *Id.* See *Velasco v. Commission on Audit*, 695 Phil. 226 (2012) [Per J. Perlas-Bernabe, En Banc].  
<sup>78</sup> 690 Phil. 104 (2012) [Per J. Villarama, Jr., En Banc].

<sup>79</sup> *Id.* at 115.

<sup>80</sup> 451 Phil. 812 (2003) [Per J. Carpio, En Banc].

the latter accepted the same with gratitude, confident that they richly deserve such benefits.

This ruling in *Blaquera* applies to the instant case. Petitioners here received the additional allowances and bonuses in good faith under the honest belief that LWUA Board Resolution No. 313 authorized such payment. At the time petitioners received the additional allowances and bonuses, the Court had not yet decided *Baybay Water District*. Petitioners had no knowledge that such payment was without legal basis. Thus, being in good faith, petitioners need not refund the allowances and bonuses they received but disallowed by the COA.<sup>81</sup>

Petitioner's Financial Performance Award was written into its Employees Suggestions and Incentive Award System.<sup>82</sup> This System was formally approved by the Civil Service Commission in a letter dated October 2, 1993.<sup>83</sup> As underscored by petitioner, this letter of approval never indicated any instruction to modify or remove the grant of Financial Performance Award.<sup>84</sup> Moreover, in a letter dated June 6, 2006,<sup>85</sup> it appeared that Civil Service Commission Director Velda C. Cornelio indicated that petitioner's Employees Suggestions and Incentive Award System may still be implemented, pending its finalization of its Program on Awards and Incentives for Service Excellence (PRAISE).<sup>86</sup>

It was but reasonable for petitioner and its officers to put their faith on the Civil Service Commission's approval of its Employees Suggestions and Incentive Award System. From this, it was reasonable for them to conclude that the Financial Performance Award—as one of the approved System's features—may be enforced and disbursed.

This is indicative of the requisite good faith that jurisprudence requires for dispensing with the need to reimburse or refund. Although we consider the payment of the Financial Performance Award to be invalid, we also consider it to be in the better interest of prudence that the individuals named in Notice of Disallowance No. DAP-06-001-(04) be relieved of any personal liability to refund the disallowed amount.

**WHEREFORE**, the Petition is **PARTIALLY GRANTED**. The Decision No. 2012-119 dated July 17, 2012, of respondent Commission on Audit is **MODIFIED** in that the persons identified in Notice of Disallowance No. DAP-06-001-(04) are relieved of personal liability to refund the disallowed amount. The assailed Decision is **AFFIRMED** in all

<sup>81</sup> Id. at 823–824, citing *Blaquera v. Alcala*, 356 Phil. 678 (1998) [Per J. Purisima, En Banc] and *Baybay Water District v. Commission on Audit*, 425 Phil. 326 (2002) [Per J. Mendoza, En Banc].

<sup>82</sup> *Rollo*, p. 116.

<sup>83</sup> Id. at 125.

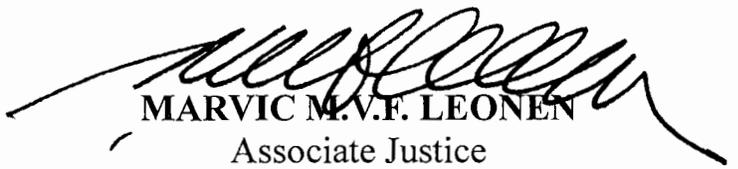
<sup>84</sup> Id. at 254.

<sup>85</sup> Id. at 97.

<sup>86</sup> Id. at 131.

other respects.

**SO ORDERED.**



**MARVIC M.V.F. LEONEN**  
Associate Justice

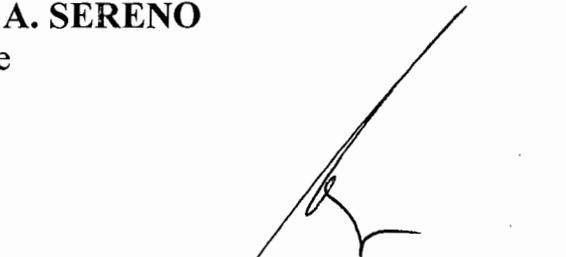
WE CONCUR:



**MARIA LOURDES P. A. SERENO**  
Chief Justice



**ANTONIO T. CARPIO**  
Associate Justice



**PRESBITERO J. VELASCO, JR.**  
Associate Justice



**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice



**ARTURO D. BRION**  
Associate Justice



**DIOSDADO M. PERALTA**  
Associate Justice



**LUCAS P. BERSAMIN**  
Associate Justice



**MARIANO C. DEL CASTILLO**  
Associate Justice



**JOSE PORTUGAL PEREZ**  
Associate Justice



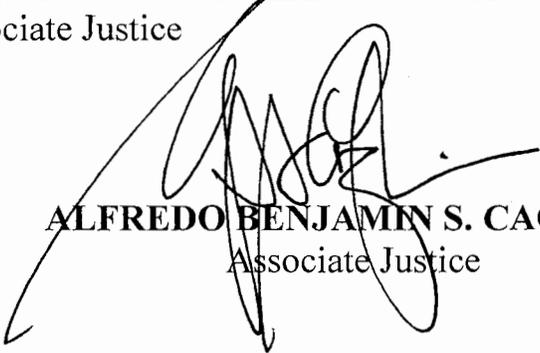
**JOSE CARRAL MENDOZA**  
Associate Justice



**BIENVENIDO L. REYES**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

No part  
**FRANCIS H. JARDELEZA**  
Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

**CERTIFICATION**

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the court.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

**CERTIFIED XEROX COPY:**  
  
**FELIPA B. ANAMA**  
CLERK OF COURT, EN BANC  
SUPREME COURT