



Republic of the Philippines
Supreme Court
Manila

EN BANC

**PHILIPPINE HEALTH
INSURANCE CORPORATION,**
Petitioner,

G.R. No. 249061

Present:

- versus -

**COMMISSION ON AUDIT,
MICHAEL G. AGUINALDO,
CHAIRPERSON,**
Respondent.

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.
GAERLAN,
ROSARIO,
LOPEZ, J.
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.

Promulgated:

May 21, 2024

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RESOLUTION

SINGH, J.:

This resolves the Special Civil Action for *certiorari*¹ (**Petition**) under Rule 65, in relation to Rule 64, with prayer for Temporary Restraining Order (**TRO**) and Writ of Preliminary Injunction (**WPI**) filed by petitioner Philippine Health Insurance Corporation (**PhilHealth**) assailing the December 20, 2017 Decision No. 2017-422² of the Commission on Audit

¹ *Rollo*, pp. 3-37.

² *Id.* at 38-47. The December 20, 2017, Decision No. 2017-422 was rendered by Chairperson Michael G. Aguinaldo, Commissioner Jose A. Fabia, and Commissioner Isabel D. Agito of the Commission on Audit, Commonwealth, Avenue, Quezon City.

(COA) Commission Proper (CP) and its September 24, 2018 Resolution,³. The COA CP affirmed with modification the June 10, 2014 Decision⁴ of the COA Regional Office No. V Office of the Regional Director (COA ROV), which affirmed the 19 Notices of Disallowance (ND) addressed to the PhilHealth Regional Office No. V (ROV) covering the payment of various benefits and allowances to job order contractors and project-based contractors in the total amount of PHP 4,146,213.85.

The Facts

Between 2009 and 2011, PhilHealth ROV granted to its job order contractors and project-based contractors various benefits, which include: (1) transportation allowance; (2) sustenance gift; (3) nominal gift; (4) productivity enhancement incentive; (5) special events gift; (6) project completion incentive; (7) efficiency gift; (8) alleviation gift; (9) labor management relations gift; (10) gratuity gift; and (11) contractors gift, the combined amounts of which is equivalent PHP 4,146,213.85.

The Audit Team Leader and Supervising Auditor of PhilHealth ROV subsequently disallowed the payment of the above-mentioned benefits through 19 NDs, the details of which are outlined in the table below:

ND No.	Benefit Granted	Amount (PHP)
11-027 (10) ⁵	Transportation Allowance for Calendar Year (CY) 2010	220,324.61
11-028 (10) ⁶	Sustenance Gift for November and December 2009	199,800.00
11-029 (10) ⁷	Nominal Gift for CY 2010	140,000.00
11-030 (09) ⁸	Productivity Enhancement Incentive for CY 2009	137,500.00
11-031 (10) ⁹	Special Events Gift for CY 2010	280,000.00
11-032 (10) ¹⁰	Project Completion Incentive for CY 2010	158,543.09
11-033 (09) ¹¹	Efficiency Gift for CY 2009	224,000.00
11-034 (10) ¹²	Alleviation Gift for CY 2010	363,000.00

³ *Id.* at 48. The COA Commission Proper *En Banc* issued on September 27, 2018, a Resolution in COA CP Case No. 2014-572, denying PhilHealth's Motion of Resolution.

⁴ *Id.* at 145–155. The June 10, 2014, COA ROV Decision No. 2014-C-024 was penned by Director Eden T. Rafanan of the office of the Regional Director, COA Regional office No. V of Bawis, Legaspi City.

⁵ *Id.* at 71–74.

⁶ *Id.* at 75–77.

⁷ *Id.* at 78–79.

⁸ *Id.* at 80–81.

⁹ *Id.* at 82–83.

¹⁰ *Id.* at 84–85.

¹¹ *Id.* at 86–87.

¹² *Id.* at 88–90.



11-035 (10) ¹³	Labor Management Relations Gift for CY 2010	358,400.00
11-036 (10) ¹⁴	Gratuity Gift for CY 2010	416,250.00
11-037 (10) ¹⁵	Contractors Gift for January 2010 to June 2010, and December 2009	302,712.71
11-038 ¹⁶	Sustenance Gift for January to April 2011	98,400.00
11-039 ¹⁷	Transportation Allowance for CY 2011	91,634.98
11-040 ¹⁸	Project Completion Incentive for CY 2011	154,561.09
11-041 ¹⁹	Labor Management Relations Gift for CY 2011	419,848.34
11-042 ²⁰	Contractors Gift for December 24 to 31, 2010	43,239.03
11-043 ²¹	Special Events Gift for CY 2011	270,000.00
11-044 ²²	Efficiency Gift for CY 2010	214,000.00
11-048 ²³	Alleviation Gift for CY 2010	54,000.00
TOTAL		PHP 4,146,213.85

In ND Nos. 11-027 (10) and 11-039, the grant of Transportation Allowance for CY 2010 and 2011, respectively, to job order contractors was disallowed because of the lack of approval from the Office of the President (OP). Additionally, the NDs cited that the grant was not in accordance with the Collective Negotiation Agreement (CNA) executed between the PhilHealth, ROV and the PhilHealth Insurance Corporation PHIC Employees Association because what was provided for in the CNA is the provision of shuttle services, and not cash assistance.²⁴

The benefits in the rest of the assailed NDs were disallowed for lack of legal basis.²⁵

Other than the payees, the persons determined to be liable in the various transactions are outlined in the table below:

¹³ *Id.* at 93–94.

¹⁴ *Id.* at 95–96.

¹⁵ *Id.* at 97–99.

¹⁶ *Id.* at 100–102.

¹⁷ *Id.* at 103–105.

¹⁸ *Id.* at 106–107.

¹⁹ *Id.* at 108–109.

²⁰ *Id.* at 110–111.

²¹ *Id.* at 112–113.

²² *Id.* at 114–115.

²³ *Id.* at 91–92.

²⁴ *Id.* at 71 & 103.

²⁵ *Id.* at 146–151.

Name and Designation	Nature of Participation	Identified in ND No.
Grazielle R. Castillo, Fiscal Controller IV	Approving Officer Certified that adequate fund is available, and expenditure is proper and supported by documents ²⁶	11-027 (10) 11-028 (10) 11-029 (10) 11-030 (09) 11-031 (10) 11-032 (10) 11-033 (09) 11-034 (10) 11-036 (10) 11-037 (10) 11-038 11-039 11-040 11-041 11-042 11-043 11-044 11-048
Veronica T. Mateum, M.D., MO VII, OIC, PHRO V	Approved the payment	11-027 (10) 11-028 (10) 11-029 (10) 11-032 (10) 11-033 (09) 11-034 (10) 11-035 (10) 11-036 (10) 11-037 (10) 11-038 11-039 11-040 11-042 11-043 11-044 11-048
Orlando D. Iñigo, Jr., RVP	Approved the payment	11-027 (10) 11-028 (10) 11-030 (09) 11-031 (10) 11-037 (10)
Lorena M. Rubis, Chief, MSD	Certified that the expenses are necessary, lawful and authorized under her direct supervision ²⁷	11-027 (10) 11-028 (10) 11-029 (10) 11-034 (10) 11-035 (10)

²⁶ Except in Notice of Disallowance (ND) Nos. 11-027 (10), 11-038, 11-042.

²⁷ Except in ND No. 11-041.



	Approved the payment signing on behalf of Veronica T. Mateum ²⁸	11-036 (10) 11-037 (10) 11-038 11-039 11-041 11-042 11-043 11-044 11-048
Darlene L. Nuyles, CSIO/Acting AO IV	Certified that the expense is necessary, lawful and authorized under her direct supervision	11-027 (10) 11-028 (10) 11-030 (09) 11-031 (10) 11-032 (10) 11-033 (09) 11-037 (10) 11-039 11-040 11-041 11-038
Rosie B. Saldivar, Human Resources Management III	Certified that the expenses are necessary, lawful and authorized under her direct supervision, signing on behalf of Darlene L. Nurles	11-027 (10) 11-028 (10)
Shirley S. Victoria, Fiscal Controller III	Certified that adequate fund is available, expenditure proper and supported by documents, and signing on behalf of Grazielle R. Castillo ²⁹	11-027 (10) 11-028 (10) 11-035 (10) 11-038 11-039 11-042
David I. Escandor	Division Chief, and signing on behalf of Veronica T. Mateum ³⁰	11-027 (10) 11-037 (10)

PhilHealth ROV appealed the NDs to the COA ROV arguing that the PhilHealth has fiscal autonomy under Republic Act No. 7875, or the National Health Insurance Act of 1995,³¹ including the explicit power to fix the compensation of its personnel.³² Furthermore, PhilHealth ROV submitted

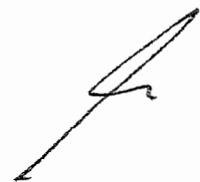
²⁸ In ND Nos. 11-038, 11-039, and 11-041.

²⁹ In ND Nos. 11-028 (10) and 11-035 (10).

³⁰ In ND No. 11-037 (10).

³¹ Republic Act No. 7875 (1995), as amended by Republic Act No. 9241 (2004), Republic Act No. 10606 (2013), and Republic Act No. 11223 (2019).

³² *Rollo*, p. 119.



that PhilHealth personnel who received the questioned benefits did so in good faith and thus should not be held liable to refund of the same.³³ Finally, PhilHealth ROV invoked the principle of equity claiming that similar benefits were granted in other PhilHealth regional offices without disallowance.³⁴

The Ruling of the COA ROV

In its Decision No. 2014-C-024, dated June 10, 2014, the COA ROV denied PhilHealth ROV's appeal, and affirmed the assailed NDs.

The COA ROV emphasized that the payees of the assailed NDs were job order contractors and project-based contractors who are not considered to have any employee-employer relationship with PhilHealth. Thus, the grant of various incentives, benefits, and transportation allowances to them lacked legal bases and violate the law on government disbursements.³⁵

Also, COA ROV did not lend credence to the claim of good faith by PhilHealth ROV, as the latter persisted in granting such benefits despite previous similar disallowances. The COA ROV, however, declined to pass upon the issue of equity, since it is only an administrative body bound by the letter of the law, unlike regular courts which are courts of both justice and equity.³⁶

The PhilHealth ROV appealed to the COA CP, reiterating the arguments it interposed before the COA ROV.³⁷

The Ruling of the COA CP

In its assailed December 20, 2017, Decision,³⁸ the COA CP partially granted the appeal of PhilHealth ROV. The COA CP agreed with the PhilHealth ROV that bad faith could not be ascribed to the job order contractors and project-based contractors who were payees in the assailed NDs. Being mere passive receiver, the payee, we absolved from the order to refund the disallowed benefits.³⁹

However, the COA CP affirmed the assailed NDs in all other respects, emphasizing that the corporate powers of PhilHealth to determine the compensation of its officers and employees are limited by law, the policies of

³³ *Id.* at 137-142.

³⁴ *Rollo*, pp. 142-143.

³⁵ *Id.* at 152-154.

³⁶ *Id.* at 154.

³⁷ *Id.* at 156-174.

³⁸ *Id.* at 38-47.

³⁹ *Id.* at 45-46.



the Office of the President (**OP**) and the Department of Budget and Management (**DBM**).⁴⁰ The COA CP also ruled that the approving and certifying officers remain solidarily liable (with the members of PhilHealth's Board of Directors) for the disallowances.⁴¹

The dispositive portion of the COA CP Decision reads,

WHEREFORE, premises considered, the Petition for Review of [PhilHealth] Regional Office (RO) No. V, Legazpi City, represented by its Officers-in-Charge, Mr. Orlando D. Iñigo, of Commission on Audit (COA) RO No. V Decision No. 2014-C-024 dated June 10, 2014 is **PARTIALLY GRANTED**. Accordingly, COA RO No. V Decision No. 2014-C-024 dated June 10, 2014, and Notice of Disallowance (ND) Nos. 11-027(10) to 11-029(10), 11-030(09), 11-031(10) to 11-037(10) and 11-038 to 11-044, all dated August 9, 2011; and 11-048 dated September 28, 2011, are hereby **MODIFIED**, in that the payees need not refund the disallowed benefits received. The approving and certifying officers however, shall remain solidarily liable for the disallowance amounting to [PHP] 4,146,213.85.

The Audit Team Leader and the Supervising Auditor, PHIC RO No. V, are hereby directed to issue a Supplemental ND to include as persons liable, the PHIC Board of Directors, who issued and approved the Board Resolutions granting the disallowed benefits and allowances.⁴² (Emphasis in the original)

PhilHealth ROV filed a Motion for Reconsideration⁴³ primarily seeking reconsideration of the determination on the solidary liability of the approving and certifying officers. PhilHealth ROV argued that the approving and certifying officers were akin to passive recipients in that they were in honest belief that the Office Orders issued by the PhilHealth President and Chief Executive Officer (CEO) were legal and issued in the PhilHealth Board's valid exercise of power. The reliance of the approving and certifying officers on the PhilHealth Board's resolutions bolster their position of good faith.⁴⁴

In its Resolution, dated September 27, 2018, the COA CP denied said Motion for Reconsideration. Undaunted PhilHealth ROV filed this Petition before the Court to assail the Decision of the COA CP.

In its September 24, 2019, Resolution, the Court required the respondents, COA and its Chairperson Michael G. Aguinaldo to file their

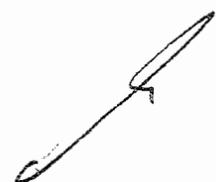
⁴⁰ *Id.* at 41–44.

⁴¹ *Id.* at 44–45.

⁴² *Id.* at 46.

⁴³ *Id.* at 50–58.

⁴⁴ *Id.* at 51–52.



Comment.⁴⁵ Subsequently, the respondents filed Comment on the petition,⁴⁶ dated January 9, 2020, through the Office of the Solicitor General (**OSG**).

The Court also required PhilHealth to file a Reply on the respondents' Comment.⁴⁷ The PhilHealth, through the Office of the Government Corporate Counsel (**OGCC**) complied by filing its Reply,⁴⁸ dated June 17, 2020.

In its Resolution,⁴⁹ dated March 28, 2023, the Court required the parties to move in the premises within 10 days from notice. Respondents, complied with the Resolution through their Compliance and Manifestation,⁵⁰ dated June 20, 2023. Similarly, PhilHealth filed its Compliance,⁵¹ dated July 10, 2023, informing the Court that it has submitted a letter,⁵² dated June 14, 2023, addressed to President Ferdinand R. Marcos, Jr. requesting for *post facto* presidential approval of the allowances, benefits, and incentives (**ABIs**) granted to PhilHealth officers and employees but were subsequently disallowed.⁵³ PhilHealth averred that the request for the President's *post facto* approval would, among other things, evince and uphold the clear intent to provide the ABIs to PhilHealth employees.⁵⁴

The Issue

Whether the COA CP committed grave abuse of discretion when it affirmed the assailed NDs.

The Ruling of the Court

The Petition is partly meritorious.

At the outset, the Court's review of COA decisions on a Rule 64 petition is limited to a review of jurisdictional errors or grave abuse of discretion. The Court's intervention is justified only when it is clearly shown that the COA acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.⁵⁵

⁴⁵ *Id.* at 192–193.

⁴⁶ *Id.* at 201–242.

⁴⁷ *Id.* at 243–244.

⁴⁸ *Id.* at 251–264.

⁴⁹ *Id.* at 268–269.

⁵⁰ *Id.* at 270–277.

⁵¹ *Id.* at 286–289.

⁵² *Id.* at 290–291.

⁵³ *Id.* at 291.

⁵⁴ *Id.* at 287.

⁵⁵ *Social Security System v. Commission on Audit*, G.R. No. 231391, June 22, 2021 [Per J. Inting, *En Banc*]. at 5–6. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court Website.



As held in *Miralles v. Commission on Audit*,⁵⁶ grave abuse of discretion exists when the assailed decision or resolution is not based on law and the evidence but on caprice, whim, and despotism, thus:

The Constitution vests the broadest latitude in the COA in discharging its role as the guardian of public funds and properties by granting it “exclusive authority, subject to the limitations in this Article, to define the scope of its audit and examination, establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures or uses of government funds and properties.” In recognition of such constitutional empowerment of the COA, the Court has generally sustained the COA’s decisions or resolutions in deference to its expertise in the implementation of the laws it has been entrusted to enforce. Only when the COA has clearly acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction has the Court intervened to correct the COA’s decisions or resolutions. **For this purpose, grave abuse of discretion means that there is on the part of the COA an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act in contemplation of law, such as when the assailed decision or resolution rendered is not based on law and the evidence but on caprice, whim[,] and despotism.**⁵⁷ (Emphasis supplied; citation omitted)

Absent this breach, the Court generally sustains the decisions of administrative authorities, especially one which is constitutionally created, such as the COA, not only on the basis of the doctrine of separation of powers but also for their presumed expertise in the laws they are entrusted to enforce.⁵⁸

Here, the Petition failed to prove that the COA committed grave abuse of discretion in affirming the assailed NDs. Nevertheless, the Court must clarify the liability of the individuals identified in the NDs in light of jurisprudential guidelines.

PhilHealth’s position is anchored on what it believes is its fiscal autonomy granted under Republic Act No. 7875.⁵⁹ According to PhilHealth, this grant has been confirmed by Opinions of the OGCC, letters from the OP, and legislative deliberations.⁶⁰

⁵⁶ 818 Phil. 380 (2017) [Per J. Bersamin, *En Banc*].

⁵⁷ *Id.* at 389–390.

⁵⁸ *PhilHealth v. Commission on Audit*, G.R. No. 258100, September 27, 2022 [Per J. Zalameda, *En Banc*], at 6. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁵⁹ Section 16. *Powers and Functions*. The Corporation shall have the following powers and functions:

....

(n) to organize its office, fix the compensation of[,] and appoint personnel as may be deemed necessary and upon the recommendation of the president of the Corporation.

⁶⁰ *Rollo*, pp. 10–16.

However, the view that PhilHealth enjoys absolute authority to determine the grant of benefits and allowances to its employees had already been consistently rejected by the Court.

In the 2023 case of *PhilHealth v. COA*,⁶¹ the Court had outlined case law settling the issue of the limits of the fiscal independence of PhilHealth. In the 2016 case of *PhilHealth v. COA*,⁶² and reiterated in 2021 in *PhilHealth v. COA*,⁶³ the Court held that while Republic Act No. 7875 granted PhilHealth the liberty to fix the compensation of its personnel, it does not necessarily mean that PhilHealth has an unbridled discretion to issue any and all kinds of allowances, circumscribed only by the provisions of its charter.⁶⁴

The Court thus held that PhilHealth is bound by the provisions of the Salary Standardization Law;⁶⁵ Presidential Decree No. 1597 on the requirement of Presidential approval for the grant of allowances, *honoraria*, and other fringe benefits;⁶⁶ Public Sector Labor-Management Council Resolution No. 4, Series of 2022 issued by the DBM, which requires qualifications to the grant of CNA incentives by government-owned and controlled corporations, such as PhilHealth;⁶⁷ and other prevailing rules and regulations issued by the OP and the DBM.⁶⁸

Moreover, the corporate powers of PhilHealth do not permit it to grant the disallowed allowances and incentives to job order contractors and project-based contractors, who are not its regular employees.

Under the Civil Service Commission (CSC) Memorandum Circular No. 40, Series of 1998, or the Revised Omnibus Rules on Appointments and Other Personnel Actions, contract of service or job order employees do not enjoy the benefits enjoyed by government employees, such as PERA, COLA, and RATA. This was further reiterated in CSC Resolution No. 021480,⁶⁹ which provides that:

⁶¹ *Philippine Health Insurance Corporation v. Commission on Audit, represented by its Chairperson, Michael G. Aguinaldo*, G.R. No. 258424, January 10, 2023 [Per J. J. Lopez, *En Banc*]. at 12–15. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁶² *Philippine Health Insurance Corporation v. Commission on Audit, Ma. Gracia Pulido Tan, Chairperson, and Janet D. Nacion, Director IV*, 801 Phil. 427 452–453 (2016) [Per J. Peralta, *En Banc*].

⁶³ G.R. No. 250089, November 9, 2021 [Per J. J. Lopez, *En Banc*]. at 8. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁶⁴ *PhilHealth v. Commission on Audit*, G.R. No. 258424, January 10, 2023 [Per J. J. Lopez, *En Banc*] at 12–13. This pinpoint citation refers to the copy of Decision uploaded to the Supreme Court website.

⁶⁵ Republic Act No. 6758 (1989). See *PhilHealth v. Commission on Audit*, G.R. No. 250787, September 27, 2022 [Per J. Inting, *En Banc*] at 12. This pinpoint citation refers to the copy of Decision uploaded to the Supreme Court website.

⁶⁶ *PhilHealth v. Commission on Audit*, G.R. No. 250089, November 9, 2021 [Per J. J. Lopez, *En Banc*] at 10. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁶⁷ *Id.* at 15.

⁶⁸ *PhilHealth v. Commission on Audit*, G.R. No. 222129, February 2, 2021 [Per J. Inting, *En Banc*] at 8. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁶⁹ CSC Resolution No. 021480 (2002), sec. 1(b).



Section 1. Contract of Service -

.....

b. Job Order -

In contracts of service and job orders, there exists no employer-employee relationship between the hiring agency and the persons hired and it should be made clear in their contract that services rendered thereunder can never be accredited as government service. Furthermore, the persons hired are not entitled to benefits enjoyed by the government employees such as PERA, ACA and RATA.

Thus, the Court has already ruled that the grant by PhilHealth of allowances and incentives to contractual employees cannot be sanctioned. As held in *PhilHealth v. COA*,⁷⁰ the grant of transportation allowance and project completion incentive to contractual employees is inconsistent with the lawful distinction between the benefits enjoyed by government employees and job order contractors. Furthermore, the said grant is contrary to the express provision in the job order contract that the only compensation due to the contractor was the daily rate agreed upon.⁷¹

Job order contractors and full-time consultants may render services for PhilHealth, but they are not considered employees. As non-employees, their compensation shall be determined based on their respective job order or consultancy contracts.⁷²

Here, the COA found that the stipulations in the contracts of the job order contractors clearly provided that: (a) there is no employer-employee relationship between them and PhilHealth; (b) the services to be rendered are not considered as government service; and (c) they are not entitled to the benefits enjoyed by the regular employees. On the other hand, it was stipulated in the contract of the project-based contractors that they shall not be entitled to benefits other than their daily wages.⁷³

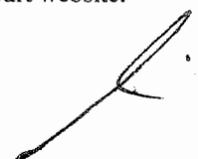
Additionally, PhilHealth ROV's grant of various benefits and allowances to its job order contractors and project-based contractors was done without the required authorization from the OP, in violation of prevailing government rules on their grant, and unlawfully directed to non-employees.

⁷⁰ G.R. No. 258100, September 27, 2022 [Per J. Zalameda, *En Banc*].

⁷¹ *Id.* at 11. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁷² *PhilHealth v. Commission on Audit*, G.R. No. 222129, February 2, 2021 [Per J. Inting, *En Banc*].at 8-9 This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁷³ *Rollo*, p. 44.



Conversely, PhilHealth contends that a pending request for *post facto* approval that it has lodged with the OP will prove the propriety of the disallowed benefits. This argument fails to convince.

That a belated request for approval from the OP has been made does not by itself affect the legality of previous actions which have been disallowed by COA, much less excuse the error. In fact, this is a solid proof that the disallowed benefits lacked legal basis. On the other hand, even if the Court were to suspend its judgment and await the presidential approval sought by PhilHealth, this authority from the OP would not set aside the unlawful nature of the disallowed payments to non-employees.

In *Development Bank of the Philippines v. COA*,⁷⁴ the Court held that a presidential approval must not only be clear and unequivocal, such as one embodied in a formal memorandum, the grant itself authorized by the President must not also be contrary to law. Ruling that the presidential approval was invalid in that case, the Court stated that:

First, the presidential approval was not reduced to any formal memorandum but merely in the form of the president's signature affixed at the end of [Development Bank of the Philippines (DBP)]'s Letter. Second, presidential approval of a new compensation and benefits scheme, including the grant of allowances, which is unauthorized by law will not stop the State from correcting the erroneous application of a statute. Third, [President Gloria Macapagal Arroyo (PGMA)]'s approval of DBP's Compensation Plan was void because it was made during the prohibited period under the Omnibus Election Code, to wit: (Emphasis supplied)

Moreover, as noted by COA, the President's approval was made on [April 22,] 2010, merely 18 days before the [May 10,] 2010 National and Local Elections. Under Section 261 (g)(2) of Batas Pambansa Blg. 881, otherwise known as the "Omnibus Election Code of the Philippines," the grant of increase of salary or remuneration or privilege to any government official or employee is prohibited during the period of 45 days before a regular election. **Thus, President Arroyo's approval of DBP's authority to approve the compensation plan is clearly void because it was made within the prohibited 45-day period before the [May 10,] 2010 elections. That the benefits approved refer to benefits implemented long before the president's approval during the prohibited period does not make such approval valid.** It bears stressing that petitioners precisely sought the president's approval or confirmation to validate the unauthorized grant of merit increases, economic

⁷⁴ G.R. No. 262193, July 11, 2023 [Per J. Gaerlan, *En Banc*].



assistance, and integration of officers' allowance.⁷⁵
(Emphasis in the original, citations omitted)

The crux of the immateriality of a *post facto* presidential approval in evaluating the propriety of the disallowed disbursements is the inherent repugnance of the disfavored act to the law. In *Philippine Charity Sweepstakes Office v. COA*,⁷⁶ the Court maintained this critical view:

In its effort to maintain the validity of the benefits subject of the NDs, [Philippine Charity Sweepstakes Office (PCSO)] has repeatedly utilized the letter of Executive Secretary Ochoa supposedly containing the *post facto* approval of then President Aquino. **However, the Court has been consistent in rejecting *post facto* approval to justify disallowed disbursements.** In *Philippine Charity Sweepstakes Office v. Pulido-Tan (Pulido-Tan)*, We ruled:

In this petition, We cannot rule on the validity of the alleged *post facto* approval by the Office of the President as regards the grant of [Cost of Living Allowance] to the PCSO officials and employees. The PCSO failed to prove its existence since no documentary evidence, original copy or otherwise, was submitted before Us. *Even so, where there is an express provision of the law prohibiting the grant of certain benefits, the law must be enforced even if it prejudices certain parties on account of an error committed by public officials in granting the benefit. An executive act shall be valid only when it is not contrary to the laws or the Constitution.*⁷⁷ (Emphasis supplied; citation omitted)

In the case of bench, PhilHealth merely promises that the *post facto* Presidential approval is forthcoming. But as pointed out, even if granted, the disbursement of the disallowed benefits and incentives in favor of the job order and project-based contractors will remain legally infirm.

Verily, the disallowances were warranted and in this respect, COA committed no grave abuse of discretion in affirming them.

Having found the disallowances to be proper, the Court must next determine the liability of the approving and certifying officers of the subject NDs.

The Court has laid down the rules on return of disallowed amounts in *Madera v. COA*,⁷⁸ thus:

⁷⁵ *Id.* at 21–22. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁷⁶ G.R. No. 246313, February 15, 2022 [Per J. Zalameda, *En Banc*].

⁷⁷ *Id.* at 7. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁷⁸ *Madera v. Commission on Audit*, 882 Phil. 744 (2020) [Per J. Caguioa, *En Banc*].

1. If a Notice of Disallowance is set aside by the Court, no return shall be required from any of the persons held liable therein.
2. If a Notice of Disallowance is upheld, the rules on return are as follows:
 - a. Approving and certifying officers who acted in good faith, in regular performance of official functions, and with the diligence of a good father of the family are not civilly liable to return consistent with Section 38 of the Administrative Code of 1987.
 - b. Approving and certifying officers who are clearly shown to have acted in bad faith, malice, or gross negligence are, pursuant to Section 43 of the Administrative Code of 1987, solidarily liable to return only the net disallowed amount which, as discussed herein, excludes amounts excused under the following sections 2c and 2d.
 - c. Recipients — whether approving or certifying officers or mere passive recipients — are liable to return the disallowed amounts respectively received by them, unless they are able to show that the amounts they received were genuinely given in consideration of services rendered.
 - d. The Court may likewise excuse the return of recipients based on undue prejudice, social justice considerations, and other *bona fide* exceptions as it may determine on a case[-]to[-]case basis.⁷⁹

Nevertheless, in applying the *Madera* rules, the ultimate analysis of each case would still depend on the facts presented. Hence, the surrounding circumstances shall still be determined on a case-to-case basis.⁸⁰

As to the non-employee payees who were job order contractors and project-based contractors, the COA CP partly reversed the COA ROV Decision modifying the NDs. The COA CP Decision declared that the payees need not refund the disallowed benefits. Notably, the liability of the non-employee payees was not raised in this Petition. As such, consistent with case law, the COA CP Decision is considered final and immutable in so far as these payees are concerned.⁸¹

As to the approving officers identified in the assailed NDs, their liability is clear. They proceeded to grant benefits and allowances to non-

⁷⁹ *Id.* at 817–818.

⁸⁰ *PhilHealth v. Commission on Audit*, G.R. No. 258424, January 10, 2023 [Per J. J. Lopez, *En Banc*] at 21. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁸¹ *Irene G. Ancheta, et al. v. Commission on Audit*, G.R. No. 236725, February 2, 2021 [Per J. M. Lopez, *En Banc*] at 14. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website. *See also Securities and Exchange Commission v. Commission on Audit*, G.R. No. 252198, April 27, 2021 [Per J. Lazaro-Javier, *En Banc*] at 20–21. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.



employees despite its patent illegality and irregularity, negating any claim of good faith.⁸² In *PhilHealth v. COA*,⁸³ the Court has held:

Notwithstanding the lack of malice or bad faith, this Court finds that the approving officers should be held solidarily liable due to gross negligence. It is well settled that patent disregard of case law and COA directives, as in this case, is tantamount to gross negligence.

In *Casal v. Commission on Audit*, the approving officers were found to be solidarily liable for their disregard of the issuances by the executive as well as the directives of the COA. While there was no indication of a dishonest purpose, the Court found that their actions amounted to gross negligence, making them liable for the refund thereof.

In *De Guzman v. Commission on Audit*, while there was no showing of malice and bad faith on the part of the officers in approving the release of the centennial bonus, the Court nevertheless ruled that they remained jointly and severally liable for failure to abide by administrative issuances.

In *Power Sector Assets and Liabilities Management Corporation (PSALM) v. Commission on Audit*, the approving and certifying officers were found guilty of gross negligence for carelessly granting other health benefits outside the warranted free annual medical check-up in accordance with law. For carelessly expanding the coverage of the benefits, despite the absence of malice and bad faith, the officers were held jointly and solidarily liable.

The fact that petitioner does not possess unrestricted authority to unilaterally fix its compensation structure has been affirmed time and again by jurisprudence, such as *PhilHealth Regional Office-Caraga v. Commission on Audit*, *PhilHealth v. Commission on Audit* in 2016, and *PhilHealth v. Commission on Audit* in 2018. If only to harp on a point, petitioner is required to observe the guidelines laid down by the President anent position classification, allowances, among other forms of compensation, and to report to the latter, through the DBM, on its position classification and compensation loans, policies, rates, and other necessary details following the guidelines as may be determined by the executive.

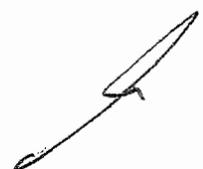
As PhilHealth officials, it is not extraordinary to expect that they should be fully acquainted with their agency's mandate and the policies affecting it.⁸⁴ (Emphasis supplied; citations omitted)

The grant of benefits and allowances in this case to job order contractors and project-based contractors, in violation of clear limitations of the law, manifests the gross negligence of the approving officers. Their solidary liability under the assailed NDs is only proper.

⁸² *PhilHealth v. Commission on Audit et al*, G.R. No. 250089, November 9, 2021 [Per J. J. Lopez, *En Banc*].

⁸³ *Id.*

⁸⁴ *Id.* at 29–30. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.



Nevertheless, as held in prevailing jurisprudence, the liability of these approving officers, should be limited to the net disallowed amount or the total disallowed amount less the amounts excused to be returned by the non-employee payees. In *Ancheta v. COA*,⁸⁵ the Court provided that:

....

To rule otherwise would impose an inequitable burden upon the approving and certifying officers of shouldering the entire amount disbursed, when some recipients were already allowed to retain the amounts that they received. As we have exhaustively explained in *Madera*:

[A]ny amounts allowed to be retained by payees shall reduce the solidary liability of officers found to have acted in bad faith, malice, and gross negligence. In this regard, Justice Bernabe coins the term “net disallowed amount” to refer to the total disallowed amount minus the amounts excused to be returned by the payees. Likewise, Justice Leonen is of the same view that the officers held liable have a solidary obligation only to the extent of what should be refunded and this does not include the amounts received by those absolved of liability. In short, the net disallowed amount shall be solidarily shared by the approving/authorizing officers who were clearly shown to have acted in bad faith, with malice, or were grossly negligent.⁸⁶ (Citation omitted)

Thus, the approving officers should be held solidarily liable as to the net disallowed amounts only.

Finally, as to the certifying officers, the Court has consistently held that when certifying officers merely guaranteed the availability of appropriations and determined the completeness of the supporting documents for such disbursements, without a showing of any bad faith on their actions, these certifying officers cannot be held personally liable for the disallowed benefits.⁸⁷

Furthermore, the Court has also characterized the acts of treasurers certifying the availability of funds and supporting documents as ministerial duties, absent any bad faith, as they have nothing to do with policy-making or decision-making, and were merely involved in day-to-day operations.⁸⁸

⁸⁵ *Irene G. Ancheta, et al v. Commission on Audit*, G.R. No. 236725, February 2, 2021 [Per J. M. Lopez, *En Banc*].

⁸⁶ *Id.* at 18. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁸⁷ *PhilHealth v. Commission on Audit and Chairperson Michael G. Aguinaldo*, G.R. No. 250089, November 9, 2021 [Per J. J. Lopez, *En Banc*] at 30–31. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁸⁸ *Perez v. Aguinaldo*, G.R. 252369, February 7, 2023 [Per J. Inting, *En Banc*] at 9–10. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website, *Alejandrino v. Commission on Audit*, 866 Phil. 188, 207–208 (2019) [Per J. Carandang, *En Banc*].



In this case, the certifying officers who strictly certified only to the availability of funds and that the expenditure is properly supported by documents, should not be held liable following the guidelines under case law.

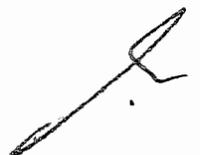
Therefore, the assailed NDs must be modified to be consistent with the jurisprudential guidelines to declare that the certifying officers are not solidarily liable for the amounts and that the approving officers shall remain solidarily liable only as to the net disallowed amount.

However, considering that, as earlier pointed out, the payees have already been absolved from returning the disallowed amounts, the net disallowed amount will be equivalent to zero. Notably, what was disallowed are the benefits granted to job order contractors and project-based contractors. The records of the case further show that the approving and certifying officers were not among the recipients of these disallowed benefits. This means there is nothing more for the approving officers to return.

Consequently, there is no more need to resolve the applications for TRO and WPI, which must both be denied.

ACCORDINGLY, the Petition is **PARTLY GRANTED**. The Decision in COA Decision No. 2017-422, dated December 20, 2017, and the Resolution in COA CP Case No. 2014-572, dated September 27, 2018, are **AFFIRMED WITH MODIFICATIONS**, as follows:

1. The disallowance of various benefits and allowances covered by Notice of Disallowance Nos. 11-027 (10), 11-028 (10), 11-029 (10), 11-030 (09), 11-031 (10), 11-032 (10), 11-033 (09), 11-034 (10), 11-035 (10), 11-036 (10), 11-037 (10), 11-038, 11-039, 11-040, 11-041, 11-042, 11-043, 11-044, 11-048 are **AFFIRMED**;
2. The certifying officer, Shirley S. Victoria, who merely attested to the availability of funds and completeness of the documents to support the disbursements of the benefits and allowances pertaining to Notice of Disallowance Nos. 11-027 (10), 11-028 (10), 11-035 (10), 11-038, 11-039, and 11-042 is held not solidarily liable in her official capacity to refund the disallowed amounts; and
3. As to the other approving and certifying officers, they shall no longer refund the net disallowed amount covered by Notice of Disallowance Nos. 11-027 (10), 11-028 (10), 11-029 (10), 11-030 (09), 11-031 (10), 11-032 (10), 11-033 (09), 11-034 (10), 11-035 (10), 11-036 (10), 11-037 (10), 11-038 (10), 11-039, 11-040, 11-041, 11-042, 11-043, 11-044, and 11-048.

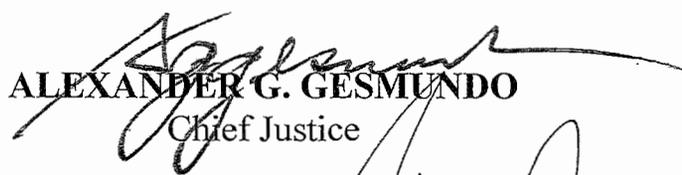


SO ORDERED.



MARIA FLOMENA D. SINGH
Associate Justice

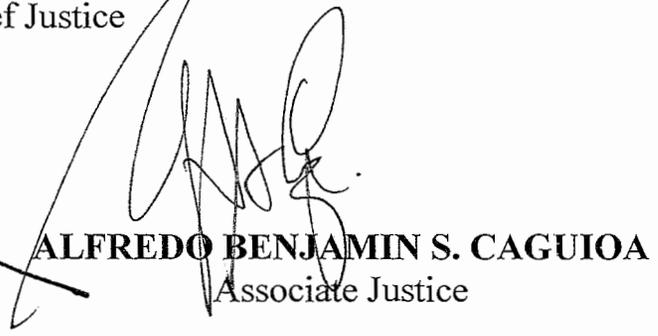
WE CONCUR:



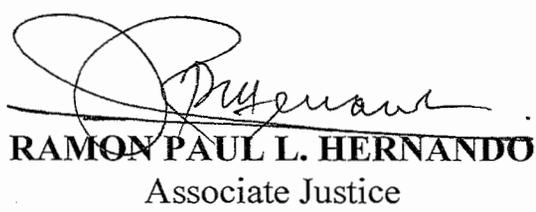
ALEXANDER G. GESMUNDO
Chief Justice



MARVIC M.V.F. LEONEN
Senior Associate Justice



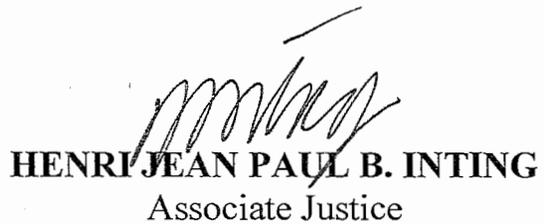
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



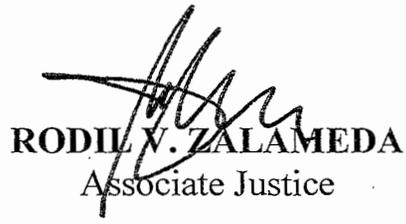
RAMON PAUL L. HERNANDO
Associate Justice



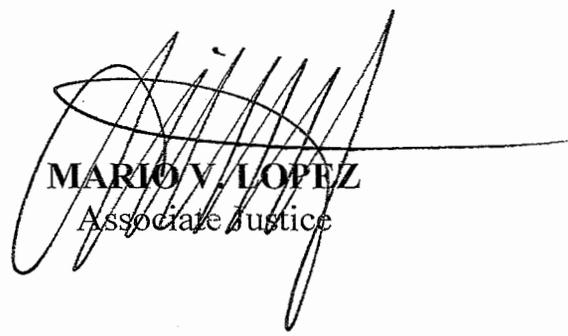
AMY C. LAZARO-JAVIER
Associate Justice



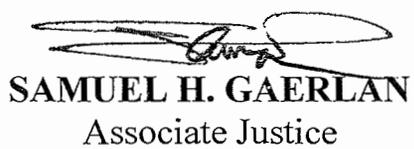
HENRI JEAN PAUL B. INTING
Associate Justice



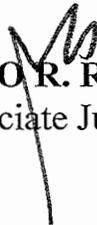
RODIL V. ZALAMEDA
Associate Justice



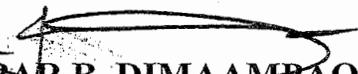
MARIO V. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court.


ALEXANDER G. GESMUNDO
Chief Justice

