

REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

EN BANC

DEPARTMENT OF SCIENCE AND  
TECHNOLOGY (DOST)  
OFFICIALS AND PERSONNEL  
represented by SEC. FORTUNATO  
DE LA PEÑA, in his capacity as  
Secretary,

Petitioners,

- versus -

G.R. No. 253218

COMMISSION ON AUDIT,  
Respondent.

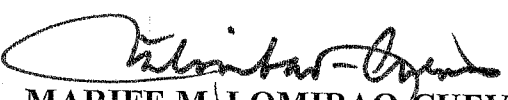
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NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on February 4, 2025 a Decision, copy attached herewith, was rendered by the Supreme Court in the above-titled case, the original of which was received by this Office on March 21, 2025 at 9:30 p.m.

Very truly yours,

  
MARIFE M. LOMIBAO-CUEVAS  
Clerk of Court

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Commission on Audit  
Commonwealth Avenue  
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PUBLIC INFORMATION OFFICE (x)  
OFFICE OF THE COURT  
ADMINISTRATOR (x)  
OFFICE OF THE CHIEF ATTORNEY (x)  
PHILIPPINE JUDICIAL ACADEMY (x)  
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Supreme Court, Manila



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Republic of the Philippines  
Supreme Court  
Manila

EN BANC

DEPARTMENT OF SCIENCE  
AND TECHNOLOGY (DOST)  
OFFICIALS AND  
PERSONNEL represented by  
SEC. FORTUNATO DE LA  
PEÑA, in his capacity as  
Secretary,

Petitioners,

G.R. No. 253218

Present:

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

- versus -

COMMISSION ON AUDIT,  
Respondent.

Promulgated:

February 4, 2025

X-----X

DECISION

INTING, J.:

This resolves the Petition for *Certiorari*<sup>1</sup> (Petition) under Rule 64, in relation to Rule 65, of the Rules of Court filed by Fortunato T. De La Peña (Sec. De La Peña), in his official capacity as Secretary of the Department of Science and Technology (DOST), and on behalf of DOST officials and personnel, through the DOST Legal Division, assailing Decision No. 2014-

\* On leave.

<sup>1</sup> Rollo, pp. 3-22.

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381<sup>2</sup> dated December 17, 2014 (assailed Decision) of the Commission on Audit (COA) Commission Proper (COA Proper). Likewise assailed are the COA Proper Resolution<sup>3</sup> dated December 23, 2015 denying Sec. De La Peña's Motion for Reconsideration, and Resolution No. 2020-036<sup>4</sup> dated January 21, 2020 dismissing the relief sought in the letter dated April 22, 2016 of former DOST Secretary Mario G. Montejo (Sec. Montejo).

The COA Proper affirmed Notice of Disallowance (ND) No. 09-002-101-(05-08)<sup>5</sup> dated April 16, 2009 and COA NGS Cluster-B Decision No. 2010-003<sup>6</sup> dated May 17, 2010, both of which disallowed the step increment differentials granted to science and technology (S & T) personnel for the period January 1, 2005 to December 31, 2008 in the total amount of PHP 1,031,928.50.

### *The Antecedents*

On December 22, 1997, the Congress enacted Republic Act No. 8439, also known as the *Magna Carta for Scientists, Engineers, Researchers and other S & T personnel in the Government*.

Under Section 7(g) of Republic Act No. 8439, S & T personnel were granted a monthly longevity pay equivalent to five percent of their monthly basic salary for every five years of continuous and meritorious service, as determined by the DOST Secretary, notwithstanding Section 12<sup>7</sup> of Republic Act No. 6758, also known as the Compensation and Position Classification Act of 1989.<sup>8</sup>

<sup>2</sup> *Id.* at 23–28. The December 17, 2014 COA Decision No. 2014-381 was signed by Chairperson Ma. Gracia M. Pulido Tan and Commissioners Heidi L. Mendoza and Jose A. Fabia of the Commission on Audit, Commonwealth Avenue, Quezon City.

<sup>3</sup> *Id.* at 29. Notice stating that the COA Proper *en banc* issued its December 23, 2015 Resolution and signed by Director IV Nilda B. Plaras, Commission Secretary, Commission on Audit, Quezon City.

<sup>4</sup> *Id.* at 30. Notice stating that the COA Proper *en banc* issued its January 21, 2020 Resolution and signed by Director IV Nilda B. Plaras, Commission Secretary, Commission on Audit, Quezon City.

<sup>5</sup> *Id.* at 33–34.

<sup>6</sup> *Id.* at 44–47. The May 17, 2010 NGS Cluster B-Decision No. 2010-003 was rendered by Director IV Rizalina Q. Mutia of the National Government Sector, Cluster B – General Public Services II and Defense, Commission on Audit, Quezon City.

<sup>7</sup> Sec. 12. *Consolidation of Allowances and Compensation.* — All allowances, except for representation and transportation allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM, shall be deemed included in the standardized salary rates herein prescribed. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized.

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>8</sup> Approved on August 21, 1989.

On October 3, 2005, the DOST received Audit Observation Memorandum (AOM) No. 2005-011(05) from Norberta R. Mateo (Mateo). Mateo observed that 11 S & T personnel received both step increment and longevity pay. Citing Department of Budget and Management (DBM) Circular No. 2004-4 dated February 26, 2004 (Guidelines on the Grant of Longevity Pay and Step Increment to Public Health Workers), Mateo opined that S & T personnel had the option to receive either the step increment or longevity pay, but not both.<sup>9</sup>

On April 16, 2009, the DOST Accounting Division received ND No. 09-002-101-(05 to 08)<sup>10</sup> which disallowed the step increment differentials for the period January 1, 2005, to December 31, 2008, in the amount of PHP 1,031,928.50, granted to the following S & T personnel: (1) Cynthia F. Abalos; (2) Fe L. Abalos; (3) Terencia B. Abarquez; (4) Imelda A. Agdeppa; (5) Rhodora C. Alfonso; (6) Garry L. Aligmayo; (7) Belarmino I. Alladel; (8) Elizabeth P. Alladel; (9) Anna Liza Predo; (10) Eustaquio G. Aragonés, Jr.; (11) Artemio Larano; (12) Reena B. Atienza; (13) Ester C. Aungon; (14) Teresito C. Bacolcol; (15) Maria Corazon M. Balasa; (16) Melanio R. Balde, Jr.; (17) Rosario D. Balde; (18) Ma. Leonila P. Bautista; (19) Leandro Bilaro; (20) Mario P. Bravo (Bravo); (21) Elisa G. Calapuan; (22) Alma Marie Casino; (23) Helen Casta; (24) Marissa Ceneta (Ceneta); (25) Noralyn Cruz Ceniza; (26) Elisa Corpuz; (27) Alfredo L. Daulat; (28) Ma. Teresa B. De Guzman; (29) Pedro A. Del Rosario, Jr.; (30) Esmeralda M. Demafelix; (31) Rosella B. Dolor; (32) Rosalinda R. Espiritu; (33) Therese T. Estella; (34) Arsenio L. Ferrer; (35) Bonifacia Flores; (36) Elizabeth Fontanilla (Fontanilla); (37) Rosalie B. Formento; (38) Teresita C. Fortuna; (39) Raquel V. Francisco; (40) Jesusa F. Gabayno; (41) Adora L. Gabiana; (42) Valerio S. Ganosa; (43) Angelita A. Garcia; (44) Corazon M. Garcia; (45) Helen V. Gianan; (46) Angelina M. Go; (47) Joventino L. Iglipa; (48) Marciano L. Jacinto, Jr.; (49) Romeo Juanico; (50) Artemio Larano; (51) Neil A. Lavapie; (52) Jhoven G. Litana; (53) Ramon Logarta; (54) Milagros B. Lomeda; (55) Ernesto S. Luis; (56) Guinevere T. Madlangbayan; (57) Adelwiso T. Maglantay; (58) Irwin M. Magluyon; (59) Edita Manalo; (60) Ely Castro Marian; (61) Jeanna D. Martin; (62) Vicente R. Martinez; (63) Jose Roy Mendoza; (64) Natividad S. Mendoza; (65) Emma O. Milan; (66) Rowena U. Montecer; (67) Fatima Morbos; (68) Melita C. Morbos; (69) Desiree Moreno; (70) Maria Corazon M. Mundoc; (71) Ma. Lourdes Orijola; (72) Roberto S. Pacheco; (73) Luciana C. Panaligan; (74) Estelita V. Perez; (75) Maripaz Perez; (76) Ramon R. Pio Roda; (77) Anna Liza Predo; (78) Blesshe VI. Querijero; (79) Arnaldo Reyes; (80) Edna G. Reyes; (81) Juan S. Reyes, Jr.; (82) Ofelia B. Reyes; (83) Raul Reyes; (84) Marian C. Sablan; (85) Dorcas Glenda T. Sacbibit; (86) Pablo P. Saligan; (87) Jonna Ruth Salvador; (88) Aurora B. San Pedro; (89) Benita N. Serrano; (90) Mila T. Sicam;

<sup>9</sup> *Rollo*, p. 23-24, 31.

<sup>10</sup> *Id.* at 33-34.

(91) Felipe Lita S. Suerte; (92) Ma. Paraluman D. Tancioco; (93) Maxima M. Taparan; (94) Maria F. Tela; (95) Ma. Veronica B. Toledano; (96) Worley C. Torres; (97) Leticia K. Trinidad; (98) Zenia G. Velasco; (99) Odette V. Villanueva; (100) Nomer C. Villarino; and (101) Carol M. Yorobe.<sup>11</sup>

The following DOST officers were found to be liable with the payees by reason of their participation in the disbursements:

| Name                          | Position   | Participation  |
|-------------------------------|--|--|
| Bravo                         | Assistant Secretary for Financial Administration and Legal Affairs (ALS) | Approved the payment.  |
| Fontanilla                    | Director, ALS  | Approved the payment.  |
| Adelaida P. Carandang         | Chief, Personnel Division  | Certified that the payees are entitled to receive the step increment differential. <sup>12</sup> |
| Peter Paul G. Gianan (Gianan) | OIC, Personnel Division  |  |
| Ceneta                        | OIC, Personnel Division  |  |

On even date, Fontanilla and Gianan likewise received ND No. 09-002-101-(05 to 08).<sup>13</sup>

In a letter<sup>14</sup> dated April 21, 2009, then DOST Secretary Estrella F. Alabastro (Sec. Alabastro) sought reconsideration of ND No. 09-002-101-(05 to 08), arguing that Republic Act No. 8439 is the law that governs the longevity pay of S & T personnel; that longevity pay under Republic Act No. 8439 is distinct from step increment under Republic Act No. 6758; and that DBM Circular No. 2004-04 does not apply to S & T personnel. When the motion for reconsideration was denied, Sec. Alabastro filed an appeal with the Office of the Director, Cluster B- General Public Services II and Defense National Government Sector (NGS).<sup>15</sup>

Notably, not one of the 103 persons held liable under ND No. 09-002-101-(05 to 08) appealed the ND in question.

<sup>11</sup> *Id.* at 38–39.

<sup>12</sup> *Id.* at 33–34.

<sup>13</sup> *Id.* at 34.

<sup>14</sup> *Id.* at 40–43.

<sup>15</sup> *Id.* at 45.

*The Ruling of the COA Cluster-B Director*

In the NGS Cluster - B Decision No. 2010-003<sup>16</sup> dated May 17, 2010, the COA Cluster B Director upheld the disallowance; thus:

**WHEREFORE**, premises considered, the herein appeal by Secretary Estrella F. Alabastro, Department of Science and Technology, on the Notice of Disallowance No. 09-0020101-(05-08) dated April 16, 2009 representing salary differentials due to step increments granted to DOST Personnel in the total amount of [PHP] 1,031,928.50 is hereby denied. Accordingly, the same may now be enforced for settlement without prejudice to the right of persons liable for the disallowances to appeal to the COA Commission Proper.<sup>17</sup> (Emphasis in the original)

The COA Cluster B Director held that DBM Circular Letter No. 2004-4 has in its favor the presumption of validity; and that prior to the declaration of its nullity by the judiciary, supplemental rules must be respected and complied with. More, the issue on the validity of the interpretations given by the DBM is a question of law which is not for the COA to decide.<sup>18</sup>

Undaunted, Sec. Alabastro, in her capacity as the DOST Secretary, filed a Petition for Review<sup>19</sup> with the COA Proper on July 2, 2010.

Again, none of the 103 persons held liable under ND No. 09-002-101-(05 to 08) filed a petition for review with the COA Proper.

During the pendency of the Petition for Review, Sec. Montejo was appointed as the new DOST Secretary in lieu of Sec. Alabastro.

*The Ruling of the COA Proper*

The COA Proper affirmed the disallowance in the assailed Decision, the dispositive portion of which reads:

**WHEREFORE**, premises considered, the instant petition is hereby **DENIED**. Accordingly, National Government Sector Cluster B- Decision No. 2010-003 dated May 17, 2010 and Notice of Disallowance No. 09-002-101-(05-08) dated April 16, 2009 in the total amount of

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<sup>16</sup> *Id.* at 44-47.

<sup>17</sup> *Id.* at 47.

<sup>18</sup> *Id.* at 46.

<sup>19</sup> *Id.* at 48-55.

[PHP] 1,031,928.50 representing salary differentials due to step increments granted to Department of Science and Technology personnel are hereby **AFFIRMED**.<sup>20</sup> (Emphasis in the original)

At the outset, the COA Proper noted that the timeliness of the Petition for Review could not be ascertained. Be that as it may, it proceeded to rule on the merits of the case.<sup>21</sup>

The COA Proper ruled that: (1) longevity pay and step increment cannot be granted simultaneously as it is expressly prohibited by Section 13<sup>22</sup> of Republic Act No. 8439—the very same law invoked by the DOST; (2) Republic Act No. 6758,<sup>23</sup> which sanctions the grant of step increment, mandates compliance with DBM issuances, and thus, DBM Circular No. 2004-04 must be considered; and (3) DBM Circular No. 2004-04 cannot be disregarded solely on the ground that it was signed by the DBM Director, as the former acted in his official capacity, and the assailed opinion was rendered in accordance with the DBM's internal rules.<sup>24</sup>

On May 27, 2015, Atty. Oswaldo C. Santos, in his capacity as the DOST Assistant Secretary (ASec. Santos), and Engr. Arnaldo C. Reyes (Engr. Reyes), OIC-Administrative and Legal Service of the DOST, filed a Motion for Reconsideration<sup>25</sup> on behalf of the regular employees of the DOST.

Notably, ASec. Santos and Engr. Reyes stated in their Motion for Reconsideration that the DOST received a copy of the assailed Decision on *February 17, 2015*.<sup>26</sup>

In the Resolution<sup>27</sup> dated December 23, 2015, the COA Proper dismissed the Motion for Reconsideration filed by ASec. Santos and Engr. Reyes for being filed out of time and for failure to raise any new matter that would warrant the reversal of the assailed Decision.<sup>28</sup>

On April 28, 2016, the Office of the COA Chairperson Michael G. Aguinaldo received a letter from Sec. Montejo seeking relief from the Resolution dated December 23, 2015, and ND No. 09-002-101-(05 to 08). He

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<sup>20</sup> *Rollo*, p. 27.

<sup>21</sup> *Id.* at 23.

<sup>22</sup> Sec. 13. *Provision Against Double Benefits*. - S & T personnel already receiving the same benefits under any other law shall not be allowed to avail of the benefits under this Act unless they submit in writing their intention to withdraw the benefits already being received and opt for those provided hereunder.

<sup>23</sup> Compensation and Position Classification Act of 1989.

<sup>24</sup> *Id.* at 25–26.

<sup>25</sup> *Rollo*, pp. 56–74.

<sup>26</sup> *Id.* at 57.

<sup>27</sup> *Id.* at 29.

<sup>28</sup> *Id.*



argued that the Court's decision in *Cawad, et al. v. Sec. Abad, et al.*<sup>29</sup> rendered the aforementioned issuances moot.<sup>30</sup>

In *Cawad*, the Court declared Joint Circular No. 1 dated November 29, 2012, of the DBM and Department of Health (DOH) was unenforceable insofar as it provides that an official or employee authorized to be granted longevity pay under an existing law was not eligible for the grant of step increment due to length of service after the Court found that the respondents therein failed to file a copy of the joint circular with the University of the Philippines Law Center-Office of the National Administrative Register.<sup>31</sup>

The COA Proper treated Sec. Montejo's letter as a second motion for reconsideration and accordingly dismissed it in the Resolution No. 2020-036 for lack of jurisdiction and deemed it a prohibited pleading under the 2009 Revised Rules of Procedure of the COA (2009 RRPC).<sup>32</sup>

In the meantime, Sec. De La Peña was appointed as DOST Secretary succeeding Sec. Montejo, and in his capacity as such, he filed the present Petition for *Certiorari* before the Court.

#### *Sec. De La Peña's Arguments*

On the procedural aspect of the case, Sec. De La Peña maintains that the emerging trend of the Court is to afford every litigant the amplest opportunity to properly and justly determine their cause, free from the constraints of technicalities.<sup>33</sup>

On the merits, Sec. De La Peña contends that the COA Decision is erroneous because it violates fundamental rules of law and legal construction.<sup>34</sup>

According to Sec. De La Peña, step increment is inherently different from longevity pay, as shown by the following differences:

1. Presidential Decree No. 985, series of 1976, defines step increment as an increase in salary or wage from one step to another within a grade from the minimum to maximum, while longevity pay under

<sup>29</sup> 764 Phil. 705 (2015).

<sup>30</sup> COA records, p. 343.

<sup>31</sup> *Cawad, et al. v. Sec. Abad, et al.*, 764 Phil. 705, 732 (2015).

<sup>32</sup> *Rollo*, p. 30.

<sup>33</sup> *Id.* at 16.

<sup>34</sup> *Id.* at 8.

Republic Act No. 8439 is equivalent to five percent of the monthly basic salary of S & T personnel for every five years of continuous and meritorious service, as determined by the DOST Secretary.

2. The purpose of step increment is not stated in the law, but in the case of longevity pay, the purpose is “[t]o provide for a program of human resources development in science and technology to achieve and maintain the necessary reservoir of talent and manpower that will sustain its drive for total science and technology mastery.”
3. Step increment is granted based on merit and/or length of service, while longevity pay is based on continuous and meritorious service.
4. Step increment is given to government officials and employees, in general, every three years, while longevity pay is given to S & T personnel every five years.
5. Step increment adjusts the basic salary of the employee, while longevity pay is a separate benefit or incentive computed based on the monthly basic salary of the employee.<sup>35</sup>

Sec. De La Peña further contends that: (1) Section 7 of Republic Act No. 8439 provides that longevity pay, among other benefits, shall be granted to S & T personnel notwithstanding Section 12 of Republic Act No. 6758; (2) DBM Circular No. 2004-04 applies only to public health workers; and (3) as the office primarily tasked with the implementation of Republic Act No. 8439, the DOST’s contemporaneous construction of the law carries great weight. In fine, Sec. De La Peña contends that the prohibition on double benefits under Section 13 of Republic Act No. 8439 was not violated by S & T personnel’s receipt of both benefits.<sup>36</sup>

### *The COA’s Arguments*

The COA contends that the Petition should be dismissed due to Sec. De La Peña’s failure to state the material date of receipt of the assailed Decision. Citing *Fortune Life Insurance Company, Inc. v. COA Proper*,<sup>37</sup> it maintains that the Fresh Period Rule established in *Neypes v. Court of Appeals*<sup>38</sup> does not apply to petitions for *certiorari* under Rule 64 of the Rules of Court.<sup>39</sup>

Considering that the Petition failed to state the date when the assailed Decision was received, the COA maintains that the remaining period to file the present Petition cannot be accurately determined. It notes, however, that the records show that the Motion for Reconsideration dated May 27, 2015,

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<sup>35</sup> *Id.* at 8–10.

<sup>36</sup> *Id.* at 10–14.

<sup>37</sup> 752 Phil. 97, 102 (2015).

<sup>38</sup> 506 Phil. 613, 627 (2005).

<sup>39</sup> *Rollo*, p. 87.

was belatedly filed and Sec. Montejo's letter was a prohibited motion. Consequently, these pleadings did not prevent the assailed Decision from attaining finality.<sup>40</sup>

Lastly, the COA argues that the Petition failed to establish that the COA acted with grave abuse of discretion when it disallowed the step increment differentials granted to S & T personnel who likewise received longevity pay from January 1, 2005, to December 31, 2008.<sup>41</sup>

The COA points out that the DBM, acting under its authority to implement Presidential Decree No. 985,<sup>42</sup> as amended by Republic Act No. 6758, issued DBM Circular No. 2004-4, opining that step increment due to length of service under Presidential Decree No. 985, as amended by Republic Act No. 6758, and longevity pay under Republic Act No. 8439 are essentially the same benefits and thus cannot be granted simultaneously, pursuant to Section 13<sup>43</sup> of Republic Act No. 8439, which prohibits the double recovery of similar benefits.<sup>44</sup>

### *The Issues*

For the Court's resolution are the (1) procedural issue of whether the petition was timely filed and the (2) substantive issue of whether the COA acted with grave abuse of discretion when it disallowed the step increment differentials due to length of service which were granted to S & T personnel, who also received longevity pay from January 1, 2005 to December 31, 2008.

### *The Ruling of the Court*

The Petition is devoid of merit.

*ND No. 09-002-101-(05-08) had long attained finality*

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<sup>40</sup> *Id.* at 88–89.

<sup>41</sup> *Id.* at 90–91.

<sup>42</sup> Budgetary Reform Decree on Compensation and Position Classification of 1976, approved on August 22, 1976.

<sup>43</sup> Sec. 13. *Provision Against Double Benefits.* — S & T personnel already receiving the same benefits under any other law shall not be allowed to avail of the benefits under this Act unless they submit in writing their intention to withdraw the benefits already being received and opt for those provided hereunder.

<sup>44</sup> *Rollo*, pp. 91–92.

Under Rule IV, Section 8 of the 2009 RRPC, the decision of the Auditor shall become final upon the expiration of six months from the date of receipt thereof.

In the case of a disallowed payroll with several payees, such as the present case, the six-month period is reckoned from the time the ND was served to the accountant. Under Rule IV, Section 7 of the 2009 RRPC, service to the accountant shall constitute constructive service to all payees listed in the payroll.

More than 15 years have passed since the DOST's Accounting Department received ND No. 09-002-101-(05-08) on April 16, 2009; and *none* of the 103 persons held liable appealed the ND to the COA Cluster-B Director.

Verily, the six-month period under Rule IV, Section 8 of the 2009 RRPC had long passed. Consequently, ND No. 09-002-101(05 to 08) had long attained finality with respect to the 103 persons held liable.

*The assailed Decision attained finality on March 19, 2015—five years prior to the filing of the present Petition*

In determining the timeliness of a Petition for *Certiorari* under Rule 64, in relation to Rule 65, of the Rules of Court, assailing a decision or resolution of the Commission Proper, the following are the pertinent provisions under the 2009 RRPC:

Rule X  
Proceedings Before the Commission Proper

....

SECTION 9. *Finality of Decisions or Resolutions.*— A decision or resolution of the Commission upon any matter within its jurisdiction shall become final and executory after the lapse of thirty (30) days from notice of the decision or resolution.

SECTION 10. *Motion for Reconsideration.*— A motion for reconsideration maybe filed within thirty (30) days from notice of the decision or resolution, on the grounds that the evidence is insufficient to justify the decision; or that the said decision of the Commission is

contrary to law. Only one (1) motion for reconsideration of a decision of the Commission shall be entertained.

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SECTION 12. *Effect of Motion for Reconsideration and How it is Disposed of.* — A motion to reconsider a decision, complying with the immediately preceding section, suspends the running of the period to elevate the matter to the Supreme Court. Within two (2) days from its filing, the Commission Secretary shall refer the motion to the Director/ASB for comments. Upon receipt of the comments, he shall forward the same together with the motion to the Legal Services Sector for study and recommendation. The latter shall, within fifteen (15) days from receipt thereof, submit a draft decision, for the consideration of the Commission Proper.

SECTION 13. *Entry of Decision.* — If no appeal is filed within the time provided in these rules, the decision of the Commission shall be entered by the Commission Secretary in the Docket which shall contain the dispositive part of the decision and shall be signed by the Secretary with a certificate that such decision has become final and executory. Such recording of the decision shall constitute the entry.

....

#### Rule XII Judicial Review

SECTION 1. *Petition for Certiorari.*— Any decision, order or resolution of the Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty (30) days from receipt of a copy thereof in the manner provided by law and the Rules of Court.

To recall, the assailed Decision was served to the DOST *on February 17, 2015*.<sup>45</sup> Thus, Sec. Alabastro or her successor in office had 30 days from receipt, or until March 19, 2015, within which to file the Petition before the Court.

Verily, the Motion for Reconsideration, which was filed on *May 27, 2015*—99 days after service of the assailed Decision on the DOST—did not toll the running of the 30-day reglementary period under Rule X, Section 9 of the 2009 RRPC. Consequently, the assailed Decision had long attained finality on March 19, 2015. Worse, ASec. Santos and Engr. Reyes did not submit any proof of authority to file the Motion for Reconsideration on behalf of Sec. Montejo, the DOST, or the 103 persons held liable under ND No. 09-002-101-(05-08).

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<sup>45</sup> *Rollo*, p. 57; COA records, p. 338.

The present disallowance case should have ended in 2015. However, Sec. Montejo wrote a letter dated April 22, 2016, to COA Chairperson Aguinaldo arguing that the disallowance was rendered moot by the Court's pronouncement in *Cawad*.

To reiterate, the assailed Decision became final on March 19, 2015; thus, the COA Proper aptly ruled in its Resolution dated January 21, 2020, that Sec. Montejo's letter cannot be entertained for lack of jurisdiction. "It is a well-established rule that a judgment that lapses into finality becomes immutable and unalterable."<sup>46</sup> Thus, even the COA Proper, the tribunal that issued the assailed Decision, cannot modify its own definitive final judgment.

More, Sec. Montejo's letter is a second motion for reconsideration that was filed in violation of Rule X, Section 10 of the 2009 RRPC. In other words, not only was it filed out of time, but it was also a prohibited pleading.

In a desperate attempt to prevent the Court from dismissing the Petition outright, Sec. De La Peña omitted the date of the DOST's receipt of the assailed Decision in the Petition. However, this defect in the Petition was aptly pointed out by the COA in its Comment.<sup>47</sup>

In his Reply,<sup>48</sup> Sec. De La Peña explains that the DOST's copy of the assailed Decision, which was marked with the date of receipt, could not be located; hence, the date of receipt was omitted from the Petition.<sup>49</sup>

Sec. De La Peña's explanation for the omission of the date of receipt of the assailed Decision is unacceptable and disingenuous.

The date of the DOST's receipt of assailed Decision, i.e., February 17, 2015, was clearly stated in the motion for reconsideration filed by ASec. Santos and Engr. Reyes, which was attached in the Petition. More, the COA denied the aforementioned motion for reconsideration in its Resolution dated December 23, 2015, for having been filed out of time. However, instead of being forthright anent the timeliness of the Petition, Sec. De La Peña gave a poor excuse for the intentional omission.

"The doctrine of finality or immutability of judgment provides that when a decision has attained finality, it may no longer be modified in any

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<sup>46</sup> *National Housing Authority v. Court of Appeals*, 731 Phil. 400, 405–406 (2014).

<sup>47</sup> *Rollo*, p. 88.

<sup>48</sup> *Id.* at 113–121.

<sup>49</sup> *Id.* at 116.



respect even if the modification is meant to correct erroneous conclusions of fact and law.”<sup>50</sup> This doctrine applies not only to decisions of courts but also to decisions of quasi-judicial agencies<sup>51</sup> such as the COA.

There are established exceptions, however, on the application of the doctrine of immutability of judgment: “(i) the correction of clerical errors; (ii) presence of *nunc pro tunc* entries, which cause no prejudice to any party; (iii) void judgment; and, (iv) whenever circumstances transpire after the finality of the judgment which renders the execution unjust and inequitable.”<sup>52</sup> None of these exceptions obtain in the present case.

Verily, assuming *arguendo* that the subject COA decision—a definitive final judgment—is erroneous in fact and in law, it is no longer subject to change or revision even by the Court.

A bad precedent would be created if the Court turns a blind eye to the finality of the assailed Decision by reason of Sec. De La Peña’s mere allegation that the DOST lost its copy of the said Decision.

At the risk of being repetitive, the assailed Decision had already attained finality on March 19, 2015—five years before Sec. De La Peña filed the present Petition on September 17, 2020. Thus, the immutability attached to the assailed Decision is not affected by the appointment of a new DOST Secretary. To hold otherwise would bring no end to litigations involving government agencies.

In *Mocorro, Jr. v. Ramirez*,<sup>53</sup> the Court explained the wisdom behind the doctrine of immutability of judgment as follows:

[T]he orderly administration of justice requires that, at the risk of occasional errors, the judgments/resolutions of a court must reach a point of finality set by the law. The noble purpose is to write *finis* to [a] dispute once and for all. This is a fundamental principle in our justice system, without which there would be no end to litigations. *Utmost respect and adherence to this principle must always be maintained by those who exercise the power of adjudication.* Any act, which violates such principle, must immediately be struck down. Indeed, the principle of conclusiveness of prior adjudications is not confined in its operation to the judgments of what are ordinarily known as courts, but extends to all

<sup>50</sup> *Bangko Sentral ng Pilipinas v. Commission on Audit*, 913 Phil. 99, 113 (2021), citing *FGU Insurance Corp. v. Regional Trial Court of Makati City, Branch 66*, 659 Phil. 117, 123 (2011).

<sup>51</sup> *Id.*, citing *Argel v. Singson*, 757 Phil. 228, 237 (2015); *Aguilar v. Court of Appeals*, 617 Phil. 543, 556–557 (2009).

<sup>52</sup> *HH & Co. Agricultural Corp. v. Perlas*, 870 Phil. 608, 615 (2020).

<sup>53</sup> 582 Phil. 357 (2008).

bodies upon which judicial powers had been conferred.<sup>54</sup> (Emphasis supplied; citations omitted)

*Sec. De La Peña has no legal standing to file the Petition*

In addition to the finality of the assailed Decision, it likewise does not escape the Court's attention that Sec. De La Peña lacks the requisite legal standing to file the Petition.

Every action shall be prosecuted and defended in the name of the real party-in-interest.<sup>55</sup> Notably, under Rule V, Section 1,<sup>56</sup> of the 2009 RRPC, only an aggrieved party may appeal the decision of the Auditor to the Director. Similarly, only an aggrieved party may appeal the decision of the Director to the COA Proper under Rule VII, Section 1<sup>57</sup> of the 2009 RRPC.

The Rules of Court likewise provide under Section 5<sup>58</sup> of Rule 64 and Section 1<sup>59</sup> of Rule 65 that it is the aggrieved party who may file a petition for *certiorari* with the proper court.

<sup>54</sup> *Id.* at 366-367.

<sup>55</sup> RULES OF COURT, rule 3, sec. 2.

<sup>56</sup> Sec. 1. *Who May Appeal.* — An aggrieved party may appeal from the decision of the Auditor to the Director who has jurisdiction over the agency under audit.

<sup>57</sup> Sec. 1. *Who May Appeal and Where to Appeal.* — The party aggrieved by a decision of the Director or the ASB may appeal to the Commission Proper.

<sup>58</sup> Sec. 5. *Form and contents of petition.* — The petition shall be verified and filed in eighteen (18) legible copies. The petition shall name the aggrieved party as petitioner and shall join as respondents the Commission concerned and the person or persons interested in sustaining the judgment, final order or resolution *a quo*. The petition shall state the facts with certainty, present clearly the issues involved, set forth the grounds and brief arguments relied upon for review, and pray for judgment annulling or modifying the questioned judgment, final order or resolution.

Findings of fact of the Commission supported by substantial evidence shall be final and non-reviewable. The petition shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, final order or resolution subject thereof, together with certified true copies of such material portions of the record as are referred to therein and other documents relevant and pertinent thereto. The requisite number of copies of the petition shall contain plain copies of all documents attached to the original copy of said petition.

<sup>59</sup> Sec. 1. *Petition for certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.



To stress, a liability in a disallowance case is a *personal obligation*<sup>60</sup> of the persons held liable in the notice of disallowance.

In addition, the COA' ruling on a question of law, even if already final, does not create a binding legal precedent that will apply to future cases.<sup>61</sup> In *Bangko Sentral ng Pilipinas v. Commission on Audit*,<sup>62</sup> the Court explained that administrative decisions, such as decisions issued by the COA, do not enjoy the same level of recognition as judicial decisions applying or interpreting the laws or the Constitution.<sup>63</sup>

Verily, other S & T personnel, even if similarly situated to the 103 persons held liable under ND No. 09-002-101-(05-08), are strangers to the case and are not bound by the judgment in the COA proceedings. It is a well-established rule that no one shall be affected by a proceeding to which one is a stranger.<sup>64</sup> Consequently, only the 103 persons held liable under ND No. 09-002-101-(05-08) have the legal standing to assail the disallowance.

Thus, after a careful review of the COA records, the Court finds that Sec. De La Peña lacks the legal standing to assail the definitive final judgment of the COA Proper.

*First. Sec. De La Peña was not among 103 persons held liable under ND No. 09-002-101-(05-08).*

*Second.* The incumbent DOST Secretary at the time ND No. 09-002-101-(05-08) was issued was Sec. Alabastro. Thus, by no stretch of the imagination can any administrative, civil, or criminal liability attach to Sec. De La Peña as a result of the COA proceedings in the case.

*Third. The DOST's interest is not adversely affected by ND No. 09-002-101-(05-08) and the assailed Decision.*

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<sup>60</sup> Prescribing the Use of the Rules and Regulations on Settlement of Accounts, COA Circular No. 2009-006, September 15, 2009.

4.17 Liability — a personal obligation arising from an audit disallowance or charge which may be satisfied through payment or restitution as determined by competent authority or by other modes of extinguishment of obligation as provided by law.

<sup>61</sup> *Bangko Sentral ng Pilipinas v. Commission on Audit*,

<sup>62</sup> 913 Phil. 99 (2021).

<sup>63</sup> *Id.* at 112.

<sup>64</sup> *Heirs of Mayor Nemencio Galvez v. Court of Appeals*, 325 Phil. 1028, 1049 (1996), citing *Allied Banking Corporation v. Court of Appeals*, 291-A Phil. 630, 635-636 (1993).

Rule XII, Section 1<sup>65</sup> of the 2009 RRPC provides that when the decision, order, or resolution of the COA adversely affects the interest of any government agency, the action may be brought by the head of that agency.

Here, Sec. De La Peña failed to allege, much less demonstrate, that the assailed Decision adversely affects the interest of the DOST. Notably, Sec. De La Peña did not refer to any DOST issuance which was contravened by the COA when it issued ND No. 09-002-101-(05-08) and the assailed Decision.

In a similar vein, Sec. Alabastro and Sec. Montejo, in their respective official capacities as DOST Secretary, lacked the legal standing to assail the issuances of the COA in the case at bar.

On the contrary, Sec. De La Peña's position on the substantive issue is incompatible with Item 13.6 of DOST-DBM Joint Circular No. 1, series of 2013, viz.:

#### 13.0 Longevity Pay

Section 7(g) of R.A. No. 8439 provides that a monthly Longevity Pay equivalent to 5% of the current monthly basic salary shall be paid to S & T personnel for every 5 years of continuous and meritorious services as determined by the Secretary of the Department.

To rationalize the grant of Longevity Pay, the following rules shall be observed.

....

13.6 An S & T Personnel previously granted Step Increment Due to Length of Service shall no longer be granted subsequent Step Increment Due to Length of Service in view of the prohibition of item (4)(d) of JR No 4. Likewise, an S & T Personnel hired on or after the effectivity of this JC shall not be granted Step Increment Due to Length of Service.

Verily, the DOST, the DBM, and the COA already arrived at a consensus more than a decade ago that S & T personnel *cannot* simultaneously enjoy both the longevity pay and the step increment due to length of service. Thus, the case is now moot.

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<sup>65</sup> Sec. 1. Petition for *Certiorari*.— Any decision, order or resolution of the Commission may be brought to the Supreme Court on *certiorari* by the aggrieved party within thirty (30) days from receipt of a copy thereof in the manner provided by law and the Rules of Court.  
When the decision, order or resolution adversely affects the interest of any government agency, the appeal may be taken by the proper head of that agency.

“A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use.”<sup>66</sup>

Here, the Court finds no practical value in resolving the substantive issue in the case for the following reasons: (1) none of the 103 persons held liable under ND No. 09-002-101-(05-08)—the aggrieved and real parties-in-interest—opposed the disallowance; and (2) the DOST, the sole party maintaining the present suit, is not adversely affected by ND No. 09-002-101-(05-08) and had stopped granting step increment due to length of service to S & T personnel who were granted longevity pay as early as 2013.

*Fourth. Sec. De La Peña provided no proof of authority, such as a special power of attorney, from any of the 103 persons held liable under ND No. 09-002-101-(05-08), to file the present Petition on their behalf.*

Under Rule 3, Section 3 of the Rules of Court, a party who is not a real party-in-interest may file a representative suit on behalf of a beneficiary:

SECTION 3. *Representatives as Parties.* — Where the action is allowed to be prosecuted or defended by a representative or someone acting in a fiduciary capacity, the beneficiary shall be included in the title of the case and shall be deemed to be the real party in interest. A representative may be a trustee of an express trust, a guardian, an executor or administrator, or a party authorized by law or these Rules. An agent acting in his own name and for the benefit of an undisclosed principal may sue or be sued without joining the principal except when the contract involves things belonging to the principal.

In a representative suit, it is incumbent upon the purported representative to prove the following requisites: (a) the suit is brought on behalf of an identified beneficiary whose right has been violated, resulting in some form of damage; and (b) the representative is authorized by law or the Rules of Court to represent the beneficiary.<sup>67</sup>

Sec. De La Peña failed to prove these two requisites.

To reiterate, only the 103 persons held liable under ND No. 09-002-101-(05-08) is adversely affected by the COA proceedings and that other

<sup>66</sup> *Express Telecommunications Co., Inc. v. AZ Communications, Inc.*, 877 Phil. 44, 53–54 (2020).

<sup>67</sup> *Aquino v. Commission on Audit*, 888 Phil. 643, 659 (2020).

DOST officials and personnel, even if similarly situated, are not bound by the assailed Decision.

Here, the Petition was filed on behalf of DOST officials and personnel instead of the 103 persons held liable under ND No. 09-002-101-(05-08), the parties directly injured by the disallowance. More, Sec. De La Peña did not submit any proof of authority from any of the 103 persons held liable under ND No. 09-002-101-(05-08) to file the Petition before the Court. He likewise did not cite any law authorizing him to file the Petition on their behalf.

Indeed, the head of an agency may file a Petition for *Certiorari* assailing any decision, order, or resolution of the COA Proper, but it is limited to cases wherein the interest of the agency is adversely affected by the assailed COA issuances. The concern that a head of an agency may have for their subordinates, no matter how laudable, does not clothe them with the authority to fight legal battles on their behalf.

In rare instances, the Court has allowed a party to bring a suit on behalf of a third party provided the following requisites are met: (1) the party filing the suit must have suffered an injury-in-fact and thus, has a sufficiently concrete interest in the outcome of the issue in dispute; (2) he or she must have a close relation to the third party; and (3) the third party is prevented by some hindrance to protect his or her own interest.<sup>68</sup> Not a single one of these requisites is present in the case at bar.

Lastly, the Court notes that Sec. Alabastro mistakenly assailed the disallowance before the COA in her capacity as the DOST Secretary and not on behalf of the persons liable in ND No. 09-002-101-(05-08); Sec. Montejo likewise wrote the letter to Chairperson Aguinaldo in his capacity as DOST Secretary but did not do so on behalf of the persons liable in ND No. 09-002-101-(05-08); the representation of ASec. Santos and Engr. Reyes on behalf of “DOST Regular Employees” is wrongful; and Sec. De La Peña’s representation of “DOST officials and employees” is likewise wrongful.

Inevitably, the absence of authority on the part of Sec. De La Peña and the other DOST officials who handled the case to act on behalf of the 103 persons held liable in ND No. 09-002-101-(05-08) cleared the way for the subject ND to attain finality<sup>69</sup> as the pleadings that they filed did not toll the running of the six-month reglementary period under Rule IV, Section 8 of the

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<sup>68</sup> *White Light Corp. v. City of Manila*, 596 Phil 444, 456 (2009), citing *Powers v. Ohio*, 499 U.S. 400 (1991).

<sup>69</sup> *Aquino v. Commission on Audit*, 888 Phil. 643, 664 (2020).

RRPC.<sup>70</sup> Assuming *arguendo* that the aforementioned officials have the legal standing to assail the COA's disallowance, the assailed Decision already attained finality on March 19, 2015, due to their failure to move for its reconsideration and file the present Petition within the 30-day reglementary period.


In view of the foregoing consideration, the Court cannot give due course to the Petition.

**ACCORDINGLY**, the Petition for *Certiorari* is **DISMISSED**. Decision No. 2014-381 dated December 17, 2014, Resolution dated December 23, 2015, and Resolution No. 2020-036 dated January 21, 2020, of the Commission on Audit are **AFFIRMED**.

**SO ORDERED.**


  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

WE CONCUR:

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*

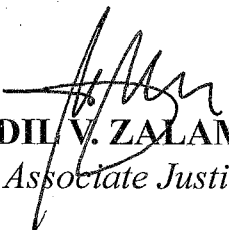
  
**MARVIC M.V.F. LEONEN**  
*Senior Associate Justice*

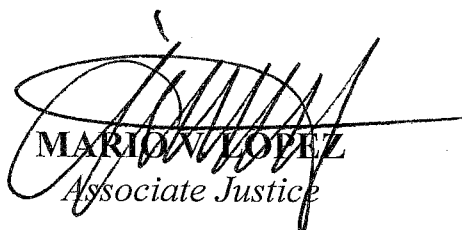
  
**ALFREDO BENJAMIN S. CAGUTOA**  
*Associate Justice*


  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

  
**AMY C. LAZARO-JAVIER**  
*Associate Justice*

<sup>70</sup> The 2009 Revised Rules of Procedure of the Commission on Audit, Rule IV, sec. 8 states:  
Sec. 8. Finality of the Auditor's Decision.— Unless an appeal to the Director is taken, the decision of the Auditor shall become final upon the expiration of six (6) months from the date of receipt thereof.]

  
**RODIL V. ZALAMEDA**  
*Associate Justice*

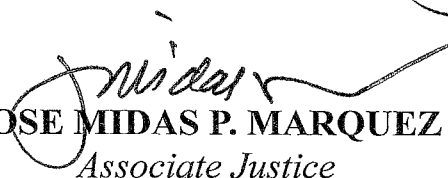
  
**MARION LOPEZ**  
*Associate Justice*

  
**SAMUEL H. GAERLAN**  
*Associate Justice*

  
**RICARDO R. ROSARIO**  
*Associate Justice*

  
**JHOSEP Y. LOPEZ**  
*Associate Justice*

  
**JAFAR B. DIMAAMPAO**  
*Associate Justice*

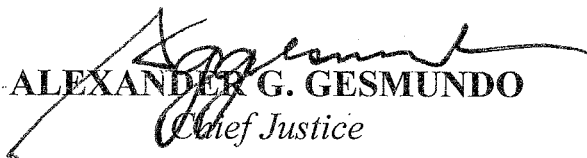
  
**JOSE MIDAS P. MARQUEZ**  
*Associate Justice*

  
**ANTONIO T. KHO, JR.**  
*Associate Justice*

On leave  
**MARIA FILOMENA D. SINGH**  
*Associate Justice*

### CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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.

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*

