Republic of the Philippines
Supreme Court
Manila

EN BANC

METROPOLITAN NAGA WATER DISTRICT, VIRGINIA I. NERO, JEREMIAS P. ABAN JR., and EMMA A. CUYO, Petitioners,	**G.R. No. 218072**
	Present:
- versus -	SERENO, *C.J.,* CARPIO, VELASCO, JR., LEONARDO-DE CASTRO, BRION,* PERALTA, BERSAMIN, DEL CASTILLO, PEREZ, MENDOZA, REYES, PERLAS-BERNABE, LEONEN, JARDELEZA, and CAGUIOA, *JJ.*
COMMISSION ON AUDIT, Respondent.	Promulgated: March 8, 2016

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DECISION

MENDOZA, *J.*:

This petition for *certiorari* under Rule 64 of the Revised Rules of Court seeks to reverse and set aside the September 10, 2014 Decision[1] and the March 9, 2015 Resolution of the Commission on Audit *(COA)*[2] which affirmed the October 24, 2011 Decision[3] of the COA Regional Office No. V *(COA Regional Office)* disallowing the payment of backpay differential of

* On Leave.
[1] Concurred in by Chairperson Ma. Gracia M. Pulido-Tan, Commissioner Heidi L. Mendoza and Commissioner Jose A. Fabia; *rollo*, pp.20-27.
[2] Id. at 30.
[3] Penned by Regional Director Nilda B. Plaras; id. at 45-51.

Cost of Living Allowance *(COLA)* to the officials and employees of Metro Naga Water District *(MNWD)* in the amount of ₱3,499,681.14.

On August 20, 2002, the Board of Directors *(the Board)* of petitioner MNWD passed a resolution[4] granting the payment of accrued COLA covering the period from 1992 to 1999 in favor of qualified MNWD personnel. The Board issued the said resolution on the basis of the Court's ruling in *de Jesus v. COA*[5] and its subsequent rulings, and the series of opinions of the Office of the Government Corporate Counsel *(OGCC)*. The MNWD employees began receiving their respective accrued COLA in installment basis starting 2002.[6]

During the post-audit, the Audit Team Leader Jaime T. Posada, Jr. *(Posada)* observed that the payment of COLA in the amount of ₱3,499,681.14 in 2007 lacked documentation. Thus, Posada required MNWD to submit its payroll as of June 30, 1989 for COLA and its payroll as of July 31, 1989 for salary and other benefits including COLA. The purpose was to determine whether the COLA was received by MNWD employees prior to the effectivity of the Salary Standardization Law *(SSL)*.[7]MNWD failed to submit the requested documents.

On June 15, 2009 Posada issued Notice of Disallowance *(ND)* No. 2009-001[8] disallowing the COLA paid in 2007 amounting to ₱3,499,681.14 and directing the named MNWD officers to immediately settle the disallowance. On October 8, 2009, MNWD filed a notice of appeal with the COA Regional Office.

The COA Regional Office Ruling

In its October 24, 2011 decision, the COA Regional Office upheld the ND covering the disbursement of COLA in 2007 amounting to ₱3,499,681.14. It opined that MNWD could not rely on the case of *PPA Employees hired after July 1, 1989 v. COA (PPA Employees)*[9] because the circumstances were dissimilar considering that MNWD was unable to prove that it had granted COLA to its employees since July 1, 1989. Moreover, the COA Regional Office ruled that MWND could not assert that its employees

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[4] Id. at 31-32.
[5] 355 Phil. 584 (1998).
[6] *Rollo*, p. 5.
[7] Id. at 20.
[8] Id. at 33.
[9] 506 Phil. 382 (2005).

were entitled to COLA by virtue of Letter of Implementation *(LOI)* No. 97[10] because the latter did not include water districts in its coverage.

Undaunted, MWND appealed before the COA.

The COA Ruling

On September 10, 2014, the COA rendered the assailed decision affirming the ruling of the COA Regional Office. It agreed with the COA Regional Office that there was substantial distinction between the case of Philippine Ports Authority *(PPA)* and that of MNWD which warranted the difference in the treatment of the back payment of COLA. The COA noted that in *PPA Employees*, it was established that the PPA had been paying COLA to its employees even prior to July 1, 1989. MNWD, on the other hand, admitted that it had not previously paid the COLA and merely disbursed the same after the passage of a board resolution in 2002. The COA also negated the argument of MNWD that its personnel were entitled to COLA as a matter of right. The COA ruled that water districts were not within the coverage of LOI No. 97.

Aggrieved, MNWD moved for reconsideration, but its motion was denied by the COA in its assailed resolution, dated March 9, 2015.

Hence, this present petition raising the following

ISSUES

A. **WHETHER COA GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION IN NOT RECOGNIZING WATER DISTRICT EMPLOYEES' ENTITLEMENT TO ACCRUED COLA FOR THE PERIOD 1992-1999 AS A MATER OF RIGHT IN ACCORDANCE WITH LOI 97.**

B. **WHETHER COA GRAVELY ABUSED ITS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION WHEN IT FAILED TO APPLY EXISTING JURISPRUDENCE IN FAVOR OF MNWD'S EMPLOYEES FOR COLA ENTITLEMENT.**[11]

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[10] Authorizing the Implementation of Standard Compensation and Position Classification Plans for the Infrastructure/Utilities Group of Government Owned or Controlled Corporations.
[11] *Rollo,* p. 7.

Essentially, the Court is tasked to resolve whether the back payment of the COLA was correctly disallowed; and in the event the disbursement was improper, whether MNWD is liable to refund the same.

MNWD argues that its employees were entitled to receive COLA as local water districts *(LWD)* were covered under the provisions of LOI No. 97. It asserts that requiring proof that MNWD employees received their COLA prior to July 1, 1989 before they could be entitled to COLA under LOI No. 97 would be unrealistic and unjust because LWDs were declared government owned and controlled corporations *(GOCCs)* only on September 13, 1991 when the Court promulgated *Davao City Water District, et al. v. CSC and COA (Davao City Water District)*.[12] Further, MNWD insists that pursuant to *PPA Employees*, MNWD employees must likewise enjoy their COLA from March 12, 1992 to March 16, 1999.

In its Comment,[13] dated September 7, 2015, the COA reiterated its reasons for upholding the disallowance of the disbursement in question. It asserted that MNWD could not rely on *PPA Employees* because, unlike the employees therein, the MNWD employees were not previously receiving COLA. In other words, MNWD could not claim that its employees were deprived of COLA because there was no showing that they were paid COLA in the first place.

In its Reply,[14] dated December 21, 2015, MNWD countered that it need not comply with the requirements laid out in *Aquino v. PPA (Aquino),*[15] where it was held that in order to be entitled to accrued fringe/amelioration benefits under LOI No. 97, it must be shown that (1) the employee was an incumbent; and (2) the employee was receiving those benefits as of July 1, 1989. It reasoned that what was involved in the said case was a claim for continuous enjoyment of Representation and Travel Allowance *(RATA)* and not the payment of accrued COLA.

The Court's Ruling

LWDs are included in the coverage of LOI No. 97

Section 1(d) of LOI No. 97 states:

> 1. Scope of the Plan – The Position and Compensation Plans for the Infrastructure and Utilities group shall apply to the corporations in the transport, the power, the infrastructure, and the water utilities sector, as follows: xxx

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[12] 278 Phil. 605 (1991).
[13] *Rollo*, pp. 94-117.
[14] Id. at 124-134.
[15] G.R. No. 181973, April 17, 2013, 696 SCRA 666.

d. Water Utilities

Local Water Utilities
Local Water Utilities Administration
Metropolitan Waterworks and Sewerage System[16]

As can be gleaned from above, LWDs are among those included in the scope of LOI No. 97. A local water utility is defined as any district, city, municipality, province, investor-owned public utility or cooperative corporation which owns or operates a water system serving an urban center in the Philippines, except that the said term shall not include the Metropolitan Waterworks and Sewerage System *(MWSS)* or any system operated by the Bureau of Public Works.[17] It is, therefore, categorical that MNWD, as a LWD, is included in the coverage of LOI No. 97.

So although it is correct for MNWD to insist that LWDs were subject to the provisions of LOI No. 97, it is erroneous for it to claim that LWDs started to be covered by LOI No. 97 only in 1991 when the Court promulgated *Davao City Water District*. In the said case, it was ruled that LWDs, created pursuant to Presidential Decree *(P.D.)* No. 198, were GOCCs with original charter. It must be remembered that the interpretation of a law by this Court constitutes part of that law from the date it was originally passed, as it merely establishes the contemporaneous legislative intent that the interpreted law carried into effect.[18] Thus, when P.D. No. 198 was enacted in 1973, LWDs were already GOCCs included in the coverage of LOI No. 97.

No need to establish that the benefits in question were received since July 1, 1989 by incumbent employees as of the said date

MNWD correctly argues that the elements of incumbency and prior receipts are inapplicable in determining the propriety of its COLA back payments. In *Ambros v. COA*,[19] as cited in *Aquino*, the Court explained that in order for **non-integrated benefits** to be continued, they must have been received as of July 1, 1989 by incumbents as of the said date. Thus, when the benefit in question is not among the non-integrated benefits enumerated under Section 12 of the SSL or added by a subsequent issuance of the Department of Budget and Management *(DBM),* the twin requirements of

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[16] www.gov.ph/1979/08/31/letter-of-implementation-no.97-s-1979/ [date accessed February 29, 2016].
[17] Section 3(h) of Presidential Decree No. 198 or the *"Provincial Water Utilities Act of 1973."*
[18] *Republic v. Remman Enterprises, Inc.*, G.R. No. 199310, February 19, 2014, 717 SCRA 171.
[19] 501 Phil. 255 (2005).

incumbency and prior receipt find no application. Hence, in resolving the propriety of the COLA back payments, a resort to the abovementioned requirements is unnecessary.

Integration is the rule and not the exception

The Court, nevertheless, finds that the back payment of the COLA to MNWD employees was rightfully disallowed. Pertinent to the issue is Section 12 of the SSL, which provides:

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

The consolidation of allowances in the standardized salary as stated in the above-cited provision is a new rule in Philippine position classification and compensation system. In *Maritime Industry Authority v. COA (MIA)*,[20] the Court explained that, in line with the clear policy of standardization set forth in Section 12 of the SSL, all allowances, including the COLA, were generally deemed integrated in the standardized salary received by government employees, and an action from the DBM was only necessary if additional non-integrated allowances would be identified. Accordingly, MNWD was without basis in claiming COLA back payments because the same had already been integrated into the salaries received by its employees.

Moreover, MNWD's reliance in *PPA Employees* is misplaced. The circumstances in the case at bench clearly differ from those in *PPA Employees* to warrant its application. In *Napocor Employees Consolidated Union v. The National Power Corporation (Napocor)*,[21] as cited in *MIA*, the Court clarified that the *PPA Employees* was inapplicable where there was no issue as to the incumbency of the employees, to wit:

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[20] G.R. No. 185812, January 13, 2015.
[21] 519 Phil. 372 (2006).

> In setting aside COA's ruling, we held in *PPA Employees* that there was no basis to use the elements of incumbency and prior receipt as standards to discriminate against the petitioners therein. For, DBM-CCC No. 10, upon which the incumbency and prior receipt requirements are contextually predicated, was in legal limbo from July 1, 1989 (effective date of the unpublished DBM-CCC No. 10) to March 16, 1999 (date of effectivity of the heretofore unpublished DBM circular). And being in legal limbo, the benefits otherwise covered by the circular, if properly published, were likewise in legal limbo as they cannot be classified either as effectively integrated or not integrated benefits.
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> There lies the difference.
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> Here, the employee welfare allowance was, as above demonstrated, integrated by NPC into the employees' standardized salary rates effective July 1, 1989 pursuant to Rep. Act No. 6758. Unlike in *PPA Employees,* the element of discrimination between incumbents as of July 1, 1989 and those joining the force thereafter is not obtaining in this case. And while after July 1, 1989, PPA employees can rightfully complain about the discontinuance of payment of COLA and amelioration allowance effected due to the incumbency and prior receipt requirements set forth in DBM-CCC No. 10, NPC cannot do likewise with respect to their welfare allowance since NPC has, for all intents and purposes, never really discontinued the payment thereof.
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> To stress, herein petitioners failed to establish that they suffered a diminution in pay as a consequence of the consolidation of the employee welfare allowance into their standardized salary. There is thus nothing in this case which can be the subject of a back pay since the amount corresponding to the employee welfare allowance was never in the first place withheld from the petitioners.[22]

In *PPA Employees*, the crux of the issue was whether it was appropriate to distinguish between employees hired before and after July 1, 1989 in allowing the back payment of the COLA. In the said case, the Court ruled that there was no substantial difference between employees hired before July 1, 1989 and those hired thereafter to warrant the exclusion of the latter from COLA back payment. It is important to highlight that, in *PPA Employees,* the COLA was paid on top of the salaries received by the employees therein before it was discontinued.

The COA noted that the MNWD employees never received the COLA prior to 2002. Thus, following the ruling in *Napocor*, there is nothing in this case which could be the subject of back payment considering that the COLA was never withheld from MNWD employees in the first place. In *PPA Employees*, the Court allowed the back payment of the COLA because the employees hired after July 1, 1989 would suffer a diminution in pay if the back payment would be limited to employees hired before the said date.

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[22] Id. at 388-389.

Here, no diminution would take place as the MNWD employees only received the COLA in 2002.

Refund not necessary when there is a showing of good faith

MNWD, nonetheless, is not required to return the disallowed amount on the basis of good faith. Good faith, in relation to the requirement of refund of disallowed benefits or allowances, is a "state of mind denoting honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry; an honest intention to abstain from taking any unconscientious advantage of another, even through technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transaction unconscientious."[23]

MNWD employees need not refund the amounts corresponding to the COLA they received. They had no participation in the approval thereof and were mere passive recipients without knowledge of any irregularity. Hence, good faith should be appreciated in their favor for receiving benefits to which they thought they were entitled.[24]

Further, good faith may also be appreciated in favor of the MNWD officers who approved the same. They merely acted in accordance with the resolution passed by the Board authorizing the back payment of COLA to the employees. Moreover, at the time the disbursements were made, no ruling similar to *MIA* was yet made declaring that the COLA was deemed automatically integrated into the salary notwithstanding the absence of a DBM issuance. In *Mendoza v. COA*,[25] the Court considered the same circumstances as badges of good faith.

WHEREFORE, the December 10, 2014 Decision and the March 9, 2015 Resolution of the Commission on Audit are **AFFIRMED** with **MODIFICATION,** in that, petitioner Metro Naga Water District is absolved from refunding the total amount of ₱3,499,681.14 as reflected in the Notice of Disallowance.

SO ORDERED.

JOSE CATRAL MENDOZA
Associate Justice

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[23] *PEZA v. COA*, 690 Phil. 104, 115 (2012), as cited in *MIA*, supra note 20.
[24] *Silang et. al. v. COA*, G.R. No. 213189, September 8, 2015.
[25] G.R. No. 195395, September 10, 2013, 705 SCRA 306.

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

(On Leave)
ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice