Republic of the Philippines
Supreme Court
Manila

EN BANC

GIL G. CAWAD, MARIO BENEDICT P. GALON, DOMINGO E. LUSAYA, JEAN V. APOLINARES, MA. LUISA S. OREZCA, JULIO R. GARCIA, NESTOR M. INTIA, RUBEN C. CALIWATAN, ADOLFO Q. ROSALES, MA. LUISA NAVARRO, and the PHILIPPINE PUBLIC HEALTH ASSOCIATION, INC., Petitioners, *- versus –* **FLORENCIO B. ABAD, in his capacity as Secretary of the Department of Budget and Management (DBM); ENRIQUE T. ONA, in his capacity as Secretary of the Department of Health (DOH); and FRANCISCO T. DUQUE III, in his capacity as Chairman of the Civil Service Commission (CSC),** Respondents.	**G.R. No. 207145** **Present:** SERENO,* *C.J.*, CARPIO,** VELASCO, JR., LEONARDO-DE CASTRO,* BRION, PERALTA, BERSAMIN, DEL CASTILLO,* VILLARAMA, JR., PEREZ, MENDOZA, REYES,* PERLAS-BERNABE, LEONEN, and JARDELEZA,*** *JJ.* **Promulgated:** July 28, 2015

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DECISION

PERALTA, *J.*:

Before the Court is a petition for *certiorari* and prohibition under Rule 65 of the Rules of Court filed by the officers and members of the Philippine Public Health Association, Inc. (*PPHAI*) assailing the validity of Joint Circular No. 1[1] dated November 29, 2012 of the Department of Budget and Management (*DBM*) and the Department of Health (*DOH*) as well as Item

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* On official leave.

** Designated Acting Chief Justice per Special Order No. 2101 dated July 13, 2015.

*** No part.

1 Annex "B" to Petition, *rollo*, pp. 67-83.

6.5 of the Joint Circular[2] dated September 3, 2012 of the DBM and the Civil Service Commission (*CSC*).

The antecedent facts are as follows:

On March 26, 1992, Republic Act (RA) No. 7305, otherwise known as *The Magna Carta of Public Health Workers* was signed into law in order to promote the social and economic well-being of health workers, their living and working conditions and terms of employment, to develop their skills and capabilities to be better equipped to deliver health projects and programs, and to encourage those with proper qualifications and excellent abilities to join and remain in government service.[3] Accordingly, public health workers (*PHWs*) were granted the following allowances and benefits, among others:

> Section 20. Additional Compensation. - Notwithstanding Section 12 of Republic Act No. 6758, public health workers shall receive the following allowances: hazard allowance, subsistence allowance, longevity pay, laundry allowance and remote assignment allowance.
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> Section 21. **Hazard Allowance**. - Public health workers in hospitals, sanitaria, rural health units, main health centers, health infirmaries, barangay health stations, clinics and other health-related establishments located in difficult areas, strife-torn or embattled areas, distressed or isolated stations, prisons camps, mental hospitals, radiation-exposed clinics, laboratories or disease-infested areas or in areas declared under state of calamity or emergency for the duration thereof which expose them to great danger, contagion, radiation, volcanic activity/eruption, occupational risks or perils to life as determined by the Secretary of Health or the Head of the unit with the approval of the Secretary of Health, shall be compensated hazard allowances equivalent to at least **twenty-five percent (25%)** of the monthly basic salary of health workers receiving **salary grade 19 and below**, and **five percent (5%)** for health workers with **salary grade 20 and above.**
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> Section 22. **Subsistence Allowance**. - Public health workers who are required to render service within the premises of hospitals, sanitaria, health infirmaries, main health centers, rural health units and barangay health stations, or clinics, and other health-related establishments in order to make their services available at any and all times, shall be entitled to full subsistence allowance of **three (3) meals which may be computed in accordance with prevailing circumstances as determined by the Secretary of Health** in consultation with the Management-Health Worker's Consultative Councils, as established under Section 33 of this Act: *Provided,* That representation and travel allowance shall be given to rural health physicians as enjoyed by municipal agriculturists, municipal planning and development officers and budget officers.

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2 Annex "A" to Petition, *id*. at 58-66.

3 Republic Act No. 7305, Sec. 2.

> Section 23. **Longevity Pay.** - A monthly longevity pay equivalent **to five percent (5%)** of the monthly basic pay shall be paid to a health worker **for every five (5) years of continuous, efficient and meritorious services** rendered as certified by the chief of office concerned, commencing with the service after the approval of this Act.[4]

Pursuant to Section 35[5] of the *Magna Carta*, the Secretary of Health promulgated its Implementing Rules and Regulations (*IRR*) in July 1992. Thereafter, in November 1999, the DOH, in collaboration with various government agencies and health workers' organizations, promulgated a Revised IRR consolidating all additional and clarificatory rules issued by the former Secretaries of Health dating back from the effectivity of the *Magna Carta*. The pertinent provisions of said Revised IRR provide:

> 6.3. **Longevity Pay.** — A monthly longevity pay equivalent to **five percent (5%)** of the present monthly basic pay shall be paid to public health workers **for every five (5) years of continuous, efficient and meritorious services** rendered as certified by the Head of Agency/Local Chief Executives commencing after the approval of the Act. (April 17, 1992)
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> 7.1.1. Eligibility to Receive **Hazard Pay.** — All public health workers covered under RA 7305 are eligible to receive hazard pay **when the nature of their work exposes them to high risk/low risk hazards for at least fifty percent (50%) of their working hours** as determined and approved by the Secretary of Health or his authorized representatives.
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> 7.2.1. Eligibility for **Subsistence Allowance**
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> a. All public health workers covered under RA 7305 are eligible to receive full subsistence allowance **as long as they render actual duty.**
>
> b. Public Health Workers shall be entitled to full Subsistence Allowance of **three (3) meals which may be computed in accordance with prevailing circumstances as determined by the Secretary of Health** in consultation with the Management-Health Workers Consultative Council, as established under Section 33 of the Act.
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> c. Those public health workers who are out of station shall be entitled to per diems in place of Subsistence Allowance. Subsistence Allowance may also be commuted.

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[4] Emphasis ours.

[5] Section 35. *Rules and Regulations*. - The **Secretary of Health** after consultation with appropriate agencies of the Government as well as professional and health workers' organizations or unions, shall formulate and prepare the necessary rules and regulations to implement the provisions of this Act. Rules and regulations issued pursuant to this Section shall take effect thirty (30) days after publication in a newspaper of general circulation.

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7.2.3 Rates of Subsistence Allowance

a. Subsistence allowance shall be implemented **at not less than PhP50.00 per day** or PhP1,500.00 per month as certified by head of agency.

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d. **Part-time public health workers**/consultants are **entitled to one-half (1/2)** of the prescribed rates received by full-time public health workers.[6]

On July 28, 2008, the Fourteenth Congress issued Joint Resolution No. 4, entitled *Joint Resolution Authorizing the President of the Philippines to Modify the Compensation and Position Classification System of Civilian Personnel and the Base Pay Schedule of Military and Uniformed Personnel in the Government, and for other Purposes*, approved by then President Gloria Macapagal-Arroyo on June 17, 2009, which provided for certain amendments in the *Magna Carta* and its IRR.

On September 3, 2012, respondents DBM and CSC issued one of the two assailed issuances, DBM-CSC Joint Circular No. 1, Series of 2012, to prescribe the rules on the grant of Step Increments due to meritorious performance and Step Increment due to length of service.[7] Specifically, it provided that "an official or employee authorized to be granted Longevity Pay under an existing law is not eligible for the grant of Step Increment due to length of service."[8]

Shortly thereafter, on November 29, 2012, respondents DBM and DOH then circulated the other assailed issuance, DBM-DOH Joint Circular No. 1, Series of 2012, the relevant provisions of which state:

7.0. **Hazard Pay**. – Hazard pay is an additional compensation for performing hazardous duties and for enduring physical hardships in the course of performance of duties.

As a general compensation policy, and in line with Section 21 of R. A. No. 7305, Hazard Pay may be granted to PHWs **only if the nature of the duties and responsibilities of their positions, their actual services, and location of work expose them to great danger, occupational risks, perils of life, and physical hardships; and only during periods of actual exposure to hazards and hardships.**

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6 Emphasis ours.

7 Section 2, *supra* note 2.

8 Section 6.5, *id*.

> 8.3 The **Subsistence Allowance** shall be **₱50** for each day of actual full-time service, or **₱25** for each day of actual part-time service.
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> 9.0 **Longevity Pay (LP)**
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> 9.1 Pursuant to Section 23 of R. A. No. 7305, a PHW may be granted LP at 5% of his/her current monthly basic salary, in recognition of every 5 years of continuous, efficient, and meritorious services rendered as PHW. The grant thereof is based on the following criteria:
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> 9.1.1 **The PHW holds a position in the agency plantilla of regular positions**; and
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> 9.1.2 He/She has rendered at least satisfactory performance and has not been found guilty of any administrative or criminal case within all rating periods covered by the 5-year period.

In a letter[9] dated January 23, 2013 addressed to respondents Secretary of Budget and Management and Secretary of Health, petitioners expressed their opposition to the Joint Circular cited above on the ground that the same diminishes the benefits granted by the *Magna Carta* to PHWs.

Unsatisfied, petitioners, on May 30, 2013, filed the instant petition raising the following issues:

> I.
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> WHETHER RESPONDENTS ENRIQUE T. ONA AND FLORENCIO B. ABAD ACTED WITH GRAVE ABUSE OF DISCRETION AND VIOLATED SUBSTANTIVE DUE PROCESS WHEN THEY ISSUED DBM-DOH JOINT CIRCULAR NO. 1, S. 2012 WHICH:
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> A) MADE THE PAYMENT OF HAZARD PAY DEPENDENT ON THE ACTUAL DAYS OF EXPOSURE TO THE RISK INVOLVED;
> B) ALLOWED PAYMENT OF SUBSISTENCE ALLOWANCE AT ₱50 FOR EACH DAY OF ACTUAL FULL-TIME SERVICE OR ₱25 FOR EACH DAY OF ACTUAL PART-TIME SERVICE WITHOUT CONSIDERATION OF THE PREVAILING CIRCUMSTANCES AS DETERMINED BY THE SECRETARY OF HEALTH IN CONSULTATION WITH THE MANAGEMENT HEALTH WORKERS' CONSULTATIVE COUNCILS;
> C) REQUIRED THAT LONGEVITY PAY BE GRANTED ONLY TO PHWs WHO HOLD PLANTILLA AND REGULAR POSITIONS; AND

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9 Annex "C" to Petition, *rollo*, pp. 125-127.

D) MADE THE JOINT CIRCULAR EFFECTIVE ON JANUARY 1, 2013, BARELY THREE (3) DAYS AFTER IT WAS PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION ON DECEMBER 29, 2012, IN VIOLATION OF THE RULES ON PUBLICATION.

II.

WHETHER RESPONDENTS FRANCISCO T. DUQUE AND FLORENCIO B. ABAD ACTED WITH GRAVE ABUSE OF DISCRETION WHEN THEY ISSUED DBM-CSC JOINT CIRCULAR NO. 1, S. 2012 DATED SEPTEMBER 2, 2012 WHICH PROVIDED THAT AN OFFICIAL OR EMPLOYEE ENTITLED TO LONGEVITY PAY UNDER EXISTING LAW SHALL NO LONGER BE GRANTED STEP INCREMENT DUE TO LENGTH OF SERVICE.

III.

WHETHER RESPONDENTS' ISSUANCE OF DBM-DOH JOINT CIRCULAR NO. 1, S. 2012 IS NULL AND VOID FOR BEING AN UNDUE EXERCISE OF LEGISLATIVE POWER BY ADMINISTRATIVE BODIES WHEN RESPONDENT ONA ALLOWED RESPONDENT ABAD TO SIGNIFICANTLY SHARE THE POWER TO FORMULATE AND PREPARE THE NECESSARY RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF THE MAGNA CARTA.

IV.

WHETHER RESPONDENT ONA WAS REMISS IN IMPLEMENTING THE MANDATE OF THE MAGNA CARTA WHEN HE DID NOT INCLUDE THE MAGNA CARTA BENEFITS IN THE DEPARTMENT'S YEARLY BUDGET.

V.

WHETHER RESPONDENTS' ISSUANCE OF DBM-DOH JOINT CIRCULAR NO. 1, S. 2012 IS NULL AND VOID FOR BEING AN UNDUE EXERCISE OF LEGISLATIVE POWER BY ADMINISTRATIVE BODIES WHEN THE SAME WAS ISSUED SANS CONSULTATION WITH PROFESSIONAL AND HEALTH WORKERS' ORGANZATIONS AND UNIONS.

Petitioners contend that respondents acted with grave abuse of discretion when they issued DBM-DOH Joint Circular No. 1, Series of 2012 and DBM-CSC Joint Circular No. 1, Series of 2012 which prescribe certain requirements on the grant of benefits that are not otherwise required by RA No. 7305. Specifically, petitioners assert that the DBM-DOH Joint Circular grants the payment of Hazard Pay only if the nature of the PHWs' duties expose them to danger when RA No. 7305 does not make any qualification. They likewise claim that said circular unduly fixes Subsistence Allowance at ₱50 for each day of full-time service and ₱25 for part-time service which are not in accordance with prevailing circumstances determined by the Secretary of Health as required by RA No. 7305. Moreover, petitioners fault respondents for the premature effectivity of the DBM-DOH Joint Circular

which they believe should have been on January 29, 2012 and not on January 1, 2012. As to the grant of Longevity Pay, petitioners posit that the same was wrongfully granted only to PHWs holding regular plantilla positions. Petitioners likewise criticize the DBM-CSC Joint Circular insofar as it withheld the Step Increment due to length of service from those who are already being granted Longevity Pay. As a result, petitioners claim that the subject circulars are void for being an undue exercise of legislative power by administrative bodies.

In their Comment, respondents, through the Solicitor General, refute petitioners' allegations in stating that the assailed circulars were issued within the scope of their authority, and are therefore valid and binding. They also assert the authority of Joint Resolution No. 4, Series of 2009, approved by the President, in accordance with the prescribed procedure. Moreover, respondents question the remedies of *Certiorari* and Prohibition used by petitioners for the assailed circulars were done in the exercise of their quasi-legislative, and not of their judicial or quasi-judicial functions.

The petition is partly meritorious.

At the outset, the petition for *certiorari* and prohibition filed by petitioners is not the appropriate remedy to assail the validity of respondents' circulars. Sections 1 and 2 of Rule 65 of the Rules of Court provide:

RULE 65
CERTIORARI, PROHIBITION AND MANDAMUS

> Section 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.
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> Sec. 2. *Petition for Prohibition*. - When the proceedings of any tribunal, corporation, board, officer or person, **whether exercising judicial, quasi-judicial or ministerial functions**, are without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other 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 commanding the**

> **respondent to desist from further proceedings in the action or matter specified therein**, or otherwise granting such incidental reliefs as law and justice may require.[10]

Thus, on the one hand, *certiorari* as a special civil action is available only if: (1) it is directed against a tribunal, board, or officer exercising judicial or quasi-judicial functions; (2) the tribunal, board, or officer acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) there is no appeal nor any plain, speedy, and adequate remedy in the ordinary course of law.[11]

On the other hand, prohibition is available only if: (1) it is directed against a tribunal, corporation, board, officer, or person exercising functions, judicial, quasi-judicial, or ministerial; (2) the tribunal, corporation, board or person acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law.[12] Based on the foregoing, this Court has consistently reiterated that petitions for *certiorari* and prohibition may be invoked only against tribunals, corporations, boards, officers, or persons exercising judicial, quasi-judicial or ministerial functions, and not against their exercise of legislative or quasi-legislative functions.[13]

Judicial functions involve the power to determine what the law is and what the legal rights of the parties are, and then undertaking to determine these questions and adjudicate upon the rights of the parties.[14] Quasi-judicial functions apply to the actions and discretion of public administrative officers or bodies required to investigate facts, hold hearings, and draw conclusions from them as a basis for their official action, in their exercise of discretion of a judicial nature.[15] Ministerial functions are those which an officer or tribunal performs in the context of a given set of facts, in a prescribed manner and without regard to the exercise of his own judgment upon the propriety or impropriety of the act done.[16]

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10 Emphasis ours.

11 *Metropolitan Bank and Trust Company, Inc. v. National Wages and Productivity Commission and Regional Tripartite Wages and Productivity Board – Region II,* 543 Phil. 318, 328 (2007).

12 *Id*. at 328-329.

13 *Dela Llana v. The Chairperson, Commission on Audit,* G.R. No. 180989, February 7, 2012, 665 SCRA 176, 184, *Liga ng mga Barangay National v. City Mayor of Manila*, 465 Phil. 529 (2004), *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*, 646 Phil. 452, 470-471 (2010).

14 *Chamber of Real Estate and Builders Associations, Inc. v. Secretary of Agrarian Reform*, 635 Phil. 283, 304, citing *Liga ng mga Barangay National v. City Mayor of Manila*, *supra*, at 543.

15 *Id*.

16 *Metropolitan Bank and Trust Company, Inc. v. National Wages And Productivity Commission And Regional Tripartite Wages And Productivity Board – Region II*, *supra* note 11, at 329, citing *De Guzman, Jr. v. Mendoza*, 493 Phil. 690, 696 (2005); *Sismaet v. Sabas*, 473 Phil. 230, 239 (2004) *Philippine Bank of Communications v. Torio*, 348 Phil. 74, 84 (1998).

Before a tribunal, board, or officer may exercise judicial or quasi-judicial acts, it is necessary that there be a law that gives rise to some specific rights under which adverse claims are made, and the controversy ensuing therefrom is brought before a tribunal, board, or officer clothed with authority to determine the law and adjudicate the respective rights of the contending parties.[17]

In this case, respondents did not act in any judicial, quasi-judicial, or ministerial capacity in their issuance of the assailed joint circulars. In issuing and implementing the subject circulars, respondents were not called upon to adjudicate the rights of contending parties to exercise, in any manner, discretion of a judicial nature. The issuance and enforcement by the Secretaries of the DBM, CSC and DOH of the questioned joint circulars were done in the exercise of their quasi-legislative and administrative functions. It was in the nature of subordinate legislation, promulgated by them in their exercise of delegated power. Quasi-legislative power is exercised by administrative agencies through the promulgation of rules and regulations within the confines of the granting statute and the doctrine of non-delegation of powers from the separation of the branches of the government.[18]

Based on the foregoing, *certiorari* and prohibition do not lie against herein respondents' issuances. It is beyond the province of *certiorari* to declare the aforesaid administrative issuances illegal because petitions for *certiorari* seek solely to correct defects in jurisdiction, and not to correct just any error committed by a court, board, or officer exercising judicial or quasi-judicial functions unless such court, board, or officer thereby acts without or in excess of jurisdiction or with such grave abuse of discretion amounting to lack of jurisdiction.[19]

It is likewise beyond the territory of a writ of prohibition since generally, the purpose of the same is to keep a lower court within the limits of its jurisdiction in order to maintain the administration of justice in orderly channels. It affords relief against usurpation of jurisdiction by an inferior court, or when, in the exercise of jurisdiction, the inferior court transgresses the bounds prescribed by the law, or where there is no adequate remedy available in the ordinary course of law.[20]

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[17] *Chamber of Real Estate and Builders Association, Inc. v. Secretary of Agrarian Reform, supra* note 14, at 304-305.

[18] *Metropolitan Bank and Trust Company, Inc. v. National Wages and Productivity Commission and Regional Tripartite Wages and Productivity Board-Region II, supra* note 11, at 330.

[19] *Yusay v. Court of Appeals*, G.R. No. 156684, April 6, 2011, 647 SCRA 269, 277, citing *Republic v. Yang Chi Hao*, 617 Phil. 422, 425 (2009) and *Chua v. Court of Appeals*, 338 Phil. 262, 269 (1997).

[20] *Holy Spirit Homeowners' Association, Inc. v. Sec. Defensor*, 529 Phil. 573, 587 (2006).

Be that as it may, We proceed to discuss the substantive issues raised in the petition in order to finally resolve the doubt over the Joint Circulars' validity. For proper guidance, the pressing issue of whether or not the joint circulars regulating the salaries and benefits relied upon by public health workers were tainted with grave abuse of discretion rightly deserves its prompt resolution.

With respect to the infirmities of the DBM-DOH Joint Circular raised in the petition, they cannot be said to have been issued with grave abuse of discretion for not only are they reasonable, they were likewise issued well within the scope of authority granted to the respondents. In fact, as may be gathered from prior issuances on the matter, the circular did not make any substantial deviation therefrom, but actually remained consistent with, and germane to, the purposes of the law.

First, the qualification imposed by the DBM-DOH Joint Circular granting the payment of Hazard Pay only if the nature of PHWs' duties expose them to danger and depending on whether the risk involved is high or low was merely derived from Section 7.1.1 of the Revised IRR of RA No. 7305, duly promulgated by the DOH in collaboration with various government health agencies and health workers' organizations in November 1999, to wit:

> SECTION 7.1.1. *Eligibility to Receive Hazard Pay*. — All public health workers covered under RA 7305 are eligible to receive hazard pay **when the nature of their work exposes them to high risk/low risk hazards for at least fifty percent (50%) of their working hours** as determined and approved by the Secretary of Health or his authorized representatives.[21]

Second, fixing the Subsistence Allowance at ₱50 for each day of full-time service and ₱25 for part-time service was also merely a reiteration of the limits prescribed by the Revised IRR, validly issued by the Secretary of Health pursuant to Section 35[22] of RA No. 7305, the pertinent portions of which states:

> Section 7.2.3 Rates of Subsistence Allowance
>
> a. Subsistence allowance shall be implemented **at not less than PhP50.00 per day** or PhP1,500.00 per month as certified by head of agency.
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21 Emphasis ours.

22 *Supra* note 4.

> d. **Part-time public health workers**/consultants are **entitled to one-half (1/2)** of the prescribed rates received by full-time public health workers.

Third, the condition imposed by the DBM-DOH Joint Circular granting longevity pay only to those PHWs holding regular plantilla positions merely implements the qualification imposed by the Revised IRR which provides:

> 6.3. Longevity Pay. — A monthly longevity pay equivalent to five percent (5%) of the present monthly basic pay **shall be paid to public health workers for every five (5) years of continuous, efficient and meritorious services** rendered as certified by the Head of Agency/Local Chief Executives commencing after the approval of the Act. (April 17, 1992)
>
> 6.3.1. Criteria for Efficient and Meritorious Service A Public Worker shall have:
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> a. At least a satisfactory performance rating **within the rating period.**
> b. Not been found guilty of any administrative or criminal case within the rating period.

As can be gleaned from the aforequoted provision, petitioners failed to show any real inconsistency in granting longevity pay to PHWs holding regular plantilla positions. Not only are they based on the same premise, but the intent of longevity pay, which is paid to workers for every five (5) years of continuous, efficient and meritorious services, necessarily coincides with that of regularization. Thus, the assailed circular cannot be invalidated for its issuance is consistent with, and germane to, the purposes of the law.

Anent petitioners' contention that the DBM-DOH Joint Circular is null and void for its failure to comply with Section 35[23] of RA No. 7305 providing that its implementing rules shall take effect thirty (30) days after publication in a newspaper of general circulation, as well as its failure to file a copy of the same with the University of the Philippines Law Center-Office of the National Administrative Register (UP Law Center-ONAR), jurisprudence as well as the circumstances of this case dictate otherwise.

Indeed, publication, as a basic postulate of procedural due process, is required by law in order for administrative rules and regulations to be

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[23] Section 35. *Rules and Regulations*. - The Secretary of Health after consultation with appropriate agencies of the Government as well as professional and health workers' organizations or unions, shall formulate and prepare the necessary rules and regulations to implement the provisions of this Act. **Rules and regulations issued pursuant to this Section shall take effect thirty (30) days after publication in a newspaper of general circulation.** (Emphasis ours)

effective.[24] There are, however, several exceptions, one of which are interpretative regulations which "need nothing further than their bare issuance for they give no real consequence more than what the law itself has already prescribed."[25] These regulations need not be published for they add nothing to the law and do not affect substantial rights of any person.[26]

Thus, in *Association of Southern Tagalog Electric Cooperatives, et. al. v. Energy Regulatory Commission (ERC)*,[27] wherein several orders issued by the ERC were sought to be invalidated for lack of publication and non-submission of copies thereof to the UP Law Center - ONAR, it has been held that since they merely interpret RA No. 7832 and its IRR, particularly on the computation of the cost of purchased power, without modifying, amending or supplanting the same, they cannot be rendered ineffective, to wit:

> When the policy guidelines of the ERC directed the exclusion of discounts extended by power suppliers in the computation of the cost of purchased power, **the guidelines merely affirmed the plain and unambiguous meaning of "cost" in Section 5, Rule IX of the IRR of R.A. No. 7832.** "Cost" is an item of outlay, and must therefore exclude discounts since these are "not amounts paid or charged for the sale of electricity, but are reductions in rates.
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> **Thus, the policy guidelines of the ERC on the treatment of discounts extended by power suppliers "give no real consequence more than what the law itself has already prescribed." Publication is not necessary for the effectivity of the policy guidelines.**
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> **As interpretative regulations, the policy guidelines of the ERC on the treatment of discounts extended by power suppliers are also not required to be filed with the U.P. Law Center in order to be effective.** Section 4, Chapter 2, Book VII of the Administrative Code of 1987 requires every rule adopted by an agency to be filed with the U.P. Law Center to be effective. However, in *Board of Trustees of the Government Service Insurance System v. Velasco*, this Court pronounced that **"not all rules and regulations adopted by every government agency are to be filed with the UP Law Center." Interpretative regulations and those merely internal in nature are not required to be filed with the U.P. Law Center.** Paragraph 9 (a) of the Guidelines for Receiving and Publication of Rules and Regulations Filed with the U.P. Law Center states:

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[24] *National Association of Electricity Consumers for Reforms (NASECORE) v. Energy Regulatory Commission*, 517 Phil. 23, 61-62 (2006).

[25] *Association of Southern Tagalog Electric Cooperatives, Inc. (ASTEC), et al. v. Energy Regulatory Commission*, G.R. Nos. 192117 and 192118, September 18, 2012, 681 SCRA 119, 151, citing *Commissioner of Internal Revenue v. Court of Appeals*, 329 Phil. 987, 1007 (1996).

[26] *Id*., citing *The Veterans Federation of the Philippines v. Reyes*, 518 Phil. 668, 704 (2006).

[27] *Id*.

> 9. Rules and Regulations which need not be filed with the U.P. Law Center, shall, among others, include but not be limited to, the following:
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> > a. Those which are interpretative regulations and those merely internal in nature, that is, regulating only the personnel of the Administrative agency and not the public.
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> **Furthermore, the policy guidelines of the ERC did not create a new obligation and impose a new duty, nor did it attach a new disability. As previously discussed, the policy guidelines merely interpret R.A. No. 7832 and its IRR, particularly on the computation of the cost of purchased power. The policy guidelines did not modify, amend or supplant the IRR.**

Similarly, in *Republic v. Drugmaker's Laboratories, Inc.*,[28] the validity of circulars issued by the Food and Drug Administration (*FDA*) was upheld in spite of the non-compliance with the publication, prior hearing, and consultation requirements for they merely implemented the provisions of Administrative Order No. 67, entitled "Revised Rules and Regulations on Registration of Pharmaceutical Products" issued by the DOH, in the following wise:

> **A careful scrutiny of the foregoing issuances would reveal that AO 67, s. 1989 is actually the rule that originally introduced the BA/BE testing requirement as a component of applications for the issuance of CPRs covering certain pharmaceutical products.** As such, it is considered an administrative regulation – a legislative rule to be exact – issued by the Secretary of Health in consonance with the express authority granted to him by RA 3720 to implement the statutory mandate that all drugs and devices should first be registered with the FDA prior to their manufacture and sale. Considering that neither party contested the validity of its issuance, the Court deems that AO 67, s. 1989 complied with the requirements of prior hearing, notice, and publication pursuant to the presumption of regularity accorded to the government in the exercise of its official duties.42
>
> **On the other hand, Circular Nos. 1 and 8, s. 1997 cannot be considered as administrative regulations because they do not: (a) implement a primary legislation by providing the details thereof; (b) interpret, clarify, or explain existing statutory regulations under which the FDA operates; and/or (c) ascertain the existence of certain facts or things upon which the enforcement of RA 3720 depends. In fact, the only purpose of these circulars is for the FDA to administer and supervise the implementation of the provisions of AO 67, s. 1989, including those covering the BA/BE testing requirement, consistent with and pursuant to RA 3720.43 Therefore, the FDA has sufficient authority to issue the said circulars and since they would not affect the substantive rights of the parties that they seek to govern – as they are not, strictly speaking, administrative regulations in the first place – no prior hearing, consultation, and publication are needed for their validity.**

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[28] G.R. No. 190837, March 5, 2014.

In this case, the DBM-DOH Joint Circular in question gives no real consequence more than what the law itself had already prescribed. As previously discussed, the qualification of actual exposure to danger for the PHW's entitlement to hazard pay, the rates of ₱50 and ₱25 subsistence allowance, and the entitlement to longevity pay on the basis of PHW's status in the plantilla of regular positions were already prescribed and authorized by pre-existing law. There is really no new obligation or duty imposed by the subject circular for it merely reiterated those embodied in RA No. 7305 and its Revised IRR. The Joint Circular did not modify, amend nor supplant the Revised IRR, the validity of which is undisputed. Consequently, whether it was duly published and filed with the UP Law Center – ONAR is necessarily immaterial to its validity because in view of the pronouncements above, interpretative regulations, such as the DBM-DOH circular herein, need not be published nor filed with the UP Law Center – ONAR in order to be effective. Neither is prior hearing or consultation mandatory.

Nevertheless, it bears stressing that in spite of the immateriality of the publication requirement in this case, and even assuming the necessity of the same, its basic objective in informing the public of the contents of the law was sufficiently accomplished when the DBM-DOH Joint Circular was published in the *Philippine Star*, a newspaper of general circulation, on December 29, 2012.[29]

As to petitioners' allegation of grave abuse of discretion on the part of respondent DOH Secretary in failing to include the *Magna Carta* benefits in his department's yearly budget, the same is belied by the fact that petitioners themselves specifically provided in their petition an account of the amounts allocated for the same in the years 2012 and 2013.[30]

Based on the foregoing, it must be recalled that administrative regulations, such as the DBM-DOH Joint Circular herein, enacted by administrative agencies to implement and interpret the law they are entrusted to enforce are entitled to great respect.[31] They partake of the nature of a statute and are just as binding as if they have been written in the statute itself. As such, administrative regulations have the force and effect of law and enjoy the presumption of legality. Unless and until they are overcome by sufficient evidence showing that they exceeded the bounds of the law,[32] their validity and legality must be upheld.

Thus, notwithstanding the contention that the Joint Resolution No. 4 promulgated by Congress cannot be a proper source of delegated power, the

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29 *Rollo*, p. 179.

30 *Id*. at 47.

31 *Dacudao v. Secretary of Justice*, G.R. No. 188056, January 8, 2013, 688 SCRA 109, 123, citing *ABAKADA Guro Party List v. Purisima*, 584 Phil. 246, 283 (2008).

32 *Id*.

subject Circular was nevertheless issued well within the scope of authority granted to the respondents. The issue in this case is not whether the Joint Resolution No. 4 can become law and, consequently, authorize the issuance of the regulation in question, but whether the circular can be struck down as invalid for being tainted with grave abuse of discretion. Regardless, therefore, of the validity or invalidity of Joint Resolution No. 4, the DBM-DOH Joint Circular assailed herein cannot be said to have been arbitrarily or capriciously issued for being consistent with prior issuances duly promulgated pursuant to valid and binding law.

Distinction must be made, however, with respect to the DBM-CSC Joint Circular, the contested provision of which states:

> 6.5 **An official or employee authorized to be granted Longevity Pay under an existing law is not eligible for the grant of Step Increment Due to Length of Service.**

A review of RA No. 7305 and its Revised IRR reveals that the law does not similarly impose such condition on the grant of longevity pay to PHWs in the government service. As such, the DBM-CSC Joint Circular effectively created a new imposition which was not otherwise stipulated in the law it sought to interpret. Consequently, the same exception granted to the DBM-DOH Joint Circular cannot be applied to the DBM-CSC Joint Circular insofar as the requirements on publication and submission with the UP Law Center – ONAR are concerned. Thus, while it was well within the authority of the respondents to issue rules regulating the grant of step increments as provided by RA No. 6758, otherwise known as the *Compensation and Position Classification Act of 1989*, which pertinently states:

> Section 13. Pay Adjustments. - Paragraphs (b) and (c), Section 15 of Presidential Decree No. 985 are hereby amended to read as follows:
>
> x x x x
>
> (c) **Step Increments** - Effective January 1, 1990 step increments shall be granted based on merit and/or length of service **in accordance with rules and regulations that will be promulgated jointly by the DBM and the Civil Service Commission,**

and while it was duly published in the *Philippine Star*, a newspaper of general circulation, on September 15, 2012,[33] the DBM-CSC Joint Circular remains unenforceable for the failure of respondents to file the same with the UP Law Center – ONAR.[34] Moreover, insofar as the DBM-DOH Joint

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[33] *Rollo*, p. 179.

[34] *Araos, et. al. v. Hon. Regala*, 627 Phil. 13, 22 (2010), citing *GMA Network, Inc. v. Movie Television Review and Classification Board*, 543 Phil. 178, 183 (2007).

Circular similarly withholds the Step Increment due to length of service from those who are already being granted Longevity Pay, the same must likewise be declared unenforceable.[35]

Note also that the DBM-DOH Joint Circular must further be invalidated insofar as it lowers the hazard pay at rates below the minimum prescribed by Section 21 of RA No. 7305 and Section 7.1.5 (a) of its Revised IRR as follows:

> SEC. 21. Hazard Allowance. - Public health worker in hospitals, sanitaria, rural health units, main centers, health infirmaries, barangay health stations, clinics and other health-related establishments located in difficult areas, strife-torn or embattled areas, distresses or isolated stations, prisons camps, mental hospitals, radiation-exposed clinics, laboratories or disease-infested areas or in areas declared under state of calamity or emergency for the duration thereof which expose them to great danger, contagion, radiation, volcanic activity/eruption occupational risks or perils to life as determined by the Secretary of Health or the Head of the unit with the approval of the Secretary of Health, shall be compensated hazard allowance equivalent to **at least** twenty-five percent **(25%)** of the monthly basic salary of health workers receiving salary grade 19 and below, and five percent **(5%)** for health workers with salary grade 20 and above.
>
> x x x x
>
> 7.1.5. Rates of Hazard Pay
>
> a. Public health workers shall be compensated hazard allowances equivalent to **at least** twenty five **(25%)** of the monthly basic salary of health workers, receiving salary grade 19 and below, and five percent **(5%)** for health workers with salary grade 20 and above. This may be granted on a monthly, quarterly or annual basis.

It is evident from the foregoing provisions that the rates of hazard pay must be *at least* 25% of the basic monthly salary of PWHs receiving salary grade 19 and below, and 5% receiving salary grade 20 and above. As such, RA No. 7305 and its implementing rules noticeably prescribe the minimum rates of hazard pay due all PHWs in the government, as is clear in the self-explanatory phrase "at least" used in both the law and the rules.[36] Thus, the following rates embodied in Section 7.2 of DBM-DOH Joint Circular must be struck down as invalid for being contrary to the mandate of RA No. 7305 and its Revised IRR:

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[35] Section 9.5 of DBM-DOH Joint Circular provides:

9.5 On or after the effectivity of this JC, a PHW 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 in item (4)(d) of said JR No. 4. Likewise, a PHW hired on or after the effectivity of this JC shall not be granted Step Increment Due to Length of Service.

[36] *Re: Entitlement to Hazard Pay of SC Medical and Dental Clinic Personnel*, 592 Phil. 389, 397 (2008).

7.2.1 For PHWs whose positions are at SG-19 and below, Hazard Pay shall be based on the degree of exposure to high risk or low risk hazards, as specified in sub-items 7.1.1 and 7.1.2 above, and the number of workdays of actual exposure over 22 workdays in a month, at rates not to exceed 25% of monthly basic salary. In case of exposure to both high risk and low risk hazards, the Hazard Pay for the month shall be based on only one risk level, whichever is more advantageous to the PHW.

7.2.2 PHWs whose positions are at SG-20 and above may be entitled to Hazard Pay at 5% of their monthly basic salaries for all days of exposure to high risk and/or low risk hazards. However, those exposed to high risk hazards for 12 or more days in a month may be entitled to a fixed amount of P4,989.75 per month.

Rates of Hazard Pay

Actual Exposure/ Level of Risk	High Risk	Low Risk
12 or more days	25% of monthly basic salary	**14% of monthly basic salary**
6 to 11 days	**14% of monthly basic salary**	**8% of monthly basic salary**
Less than 6 days	**8% of monthly basic salary**	**5% of monthly basic salary**

WHEREFORE, premises considered, the instant petition is **PARTLY GRANTED**. The DBM-DOH Joint Circular, insofar as it lowers the hazard pay at rates below the minimum prescribed by Section 21 of RA No. 7305 and Section 7.1.5 (a) of its Revised IRR, is declared **INVALID**. The DBM-CSC Joint Circular, insofar as it provides that an official or employee authorized to be granted Longevity Pay under an existing law is not eligible for the grant of Step Increment Due to Length of Service, is declared **UNENFORCEABLE**. The validity, however, of the DBM-DOH Joint Circular as to the qualification of actual exposure to danger for the PHW's entitlement to hazard pay, the rates of ₱50 and ₱25 subsistence allowance, and the entitlement to longevity pay on the basis of the PHW's status in the plantilla of regular positions, is **UPHELD**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

On official leave
MARIA LOURDES P. A. SERENO
Chief Justice

ANTONIO T. CARPIO
Acting Chief Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

See: Separate Opinion

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

On official leave
MARIANO C. DEL CASTILLO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

On official leave
BIENVENIDO L. REYES
Associate Justice

See separate concurring and dissenting opinion

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

No part Prior OSG action
FRANCIS H. JARDELEZA
Associate Justice

CERTIFICATION

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

ANTONIO T. CARPIO
Acting Chief Justice