Republic of the Philippines
Supreme Court
Manila

EN BANC

PHILIPPINE HEALTH INSURANCE CORPORATION, Petitioner,	**G.R. No. 250089**
	Present:
- *versus* -	GESMUNDO, *C.J.*, PERLAS-BERNABE, LEONEN, CAGUIOA, HERNANDO, CARANDANG, LAZARO-JAVIER, INTING, ZALAMEDA, LOPEZ, M., GAERLAN, ROSARIO, LOPEZ, J., and DIMAAMPAO, *JJ.*
COMMISSION ON AUDIT and Chairperson Michael G. Aguinaldo, Respondents.	**Promulgated:** November 9, 2021

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D E C I S I O N

LOPEZ, J., *J.*:

Before this Court is a Petition for *Certiorari*[1] filed under Rule 64, in relation to Rule 65, of the Rules of Court, assailing: (1) Commission on Audit (*COA*) Decision No. 2015-421[2] dated December 28, 2015, which affirmed the Notice of Disallowance (*ND*) No. 2013-01(12)[3] dated May 13, 2013, disallowing certain allowances and benefits for 2012 granted to the officials

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1 *Rollo*, pp. 3-35.
2 *Id.* at 45-49.
3 *Id.* at 78-80.

and employees of the Philippine Health Insurance Corporation (*petitioner*); and (2) COA *en banc* Resolution[4] dated September 19, 2019, which denied petitioner's Motion for Reconsideration[5] on Decision No. 2015-421 for lack of merit.

The Facts

Petitioner is a government-owned and -controlled corporation (*GOCC*), created pursuant to Republic Act (*R.A.*) No. 7875, as amended, otherwise known as *The National Health Insurance Act of 1995*. Its functions include the administration of the country's national health insurance program as well as the formulation and promulgation of policies for the sound administration of the said program.[6] Respondent COA is a constitutionally-created body vested with the power, authority, and duty to examine, audit, and settle all accounts concerning the revenues, receipts, and expenditures, or uses of government funds and properties.[7]

On May 13, 2013, the Audit Team Leader and Supervising Auditor of respondent COA's Team 2, Cluster 6, Corporate Governance Sector (*CGS*) issued ND No. 2013-01(12),[8] disallowing the payments of different benefits and allowances granted to certain officers and employees of petitioner's Regional Office (*RO*) No. VIII for the year 2012 amounting to **Fifty-Six Million Five Hundred Seventy-Seven Thousand Two Hundred Eighty-Six Pesos and Eighty- Eight Centavos** (₱56,577,286.88), to wit:

Benefits/Allowances	Amount
1. Shuttle Service Allowance	₱5,591,660.84
2. Medical Mission and Critical Allowance	₱264,635.52
3. Birthday Gift	₱1,568,176.22
4. Welfare Support Allowance	₱7,245,698.73
5. Educational Assistance	₱10,716,329.17
6. Subsistence Allowance	₱1,958,863.65
7. Laundry Allowance	₱195,886.35
8. Christmas Package	₱9,544,117.21
9. Productivity Incentive Allowance	₱10,971,130.24
10. Corporate Transition and Achievement	₱3,796,956.30
11. Gratuity Gift (for contractor)	₱706,500.00
12. Special Events Gift (for contractor)	₱99,632.35
13. Product Completion Incentive (for contractor)	₱51,744.00
14. Efficiency Gift (for contractor)	₱72,000.00
15. Grocery Allowance	₱3,795,956.30[9]

4 *Id.* at 50-60.
5 *Id.* at 64-69.
6 R.A. No. 7875, Sec. 16.
7 1987 Constitution, Art. IX-D, Sec. 2.
8 *Rollo*, pp. 78-80.
9 *Id.* at 78.

Aggrieved, petitioner lodged an appeal before the Commission on Audit-Corporate Government Cluster (*COA-CGS*), arguing that the payment of allowances and benefits was lawful, being covered by the fiscal autonomy granted to petitioner, pursuant to Section 16(n)[10] of R.A. No. 7875, as amended, which prevails over administrative or executive acts, orders, or regulations inconsistent thereto. To bolster its argument of fiscal independence, petitioner added that it was in fact confirmed twice by then President Gloria Macapagal-Arroyo (*GMA*) in 2006 and 2008 in official executive communications. Moreover, as the allowances and benefits were given in good faith, following proper guidelines and with the approval of petitioner's Board of Directors, petitioner's employees cannot be held liable for refund.

The COA-CGS Ruling

In its January 28, 2015 Decision,[11] the COA-CGS found the appeal to be without merit, thus, affirming the disallowance. In the main, the COA-CGS held that while it is the intention of R.A. No. 7875 to confer power to petitioner and its governing board to determine the compensation structure of its personnel and employees, it must not be interpreted to mean absolute power. In other words, petitioner's discretion on the matter of personnel compensation must be exercised in accordance with the standards laid down by law. Thus, its compensation scheme and grant of allowances and benefits should still be subject to the prior approval of the President as part of the executive branch, pursuant to Presidential Decree (*P.D.*) No. 1597.[12] Consequently, *sans* the approval of the president and the recommendation of the Department of Budget and Management (*DBM*), the benefits and allowances must be considered irregular. The COA-CGS likewise affirmed the liability of the officials and employees for lack of good faith, as such benefits were already disallowed in audit for lack of legal basis as early as 2009.

Undeterred, petitioner filed a Petition for Review[13] with the COA-Commission Proper (*COA-CP*) on March 17, 2015.

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

> x x x x
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> n) to organize its office, **fix the compensation of and appoint personnel** as may be deemed necessary and upon the recommendation of the president of the Corporation;
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> x x x (Emphasis ours)

11 *Rollo*, pp. 87-96.

12 Entitled "*Further Rationalizing the System of Compensation and Position Classification in the National Government.*"

13 *Rollo*, pp. 98-153.

The COA-CP Ruling

On December 28, 2015, the COA-CP dismissed the petition for being filed out of time, thus declaring the COA-CGS Decision dated January 28, 2015 as final and executory.[14] In dismissing the petition, the COA-CP explained that the reglementary period to file a petition for review is six months from receipt of the ND pursuant to Section 3,[15] Rule VII of the 2009 Revised Rules of Procedure of the Commission on Audit. Here, the ND was received on June 25, 2013, giving the petitioner six months or 180 days from the said date to file the petition. It preliminarily lodged an appeal with the COA-CGS on December 18, 2013. Given the lapse of 175 days, petitioner was left with five days to file a petition with the COA-CP. The reglementary period was suspended during the pendency of the appeal and commenced to run upon the receipt of petitioner of the COA-CGS Decision dated January 28, 2015 on February 26, 2015. With five days remaining, petitioner should have filed the instant petition with the COA-CP on March 3, 2015. Unfortunately, the instant petition was belatedly filed on March 17, 2015, notwithstanding petitioner's motion for extension filed on March 2, 2015, which was not effectively granted by the COA. Given that the petition was filed out of time, COA-CP asserted that the Decision of the COA-CGS had lapsed into finality, thus becoming immutable and unalterable.

Petitioner filed a Motion for Reconsideration,[16] praying that the COA-CGS Decision affirming the ND be reversed and decided on the merits, considering that respondent, in a letter[17] dated March 5, 2015, while past the reglementary period, granted its motion for extension.

In a Resolution[18] dated September 19, 2019, the motion was denied for lack of merit. Respondent continued that it recognized and granted the motion for extension of petitioner in light of its letter dated March 5, 2015. Nevertheless, the petition was still denied on the merits, declaring that petitioner was still subject to limitations provided in the aforementioned laws and regulations.

Hence, this instant petition for *certiorari.*

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14 *Id.* at 45-49.

15 Section 3. *Period of Appeal.* — The appeal should be taken within the time remaining of the six (6) months period under Section 4, Rule V, taking into account the suspension of the running thereof under Section 5 of the same Rule in case of appeals from the Director's decision, or under Sections 9 and 10 of Rule VI in case of decision of the ASB [Adjudication and Settlement Board].

16 *Rollo,* pp. 64-69.

17 *Id.* at 76.

18 *Id.* at 50-60.

The Issues

The petition puts forth the following grounds:

A. SECTION 16(n) OF R.A. 7875, AS AMENDED, EXPLICITLY BESTOWED PHIC WITH "FISCAL AUTONOMY OR INDEPENDENCE" TO FIX THE COMPENSATION OF ITS PERSONNEL, AS CONFIRMED BY OGCC OPINIONS, FORMER PRESIDENT GLORIA ARROYO LETTERS, AND LEGISLATIVE DELIBERATIONS.

B. PHIC'S FISCAL AUTONOMY UNDER ARTICLE IV, SECTION 16[n] OF R.A. 7875, AS AMENDED, HAD BEEN CONFIRMED TWICE BY FORMER PRESIDENT GLORIA M. ARROYO, IN 2006 AND IN 2008.

C. THE SUPREME COURT ALREADY RULED IN *PHILHEALTH CARAGA VS. COMMISSION ON AUDIT* THAT BOTH THE APPROVING OFFICERS AND PASSIVE RECIPIENTS ARE IN GOOD FAITH IN ALLOWING THE BENEFITS APPROVED BY THE PHIC BOARD, HENCE, BOTH NEED NOT REFUND THE DISALLOWED BENEFITS.

D. PHIC IS CLASSIFIED AS GOVERNMENT FINANCIAL INSTITUTION (GFI) AND MUST BE ACCORDED THE FISCAL AUTONOMY ENJOYED BY OTHER GFIS AS RECOGNIZED BY THIS HONORABLE COURT IN *CENTRAL BANK EMPLOYEES ASSOCIATION, INC. VS. BANGKO SENTRAL NG PILIPINAS.*

E. BENEFITS COVERED BY A COLLECTIVE NEGOTIATION AGREEMENT (CNA), SUCH AS THE SHUTTLE SERVICE ALLOWANCE AND BIRTHDAY GIFT SHOULD BE RECOGNIZED.

F. THE PHIC BOARD AND APPROVING OFFICERS ALLOWED THE PAYMENT OF THE SUBJECT BENEFITS IN GOOD FAITH AND, THEREFORE, EVEN IF THE DISALLOWANCE IS SUSTAINED, THEY CANNOT BE REQUIRED TO REFUND THE SAME.

G. THE SUPREME COURT IN ITS 10 SEPTEMBER 2019 RESOLUTION IN *PHILHEALTH VS. COA*, DECLARED PHILHEALTH PERSONNEL AS PUBLIC HEALTH WORKERS (PHW), THUS, ENTITLED TO ALL THE BENEFITS UNDER R.A. 7305, SUCH AS THE SUBJECT SUSBSISTENCE AND LAUNDRY ALLOWANCES.

H. THE GRANT OF WELFARE SUPPORT ALLOWANCE WAS ALREADY DECLARED VALID BY THIS HONORABLE COURT.[19]

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19 *Id.* at 7-9. (Citations omitted; italics and underscoring in the original)

In support of its grant of the subject allowances and benefits, petitioner persistently invokes its fiscal autonomy enunciated under Section 16(n) of R.A. No. 7875, as amended, as confirmed by opinions from the Office of the Government Corporate Counsel (*OGCC*) and official executive communications from then President GMA. In effect, Section 16(n) serves as an exception to R.A. No. 6758, otherwise known as the *Salary Standardization Law*. Moreover, having been classified as a Government Financial Institution (*GFI*), it must be accorded the fiscal autonomy enjoyed by other GFIs pursuant to this Court's ruling in *Central Bank Employees Association, Inc. v. Bangko Sentral ng Pilipinas.*[20] It argued that the benefits covered by the Collective Negotiation Agreement (*CNA*), such as the shuttle service and birthday gift allowances, must be duly recognized, having been granted in good faith. With regard to the subsistence and laundry allowances, petitioner insists that the same were rightfully granted, as petitioner's personnel were considered as public health workers (*PHWs*) under R.A. No. 7305,[21] which explicitly allows the grant of subsistence and laundry allowances to PHWs. Lastly, the grant of Welfare Support Allowance (*WESA*), having been declared valid under *PhilHealth v. Commission on Audit*,[22] should not have been set aside.

In its Comment[23] dated June 3, 2020, the respondent, through the Office of the Solicitor General (*OSG*), countered that it did not act with grave abuse of discretion amounting to lack or excess of jurisdiction in rendering the assailed Decision and Resolution. In asserting that its ruling was proper, it argues that nowhere in Section 16(n) of R.A. No. 7875, to which petitioner anchors its claim for fiscal autonomy, does it grant unrestricted discretion to issue any and all kinds of benefits and allowances. Respondents further argue that petitioner may not find succor in the opinions of the OGCC and the executive communications of the President, as they do not have the force and effect of law. In fine, petitioner is not exempt from observing relevant laws, guidelines, and policies on position classification and compensation system, which requires requisite presidential approval.

In its Reply[24] dated April 7, 2021, petitioner essentially reiterates its arguments, contending that the grant of various benefits to its personnel was made in accordance with applicable law and guidelines, as it was authorized to fix the compensation of its personnel. Anent liability, it insists that the Board and the approving and certifying officers have acted in good faith and should not be held liable individually or solidarily for refunding the disallowed amounts.

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20 487 Phil. 531 (2004).
21 Entitled "*Magna Carta of Public Health Workers.*"
22 801 Phil. 427, 472 (2016).
23 *Rollo*, pp. 175-195.
24 *Id.* at 213-229.

The Court's Ruling

The petition for *certiorari* lacks merit.

At the onset, this Court is well aware of its previous ruling that the COA's general audit power is "among the constitutional mechanisms that give life to the check and balance system inherent in our form of government."[25] It is fundamental that the COA is vested with a wide latitude in discharging its role as the guardian of public funds and properties.[26] This authority to rule on the legality of the disbursement of government funds finds force in Section 2, Article IX-D of the 1987 Constitution, *viz.:*

> D. THE COMMISSION ON AUDIT
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> x x x x
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> Section 2. (1) The Commission on Audit shall have the **power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations with original charters, and on a post-audit basis:** (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this Constitution; (b) autonomous state colleges and universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity, directly or indirectly, from or through the Government, which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity. x x x[27]

The necessarily broad powers granted to the COA indubitably temper this Court's power of review. Such limitation merely complements the COA's nature as an independent constitutional body tasked to safeguard the proper use of the government and, ultimately, the people's property, by vesting it with power to determine whether the government entities comply with the law and the rules in disbursing public funds and to disallow legal disbursements of these funds.[28]

Of equal import, it is the general policy of this Court to sustain the factual findings of administrative bodies charged with their specific field of expertise, such as the COA. In the absence of a substantial showing that such findings were made from an erroneous estimation of the evidence presented, they are conclusive, and in the interest of the governmental structure, should

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25 *Yap v. Commission on Audit*, 633 Phil. 174, 190 (2010), citing *Olaguer v. Domingo*, 411 Phil. 576, 593 (2001).

26 *Miralles v. Commission on Audit*, 818 Phil. 380, 389 (2017).

27 Emphasis ours.

28 *Abpi v. Commission on Audit*, G.R. No. 252367, July 14, 2020.

not be disturbed.[29] In *PhilHealth v. Commission on Audit*,[30] it has been established that it is only when the COA has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, that this Court entertains a petition questioning its rulings. There is grave abuse of discretion when there is an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act in contemplation of law as when the judgment rendered is not based on law and evidence but on caprice, whim and despotism.[31]

Viewed in the foregoing light, the Court finds that respondents did not commit any grave abuse of discretion in affirming the assailed ND.

Petitioner's fiscal autonomy pursuant to Section 16(n), R.A. No. 7875 is subject to restrictions.

In support of its fiscal autonomy, which allows it to enjoy a certain latitude in granting allowances and incentives to its officials and employees, petitioner invokes Section 16(n), Article IV of R.A. No. 7875, which provides:

> Section 16. *Powers and Functions.* – The Corporation shall have the following powers and functions:
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> x x x x
>
> n) to organize its office, **fix the compensation of and appoint personnel** as may be deemed necessary and upon the recommendation of the president of the Corporation; x x x.[32]

Regardless of such legislative grant, this Court cannot subscribe to petitioner's myopic view that this statute should not be taken in consonance with other laws, nor should it be understood as an exception to R.A. No. 6758. It must be stressed that nowhere on the face of R.A. No. 7875 does it mention that petitioner's power to fix compensation and benefit schemes should be read in isolation to existing laws which have laid down the prevailing standards pertaining to compensation and position classification of government employees. This Court, in *PhilHealth v. Commission on Audit*,[33] was categorical in ruling that Section 16(n) of R.A. No. 7875, while granting petitioner the liberty to fix compensation of its personnel, does not necessarily mean that it has unbridled discretion to issue any and all kinds of allowances, circumscribed only by the provisions of this charter.

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29 *Lumayna v. Commission on Audit*, 616 Phil. 929, 940 (2009).
30 837 Phil. 90, 107 (2018).
31 *Apex Bancrights Holdings, Inc. v. Bangko Sentral ng Pilipinas*, 819 Phil. 127, 134 (2017).
32 Emphasis ours.
33 *PhilHealth v. Commission on Audit*, 801 Phil. 427, 452 (2016).

Converse to petitioner's assertion that it is a GFI, its creation under R.A. No. 7875 as a GOCC[34] carries with it certain proscriptions with regard to its authority to fix benefits and allowances. Primarily, the ruling in *Philippine Charity Sweepstakes Office (PCSO) v. Chairperson Pulido-Tan*[35] (*Pulido-Tan*) has established that GOCCs are expressly covered by P.D. No. 985, or *The Budgetary Reform Decree on Compensation and Position Classification of 1976* (*P.D. No. 985*) and its 1978 amendment, P.D. No. 1597, entitled *Further Rationalizing the System of Compensation and Position Classification in the National Government* (*P.D. No. 1597*). GOCCs are likewise admonished to comply with the rules of then Office of Compensation and Position Classification (*OCPC*) under the DBM.

P.D. No. 1597, which amended P.D. No. 985, was enacted on June 11, 1978, in order to standardize the compensation of officials and employees of the national government, and to address the proliferation of special salary laws which proved inimical to sound public administration. Employees covered by the law is mentioned under Section 2, adopting Section 4 of P.D. No. 985, to wit:

> **Section 4.** ***Coverage.*** The position classification and compensation systems herein provided **shall apply to all positions**, whether permanent, temporary or emergency in nature, on full or part-time basis, now existing or hereafter created in the national government, **including government-owned or controlled corporations and financial institutions.**
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> The term "national government" shall include all departments, bureaus, offices, boards, commissions, courts, tribunals, councils, authorities, administration, centers, institutes and state colleges and universities. **The term "government-owned or controlled corporations and financial institutions" shall include all corporations and financial institutions owned or controlled by the national government, whether such corporations and financial institutions perform governmental or proprietary functions.**
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> The Position Classification Compensation System shall **not apply to positions** occupied by the following:
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> a. Elected officers and officers whose compensation is fixed by the Constitution;
> b. Heads of Executive Departments and officials of equivalent rank;
> c. Chiefs of Diplomatic Missions, Ministers and Foreign Service Officers;
> d. Justices and Judges of the Judicial Department;
> e. Members of the Armed Forces;

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34 R.A. No. 7875, Art. IV, Sec. 14 reads:
Section 14. *Creation and Nature of the Corporation.* — There is hereby created a Philippine Health Insurance Corporation, **which shall have the status of a tax-exempt government corporation** attached to the Department of Health for policy coordination and guidance. (Emphasis ours)

35 785 Phil. 266, 275 (2016).

> f. Heads and assistant heads of government-owned or controlled corporations and financial institutions, including such senior management and technical positions as may be determined by the President of the Philippines;
> g. Heads of state universities and colleges;
> h. Positions embraced in the Career Executive Services; and
> i. Provincial, city, municipal and other local government officials and employees.[36]

While P.D. No. 1597 limits the exceptions to its applicability to only two positions, namely: (1) elected officials and officers whose compensation is fixed by the Constitution; and (2) local government officials and employees,[37] there is no such exception or qualification which applies to GOCCs. Necessarily, GOCCs, like petitioner, shall abide by P.D. No. 1597's provisions, particularly in terms of obtaining approval of the President in granting allowance, honoraria and other fringe benefits. Section 5 is clear:

> **Section 5.** ***Allowances, Honoraria, and Other Fringe Benefits.*** — Allowances, honoraria and other fringe benefits which may be granted to government employees, whether payable by their respective offices or by other agencies of government, **shall be subject to the approval of the President upon recommendation of the Commissioner of the Budget.** For this purpose, the Budget Commission shall review on a continuing basis and shall prepare, for the consideration and approval of the President, policies and levels of allowances and other fringe benefits applicable to government personnel, including honoraria or other forms of compensation for participation in projects which are authorized to pay additional compensation.[38]

As a matter of course, GOCCs are always subject to the supervision and control of the President.[39] The Revised Administrative Code[40] further elaborates that GOCCs are part of the executive department for they are attached to the appropriate department with which they have allied functions.[41] In *Philippine Economic Zone Authority (PEZA) v. Commission on Audit*,[42] this Court has aptly emphasized that under our system of government, all executive departments, bureaus, and offices are under the control of the President of the Philippines. Such principle is embodied in Section 17, Article VII of the 1987 Constitution, which reads:

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36 Emphases ours.
37 P.D. No. 1597, Sec. 2.
38 Emphases ours.
39 *Social Security System v. Commission on Audit*, G.R. No. 243278, November 3, 2020.
40 Revised Administrative Code of 1987, Book IV, Chapter 9, Sec. 42 reads:
Section 42. *Government-Owned or Controlled Corporations.* – Government-owned or controlled corporations shall be attached to the appropriate department with which they have allied functions, as hereinafter provided, or as may be provided by executive order, for policy and program coordination and for general supervision provided in pertinent provisions of this Code.
41 *De Guzman v. Commission on Audit*, G.R. No. 245274, October 13, 2020.
42 797 Phil. 117, 137 (2016).

> Section 17. The President shall have control of all the executive departments, bureaus, and offices. He shall ensure that the laws be faithfully executed.

Invariably, its very nature as a GOCC dictates that while it may have the mandate to fix the compensation of its personnel, the President may nevertheless exercise the powers of supervision and control over it by approving its grant of allowances and other benefits, pursuant to P.D. No. 1597.

At this juncture, it is imperative to reiterate this Court's ruling in *Social Security System v. Commission on Audit.*[43] Bearing similar facts to the present case, the Social Security System (*SSS*), as a GOCC, was not excused from obtaining presidential approval in granting certain allowances and benefits that were in excess to its Corporate Operating Budget (*COB*). In affirming the NDs, the Court ratiocinated in this wise:

> The SSS' contentions lack merit. GOCCs like the SSS are always subject to the supervision and control of the President. **That it is granted authority to fix reasonable compensation for its personnel, as well as an exemption from the SSL, does not excuse the SSS from complying with the requirement to obtain Presidential approval before granting benefits and allowance to its personnel. x x x.**
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> x x x x
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> **Verily, and contrary to the SSS' contentions, the grant of authority to fix reasonable compensation, allowances, and other benefits in the SSS' charter does not conflict with the exercise by the President, through the DBM, of its power to review precisely how reasonable such compensation is, and whether or not it complies with the relevant laws and rules. x x x**[44]

Even assuming that an explicit provision exists to exempt petitioner from any compensation and classification coverage, Section 6 of P.D. No. 1597 still mandates agencies to observe guidelines and policies issued by the President. The provision further instructs such entities to report to the President regarding position classification and compensation plans, policies, rates, and other related details as prescribed by the President:

> **Section 6.** ***Exemptions from OCPC Rules and Regulations.*** – Agencies positions, or groups of officials and employees of the national government, **including government-owned or controlled corporations,** who are hereafter exempted by law from OCPC coverage, **shall observe such guidelines and policies as may be issued by the President** governing position classification, salary rates, levels of allowances, project and other

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43 *Supra* note 39.

44 *Id.* (Emphases ours)

> honoraria, overtime rates, and other forms of compensation and fringe benefits. Exemptions notwithstanding, agencies **shall report to the President**, through the Budget Commission, on their position classification and compensation plans, policies, rates and other related details following such specifications **as may be preseribed by the President.**[45]

Accordingly, the indiscriminate grant of personnel benefits *sans* executive *imprimatur* necessitates the disallowance. After all, to sustain petitioner's claim that it alone would ensure that its compensation system would conform with applicable law will result in "an invalid delegation of legislative power, granting the PHIC [petitioner] unlimited authority to unilaterally fix its compensation structure. Certainly, such effect could not have been the intent of the legislature."[46] As prescribed by the Court *En Banc* in *PhilHealth v. Commission on Audit*:[47]

> Thus, it is settled that in granting any additional personnel benefits, PHIC is required to observe the policies and guidelines laid down by the OP relating to position classification, allowances, among other forms of compensation, and to report to the OP, through the DBM, on its position classification and compensation plans, policies, rates and other necessary details following the guidelines as may be determined by the OP. Moreover, since PHIC failed to present any law or DBM issuance authorizing the grant of the benefits in question, the resulting disbursement and receipt are illegal and therefore, must be disallowed.

Parenthetically, neither can petitioner seek refuge in alleging that Section 16(n) of R.A. No. 7875 is an exception to R.A. No. 6758. A judicious reading of the law reveals that GOCCs are clearly within its coverage.

Enacted in 1989, the goal of R.A. No. 6758 was "to provide equal pay for substantially equal work and to base differences in pay upon substantive differences in duties and responsibilities, and qualification requirements of the positions."[48] The system established by the law applies to "all positions, appointive or elective, on full or part-time basis, now existing or hereafter created in the government, **including government-owned or controlled corporations** and government financial institutions."[49] Section 4 of the law defines covered GOCCs rather broadly to encompass "all corporations and financial institutions owned or controlled by the National Government, whether such corporations and financial institutions perform governmental or proprietary functions."

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45 Emphasis ours.
46 *PhilHealth v. Commission on Audit*, 838 Phil. 600, 614 (2018).
47 G.R. No. 235832, November 3, 2020. (Citations omitted)
48 R.A. No. 6758, Sec. 2.
49 *Id.*, Sec. 4. (Emphasis ours)

In spite of such comprehensive inclusion, this Court in *Engr. Mendoza v. Commission on Audit*[50] (*Mendoza*) recognized that certain laws were passed exempting certain government entities from the law. Such entities have been expressly allowed *via* creating legislation to craft independent compensation and position classification systems that apply to their respective offices, some of which are the Philippine Postal Corporation, the Trade and Investment Development Corporation of the Philippines, Landbank of the Philippines, Social Security System, and the Philippine Deposit Insurance Corporation.[51]

Glaringly, no such law has been passed by Congress insofar as exempting petitioner from abiding by the provisions of R.A. No. 6758. On that score, if Congress had indeed intended to exempt petitioner from R.A. No. 6758, it could have likewise inserted an exemption clause akin to the entities specified in *Mendoza*. Materially, the amendments to R.A. No. 7875, to which petitioner owes its creation, namely, R.A. No. 9241[52] approved in 2004, and subsequently, R.A. No. 10606[53] approved in 2013, is non-extant as to any provision exempting petitioner from R.A. No. 6758 or any other laws pertaining to salary standardization.

Even with an express provision of the law exempting petitioner from R.A. No. 6758, the same does not free it from the directives of P.D. No. 1597. The Court's explanation in *Pulido-Tan*, citing *Intia, Jr. v. Commission on Audit,*[54] applies squarely. In disallowing certain salaries and allowances granted by the PCSO, also a GOCC, absent presidential approval, the Court reasoned in this manner:

> **Even if it is assumed that there is an explicit provision exempting the PCSO from the OCPC rules, the power of the Board to fix the salaries and determine the reasonable allowances, bonuses and other incentives was still subject to the DBM review.** In *Intia, Jr. v. COA,* the Court stressed that the discretion of the Board of Philippine Postal Corporation on the matter of personnel compensation is not absolute as the same must be exercised in accordance with the standard laid down by law, *i.e.*, its compensation system, including the allowances granted by the Board, must strictly conform with that provided for other government agencies under R.A. No. 6758 in relation to the General Appropriations Act. **To ensure such compliance, the resolutions of the Board affecting such matters should first be reviewed and approved by the DBM pursuant to Section 6 of P.D. No. 1597.** x x x[55]

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50 717 Phil. 491, 506 (2013).

51 *Id.* at 519.

52 Entitled "*An Act Amending Republic Act No. 7875, otherwise known as 'An Act Instituting a National Health Insurance Program for All Filipinos and Establishing the Philippine Health Insurance Corporation for the Purpose.'*"

53 Entitled "*An Act Amending Republic Act No. 7875, otherwise known as the 'National Health Insurance Act of 1995,' as Amended, and for other Purposes.*"

54 366 Phil. 273, 293 (1999).

55 *PCSO v. Chairperson Pulido-Tan, supra* note 35, at 275-276. (Emphasis ours; citations omitted)

In *Philippine Retirement Authority (PRA) v. Buñag,*[56] this Court later affirmed the ruling in *Intia* and *PCSO.* Although the PRA, as a GOCC, was granted the power and authority to "establish, fix, review, revise[,] and adjust" the compensation scheme of its officers and employees under its charter, the same should still be read in conjunction with P.D. No. 985, as amended by P.D. No. 1597:

> In accordance with the ruling of this Court in **Intia**, we agree with petitioner PRA that these provisions should be read together with P.D. No. 985 and P.D. No. 1597, particularly Section 6 of P.D. No. 1597. **Thus, notwithstanding exemptions from the authority of the Office of Compensation and Position Classification granted to PRA under its charter, PRA is still required to 1) observe the policies and guidelines issued by the President with respect to position classification, salary rates, levels of allowances, project and other honoraria, overtime rates, and other forms of compensation and fringe benefits and 2) report to the President, through the Budget Commission, on their position classification and compensation plans, policies, rates and other related details following such specifications as may be prescribed by the President.**
>
> **Despite the power granted to the Board of Directors of PRA to establish and fix a compensation and benefits scheme for its employees, the same is subject to the review of the Department of Budget and Management.** However, in view of the express powers granted to PRA under its charter, the extent of the review authority of the Department of Budget and Management is limited. As stated in **Intia**, the task of the Department of Budget and Management is simply to review the compensation and benefits plan of the government agency or entity concerned and determine if the same complies with the prescribed policies and guidelines issued in this regard. The role of the Department of Budget and Management is supervisorial in nature, its main duty being to ascertain that the proposed compensation, benefits and other incentives to be given to PRA officials and employees adhere to the policies and guidelines issued in accordance with applicable laws.[57]

Corollarily, neither may petitioner find succor in its assertion that its fiscal autonomy was confirmed by the opinions of the OGCC, as well as executive communications from then President GMA. Aside from the obvious fact that the OGCC opinions have no controlling force and effect in the face of established legislation and jurisprudence, an examination of the communications[58] from President GMA would reveal that the same pertain merely to the approval of petitioner's Rationalization Plan,[59] without any indication of her confirmation regarding petitioner's fiscal independence. To recall, this Court has already decided the weight of such communications from the President with regard to petitioner's fiscal autonomy:

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56 444 Phil. 859 (2003).
57 *Id.* at 869-870. (Emphasis ours; citation omitted)
58 *Rollo*, pp. 154-161.
59 *Id.* at 162-165.

> Neither can PhilHealth find solace in the alleged approval or confirmation by former President Gloria Macapagal-Arroyo of PhilHealth's fiscal autonomy through two executive communications relative to its request to exercise fiscal authority in line with the PhilHealth Rationalization Plan. **We observe that the alleged presidential approval was merely on the marginal note of the said communications and was never reduced in any formal memorandum. So, too, the Court has previously held in *BCDA* that the presidential approval of a new compensation and benefit scheme which included the grant of allowances found to be unauthorized by law shall not estop the State from correcting the erroneous application of a statute.**[60]

The Shuttle Service Allowance and Birthday Gift covered by the Collective Negotiation Agreement were correctly disallowed in audit.

The legal framework in granting CNA incentives to officials and employees of government agencies is governed by Public Sector Labor-Management Council (*PSLMC*) Resolution No. 4, Series of 2002,[61] PSLMC Resolution No. 2, Series of 2003, Administrative Order (*A.O.*) No. 135, and Budget Circular No, 2006-1, issued by the DBM.

PSLMC Resolution No. 4, Series of 2002, authorized the grant of CNA incentives for the primary purpose of recognizing the joint efforts of labor and management to achieve all planned targets, programs, and services approved in the budget of the agency at a lesser cost.[62] Section 1 of the same mandates that "only savings generated after the signing of the CNA may be used for the CNA incentive." Specifically, Section 3 defines the term "savings" to refer to "such balances of the agency's released allotment for the year, free from any obligation or encumbrance and which are no longer intended for specific purpose/s," to be derived from any of the following:

> (a) After completion of the work/activity for which the appropriation is authorized;
> (b) Arising from unpaid compensation and related costs pertaining to vacant positions, or
> (c) Realized from the implementation of the provisions of the CNA which resulted in improved systems and efficiencies thus enabled the agency to meet and deliver the required or planned targets, programs and services approved in the annual budget at a lesser cost.[63]

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60 *Philhealth v. Commission on Audit,* G.R. No. 222838, September 4, 2018, 879 SCRA 1, 22. (Emphasis ours; citations omitted)

61 Entitled "*Grant of Collective Negotiation Agreement (CNA) Incentive for National Government Agencies, State Universities and Colleges, and Local Government Units.*"

62 PSLMC Resolution No. 4, Series of 2002, Sec. 1.

63 *Id.*, Sec. 3.

Subsequently, the PSLMC issued Resolution No. 2, Series of 2003,[64] extending the grant of CNA incentives for GOCCs and GFIs, with the objective to "encourage, promote, and reward productivity, efficiency and use of austerity measures as specified in the CNA."[65] Section 3 thereof imposes certain conditions to guarantee that the CNA incentives granted by GOCCs and GFIs would be funded by savings generated from the implementation of cost-cutting measures, to wit:

> (a) Actual operating income at least meets the targeted operating income in the Corporate Operating Budget (COB) approved by the Department of Budget and Management (DBM)/Office of the President for the year. For GOCCs/GFIs, which by the nature of their functions consistently incur operating losses, the [current] year's operating loss should have been minimized or reduced compared to or at most equal that of prior year's levels;
>
> (b) Actual operating expenses are less than the DBM-approved level of operating expenses in the COB as to generate sufficient source of funds for the payment of CNA Incentive; and
>
> (c) For income generating GOCCs/GFIs, dividends amounting to at least 50% of their annual earnings have been remitted to the National Treasury in accordance with provisions of Republic Act No. 7656 dated November 9, 1993.[66]

In A.O. No. 135,[67] then President GMA confirmed the grant of CNA incentives to rank-and-file employees under PSLMC Resolution No. 4, Series of 2002, subject to cost-cutting measures identified in the CNA.[68] Reiterating the PSLMC Resolutions, the A.O. similarly required that the CNA incentive shall be sourced solely from the savings generated during the life of the CNA.[69] More, it also directed the DBM to issue policy and procedural guidelines to implement the A.O.[70]

Conformably, following A.O. No. 135, the DBM issued Budget Circular No. 2006-1.[71] Under these guidelines, the incentive shall be paid as a one-time benefit at the end of the year and shall be sourced solely from savings from released Maintenance and Other Operative Expenses allotments, subject to conditions. More importantly, the CNA incentive shall not be predetermined in the CNA, the amount being dependent on savings generated from cost-cutting measures and systems improvement, to wit:

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64 Entitled "*Grant of Collective Negotiation Agreement (CNA) Incentive for Government-Owned or Controlled Corporations (GOCCs) and Government Financial Institutions (GFIs).*"

65 *Manila International Airport Authority v. COA,* 681 Phil. 644, 660-661 (2012).

66 *Id.* at 660-661.

67 Entitled "*Authorizing the Grant of Collective Negotiation Agreement (CNA) Incentive to Employees in Government Agencies.*"

68 A.O. No. 135, Sec. 3.

69 *Id.*

70 *Id.*, Sec. 6.

71 Entitled "*Grant of Collective Negotiation Agreement (CNA) Incentive.*"

5.0 Policy Guidelines

5.1 **The CNA Incentive in the form of cash may be granted to employees covered by this Circular, if provided for in the CNAs or in the supplements thereto, executed between the representatives of management and the employees'** organization accredited by the CSC as the sole and exclusive negotiating agent for the purpose of collective negotiations with the management of an organizational unit listed in Annex "A" of PSLMC Resolution No. 01, s. 2002, and as updated.

x x x x

5.4. The form of the CNA Incentive shall be simplified and rationalized as follows:

5.4.1 All existing cash incentives in the CNAs in the form of allowances and benefits, such as staple food allowance, rice subsidy, grocery allowance, inflation allowance, relocation allowance, SONA bonus, bonuses other than the year-end benefit authorized under RA No. 6686, as amended by RA No. 8441, etc., **shall be consolidated into a single cash incentive, and shall be referred to and collectively paid as the CNA incentive.**

x x x x

5.6. The amount/rate of the individual CNA Incentive:

5.6.1 **Shall not be pre-determined in the CNAs or in the supplements thereto since it is dependent on savings** generated from cost-cutting measures and systems improvement, and also from improvement of productivity and income in GOCCs and GFIs;

x x x x

5.7 **The CNA Incentive for the year shall be paid as a one-time benefit after the end of the year**, provided that the planned programs/activities/projects have been implemented and completed in accordance with the performance targets for the year.

x x x x

7.0 Funding Source

7.1 **The CNA Incentive shall be sourced solely from savings from released Maintenance and Other Operating Expenses (MOOE) allotments for the year under review**, still valid for obligation during the year of payment of the CNA, subject to the following conditions:

7.1.1 Such savings were generated out of the cost-cutting measures identified in the CNAs and supplements thereto;

x x x x

9

> 7.3 **GOCCs/GFIs and LGUs may pay the CNA Incentive from savings in their respective approved corporate operating budgets or local budgets.** x x x[72]

In the present case, the amounts considered as CNA incentives were fraught with irregularities. After all, as iterated in *Confederation for Unity, Recognition and Advancement of Government Employees (COURAGE) v. Abad*,[73] the CNA incentive is not a right that is "per se vested. Its grant is conditioned on the applicable laws, rules[,] and regulations that govern it."

Aside from petitioner's sweeping and unfounded declaration that the shuttle service allowance and birthday gift formed part of the CNA incentives, this Court keenly notes the dearth of evidence to demonstrate that the amounts given as CNA incentives actually came from savings generated from its identified cost-cutting measures as required by Section 7.1.1 of DBM Circular No. 2006-1, following A.O. No. 135 and PSLMC's Resolutions. Equally unclear is whether petitioner's actual operating expenses are less than the DBM-approved level of operating expenses to generate sufficient source of funds for CNA incentives following PSLMC Resolution No. 2, Series of 2003.

Similarly, petitioner's grant of ₱5,591,660.84 as shuttle service allowance and ₱1,568,176.22 as birthday gift obviously transgresses Section 5.6.1 of DBM Circular No. 2006-1, which prohibits GOCCs and GFIs from making a pre-determination of the amount of each CNA incentive to be given to its employees. In the same vein, its grant of separate benefits in the middle of the year, starting April 17, 2010 to April 16, 2013,[74] infringed Sections 5.4.1 and 5.7, which prescribes that all benefits derived under the CNA shall be consolidated into a single cash incentive to be paid at the end of the year. Neither was there a satisfactory showing that petitioner's planned programs, activities, and projects were implemented and completed in accordance with the performance targets for the year.

Resultantly, this Court is hard-pressed to uphold respondents' act of disallowing the CNA incentives in audit for lack of legal basis and for failure to comply with existing policies, rules, and regulations.

The WESA and the Subsistence and Laundry Allowances were correctly disallowed in audit.

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72 Emphasis ours.

73 G.R. No. 200418, November 10, 2020.

74 *See* PhilHealth Board Resolution No. 1429, series of 2010; *rollo*, pp. 81-83.

At the outset, this Court is not unmindful that those recognized in the eyes of the law as PHWs are warranted to receive certain benefits, which include subsistence and laundry allowances, subject of this case.

In the 2018 ruling of *PhilHealth v. Commission on Audit*,[75] petitioner's employees were not considered as PHWs under R.A. No. 7305, entitled *The Magna Carta of Public Health Workers*. Section 3 thereof defines "health workers" as:

> [a]ll persons who are engaged in health and health-related work, and all persons employed in all hospitals, sanitaria, health infirmaries, health centers, rural health units, barangay health stations, clinics and other health-related establishments owned and operated by the Government or its political subdivisions with original charters and shall include medical, allied health professional, administrative and support personnel employed regardless of their employment status.

Concluding that its personnel were not PHWs, the Court found that petitioner's functions were not principally related to health services as contemplated by R.A. No. 7305; rather, as the National Health Insurance Program provider, its primary objective was to help people *pay* for health care services. To further reinforce this view, the Court enunciated, thus:

> **x x x Undoubtedly, the PhilHealth personnel cannot be considered public health workers under RA No. 7305.**
>
> **It is Our firm view that PhilHealth functions are not commensurate to the services rendered by those workers who actually and directly provide health care services. PhilHealth's objective as the National Health Insurance Program provider, is to help the people *pay* for health care services; unlike workers or employees of the government and private hospitals, clinics, health centers and units, medical service institutions, clinical laboratories, treatment and rehabilitation centers, health-related establishments of government corporations, and the specific health service section, division, bureau or unit of a government agency, who are actually engaged in health work services.**
>
> It will also be absurd if the same benefits and treatment will be given to the PhilHealth personnel and to those employees who actually rendered health services. Health workers or employees are not similarly situated with the PhilHealth employees. Health workers have sets of skills, training, medical background, work quality and ethical considerations to patients, and risks in transmission, occupational and hazard exposures, diseases etc., in the performance of their functions, while in PhilHealth, as National Health Insurance Program provider, its policy is only to help the people subsidize; or ***pay***, or finance for the health care services.

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75 *PhilHealth v. Commission on Audit, supra* note 30, at 109.

> More so, if the policy of the State is to include PhilHealth personnel as health workers, the same treatment should be given to Social Security System (SSS), Government Service Insurance System (GSIS), the Philippine Charity Sweepstakes Office (PCSO), and other institutions or agencies, who provide funds for health care services, health programs, medical assistance, against the hazards of disability, sickness, maternity, old age, death and other contingencies resulting in loss of income or financial burden, or funds for life insurance, retirement, disability and survivorship benefits.
>
> But this Court once interpreted and ruled that the Social Insurance Group (SIG) personnel of the GSIS, who acted as administrator of funds for the pension and retirement of government employees, were obviously not a health or health-related establishment.
>
> We also said that the SIG personnel who perform tasks for the processing of GSIS members' claims for life insurance, retirement, disability and survivorship benefits are not similar to those persons working in health--related establishments such as clinics or medical departments of government corporations, medical corps and hospitals of the AFP, and the specific health service units of government agencies. Hence, they are not public health workers under RA No. 7305.
>
> **Thus, We maintain that PhilHealth personnel were not engaged in the delivery of health or health-related services, and therefore, not public health workers.** x x x[76]

In a subsequent Resolution[77] dated September 10, 2019, the Court reversed and set aside its 2018 ruling, finding petitioner's personnel as coming under the coverage of PHWs under R.A. No. 7305, by the unequivocal declaration of R.A. No. 11223, or the *Universal Health Care Act*. Section 15 reads as follows:

> **Section 15. *PhilHealth Personnel as Public Health Workers.*** – All PhilHealth personnel **shall be classified as public health workers** in accordance with the pertinent provisions under Republic Act No. 7305, also known as the Magna Carta of Public Health Workers.[78]

Notwithstanding the belated enactment of R.A. No. 11223 in 2019, the Court regarded the law as a curative statute which should be retroactively applied to this case and to all pending cases. As a curative statute, it is intended to correct defects, abridge superfluities in existing laws and curb certain evils. Further, curative statutes "enable persons to carry into effect that which they have designed and intended, but has failed of expected legal consequence by reason of some statutory disability or irregularity in their own action. They make valid that which, before the enactment of the statute, was invalid."[79] Stated differently, R.A. No. 11223 serves as a curative statute that

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76 *Id.* at 116-188. (Emphases ours; citations omitted)

77 *PhilHealth v. Commission on Audit*, G.R. No. 222710, September 10, 2019.

78 Emphasis ours.

79 *PhilHealth v. Commission on Audit, supra* note 77.

remedies the deficiency of R.A. No. 7305 with respect to erroneously classifying petitioner's personnel as public health workers. The Court maintained:

> In this case, while the Court initially declared that PhilHealth personnel were not public health workers in its July 24, 2018 Decision and that ND No. H.O. 12-005 (11) was final and executory, the subsequent enactment of R.A. No. 11223, which transpired after the promulgation of its decision, convinces the Court to review its ruling. Thus, R.A. No. 11223 is a curative legislation that benefits PhilHealth personnel and has retrospective application to pending proceedings.
>
> Indeed, **R.A. No. 11223, as a curative law, should be given retrospective application to the pending proceeding because it neither violates the Constitution nor impairs vested rights. On the contrary, R.A. No. 11223 further promotes the objective of R.A. No. 7305, which is to promote and improve the social and economic well-being of health workers, their living and working conditions and terms of employment. As a curative statute, R.A. No. 11223 applies to the present case and to all pending cases involving the issue of whether PhilHealth personnel are public health workers under Section 3 of R.A. No. 7305. To reiterate, R.A. No. 11223 settles, once and for all, the matter that PhilHealth personnel are public health workers in accordance with the provisions of R.A. No. 7305.**
>
> Evidently, **R.A. No. 11223 removes any legal impediment to the treatment of PhilHealth personnel as public health workers and for them to receive all the corresponding benefits therewith, including longevity pay.** Thus, ND H.O. 12-005 (11), disallowing the longevity pay of PhilHealth personnel, must be reversed and set aside. As PhilHealth personnel are considered public health workers, it is not necessary anymore to discuss the issue on good faith.[80]

Notwithstanding this new designation, however, not all PHWs are entitled to each and every type of benefit as enumerated under R.A. No. 7305. With regard to the subsistence and laundry allowances granted to PHWs, R.A. No. 7305 qualifies its entitlement to certain PHWs, *viz.*:

> **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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80 *Id.* (Emphases ours)

> **Section 24.** ***Laundry Allowance.*** **- All public health workers who are required to wear uniforms regularly** shall be entitled to laundry allowance equivalent to One hundred twenty-five pesos (P125.00) per month: provided, that this **rate shall be reviewed periodically and increased accordingly by the Secretary of Health** in consultation with the appropriate government agencies concerned taking into account existing laws and prevailing practices.[81]

In terms of PHWs under petitioner's employ, those qualified to receive subsistence and laundry allowances would instead be receiving a single amount known as the Welfare Support Allowance or *WESA*. The issuance of the WESA in lieu of *both* subsistence and laundry allowances was upheld in the 2016 case of *Philhealth v. Commission on Audit*.[82]

To be specific, the WESA, which explicitly identifies subsistence and laundry allowances as excluded from the integrated salary, consolidated both allowances into a *single* amount, which was formerly granted separately to PHWs under R.A. No. 7305. The Court rationalized its issuance pursuant to R.A. No. 6758 and by board resolution, thus:

> **In a similar manner, the Court finds that the PHIC's grant of the WESA was aptly sanctioned not only by Section 12 of the SSL but also by statutory authority. PHIC Board Resolution No. 385, s. 2001 states that the WESA of P4,000.00 each shall be paid to public health workers under the Magna Carta of PHWs <u>in lieu of the subsistence and laundry allowances.</u>** Respondent COA contested the same not so much on the propriety of the subsistence and laundry allowances in the form of the WESA, but that the Secretary of Health prescribed the rates thereof not in accordance with the Magna Carta of PHWs. According to respondent COA, the WESA is invalid because the act of the PHIC Board, of which the Health Secretary is the *Ex-Officio* Chairperson, in approving the allowance is not the same as the act of the Secretary himself. x x x.
>
> x x x x
>
> To repeat, the law does not prescribe a particular form nor restrict to a specific mode of action by which the Secretary of Health must determine the subject rates of subsistence and laundry allowance. That the Health Secretary approved the grant of the WESA together with ten (10) other members of the Board does not make the act any short of the approval required under the law. **As far as the Magna Carta and its Revised IRR are concerned, the then Health Secretary Dr. Alberto G. Romualdez, Jr. voted in favor of the WESA's issuance, and for as long as there exists no deception or coercion that may vitiate his consent, the concurring votes of his fellow Board members does not change the fact of his approval. To rule otherwise would create additional constraints that were not expressly provided for by law.**[83]

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81 Emphases ours.

82 *PhilHealth v. Commission on Audit, supra* note 22.

83 *Id.* at 462-467. (Emphasis and underscoring ours; citations omitted)

Manifestly, the WESA, while sanctioned, shall only be granted *in lieu* or in the place of, and not *in addition to*, subsistence and laundry allowances. In the present case, apart from subsistence and laundry allowances totaling ₱1,958,863.65 and ₱195,886.35, respectively, another amount representing the WESA, or ₱7,245,698.73, was similarly awarded. Necessarily, this Court finds that respondent cannot be faulted for disallowing subsistence and laundry allowances after audit; neither can such disallowance be considered as having been committed with grave abuse of discretion, the allowances having been granted in addition to the WESA. Plainly, respondent was merely complying with its mandate to be vigilant and conscientious in safeguarding hard-earned public funds. In effect, to grant petitioner's personnel superfluous and excessive incentives would be nothing short of prejudicial and would be grossly disadvantageous to the government.

Further reflection indicates that the issuance of the WESA in the present case must also suffer the same fate.

In upholding the propriety of the WESA, the Court in *PhilHealth v. Commission on Audit*,[84] cites Sections 22 and 24 of R.A. No. 7305, which laid down the requirements for PHWs who are eligible to receive subsistence and laundry allowances, respectively. To reiterate, Sections 22 and 24 imposes that only petitioner's personnel, as PHWs, who render service within the premises of hospitals, sanitaria, health infirmaries, health centers, clinics, and other health-related establishments, as well as those who wear uniforms regularly, shall be entitled to such allowances. The Court further invokes the Implementing Rules and Regulations (*IRR*) of R.A. No. 7305, which further sheds light on the prerequisites for PHWs to receive such allowances:

> **7.2. Subsistence Allowance**
>
> 7.2.1. Eligibility for Subsistence Allowance
>
> 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.
>
> 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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84 *Id.* at 463-464.

7.2.2. Basis for Granting Subsistence Allowance

Public health workers shall be granted subsistence allowance **based on the number of meals/days included in the duration when they rendered actual work including their regular duties, overtime work or on-call duty as defined in this revised IRR.**

Public health workers who are on the following official situations are **not** entitled to collect/receive this benefit:

a. Those on vacation/sick leave and special privilege leave with or without pay;

b. Those on terminal leave and commutation;

c. Those on official travel and are receiving per diem regardless of the amount; and

d. Those on maternity/paternity leave.

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.

b. Non-health agency workers detailed in health and health related institutions/establishments are entitled to subsistence allowance and shall be funded by the agency where service is rendered.

c. Subsistence allowance of public health workers on full-time and part-time detail in other agency shall be paid by the agency where service is rendered.

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.

7.3. Laundry Allowance

7.3.1. Eligibility for Laundry Allowance

All public health workers covered under RA 7305 are eligible to receive laundry allowance **if they are required to wear uniforms regularly.**

7.3.2. Rate of Laundry Allowance

The laundry allowance shall be P150.00 per month. This shall be paid on a monthly basis regardless of the actual work rendered by a public health worker.[85]

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85 *Id.* at 464-465. (Emphases ours)

As clearly expressed in *PhilHealth,* the grant of the WESA is not a blanket award to all PHWs; rather, it only applies to certain *qualified* employees who meet the contingent requirements under R.A. No. 7305 and its IRR. While respect was accorded to PhilHealth's action of issuing a single monetary benefit in lieu of two formerly separate amounts, there appears no indication on the part of the Court to abrogate its prescribed qualifications. Consequently, in affirming the WESA, the specific requirements mandated by law pertaining to subsistence and laundry allowances must not be set aside and should still be considered in deciding whether such allowance was reasonably granted or not.

By analogy, records of this case are bereft of evidence showing petitioner's conformity with the foregoing qualifications under R.A. No. 7305 and its IRR. There is a glaring absence of proof that the WESA was awarded to officers and employees who actually rendered service within the premises of the stipulated health-related establishments; neither did petitioner bother to demonstrate that the recipients were not disqualified to receive such amounts. To recapitulate, the IRR specifies that PHWs on vacation or sick leave and special privilege leave, on terminal leave and commutation, on official travel and are receiving per diem, and those on maternity or paternity leave, are not entitled to receive subsistence allowance. Equally telling, it is not definite if recipients of the WESA were required to wear uniforms regularly. All told, petitioner released the WESA rather sweepingly, without taking into account the qualifications as required by law and which were never disregarded by the Court in upholding the validity of the WESA.

Given that such haphazard issuance is inconsistent with existing law and policy, the amounts were rightfully disallowed in audit.

Petitioner's officers and employees are liable for the return of the disallowed amount.

While this Court commiserates with petitioner's officials and employees in view of the refund of the benefits received by them, it recognizes that it is bound by law and recent judicial pronouncements that must be applied to the present case.

In *Madera v. Commission on Audit,*[86] (*Madera*) the Court finally had the occasion to definitively harmonize the rules on refunding amounts disallowed by respondent, as well as the respective liabilities of the persons involved:

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86 G.R. No. 244128, September 8, 2020.

1. If a Notice of Disallowance is set aside by the Court, no return shall be required from any of the persons held liable therein.

2. If a Notice of Disallowance is upheld, the rules on return are as follows:

   a. Approving and certifying officers who acted in good faith, in regular performance of official functions, and with the diligence of a good father of the family are not civilly liable to return consistent with Section 38 of the Administrative Code of 1987.

   b. Approving and certifying officers who are clearly shown to have acted in bad faith, malice, or gross negligence are, pursuant to Section 43 of the Administrative Code of 1987, solidarily liable to return only the net disallowed amount which, as discussed herein, excludes amounts excused under the following sections 2c and 2d.

   c. Recipients - whether approving or certifying officers or mere passive recipients - are liable to return the disallowed amounts respectively received by them, unless they are able to show that the amounts they received were genuinely given in consideration of services rendered.

   d. The Court may likewise excuse the return of recipients based on undue prejudice, social justice considerations, and other *bona fide* exceptions as it may determine on a case-to-case basis.[87]

Reasonably, the application of such rules would ultimately be defined by the particular facts of each case and upon the determination of the good faith of the parties involved.[88] It must be remembered that good faith 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 though technicalities of law, together with absence of all information, notice, or benefit or belief of facts which render transaction unconscientious."[89]

Liability of petitioner's certifying and approving officers.

Pursuant to the ND, respondents identified the following actors and their roles in the issuance of disallowed benefits and allowances:

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87 *Id.*

88 *Id.*

89 *Montejo v. Commission on Audit*, 837 Phil. 193, 204 (2018).

Name	Position/Designation	Nature of Participation
Atty. Jerry F. Ibay	RVP – January to May 2012	Being the Agency Head/For Approving the Journal voucher and authorize the bank to debit the amount from their account.
Walter R. Bacareza	RVP – June to December 2012	Being the Agency Head/For approving the Journal Voucher and authorize the bank to debit the amount from their account.
Renato I. Limsiaco, Jr.	Division Chief IV MSD-January to May 2012	For approving the payroll for payment.
Arlan M. Granali	OIC-MSD, June to December 2012	For approving the payroll for payment.
Archimedes L. Villasin	Fiscal Controller IV	For certifying the availability of appropriations for the expenditures/Authorize the bank to debit the amount from their account.
Benjamin N. Gabrieles, Jr.	Fiscal Controller I	For certifying Budget availability
Chona J. Solarta	Planning Officer III-OIC HRU – Oct. to December 2012	For certifying Budget necessary supporting documents valid, legal and complete
PHIC Officials and Employees	Payees	Received payment[90]

Generally, public officers are accorded with the presumption of regularity in the performance of their official functions.[91] In *National Transmission Commission v. Commission on Audit,*[92] this Court further elaborated that the presumption of good faith in the discharge of their duties is a valid defense of public officials against the return of disallowed benefits or allowances. However, such presumption is overturned when there is a clear showing of bad faith, malice, or gross negligence.[93]

The Administrative Code itself expressly states that the civil liability of a public officer for acts done in the performance of his or her official duty arises only upon a clear showing that he or she performed such duty with bad faith, malice, or gross negligence.[94] Consonant thereto, this Court defined

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90 *Rollo*, p. 79.

91 *Gatmaitan v. Gonzales,* 525 Phil. 658, 671 (2006).

92 G.R. No. 244193, November 10, 2020.

93 *Torreta v. Commission on Audit,* G.R. No. 242925, November 10, 2020.

94 Section 38, Chapter 9, Book 1, Executive Order No. 292, otherwise known as the *Administrative Code of 1987.*

malice or bad faith *vis-à-vis* gross negligence in *De Guzman v. Commission on Audit*:[95]

> Malice or bad faith implies a conscious and intentional design to do a wrongful act for a dishonest purpose or moral obliquity. Gross neglect of duty or gross negligence, on the other hand, refers to negligence characterized by the want of even slight care, or by acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally, with a conscious indifference to the consequences, insofar as other persons may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to give to their own property. It denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty. In cases involving public officials, gross negligence occurs when a breach of duty is flagrant and palpable.

Aside from considering the presence of bad faith, malice, or gross negligence, it bears to stress that pursuant to COA Circular No. 006-09,[96] certain factors must also be considered in determining the liability of public officers, such as, but not limited to, their degree of participation in the certain disallowed transaction, to wit:

> SECTION 16. DETERMINATION OF PERSONS RESPONSIBLE/LIABLE
>
> 16.1 The Liability of public officers and other persons for audit disallowances/charges shall be determined on the basis of (a) the nature of the disallowance/charge; (b) the duties and responsibilities or obligations of officers/employees concerned; (c) the extent of their participation in the disallowed/charged transaction; and (d) the amount of damage or loss to the government, thus:
>
> x x x x
>
> 16.2 The liability for audit charges shall be measured by the individual participation and involvement of public officers whose duties require appraisal/assessment/collection of government revenues and receipts in the charged transaction.

In the instant case, absent any clear and convincing evidence to show some motive of self-interest or ill will, there appears to be no *indicia* of malice or bad faith on the part of petitioner's officers in disbursing the disallowed amounts. Verily, such release was based on an honest and colorable belief that they were empowered to fix the compensation of their personnel by virtue of their erroneous interpretation of Section 16(n) of R.A. No. 7875.

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95 *Supra* note 41. (Citations omitted)

96 Entitled "*Prescribing the use of the Rules and Regulations on Settlement of Accounts,*" dated September 15, 2009. (Emphasis ours)

Nevertheless, this Court shall evaluate the liability of petitioner's public officers pursuant to their duties and responsibilities as well as their degree of participation, in light of COA Circular No. 006-09.

Liability of approving officers

Notwithstanding the lack of malice or bad faith, this Court finds that the approving officers should be held solidarily liable due to gross negligence. It is well settled that patent disregard of case law and COA directives, as in this case, is tantamount to gross negligence.[97]

In *Casal v. Commission on Audit,*[98] the approving officers were found to be solidarily liable for their disregard of the issuances by the executive as well as the directives of the COA. While there was no indication of a dishonest purpose, the Court found that their actions amounted to gross negligence, making them liable for the refund thereof.

In *De Guzman v. Commission on Audit,*[99] while there was no showing of malice and bad faith on the part of the officers in approving the release of the centennial bonus, the Court nevertheless ruled that they remained jointly and severally liable for failure to abide by administrative issuances.

In *Power Sector Assets and Liabilities Management Corporation (PSALM) v. Commission on Audit,*[100] the approving and certifying officers were found guilty of gross negligence for carelessly granting other health benefits outside the warranted free annual medical check-up in accordance with law. For carelessly expanding the coverage of the benefits, despite the absence of malice and bad faith, the officers were held jointly and solidarily liable.

The fact that petitioner does not possess unrestricted authority to unilaterally fix its compensation structure has been affirmed time and again by jurisprudence, such as *PhilHealth Regional Office-Caraga v. Commission on Audit,*[101] *PhilHealth v. Commission on Audit*[102] in 2016, and *PhilHealth v. Commission on Audit*[103] in 2018. If only to harp on a point, petitioner is required to observe the guidelines laid down by the President anent position classification, allowances, among other forms of compensation, and to report to the latter, through the DBM, on its position classification and compensation

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97 *Tetangco, Jr. v. Commission on Audit,* 810 Phil. 459, 468 (2017).
98 538 Phil. 634, 644 (2006).
99 *Supra* note 41.
100 G.R. Nos. 205490 & 218177, September 22, 2020.
101 *Supra* note 46.
102 *Supra* note 22.
103 *Supra* note 30.

loans, policies, rates, and other necessary details following the guidelines as may be determined by the executive.[104]

As PhilHealth officials, it is not extraordinary to expect that they should be fully acquainted with their agency's mandate and the policies affecting it. Woefully, for failure of the approving officers to show compliance with jurisprudence, as well as the unequivocal requirements of P.D. No. 1597, R.A. No. 6758, as well as PSLMC Resolution No. 4, Series of 2002, PSLMC Resolution No. 2, Series of 2003, AO 135, and Budget Circular No, 2006-1 in granting CNA incentives, and R.A. No. 7305 and its IRR, in granting the WESA, this Court is more than convinced to uphold their joint and several liability.

Liability of certifying officers

In stark contrast, the same cannot be said of petitioner's certifying officers who merely guaranteed the availability of appropriations and determined the completeness of the supporting documents for such disbursements.

In *Metropolitan Waterworks and Sewerage System v. Commission on Audit* consolidated with *Uy v. Metropolitan Waterworks and Sewerage System and Commission on Audit*,[105] this Court absolved petitioners from liability as their functions "had nothing to do with policy-making or decision-making for MWSS, and were merely involved in its day-to-day operations."[106] This Court explained:

> The COA has not proved or shown that the petitioners, among others, were the approving officers contemplated by law to be personally liable to refund the illegal disbursements in the MWSS. While it is true that there was no distinct and specific definition as to who were the particular approving officers as well as the respective extent of their participation in the process of determining their liabilities for the refund of the disallowed amounts, we can conclude from the fiscal operation and administration of the MWSS how the process went when it granted and paid out benefits to its personnel.[107]

Hewing more closely to the case at bench, this Court, in *Alejandrino v. Commission on Audit*,[108] declared that petitioners therein, whose participation only consisted of certifying and approving the availability of funds, were considered free from liability, as they were done "while performing their ministerial duties," to wit:

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104 *PhilHealth v. Commission on Audit, supra* note 47.
105 821 Phil. 117 (2017).
106 *Id.* at 142.
107 *Id.*
108 G.R. No. 245400, November 12, 2019.

> We note that in this case, **petitioners' participation in the disallowed transactions were done while performing their ministerial duties as Head of Human Resources and Administration, and Acting Treasurer, respectively.** Petitioner Alejandrino's main function is the administration of human resources and personnel services, while **petitioner Pasetes certified and approved the check voucher and certified the availability of funds as the acting treasurer. It has not been shown that petitioners acted in bad faith as they were merely performing their official duties in approving the payment of the lawyers under the directive of PNCC's executive officers. Petitioners, although officers of PNCC, could not be held personally liable for the disallowed amounts as they were not involved in policy-making or decision-making concerning the hiring and engagement of the private lawyers and were only performing assigned duties which can be considered as ministerial.**[109]

Under the circumstances, petitioner's certifying officers cannot be held personally liable for the disallowed benefits, due to the failure to show any bad faith on their actions, as well as having had no part in the approval of the disallowed benefits.

Liability of petitioner's officers and employees as passive recipients.

As decreed by *Madera,* officers and employees who are recipients are liable to return the disallowed amounts, regardless of good faith, following the fundamental civil law precepts of unjust enrichment and *solutio indebiti.* Associate Justice Alfredo Benjamin S. Caguioa, the ponente of *Madera,* has clarified, however, that this does not foreclose the possibility of situations which may constitute *bona fide* exceptions to the application of *solutio indebiti.* Ergo, the Court may excuse the return of the disallowed amount received when "(1) it was genuinely given in consideration of services rendered; (2) undue prejudice will result from requiring the return; (3) social justice comes into play; or (4) the case calls for humanitarian consideration."[110]

Lamentably, none of the aforementioned exceptional circumstances obtain in this case. Petitioner offers no justifiable reason to award its officers and employees with such allowances, other than its fiscal autonomy. There was no showing that the subject benefits and allowances had proper legal basis, nor was it denied based on a mere procedural infirmity; neither was it amply demonstrated that there was a clear, direct, and reasonable connection to the work performed by petitioner's officers and employees. Moreover, this Court is not persuaded that undue prejudice would result in requiring the recipients to return the disallowed amounts; rather, it would be increasingly

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109 *Id.*

110 *National Transmission Commission v. Commission on Audit, supra* note 92.

prejudicial to the government if its public coffers would be depleted by reason of disbursements done in contravention to law and jurisprudence. Lastly, there is no genuine justification to warrant the application of social justice and humanitarian considerations. As emphasized in *De Guzman v. Commission on Audit*,[111] "a monetary grant that contravenes the unambiguous letter of the law cannot be forgone on social justice considerations. Liability arises and should be enforced when there is disregard for the basic principle of statutory construction that when the law was clear, there should be no room for interpretation but only application."

All told, there was no grave abuse of discretion on the part of the respondent in disallowing the payment of the subject benefits and allowances. The approving officers are jointly and severally liable to return the disallowed amount, while the certifying officers shall not be held liable to return, having had no participation in the approval of the disbursements.

The officials and employees who have respectively received such amounts shall also return the same based on the grounds of unjust enrichment and *solutio indebiti.*

WHEREFORE, premises considered, the Petition for *Certiorari* of Philippine Health Insurance Corporation is **DISMISSED**. The COA Decision No. 2015-421 dated December 28, 2015 and the Resolution dated September 19, 2019, affirming the Notice of Disallowance No. 2013-01(12), are **AFFIRMED WITH MODIFICATION**, to wit:

1. The approving officers, namely: Atty. Jerry F. Ibay, Walter R. Bacareza, Renato I. Limsiaco, Jr., and Arian M. Granali, are held solidarily liable to return the disallowed amount under Notice of Disallowance No. 2013-01(12) dated May 13, 2013;

2. The certifying officers, namely: Archimedes L. Villasin, Benjamin N. Gabrieles, Jr., and Chona J. Solarta, are held not solidarily liable in their official capacity to refund the disallowed amount; and

3. The recipients, including the approving/certifying officers who had received portions of the disallowed amount, are **ORDERED** to **REFUND** the amount they received in connection therewith.

SO ORDERED.

JHOSEP Y. LOPEZ
Associate Justice

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111 *De Guzman v. Commission on Audit, supra* note 41.

WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

MARIO V. LOPEZ
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII 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