Republic of the Philippines
Supreme Court
Manila

EN BANC

PHILIPPINE HEALTH INSURANCE CORPORATION,	**G.R. No. 258100**
Petitioner,	Present:
- versus -	GESMUNDO, *C.J.*,* LEONEN,** CAGUIOA, HERNANDO, LAZARO-JAVIER INTING, ZALAMEDA, LOPEZ, M.,* GAERLAN, ROSARIO, LOPEZ, J. DIMAAMPAO, MARQUEZ, KHO, JR., and SINGH, *JJ.*
COMMISSION ON AUDIT, as represented by its Chairperson, MICHAEL G. AGUINALDO	
Respondent.	Promulgated: September 27, 2022

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DECISION

ZALAMEDA, *J.*:

This is a Petition for *Certiorari*[1] (with Application for Issuance of

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* On official business leave.
** Acting Chief Justice.
1 *Rollo*, pp. 13-24.

Temporary Restraining Oder and/or Writ of Preliminary Injunction) filed by petitioner Philippine Health Insurance Corporation (PHIC) from the Decision No. 2018-253[2] dated 15 March 2018 and Decision No. 2020-466[3] dated 31 January 2020 of the Commission on Audit (COA), which affirmed the notices of disallowance (ND) on the payment of transportation allowance, project completion incentive, and educational assistance allowance for calendar years (CY) 2009 and 2010, in the total amount of ₱15,287,405.63.

Antecedents

The case stemmed from the various NDs issued by the Supervising Auditor and Audit Team Leader disallowing benefits and allowances paid by PHIC Regional Office (RO) IV-A to its regular and contractual employees for CY 2009 and 2010. The disallowances are summarized as follows:

Benefits	**ND** *(all dated 15 November 2011)*	**Amount**
Transportation Allowance for Contractual Employees in CY 2009	ND No. 11-001-GF (09)[4]	₱220, 736.19
Project Completion Incentive for Contractual Employees in CY 2009 and 2010	ND No. 11-004-GF (09)[5]	₱144,587.08
	ND No. 11-005-GF (10)[6]	₱153,769.11
Educational Assistance Allowance for Regular Employees in CY 2009 and 2010	ND No. 11-002-GF (09)[7]	₱6,632,059.55
	ND No. 11-003-GF (10)[8]	₱8,136,253.70

Section 26(a) of Republic Act No. (RA) 7875,[9] which requires all funds under the management and control of the corporation to be subject to all rules and regulations applicable to public funds, was cited as basis for disallowance in all the subject NDs.

The transportation allowance and project completion incentive granted to contractual employees were considered irregular expenditures due to lack of proper authority as provided in Section 3.1.A of COA Circular No. 85-55A. The same were also found to be contrary to Rule XI, Civil Service Commission Memorandum Circular No. 40, series of 1998, as amended

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2 Id. at 36-45. Signed by Commissioner Michael G. Aguinaldo, Chairperson and concurred in by Commissioner Jose A. Fabia.

3 Id. at 248-252. Signed by Commissioner Michael G. Aguinaldo, Chairperson and concurred in by Commissioners Jose A. Fabia and Roland C. Pondoc.

4 Id. at 103-106.

5 Id. at 116-118.

6 Id. at 119-121.

7 Id. at 107-110.

8 Id. at 111-115.

9 National Health Insurance Act of 1995.

(CSC MC No. 40), which provides that job order employees do not enjoy the benefits enjoyed by government employees.

The educational assistance allowance for regular employees, on the other hand, was disallowed for being granted in violation of Sections 15(e)[10] and 17(e)[11] of the General Provisions of the General Appropriations Act for Fiscal Years 2009 and 2010; paragraph 4.5[12] of Department of Budget and Management (DBM) Budget Circular (BC) No. 16 dated 28 November 1998; Section 10[13] of Public Sector Labor Management Council Resolution No. 02, series of 2003; and Section 5.4.2[14] of DBM BC No. 2006-01 dated 01 February 2006.

Corollary, the following approving authorities were held liable for the grant of the disallowed benefits and allowances: Feliciana O. Pastorpide, Benjie A. Cuvinar, Erlinada R. Pronton, Edwin M. Oriña, and Verna R. Bagcawas.[15] PHIC's regular and contractual employees who received the disallowed benefits were likewise held liable to settle the same.[16]

This prompted PHIC, represented by Regional Vice-President Alberto C. Mandurao, to file an appeal[17] before the Regional Director (RD) of COA RO No. IV-A on 18 May 2012. In its Decision No. 2014-23[18] dated 19 March 2014, the COA RD affirmed the subject NDs.

Aggrieved, PHIC filed a Petition for Review[19] before the COA Commission Proper raising the following arguments: i) Section 16(n) of RA

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[10] Section 15. Restrictions on the Use of Government Funds. No government funds shall be utilized for the following purposes:
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(e) Pay honoraria, allowances or other forms of compensation to any government official or employee, except those specifically authorized by law.

[11] Section 17. Restrictions on the Use of Government Funds. No government funds shall be utilized for the following purposes:
xxx
(e) Pay honoraria and other allowances except those specifically authorized by law; xxx

[12] 4.5 All agencies are hereby prohibited from granting any food, rice, gift checks or any other form of incentives/allowances, except those authorized via Administrative Order by the Office of the President.
xxx

[13] Section 10. As provided in Section 3, Rule VIII of the Rules and Regulations to Govern the Exercise of Right of Government Employees to Self-Organization, the following are not negotiable:
a) Increase in salary emoluments and other allowances not presently provided for by law; xxx

[14] 5.4.2 Existing cash incentives in the CNAs which are already provided under existing laws, administrative orders, or with Presidential approval, or under the CSC-approved Program on Awards and Incentives for Service Excellence (PRAISE) established under CSC Memorandum Circular (MC) No. 01, s. 2001, shall not be part of the CNA Incentive to preclude double compensation which is prohibited under the Constitution, and as payments thereof are subject to separate authority and pertinent conditions.

[15] *Rollo*, pp. 103-121.

[16] Id.

[17] Id. at 148-189.

[18] Id. at 93-102. Penned by Director Cleotilde M. Tuazon.

[19] Id. at 71-90.

7875 explicitly bestowed PHIC with fiscal autonomy; ii) the fiscal autonomy had been confirmed by former President Gloria Macapagal-Arroyo (Pres. Macapagal-Arroyo) in 2006 and 2008 (PGMA letters); iii) the PHIC Board of Directors (BOD) has the exclusive authority to approve the corporation's internal operating budget that does not require budgetary support from the national government; iv) the grant of allowances and benefits were authorized under various resolutions[20] duly passed and approved by the BOD; and v) PHIC personnel received the benefits and allowances in good faith, hence, should not be liable for refund.

In the Decision No. 2018-253 dated 15 March 2018, the COA Commission Proper dismissed the petition. The dispositive portion reads:

> **WHEREFORE**, premises considered, the Petition for Review of Philippine Health Insurance Corporation (PhilHealth) Regional Office (RO) No. IV-A, represented by its Regional Vice President, Mr. Alberto C. Manduriao, is hereby **DENIED** for lack of merit. Accordingly, Commission on Audit RO No. IV-A Decision No. 2014-23 dated March 19, 2014, which affirmed Notice of Disallowance (ND) Nos. 11-001-GF (09), 11-002-GF (09), 11-003-GF (10), 11-004-GF (09), and 11-005-GF (10), all dated November 15, 2011, on the payment of Transportation Allowance, Educational Assistance Allowance, and Project Completion Incentive for calendar years 2009 and 2010, in the total amount of P15,287,405.63, is **AFFIRMED**.
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> The Supervising Auditor and the Audit Team Leader shall issue a Supplemental ND to the members of PhilHealth Board of Directors who authorized the grant of Transportation Allowance, Educational Assistance Allowance, and Project Completion Incentive.[21]

The COA Commission Proper ruled that Section 16(n) of RA 7875 is a general statement of powers and functions of the PHIC BOD that cannot be equated to fiscal autonomy or absolute power in fixing the compensation and benefits of its personnel. As such, PHIC is duty-bound to observe the guidelines and policies under Section 12 of RA 6758, Section 6 of Presidential Decree No. (PD) 1597, and Section 9 of Congress Joint Resolution No. (JR) 04 dated 17 June 2009, consistent with the ruling in *Philippine Health Insurance Corporation v. Commission on Audit*[22] *(2016 PHIC case)*. It rejected the argument that former Pres. Macapagal-Arroyo

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[20] The disallowed benefits and allowances were granted pursuant to PHIC Board Resolution No. 938, s. 2006, re: *Resolution Amending PHIC Board Resolution No. 929, s. 2006 by Withdrawing the Grant of the Shuttle Service Assistance to the PHIC Contractors and Granting them Instead the Transportation Assistance*, implemented by Office Order No. 0086 s. 2006; PHIC Board Resolution No. 322 s. 2000, re: *Resolution Approving the Grant of Educational Assistance Allowance,* implemented by Office Order No. 24 s. 2009 and Office Order No. 17, s. 2010, and PHIC Board Resolution No. 543, s. 2003, re: *Resolution Approving the Granting of PhilHealth Contractor's Benefits for the Period January to June 2003*, implemented by Office Order No. 25, s. 2009 and Office Order No. 16, s. 2010.

[21] *Rollo*, p. 44

[22] GR No. 213453, 29 November 2016.

confirmed the fiscal autonomy of PHIC and found no basis in the claim that the exclusive authority of the BOD to approve PHIC's internal operating budget comes from the fact that it does not require budgetary support from the national government.

Accordingly, the COA Commission Proper affirmed the subject NDs and found the approving, authorizing, and certifying officers for the disallowed benefits, as well as the PHIC BOD, solidarily liable therefor. It ratiocinated that the concerned BOD and officers had knowledge of the irregularity of the benefits because disallowances of the same nature had been previously issued.

Upon motion for reconsideration,[23] the COA Commission Proper modified the assailed decision in Decision No. 2020-466 dated 31 January 2020, excusing two officers from solidary liability since neither were approving nor authorizing officers for the disbursement of funds while remaining liable for the amounts they received. The *fallo* reads:

> **WHEREFORE**, premises considered, the Motion for Reconsideration of Philippine Health Insurance Corporation Regional Office No. IV-A, Lucena City, represented by Dr. Elizabeth S. Fernandez, Regional Vice President, is hereby **DENIED**. Accordingly, Notice of Disallowance (ND) Nos. 11-001-GF (09), 11-002-GF (09), 11-003-GF (10), 11-004-GF (09), and 11-005-GF (10), all dated November 15, 2011, on the payment of Transportation Allowance, Educational Assistance Allowance, and Project Completion Incentive for calendar years 2009 and 2010, in the total amount of P15,287,405.63, are **AFFIRMED with MODIFICATION**. Mr. Benjie A. Cuvinar and Ms. Erlinda R. Pronton are excluded from solidary liability. However, they shall remain liable to refund the amount they each received.

Hence, the present petition.

Issues

PHIC raises the following issues for this Court's consideration:

1. Whether the COA Commission Proper gravely abused its discretion tantamount to lack of jurisdiction when it erroneously affirmed the findings of the COA RD that the grant of the subject benefits and allowances is irregular; and

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[23] *Rollo*, pp. 52-69.

2. Whether PHIC officials and employees who granted and received the subject benefits and allowances were in good faith, hence, cannot be required to refund the disallowed amounts.

Ruling of the Court

The Petition must fail.

The Court generally sustains the decisions of administrative authorities, especially one which is constitutionally created, not only on the basis of the doctrine of separation of powers but also for their presumed expertise in the laws they are entrusted to enforce. 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.[24]

Here, the COA committed no grave abuse of discretion in affirming the disallowed benefits.

PHIC's authority under Section 16(n) of RA 7875 is not absolute and cannot be the sole basis for the grant of benefits or allowances

PHIC asserts that the statutory authority for the disallowed benefits is the fiscal autonomy expressly granted to it under Section 16(n) of RA 7875, which reads:

> SEC. 16. Powers and Functions – The Corporation shall have the following powers and functions:
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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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[24] *The Officers and Employees of Iloilo Provincial Government v. Commission on Audit*, G.R. No. 218383, 05 January 2021 citing *Veloso v. Commission on Audit*, 672 Phil. 419 (2011).

It maintains that such fiscal independence has been confirmed by Opinion No. 258 dated 21 December 1999[25] and Opinion No. 056 dated 31 March 2004[26] of the Office of the Government Corporate Counsel (OGCC opinions), PGMA letters, and legislative deliberations.

The COA, through the Office of the Solicitor General, counters that PHIC failed to show that the former acted capriciously and arbitrarily in exercising its discretion. It argues that the OGCC opinions do not have the force and effect of law, the PGMA letters cannot be the basis for the fiscal autonomy, and the legislative deliberations need not be looked into since the language of the law is plain, clear, and unambiguous.

We do not find merit in PHIC's contentions.

It must be emphasized that the extent of the power of government-owned or controlled corporations (GOCCs) to fix salaries and allowances, even those exempted from the Salary Standardization Law (SSL), has already been laid out in the 1999 case of *Intia, Jr. v. Commission on Audit*[27] *(Intia)*. In *Intia*, We ruled that the grant to Philippine Postal Corporation (PPC) of the power to fix compensation and benefits of its employees notwithstanding, PPC was still required to observe relevant guidelines and policies as may be issued by the President, and its compensation system shall be subject to review of the DBM pursuant to Section 6 of PD 1597. This was reiterated in *Philippine Retirement Authority v. Buñag,*[28] *Philippine Charity Sweepstakes Office v. Pulido-Tan,*[29] and *Philippine Economic Zone Authority v. Commission on Audit.*[30]

Thus, in the *2016 PHIC case,* We elaborated on the aforesaid legal precept, and settled the limit of the fiscal autonomy claimed by PHIC, *viz*:

> The extent of the power of GOCCs to fix compensation and determine the reasonable allowances of its officers and employees had already been conclusively laid down in *Philippine Charity Sweepstakes Office (PCSO) v. COA*, to wit:
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> > The PCSO stresses that it is a self-sustaining government instrumentality which generates its own fund to support its operations and does not depend on the national government for its budgetary support. Thus, it enjoys certain latitude to establish and grant allowances and incentives to its officers and employees.

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25 *Rollo*, pp. 192-194.
26 Id. at 195-199.
27 366 Phil. 273 (1999).
28 444 Phil. 859 (2003).
29 785 Phil. 266 (2016).
30 G.R. No. 210903, 11 October 2016.

> We do not agree. Sections 6 and 9 of R.A. No. 1169, as amended, cannot be relied upon by the PCSO to grant the COLA. Section 6 merely states, among others, that fifteen percent (15%) of the net receipts from the sale of sweepstakes tickets (whether for sweepstakes races, lotteries, or other similar activities) shall be set aside as contributions to the operating expenses and capital expenditures of the PCSO. Also, Section 9 loosely provides that among the powers and functions of the PCSO Board of Directors is "to fix the salaries and determine the reasonable allowances, bonuses and other incentives of its officers and employees as may be recommended by the General Manager . . . subject to pertinent civil service and compensation laws." The PCSO charter evidently does not grant its Board the unbridled authority to set salaries and allowances of officials and employees. On the contrary, as a government owned and/or controlled corporation (GOCC), it was expressly covered by P.D. No. 985 or "The Budgetary Reform Decree on Compensation and Position Classification of 1976," and its 1978 amendment, P.D. No. 1597 (Further Rationalizing the System of Compensation and Position Classification in the National Government), and mandated to comply with the rules of then Office of Compensation and Position Classification (OCPC) under the DBM.
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> 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.[31]
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> xxx

Accordingly, that Section 16 (n) of R.A. 7875 granting PHIC's power to fix the compensation of its personnel does not explicitly provide that the same shall be subject to the approval of the DBM or the OP as in Section 19 (d) thereof does not necessarily mean that the PHIC has unbridled discretion to issue any and all kinds of allowances, limited only

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[31] Emphasis and citations omitted.

> by the provisions of its charter. As clearly expressed in *PCSO v. COA*, **even if it is assumed that there is an explicit provision exempting a GOCC from the rules of the then Office of Compensation and Position Classification (OCPC) under the DBM, the power of its Board to fix the salaries and determine the reasonable allowances, bonuses and other incentives was still subject to the standards laid down by applicable laws: P.D. No. 985, its 1978 amendment, P.D. No. 1597, the SSL, and at present, R.A. 10149**. To sustain petitioners' claim that it is the PHIC, and PHIC alone, that will ensure that its compensation system conforms with applicable law will result in an invalid delegation of legislative power, granting the PHIC unlimited authority to unilaterally fix its compensation structure. Certainly, such effect could not have been the intent of the legislature.[32]

Consistent thereto, We reiterated that PHIC's fiscal autonomy is not absolute and affirmed the NDs pertaining to the contractor's gift, special events gifts, project completion incentive, nominal gift, and birthday gifts granted by PHIC in 2008, in the 2018 case of *Philippine Health Insurance Corporation-CARAGA v. Commission on Audit*[33] *(2018 PHIC case)*. This is recapitulated in the 2020[34] and 2021[35] cases likewise involving PHIC *(2020 PHIC case and 2021 PHIC case, respectively)*, where the Court upheld the disallowance of several allowances and benefits including the educational assistance allowance and project completion benefit granted in 2008, and transportation allowance granted in the 2010 to job order contractors.

Indeed, notwithstanding Section 16(n) of RA 7875, PHIC is duty-bound to observe the guidelines and policies under relevant laws such as Section 12[36] of RA 6758, Section 6[37] of PD 1597, and Section 9[38] of JR 04.

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[32] Emphasis supplied.

[33] G.R. No. 230218, 14 August 2018.

[34] *Philippine Health Insurance Corporation v. Commission on Audit,* G.R. No. 235832, 03 November 2020.

[35] *Philippine Health Insurance Corporation v. Commission on Audit,* G.R. No. 222129, 02 February 2021.

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

[37] **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 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 prescribed by the President. [Underscoring supplied]

[38] (9) Exempt Entities – Government agencies which by specific provision/s of laws are authorized to have their own compensation and position classification system shall not be entitled to the salary

We find no reason to deviate from the foregoing pronouncements.

The COA correctly upheld the NDs in view of the lack of legal basis for the grant of transportation allowance, project completion incentive, and educational assistance allowance.

The disallowance of the educational assistance allowance is warranted in the absence of law or DBM issuance allowing the grant thereof. By legal fiction, the said allowance is deemed incorporated in the standardized salary.[39] On this point, Our ruling in the 2016 PHIC case is instructive. There, faced with the same arguments raised in the present case, We affirmed the disallowance of the Labor Management Relations Gratuity (LMRG) in this wise:

> For parallel reasons, the Court finds that the PHIC's issuance of the LMRG must suffer the same fate. **In defending the validity thereof, petitioner PHIC merely asserted, in its petition, its 'fiscal autonomy' to fix compensation and benefits of its personnel under Section 16 (n) of R.A. No. 7875** and the argument that the LMRG is not merely a duplicate of the PIB. Seemingly realizing the insufficiency thereof, **petitioner, in its Reply, attempted to provide the Court with additional legal basis by citing certain OGCC opinions and jurisprudence reiterating its "fiscal autonomy"** and averring that Section 19, Chapter 3, Book VI of E.O. 292, otherwise known as the 1987 Administrative Code of the Philippines, clearly provides that internal operating budgets of GOCCs are generally subject only of their respective governing boards, and the only exception thereto requiring DBM approval is when national government budgetary support is used. Thus, it was alleged that since the funds used in the disbursement of the LMRG were sourced from PHIC's internal operating budget, DBM approval is unnecessary.
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> Petitioner fails to persuade.
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> *PCSO v. COA* has already established, in no uncertain terms, that the fact that a GOCC is a self-sustaining government instrumentality which does not depend on the national government for its budgetary support does not automatically mean that its discretion on the matter of compensation is absolute. As elucidated above, regardless of any exemption granted under their charters, the power of GOCCs to fix

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adjustments provided herein. Exempt entities shall be governed by their respective Compensation and Position Classification Systems: *Provided*; That such entities shall observe the policies, parameters and guidelines governing position classification, salary rates, categories and rates of allowances, benefits and incentives, prescribed by the President: *Provided, further*, That any increase in the existing salary rates of allowances, benefits and incentives, or an increase in the rates thereof shall be subject to the approval by the President, upon recommendation of the DBM: *Provided, finally*, That exempt entities which still follow the salary rates for positions covered by Republic Act No. 6758, as amended, are entitled to the salary adjustments due to the implementation of this Joint Resolution, until such time that they have implemented their own compensation and position classification system. [Underscoring supplied]

[39] Republic Act 6758, Sec. 12.

> salaries and allowances must still conform to compensation and position classification standards laid down by applicable law, which, in this case, is the SSL. **In view of petitioner's failure to present any statutory authority or DBM issuance expressly authorizing the grant of the LMRG, the same must be deemed incorporated in the standardized salaries of the PHIC employees. Accordingly, the Court must necessarily strike its unauthorized issuance as invalid for the receipt by the PHIC employees thereof was tantamount to double compensation.**[40]

In the same vein, We find the disallowance of the subject transportation allowance and project completion incentive proper. It is well to point out that while transportation allowance is among those expressly excluded by RA 6758 from integration into the standardized salaries of government employees,[41] the grant of the same to contractual employees cannot be sanctioned. As found by the COA RD, the grant of transportation allowance and project completion incentive to contractual employees is inconsistent with CSC MC No. 40, which provides a distinction between the benefits enjoyed by government employees and job order contractors.[42] Further, the said grant is contrary to the express provision in the job order contract that the only compensation due to the contractor was the daily rate agreed upon.[43]

The approving or authorizing officers and the recipients are liable to refund the disallowed benefits

PHIC asseverates that the approving officers and the recipients cannot be required to refund the disallowed amounts citing the rules of return in *Madera v. Commision on Audit*[44] *(Madera).*

On the other hand, the COA posits that good faith cannot be appreciated to exculpate the approving officers and the recipients of the disallowed benefits considering that PHIC had knowledge of previous disallowances of the same nature and there was no indication that the disallowed benefits were genuinely intended as compensation for services rendered.

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40 Emphases supplied.

41 Republic Act 6758, Sec. 12. *See also Philippine Health Insurance Corp. Regional Office-CARAGA v. COA*, G.R. No. 230218, 06 July 2021.

42 *Rollo*, p. 101.

43 Id. *See also Philippine Health Insurance Corporation v. Commission on Audit*, supra note 34, where the Court observed that the grant of transportation allowance for job order contractors was unjustified based on their respective job order or consultancy contracts.

44 GR No. 244128, 08 September 2020.

In determining the liability of the approving officers and recipients to refund disallowed amounts, We follow the rules of return in *Madera*:

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

Simply stated, approving and certifying officers who acted in good faith are not liable to return the disallowed amounts, while recipients are liable to refund what has been given them, subject to the certain exceptions under Rule 2c and 2d.

In this case, We agree with the COA that good faith cannot be appreciated in favor of the BOD and the approving authorities considering that they had knowledge of the irregularity of the benefits because disallowances of the same nature had been previously issued.[45] Notably, previous disallowance of the transportation allowance, project completion incentive, and educational assistance allowance can be gleaned from the *2018 PHIC case* as well as the *2020 PHIC case*.

PHIC argues that prior to the grant of the subject benefits, there was no final COA disallowance. This, considering that the *2016 PHIC case* was rendered "only after six (6) to nine (9) years when the subject benefits were granted."[46]

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[45] *Rollo*, p. 43.
[46] Id. at 18.

The argument deserves scant consideration. While the extent of PHIC's fiscal autonomy was specifically settled only in 2016 as pointed out by PHIC, the legal precept enunciated therein has been settled as early as 1999. Instructive on this point is our pronouncement in the *2016 PHIC case*, where We rejected the good faith defense of the PHIC BOD and approving officers in relation to the grant of LMRG and stated that the grant thereof without authority of law is tantamount to gross negligence amounting to bad faith:

> As previously mentioned, the **PHIC Board members and officers approved the issuance of the LMRG in sheer and utter absence of the requisite law or DBM authority, the basis thereof being merely PHIC's alleged "fiscal autonomy" under Section 16 (n) of RA 7875. But again, its authority thereunder to fix its personnel's compensation is not, and has never been, absolute. As previously discussed, in order to uphold the validity of a grant of an allowance, it must not merely rest on an agency's "fiscal autonomy" alone, but must expressly be part of the enumeration under Section 12 of the SSL, or expressly authorized by law or DBM issuance.** This directive was definitively established by the Court as early as 1999 in *National Tobacco Administration v. Commission on Audit*, which was even subsequently affirmed in *Philippine International Trading Corporation v. Commission on Audit* in 2003. Thus, at the time of the passage of PHIC Board Resolution No. 717, s. 2004 on July 22, 2004 by virtue of which the PHIC Board resolved to approve the LMRG's issuance, the PHIC Board members and officers had an entire five (5)-year period to be acquainted with the proper rules insofar as the issuance of certain allowances is concerned. **They cannot, therefore, be allowed to feign ignorance to such rulings for they are, in fact, duty-bound to know and understand the relevant rules they are tasked to implement. Thus, even if We assume the absence of bad faith, the fact that said officials recklessly granted the LMRG not only without authority of law, but even contrary thereto, is tantamount to gross negligence amounting to bad faith**. Good faith dictates that before they approved and released said allowance, they should have initially determined the existence of the particular rule of law authorizing them to issue the same.[47]

PHIC also cannot rely on the existence of the OGCC opinions and the PGMA letters to exculpate the concerned BOD and approving officers from liability.

While seeking in-house legal opinion as an act of due diligence may be considered as a badge of good faith,[48] the subject OGCC opinions cannot be deemed as such. Aside from the fact that the OGCC opinions were raised

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47 Emphases and underscoring supplied.

48 *Madera v. COA*, G.R. No. 244128, 08 September 2020, adopting the circumstances which may absolve approving officers of liability proposed in J. Leonen's Concurring Opinion.

for the first time before this Court, We have already rejected the invocation of the same opinions when We resolved PHIC's motion for reconsideration in the *2018 PHIC case,* to wit:

> First, OGCC Opinion No. 258, was issued in 1999. As early as 1998, this Court had declared the applicability of Section 6 of Presidential Decree No. 1597, which requires observance of Presidential rules, policies, and guidelines in the grant of allowances and benefits. The presidential issuances [Memorandum Order No. 20 and Administrative Order No. 103] were issued in 2001 and 2004. There was no showing that petitioner's officers were minded to clarify with OGCC their authority before they even disbursed the 2007-2008 benefits.
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> Moreover, prior to the release of the benefits, Commission on Audit issued a series of Audit Observation Memoranda to petitioner's management, pertaining to similar disbursements of allowances or benefits in the previous year. The Audit Observation Memoranda disclosed that petitioner's officers violated Section 6 of Presidential Decree No. 1597. Thus, taking all these considerations together, we are not convinced that petitioner's approving officers acted without knowledge of facts and circumstances that would make the benefits and incentives illegal.
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> Second, nowhere in OGCC Opinion No. 056 does it state that PhilHealth can grant allowances and benefits even without conformity or approval of the President. The OGCC merely confirmed that the provisions of Executive Order No. 292 are more applicable to the subject of the query, which pertained to the approval of PhilHealth's corporate budget. Accordingly, it opined that disbursements which do not require budgetary support from the National Government do not need the prior approval of Department of Budget and Management.[49]

The same is true with the PGMA letters. In *Philippine Charity Sweepstakes Office v. The Commission on Audit,*[50] we rejected the argument of PCSO that all the disallowed benefits bear the approval of former presidents, presenting letters and memoranda to prove its claim. The Court agreed with the COA that the said documents should not be interpreted as an unqualified and continuing right to grant myriad of financial benefits to PCSO officials and employees, more so since the documents do not even relate to the disallowed benefits subject of the case. Similarly, as aptly found by the COA, the PGMA letters did not contain approval of the subject disallowed benefits since what was approved or confirmed therein was the Rationalization Plan or Reengineered Organization of PHIC.[51]

Anent the liability of the recipients, they are bound to return what they

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[49] *Philippine Health Insurance Corp. Regional Office-CARAGA v. COA*, G.R. No. 230218, 06 July 2021.
[50] G.R. No. 218124, 05 October 2021.
[51] *Rollo,* p. 42.

have received on the principle of *solutio indebiti*.[52]

PHIC claims that the recipients should not be liable for the refund of the disallowed amounts since the latter received the benefits and allowance in good faith and in consideration of their invaluable services rendered for the public.[53]

The claim is untenable. Good faith is no longer a defense available to recipients, unlike approving officers.[54] This Court views the receipt by the payees of disallowed benefits as one by mistake, thus creating an obligation on their part to return the same.[55] As enunciated in *Madera*, recipients are absolved from liability if the amounts they received were genuinely given in consideration of services rendered, or the return is excused based on undue prejudice, social justice considerations, and other bona fide exceptions as may be determined by the Court on a case-to-case basis. The Court further clarified these exceptions in *Abellanosa v. COA*[56] *(Abellanosa)*:

> As a supplement to the Madera Rules on Return, the Court now finds it fitting to clarify that in order to fall under Rule 2c, i.e., amounts genuinely given in consideration of services rendered, the following requisites must concur:
>
> (a) the personnel incentive or benefit has **proper basis in law** but is only disallowed due to irregularities that are merely procedural in nature; **and**
>
> (b) the personnel incentive or benefit must have a **clear, direct, and reasonable connection to the actual performance of the payee-recipient's official work and functions** for which the benefit or incentive was intended as further compensation.
>
> xxx
>
> With respect to the first requisite above mentioned, Associate Justice Alfredo Benjamin S. Caguioa (Justice Caguioa) — the ponente of Madera — aptly points out that **the exception under Rule 2c was not intended to cover compensation not authorized by law or those granted against salary standardization laws**. Thus, amounts excused under the said rule should be understood to be limited to **disbursements adequately supported by factual and legal basis, but were nonetheless validly disallowed by the COA on account of procedural infirmities**. As the esteemed magistrate observes, these may include amounts, such as basic pay, fringe benefits, and other fixed or variable forms of compensation permitted under existing laws, which were granted without the due observance of procedural rules and regulations (e.g., matters of

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52 CIVIL CODE, Art. 2154 in relation to Art. 2155.
53 *Rollo*, pp. 20-21.
54 *See Philippine Charity Sweepstakes Office v. COA*, G.R. No. 218124, 05 October 2021.
55 Id.
56 GR 185806, 17 November 2020.

form, or inadequate documentation supplied/rectified later on).

xxx

Aside from having proper basis in law, the disallowed incentive or benefit must have a clear, direct, and reasonable connection to the actual performance of the payee-recipient's official work and functions. Rule 2c after all, excuses only those benefits "genuinely given in consideration of services rendered"; in order to be considered as "genuinely given," not only does the benefit or incentive need to have an ostensible statutory/legal cover, there must be actual work performed and that the benefit or incentive bears a clear, direct, and reasonable relation to the performance of such official work or functions. To hold otherwise would allow incentives or benefits to be excused based on a broad and sweeping association to work that can easily be feigned by unscrupulous public officers and in the process, would severely limit the ability of the government to recover.

xxx

While Rule 2d is couched in broader language as compared to Rule 2c, the application of Rule 2d should always remain true to its purpose: it must constitute a bona fide instance which strongly impels the Court to prevent a clear inequity arising from a directive to return. Ultimately, **it is only in highly exceptional circumstances, after taking into account all factors (such as the nature and purpose of the disbursement, and its underlying conditions) that the civil liability to return may be excused.** For indeed, it was never the Court's intention for Rules 2c and 2d of Madera to be a jurisprudential loophole that would cause the government fiscal leakage and debilitating loss.[57] (Emphases supplied)

In view of the discussion above that the disallowed benefits and allowances have no legal basis, the exception under Rule 2c laid down in *Madera*, as clarified in *Abellanosa,* finds no application in this case. The same is true for the transportation allowance granted to PHIC's contractors. Transportation allowances belong to an umbrella of benefits, "usually granted to **officials and employees of the government** to defray or reimburse the expenses incurred in the performance of their official functions."[58] To reiterate, the transportation allowance here was granted by PHIC to **contractors or those employed through job orders**, who, under Section 2(d), Rule XI of CSC MC No. 40,[59] are **not** entitled to benefits enjoyed by government employees, such as PERA, COLA, and RATA

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[57] Id.

[58] *National Tobacco Administration v. Commission on Audit,* 370 Phil. 793 (1999).

[59] Sec. 2. Contracts of Services/Job Orders refer to enployment described as follows:

x x x

d. The employees involved in the contracts or job orders do not enjoy the benefits enjoyed by government employees, such as PERA, COLA and RATA.

*(representation and **transportation allowance**)*. Thus, while it may bear a clear, direct, and reasonable relation to performance and is among those excluded from the standardized salary rates under RA 6758, the transportation allowance granted in this case still lacked legal cover for violating the pertinent Civil Service rules, and therefore cannot be exempted under Rule 2c of the *Madera* rules.

As regards Rule 2d, PHIC made no allegation, much less provide evidence, as to the existence of any extraordinary circumstance that may fall under said rule. Verily, the amounts received by the employees and contractors in the subject NDs should be refunded.

Finally, it is well to note that the foregoing findings are consistent with our previous rulings in the above-cited PHIC cases that involve similar arguments and disallowed benefits. In the said cases, we consistently found the authorizing officers solidarily liable for their gross negligence in granting the benefits and allowances based solely on PHIC's alleged fiscal autonomy. Meanwhile, except for the *2016 PHIC case*[60] which was promulgated before *Madera*, the Court likewise ordered the recipients to refund the disallowed amounts on the basis of *solutio indebiti*.[61]

WHEREFORE, premises considered, the instant Petition is hereby **DENIED**. The assailed Decision No. 2018-253 dated 15 March 2018 and Decision No. 2020-466 dated 31 January 2020 of the Commission on Audit are **AFFIRMED**.

SO ORDERED.

RODIL V. ZALAMEDA
Associate Justice

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[60] In the *2016 PHIC case* (G.R. No. 213453), good faith was appreciated in favor of the recipients of the disallowed amounts.

[61] In the 2020 (G.R. No. 235832) and 2021 (G.R. No. 222129) PHIC cases, the Court upheld the solidary liability of the authorizing officers and recipients based on the finality of the assailed COA decisions. Nonetheless, the Court discussed the lack of good faith of the said officers in granting the disallowed benefits, and the obligation of the recipients to return the disallowed amounts based on the principle of *solutio indebiti*. Further, the finding of good faith on the part of the authorizing officers and recipients in the *2018 PHIC case* (G.R. No. 230218) was modified in the Resolution of this Court dated 06 July 2021.

WE CONCUR:

(On official business leave)
ALEXANDER G. GESMUNDO
Chief Justice

MARVIC M.V.F. LEONEN
Senior Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

(On official business leave)
MARIO V. LOPEZ
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

JOSE MIDAS P. MARQUEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

MARIA FILOMENA D. SINGH
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.

MARVIC M.V.F. LEONEN
Acting Chief Justice