Republic of the Philippines
Supreme Court
Manila

EN BANC

ROSARIO J. ABRENICA, MARY ANN JOY G. AGUADERA, VICTORIA S. ALARCON, LALAINE D. ARCANGEL, EDGARDO BAUTISTA, RAPHAEL T. BAUTISTIA, MAY EMMA BOOKS-MONTELLANO, DANTE P. BORNALES, ARTURO H. CABANBAN, VICENTE F. CO, JR., VILMA J. CRUZ, ROSALINA L. CUENCA, FERDINAND S. DE GUZMAN, MA. FE F. DECLARO, EFREN M. DIMAANO, ALEXIS Q. DIMAPILIS, VIRGINIA DIMAPILIS, MA. OLIVIA M. DIZON, EDNA MA. ENDRADA, BONNA M. ESPARTERO, BENJAMIN D. ESTRELLA, JR., JOVITA C. GONZALES, WILMA P. LADORES, SUSAN C. LEE, JESUS MARIO J. LOGMAO, ARLAN C. LOPEZ, JEROME LACEDA, ALBERT G. LU, MINDA A. MANALO, SHANE D. MARTE, EDNA ABELLERA MIRANDA, MA. LUISA J. NALLICA, EMILIO S. PANDONG, MONICA B. PAUBILLO, MICHAELA B. PANZALAN, NIMFA M. PUTONG, ELEONORITA E. REYES, JUDITH T. REYES, BIENVENIDO G. ROMERO, JR., NAOMI RUTH D.	**G.R. No. 218185** **Present:** GESMUNDO, *C.J.*, PERLAS-BERNABE, *S.A.J.*, LEONEN, CAGUIOA, HERNANDO, CARANDANG, LAZARO-JAVIER, INTING, ZALAMEDA, LOPEZ, M., GAERLAN, ROSARIO, and LOPEZ, J. Y., *JJ.*

SALUDAR, EUMELIA P. SALVA, EDNA G. SANTIAGO, RONTGENE M. SOLANTE, DAVID T. SUPLICO, DANIEL S. TAGULAO, RUEL TEANO, ELIZABETH O. TELAN, FELIZ ROBERTO TORRES, EDITH S. TRIA, FRANCIS R. VILLANUEVA, JOSE BENITO R. VILLARAMA, VOLTAIRE C. YABUT, and **JOSEFINA T. MAPAGU,** as represented by the **SAN LAZARO HOSPITAL (SLH) MEDICAL STAFF ASSOCIATION,**
Petitioners,

- versus -

COMMISSION ON AUDIT and **NILDA B. PLARAS, Director IV, Commission on Audit, Commission Proper *En Banc*,**
Respondents.

Promulgated:

September 14, 2021

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DECISION

M. LOPEZ, *J.*:

This Petition for *Certiorari*[1] under Rule 64, in relation to Rule 65, of the Revised Rules of Court, assails Commission on Audit (COA) Resolution[2] dated February 27, 2015, which dismissed Rosario J. Abrenica, *et al.*'s (petitioners) motion for reconsideration (MR) of Decision No. 2014-158[3] dated August 15, 2014 for being filed out of time.

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[1] *Rollo*, pp. 3-33.
[2] Id. at 41.
[3] Id. at 268-273. Signed by Chairperson Ma. Gracia M. Pulido Tan with Commissioners Heidi L. Mendoza and Jose A. Fabia.

FACTS

Petitioners are employees of San Lazaro Hospital (SLH) with Salary Grades (SG) 20 to 26.[4] From January to June 2009, they received hazard allowances pegged at ₱4,989.75 per month.[5] This rate was, however, found to be not in accord with Section 21[6] of Republic Act (RA) No. 7305,[7] otherwise known as "The Magna Carta of Public Health Workers" and Section 7.1.5.a,[8] Rule XV of its revised implementing rules and regulations (IRR),[9] which prescribe hazard allowances to be proportional to the employee's monthly salary, *i.e.*, equivalent to at least five percent (5%) of the monthly basic salary of health workers within SG 20 and above. Thus, an aggregate amount of ₱1,094,188.98, representing those paid beyond five percent (5%) of the health workers' basic salaries, was disallowed in Notice of Disallowance (ND) No. 09-006-101MDS-(09)[10] dated November 23, 2009.[11]

In a Letter of Appeal[12] dated January 4, 2010 and Appeal Memorandum[13] dated February 10, 2010 filed before the COA National Government Section (NGS) Cluster C – Social Services, petitioners sought to be relieved from liability under the ND. They argued that the hazard pay was given pursuant to **Department of Health (DOH) Administrative Order (AO) No. 2006-0011**[14] dated May 16, 2006, which fixed the payment of hazard pay to public health workers with SG 20 and above at ₱4,989.75.[15]

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[4] Id. at 10 and 12.

[5] Id. at 51-52.

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

[7] "THE MAGNA CARTA OF PUBLIC HEALTH WORKERS," approved on March 26, 1992.

[8] SEC. 7.1.5. *Rates of Hazard Pay*

a. Public health workers shall be compensated hazard allowances equivalent to at least twenty-five percent (25%) of the monthly basic salary of health workers receiving salary grade 19 and below, and five percent (5%) for health workers with salary grade 20 and above. This may be granted on a monthly, quarterly or annual basis.

[9] REVISED IMPLEMENTING RULES AND REGULATIONS ON THE MAGNA CARTA OF PUBLIC HEALTH WORKERS OR RA 7305, published on November 26, 1999 in *Malaya* and *Manila Times*.

[10] *Rollo*, pp. 42-43.

[11] The following persons were charged liable to settle the disallowed transactions: (1) petitioner Arturo B. Cabanban, Medical Center Chief II, who approved the payments; (2) Evelyn A. Abueg, Administrative Officer V, who signed the Obligation Request, certified that the charges to appropriation/allotment are necessary, lawful and incurred under her direct supervision, and that the supporting documents are valid, proper, and legal; (3) Normita A. Palisoc, Chief Accountant, who certified the supporting documents as complete and proper; and (4) all petitioners as recipients for receiving the hazard pay. (Id. at 42.)

[12] Id. at 44.

[13] Id. at 45, without the attachment.

[14] "Amended Guidelines on the Payment of Hazard Pay to Public Health Workers (PHWs) under R.A. 7305," effective on July 1, 2006, as stated under Paragraph VII thereof.

[15] Paragraph III. MECHANICS OF PAYMENT.

They asserted honest belief that they were entitled to the hazard benefits received because they occupy positions and/or work in an area classified as high risk.[16]

COA NGS Ruling

The COA NGS ruled that the invoked DOH issuance cannot be relied upon as legal basis in granting hazard allowances fixed at ₱4,989.75 per month, citing the Court's pronouncement in *A.M. No. 03-9-02-SC* entitled *Re: Entitlement to Hazard Pay of SC Medical and Dental Clinic Personnel*[17] that DOH AO No. 2006-0011 is "void on its face." Petitioners' claim of good faith was also rejected as *A.M. No. 03-9-02-SC* was already promulgated when the questioned grant was given.[18] Thus, in its Decision No. 2010-003[19] dated April 16, 2010, the COA NGS sustained the ND:

> **WHEREFORE**, in view of the foregoing, the instant Appeal is hereby **DENIED** for lack of merit. Accordingly, ND No. 09-006-101(MDS)-(09) dated November 23, 2009 is **AFFIRMED** and the concerned SLH personnel are hereby ordered to refund for *(sic)* the overpayment of hazard pay they received for the period January-June, 2009, as shown in the attached computation (Annex A).[20] (Emphases in the original.)

Aggrieved, petitioners appealed to the COA Proper.

COA Proper Ruling

In its Decision No. 2014-158[21] dated August 15, 2014, the COA Proper affirmed the COA NGS ruling:

> **WHEREFORE**, the instant petition is hereby **DENIED** for lack of merit. Accordingly, NGS-Cluster C Decision No. 2010-003 dated April 16, 2010 affirming Notice of Disallowance No. 09-006-101(MDS)-(09) dated November 23, 2009, is **AFFIRMED**.[22] (Emphases in the original.)

On September 29, 2014, petitioners filed an MR,[23] but was dismissed in the assailed Resolution[24] dated February 27, 2015 for being filed late:

Payment of Hazard Pay shall be:

x x x x

❖ for SG-20 and above = shall be pegged at the amount of [₱]4,989.75 and no increase shall be made.

[16] *Rollo*, p. 47.

[17] 592 Phil. 389, 399 (2008).

[18] *Rollo*, pp. 49-50.

[19] Id. at 46-52. Penned by Director IV Janet D. Nacion.

[20] Id. at 50.

[21] Id. at 268-273. Signed by Chairperson Ma. Gracia M. Pulido Tan with Commissioners Heidi L. Mendoza and Commissioner Jose A. Fabia.

[22] Id. at 272-273.

[23] Id. at 101-129.

[24] Id. at 41.

> "The [COA Proper] dismissed the [MR] for having been filed out of time. The assailed decision had already attained finality, and may no longer be modified in any respect following the doctrine of immutability of final judgment."[25]

Consequently, petitioners come to this Court for relief, arguing that Decision No. 2014-158[26] could not have attained finality because their MR was filed within the reglementary period of 30 days prescribed under the 2009 Revised Rules of Procedure of the [COA] (RRPC),[27] as amended.[28] On the merits, petitioners stood firm in their position that the hazard pay granted was in accordance with RA No. 7305 and duly supported by DOH AO No. 2006-0011, as well as subsequent DOH and Department of Budget Management (DBM) issuances.[29] They contend that *A.M. No. 03-9-02-SC* cannot be a jurisprudential basis in rendering DOH AO No. 2006-0011 as void because its "constitutionality" was not the issue in that case. They point out that the Court's Resolution in the administrative matter was not a product of the Court's exercise of judicial review, but merely of its administrative supervision over its employees. Thus, the invoked AO still enjoys the presumption of validity, and the grant and receipt of hazard pay pursuant to it were done in good faith.[30]

The COA Proper, through the Office of the Solicitor General (OSG), counters that Decision No. 2014-158 is already final and immutable as the MR was not filed within the remainder of the 180-day reglementary period to appeal an ND under the provisions[31] of the 2009 RRPC. In any case, the OSG maintains that no grave abuse of discretion can be imputed against the COA Proper in citing *A.M. No. 03-9-02-SC* when it affirmed the ND. The OSG argues that there is no constitutionality issue in this case. Rather, the issue is merely on the validity of the exercise of an administrative agency's rule-making power. In that regard, the Court had determined in *A.M. No. 03-*

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[25] Id.

[26] Id. at 268-273.

[27] Approved on September 15, 2009. Having been published in the *Philippine Star* and *The Daily Tribune* on September 28, 2009, the rules took effect on October 28, 2009.

[28] See amendment in COA Resolution No. 2011-006 dated August 17, 2011, Rule X, Section 10.

SEC. 10. *Motion for Reconsideration.* – A motion for reconsideration may be filed **within thirty (30) days from notice of the decision or resolution**, on the grounds that the evidence is insufficient to justify the decision; or that the said decision of the Commission is contrary to law. Only one (1) motion for reconsideration of a decision of the Commission shall be entertained. (Emphasis supplied.)

[29] DOH Executive Committee Resolution No. 178-326 dated July 20, 2009; DOH Department Memorandum No. 2010-0195 dated August 6, 2010; DOH Department Circular No. 2009-0187 dated August 11, 2009; and DBM Memorandum for all DBM Regional Directors dated April 22, 2009. (*Rollo*, pp. 92-96.)

[30] Id. at 14-31.

[31] Unamended provisions of the 2009 REVISED RULES OF PROCEDURE OF THE [COA], Rule X, Sections 9 and 10.

SEC. 9. *Finality of Decisions or Resolutions.* - A decision or resolution of the Commission upon any matter within its jurisdiction shall become final and executory after the lapse of thirty (30) days from notice of the decision or resolution, unless a motion for reconsideration is seasonably made or an appeal to the Supreme Court is filed.

SEC. 10. *Motion for Reconsideration.* - A motion for reconsideration may be filed **within the time remaining of the period to appeal**, on the grounds that the evidence is insufficient to justify the decision; or that the said decision is contrary to law. Only one (1) motion for reconsideration of a decision of the Commission shall be entertained. (Emphasis supplied.)

9-02-SC that the DOH exceeded its authority in prescribing a fixed rate of hazard pay in DOH AO No. 2006-0011 as RA No. 7305 explicitly prescribed a salary-based rate. Hence, the Court concluded that the DOH issuance is void insofar as it prescribed that fixed rate. Such determination was done in the discharge of the Court's constitutional mandate to interpret the law, which produces a binding effect that transcends beyond the resolution of the administrative query raised in that case.[32]

ISSUES

I. Whether the MR of Decision No. 2014-158 was timely filed;

II. Whether the amounts of hazard pay given beyond the minimum rate prescribed by RA No. 7305 were validly disallowed; and

III. In the affirmative, whether petitioners were validly held liable to refund the disallowed amounts.

RULING

I.
Petitioners' MR of Decision No. 2014-158 was timely filed, but the present petition was filed out of time.

The COA Proper gravely abused its discretion in dismissing outright petitioners' MR of Decision No. 2014-158 for being filed out of time. Contrary to the COA Proper's position that petitioners only had the remaining of the 180-day reglementary period to file their MR, Section 10,[33] Rule X of the 2009 RRPC, as amended by COA Resolution No. 2011-006,[34] allows the filing of an MR within 30 days from notice of the decision or resolution sought to be reconsidered:

> SEC. 10. Motion for Reconsideration. – A motion for reconsideration may be filed within thirty (30) days from notice of the decision or resolution, on the grounds that the evidence is insufficient to justify the decision; or that the said decision of the Commission is contrary to law. Only one (1) motion for reconsideration of a decision of the Commission shall be entertained.

Verily, when petitioners received COA Proper Decision No. 2014-158 on August 28, 2014,[35] they still had 30 days or until September 27, 2014 to file their MR. September 27, 2014, however, fell on a Saturday. Hence, the MR was timely filed on the next business day or on September 29, 2014.[36]

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[32] *Rollo*, pp. 168-180.

[33] Unamended provisions of the 2009 RRPC.

[34] Entitled "RESOLUTION MODIFYING SECTIONS 9 AND 10, RULE X OF THE 2009 REVISED RULES OF PROCEDURE OF THE [COA]," approved on August 17, 2011.

[35] *Rollo*, p. 9.

[36] Id.

The present petition is, however, procedurally infirm for being filed out of time. Petitioners aver that they filed the petition within 30 days from their receipt of the copy of the assailed COA Resolution denying their MR in accordance with Section 1, Rule XII of the 2009 RRPC.[37] This argument is misplaced. The provision adverted, states:

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

Pertinently, Section 3, Rule 64 of the Revised Rules of Court provides:

> SEC. 3. *Time to file petition.* – The petition shall be filed within thirty (30) days from notice of the judgment or final order or resolution sought to be reviewed. The filing of a motion for new trial or reconsideration of said judgment or final order or resolution, if allowed under the procedural rules of the Commission concerned, shall interrupt the period herein fixed. **If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of denial.** (Emphasis supplied.)

Apparently, petitioners' procedural lapse resulted from their fragmentary appreciation of the 2009 RRPC. They failed to consider the explicit provision that it should be read with the relevant law and rules. Thus, read in conjunction with Section 3, Rule 64 of the Revised Rules of Court and Section 10, Rule X of the 2009 COA RRPC above-cited, petitioners have no basis to assume that they have a fresh period of 30 days from their receipt of the Resolution denying their MR to file a petition for *certiorari*.[38] Note that petitioners filed their MR on the 30th or last day of the reglementary period. Hence, when they received the denial of their MR on April 23, 2015, petitioners were left with five days or until April 28, 2015 to file a petition for *certiorari* before the Court. This petition was, however, filed on May 25, 2015[39] or 27 days beyond the period to file a petition for *certiorari* under Rule 64. As no petition was seasonably filed to question the denial of petitioners' MR, such denial became final and executory pursuant to Section 51[40] of Presidential Decree No. 1445[41] or the "Government

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[37] Id. at 9-10.

[38] See *Fortune Life Insurance Company, Inc. v. COA Proper*, 752 Phil. 97, 106 (2015), citing *Pates v. COMELEC*, 609 Phil. 260, 263-269 (2009).

[39] *Rollo*, p. 3.

[40] SEC. 51. *Finality of decisions of the Commission or any auditor.* A decision of the Commission or of any auditor upon any matter within its or his jurisdiction, if not appealed as herein provided, shall be final and executory.

[41] Entitled "ORDAINING AND INSTITUTING A GOVERNMENT AUDITING CODE OF THE PHILIPPINES," approved on June 11, 1978.

Auditing Code of the Philippines." Accordingly, Decision No. 2014-158 had already attained finality.

Be that as it may, this Court is obliged to settle the underlying issues on the propriety of the disallowance on the following grounds: the erroneous outright dismissal of petitioners' MR; *prima facie* showing of petitioners' entitlement to the disallowed amounts under RA No. 7305; paramount equitable considerations; and the ineluctable necessity to foreclose the lingering legal objections on the invalidity of the fixed rate of hazard pay under DOH AO No. 2006-0011. We find the need to promptly address the confusion brought about by the conflicting statements – on the validity or invalidity of the fixed rate in DOH AO No. 2006-0011 – of the Court in *A.M. No. 03-9-02-SC vis-à-vis* subsequent DOH and DBM issuances because it affects, not only petitioners, but all similarly-situated public health workers. Thus, in forgoing petitioners' procedural blunder, we are not writing off the time-honored principle of adherence to procedural rules. Rather, we are discharging our solemn power and duty to administer justice by applying and interpreting laws and rules.[42] Indeed, procedural rules should be treated with utmost respect and due regard since they are designed to facilitate the administration of justice. From time to time, however, we have exercised liberality in their application when stubborn obedience to procedure would defeat rather than serve the ends of justice. When strong considerations of substantive justice are manifest, as in this case, it is well-within the Court's jurisdiction to relax the strict application of the rules of procedure.[43]

To be sure, this is not the first time that we have allowed the relaxation of the rule on finality of judgments in order to serve substantial justice, taking into account: (1) matters of life, liberty, honor, or property; (2) the existence of special or compelling circumstances; (3) the merits of the case; (4) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (5) a lack of any showing that the review sought is merely frivolous and dilatory; and (6) the other party will not be unjustly prejudiced thereby.[44] We then proceed to discuss the substantive issues raised.

II.
The amounts of hazard pay which exceeded the minimum rate prescribed under Section 21 of RA No. 7305 was properly disallowed.

There is no dispute that our public health workers are entitled to hazard allowances under Section 21 of RA No. 7305 as follows:

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[42] *Biraogo v. The Phil. Truth Commission of 2010*, 651 Phil. 374, 553-554 (2010), citing *Central Bank Employees Assoc., Inc. v. Banko Sentral ng Pilipinas*, 487 Phil. 531, 597 (2004).

[43] *Binga Hydroelectric Plant, Inc. v. COA*, 836 Phil. 46, 54 (2018).

[44] *Estalilia v. Commission on Audit*, G.R. No. 217448, September 10, 2019.

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

Pursuant to its mandate under Section 35[45] of RA No. 7305, the DOH, in collaboration with various government agencies and health workers' organizations, promulgated a Revised IRR in November 2009, pertinent provisions of which provide:

> RULE XV
> **Compensation, Benefits, and Privileges**
>
> SEC. 7. Other additional compensation:
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> x x x x
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> 7.1.5. Rates of Hazard Pay
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> a. Public health workers shall be compensated hazard allowances **equivalent to at least** twenty-five percent (25%) of the monthly basic salary of health workers, receiving salary grade 19 and below, and **five percent (5%) for health workers with salary grade 20 and above**. This may be granted on a monthly, quarterly or annual basis.
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> x x x x
>
> c. The public health workers exposed to high risk hazard may receive a hazard pay **not exceeding 5% higher than those prescribed above**. (Emphases supplied.)

Recognizing that RA No. 7305 and even its Revised IRR merely prescribed minimum rates of hazard pay due all public health workers,[46] as well as the need to set a policy to serve as basis in claiming hazard pay, then Secretary of Health issued DOH AO No. 2006-0011, which prescribes:

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

[46] See *Cawad v. Sec. Abad*, 764 Phil. 705, 733 (2015); and *A.M. No. 03-9-02-SC*, entitled *Re: Entitlement to Hazard Pay of SC Medical and Dental Clinic Personnel*, *supra* note 17.

III. MECHANICS OF PAYMENT

Payment of Hazard Pay shall be:

- for SG-1 to SG-19 = 25% of the actual present salary received
- **for SG-20 and above = shall be pegged at the amount of [₱]4,989.75 and no increase shall be made.** (Emphasis supplied.)

Petitioners invoke this DOH AO as legal basis of the ₱4,898.75 per month hazard pay that they received. The COA Proper, however, ruled that this issuance is not in accord with RA No. 7305 and its IRR, and thus cannot be used to legitimize petitioners' hazard pay at that fixed rate. The COA Proper explained:

[Section 21 of RA. No. 7305 and Section 7.1.5(a) of its IRR]

> [A]llocate the minimum rate of 25% and 5% for the hazard allowance that may be paid to health workers with SG 19 and below, and to health workers with SG 20 and above. **These rates may be increased but without distorting the intended distinction in the allocation of hazard allowance for employees falling within a salary bracket (SG 19 and below, and SG 20 and above). However, the DOH, in issuing DOH AO No. 2006-0011, modified the rate of hazard allowance of health workers with SG 20 and above by fixing it at [₱]4,989.75. Clearly, this is incompatible with the rates established and designed in [RA] No. 7305 and its [IRR.]**"[47] (Emphasis supplied.)

Notably, this particular provision in DOH AO No. 2006-0011 had already been the subject of the Court's resolution in *A.M. No. 03-9-02-SC*, wherein we observed that:

> In a language too plain to be mistaken, [RA] No. 7305 and its [IRR] mandate that the allocation and distribution of hazard allowances to public health workers within each of the two salary grade brackets at the respective rates of 25% and 5% be based on the salary grade to which the covered employees belong. x x x **The computation of the hazard allowance due should, in turn, be based on the corresponding basic salary attached to the position of the employee concerned.**[48] (Emphasis supplied.)

Thus, the Court utterly declined to conform with the fixed amount under DOH AO No. 2006-0011 for the hazard pay of Court health workers. We exhaustively discussed that the DOH exceeded its limited power of implementing the provisions of RA No. 7305 in fixing an exact amount of hazard pay for public health workers with SG 20 and above. Succinctly, we explained that "[t]he effect of [the DOH's] measure can hardly be downplayed especially in view of the unmistakable import of the law to

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[47] *Rollo*, p. 271

[48] *Re: Entitlement to Hazard Pay of SC Medical and Dental Clinic Personnel*, *supra* note 17, at 397.

establish a scalar allocation of hazard allowances among public health workers within each of the two salary grade brackets."[49] The Court then categorically ruled that DOH AO No. 2006-0011 is void on its face for being "*ultra vires* x x x [and] unreasonable"[50] insofar as it conflicts with RA No. 7305.

Petitioners, however, impute grave abuse of discretion on the part of the COA in adhering to our pronouncement in *A.M. No. 03-9-02-SC*, pointing out that the Court was merely exercising its administrative supervision over its employees, not its power of judicial review, in issuing the resolution. As it is, thus, DOH AO No. 2006-0011 remains to enjoy the presumption of validity. The OSG for the COA, on the other hand, asserts that the Court's disquisition on the invalidity of DOH AO No. 2006-0011 in the administrative matter is a valid and binding jurisprudential precedent.

We hold that there is no grave abuse of discretion on the part of the COA Proper in adhering to the prevailing pronouncement of the Court in *A.M. No. 03-9-02-SC*.[51] It is true that *A.M. No. 03-9-02-SC* was spawned by the request of the Court's medical and dental staff for the grant of hazard allowances in accordance with DOH AO No. 2006-0011 pursuant to the Court's administrative supervision over all court employees and personnel.[52] In the exercise of such administrative function, the Court issued Resolution dated January 22, 2008, directing the Fiscal Management Budget Office (FMBO) and the Office of the Chief Attorney (OCAT) to comment on the request. The FMBO favored conformity with the fixed rate in DOH AO No. 2006-0011 to settle the objection against the alleged unreasonable and unfair allocation of hazard pay under Section 21 of RA No. 7305. The OCAT, however, posited otherwise due to the doubtful validity of the mechanics of payment under the DOH issuance, as well as its non-publication. Specifically, the OCAT pointed out that the DOH AO does not conform to the salary-proportioned rates under Section 21 of RA No. 7305.[53] These conflicting propositions effectively put into inquiry the validity of the invoked provision in DOH AO No. 2006-0011. The administrative matter thus took on an adversary character, necessitating the Court to exercise its constitutionally-mandated power and duty to interpret and apply the governing law in an actual controversy. Verily, unless the Court's determination on the invalidity of the fixed rate of hazard pay under DOH AO No. 2006-0011 was a mere *obiter dictum* in *A.M. No. 03-9-02-SC*, such application and interpretation of the law formed part of our legal system[54] until subsequently overturned by the Court. It is well-settled:

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[49] Id. at 398.

[50] Id. at 402.

[51] See *Atong Paglaum, Inc. v. Commission on Elections*, 707 Phil. 454, 618 (2013).

[52] 1987 PHILIPPINE CONSTITUTION, Article VIII, SEC. 6. The Supreme Court shall have administrative supervision over all courts and the personnel thereof.

[53] *A.M. No. 03-9-02-SC*, *supra* note 17, at 395-396.

[54] NEW CIVIL CODE.

ART. 8. Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.

> Decisions of this Court, although in themselves not laws, are nevertheless evidence of what the laws mean, x x x. The interpretation upon a law by this Court constitutes, in a way, a part of the law as of the date that law was originally passed, since this Court's construction merely establishes the contemporaneous legislative intent that the law thus construed intends to effectuate. The settled rule supported by numerous authorities is a restatement of the legal maxim "*legis interpretatio legis vim obtinet*" — the interpretation placed upon the written law by a competent court has the force of law. x x x.[55]

In light of our constitutional mandate, interpretations upon a law by this Court in an actual controversy constitute a part of the law since our construction merely establishes the contemporaneous legislative intent that the construed law intends to effectuate,[56] whether such interpretation was applied in a judicial matter or in adversarial administrative proceedings.[57] Our interpretations merely evidence the law's meaning, breadth, and scope and, therefore, have the same binding force as the laws themselves.[58]

In this regard, a cursory reading of *A.M. No. 03-9-02-SC* discloses that the ruling of the Court on the invalidity of the fixed rate under DOH AO No. 2006-0011 is not an *obiter dictum*, but a direct ruling on an issue raised in that case. It was not a mere "judicial comment made while delivering a judicial opinion"[59] nor was it unnecessary to make the ruling. On the contrary, it was the *ratio decidendi* of the Court's disposition in the administrative matter or "the principle or rule of law [upon] which [the Court's] decision was founded."[60] The ruling was absolutely essential to the determination of questions of fact and law directly in the issue. The Court, in resolving the issue of whether it can grant its medical and dental staff's request to conform with the provisions of DOH AO No. 2006-0011, could not have avoided determining the issue of validity without the peril of rendering an incomplete and improper decision.[61] As the Court concluded in *A.M. No. 03-9-02-SC*:

> Just as the power of the DOH to issue rules and regulations is confined to the clear letter of the law, **the Court's hands are likewise tied to interpreting and applying the law. In other words, the Court cannot infuse vitality, let alone a semblance of validity, to an issuance which on its face is inconsistent with the law and therefore void, by adopting its terms and in effect implementing the same — lest we otherwise**

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[55] *People v. Jabinal*, 154 Phil. 565, 571 (1974).

[56] See id.

[57] By analogy, it is settled that the inapplicability of the doctrine of *res judicata* to administrative proceedings is limited only to those which are purely administrative in nature. When the administrative proceedings became adversarial in nature, the doctrine of *res judicata* certainly applies. (See *Heirs of Maximino Derla v. Heirs of Catalina Derla vda. de Hipolito*, 664 Phil. 68, 85 (2011); and *Hon. Fortich v. Hon. Corona*, 352 Phil. 461, 486 (1998)).

[58] *Philippine International Trading Corp. v. Commission on Audit*, 821 Phil. 144, 153 (2017).

[59] *People v. Sandiganbayan*, 723 Phil. 444, 465 (2013).

[60] Id.

[61] See *People v. Macadaeg*, 91 Phil. 410, 413 (1952).

> **validate an undue exercise by the DOH of its delegated and limited power of implementation.** x x x.[62] (Emphasis supplied.)

Indeed, administrative issuances or orders are products of delegated legislation, which are within the confines of the granting statute and the doctrines of non-delegability,[63] and separation of powers.[64] The principle of separation of powers ordains that each of the three great branches of government has exclusive cognizance of and is supreme in matters falling within its own constitutionally-allocated sphere.[65] Our Constitution has given the country a well-laid out and balanced division of powers, distributed among the legislative, executive and judicial branches with specially-established offices geared to accomplish specific objectives to strengthen the whole constitutional structure.[66] Thus, the legislative branch is vested with the power to make and enact laws; the executive branch is tasked with the enforcement of the laws; while the judicial branch is mandated to interpret and apply laws.

Applying these principles, the executive, through the DOH, is expected to faithfully enforce RA No. 7305. As stated above, Section 35 of RA No. 7305 mandated the "Secretary of Health after consultation with appropriate agencies of the Government as well as professional and health workers' organizations or unions, [to] formulate and prepare the necessary rules and regulations to implement [its] provisions x x x." In conferring power upon the DOH to implement the statute, the legislature recognizes the impracticability, if not impossibility, of anticipating and providing for the multifarious and complex situations that may be encountered in enforcing the law.[67] The Legislative Branch, in effect, diminishes its own power for it delegates a fraction of that power to the Executive. In so doing, however, the legislature is not allowing the Executive to override its legislative authority as to let the Executive exceed its delegated authority.[68] It is hornbook that an administrative agency, like the DOH, cannot amend an act of Congress.[69] It cannot modify, expand, or subtract from the law that it is intended to implement. It is mandatory, thus, that the administrative rule be germane to the purpose of the law and be in conformity with the standards that the law prescribe.[70] This is where the judiciary's power to apply and to interpret laws

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[62] *Supra* note 17, at 403.

[63] The principle of non-delegation of powers, as expressed in the Latin maxim *potestas delegata non delegari potest*, which means "what has been delegated, cannot be delegated." This doctrine is based on the ethical principle that such delegated power constitutes not only a right but a duty to be performed by the delegate through the instrumentality of his own judgment and not through the intervening mind of another. However, this principle of non-delegation of powers admits of numerous exceptions, one of which is the delegation of legislative power to various specialized administrative agencies x x x. (See *Bureau of Customs Employees Association (BOCEA) v. Hon. Teves*, 677 Phil. 636, 655 (2011)).

[64] *The Chairman and Executive Director, Palawan Council for Sustainable Development v. Lim*, 793 Phil. 690, 698 (2016).

[65] *Supra* note 63, at 654-655.

[66] *Biraogo v. The Phil. Truth Commission of 2010, supra* note 42, at 522.

[67] *People v. Judge Maceren*, 169 Phil. 437, 447 (1977).

[68] *Araullo v. President Benigno S.C. Aquino*, 737 Phil. 457, 584 (2014).

[69] *MCC Industrial Sales Corp. v Ssangyong Corporation*, 562 Phil. 390, 426 (2007).

[70] *Supra* note 67.

comes in as a necessary corollary of the system of checks and balances[71] to ensure that the executive's act does not go beyond its delegated power. In other words, it is true that rules and regulations issued by administrative bodies to interpret the law which they are entrusted to enforce also have the force of law, and are entitled to great respect; administrative issuances likewise partake of the nature of a statute and have in their favor a presumption of legality. Nevertheless, such issuances are still subject to the interpretation by the Supreme Court pursuant to its constitutional power and duty to interpret the law,[72] which is precisely what the Court undertook in *A.M. No. 03-9-02-SC.*

To be sure, the COA does not have the discretion to review the validity or conclusiveness of the Court's application and interpretation of the law. In applying our pronouncements to affirm the disallowance, the COA Proper merely acted pursuant to its constitutional mandate to determine whether government entities complied with the law and prevailing jurisprudence in disbursing public funds, and thereafter, to disallow such disbursements which are found to be illegal or contrary to law.[73] After all, like this Court, the COA cannot turn a blind eye to the fundamental principles set out under Article 7 of the New Civil Code, *viz.*:

> ART. 7. Laws are repealed only by subsequent ones, and their violation or non-observance shall not be excused by disuse, or custom or practice to the contrary.
>
> When the courts declare a law to be inconsistent with the Constitution, the former shall be void and the latter shall govern.
>
> Administrative or executive acts, orders and regulations shall be valid only when they are not contrary to the laws or the Constitution.

We stress, an administrative rule or regulation, like DOH AO No. 2006-0011, may be considered valid only if it conforms, and not contradicts, the provisions of the enabling law.[74] Necessarily, if a discrepancy occurs between the basic law and an implementing rule or regulation, it is the former that prevails, because the law cannot be limited nor broadened by mere administrative issuance.[75] An administrative interpretation that contradicts the law that it purportedly implements cannot be considered valid or given weight,[76] and may thus be disregarded.[77] Stated differently, the presumption of validity that the DOH issuance enjoys is effectively overturned when the Court found it to have patently contravened the

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[71] See *Pianas v. Gil*, 67 Phil. 62, 74 (1939).

[72] *Land Bank of the Philippines v. Obias*, 684 Phil. 296, 302 (2012).

[73] See *Kapisanan ng mga Manggagawa sa GSIS (KMG) v. COA*, 480 Phil. 861, 884-885 (2004).

[74] *Francel Realty Corporation v. Sycip*, 506 Phil. 407, 420 (2005).

[75] See *supra* note 73, at 871-886.

[76] *See Philippine Bank of Communications v. Commissioner of Internal Revenue*, 361 Phil. 916, 930-931 (1999).

[77] See *Grande v. Antonio*, 727 Phil. 448, 458-459 (2014).

unequivocal provisions of RA No. 7305. To rule otherwise would be to amend the statute.[78]

At this point, it may not go amiss to state that in the case of *Cawad v. Abad*,[79] wherein the Court also cited *A.M. No. 03-9-02-SC*, we have struck down as invalid the rates embodied in DBM-DOH Joint Circular No. 1[80] dated November 29, 2012 for similarly being contrary to RA No. 7305 and its Revised IRR:

> Note also that the DBM-DOH Joint Circular must further be invalidated insofar as it lowers the hazard pay at rates below the minimum prescribed by Section 21 of RA No. 7305 and Section 7.1.5 (a) of its Revised IRR as follows:
>
> x x x x
>
> It is evident from the foregoing provisions that the rates of hazard pay must be *at least* 25% of the basic monthly salary of PWHs receiving salary grade 19 and below, and 5% receiving salary grade 20 and above. As such, RA No. 7305 and its implementing rules noticeably prescribe the minimum rates of hazard pay due all PHWs in the government, as is clear in the self-explanatory phrase "at least" used in both the law and the rules. Thus, the following rates embodied in Section 7.2 of DBM-DOH Joint Circular must be struck down as invalid for being contrary to the mandate of RA No. 7305 and its Revised IRR:
>
> > 7.2.1 For [public health workers] whose positions are at SG-19 and below, Hazard Pay shall be based on the degree of exposure to high risk or low risk hazards, as specified in sub-items 7.1.1 and 7.1.2 above, and the number of workdays of actual exposure over 22 workdays in a month, at rates not to exceed 25% of monthly basic salary. In case of exposure to both high risk and low risk hazards, the Hazard Pay for the month shall be based on only one risk level, whichever is more advantageous to the [public health worker].
> >
> > 7.2.2 [Public health workers] whose positions are at SG-20 and above may be entitled to Hazard Pay at 5% of their monthly basic salaries for all days of exposure to high risk and/or low risk hazards. However, those exposed to high risk hazards for 12 or more days in a month may be entitled to a fixed amount of [₱]4,989.75 per month.
> >
> > **Rates of Hazard Pay**
> >
> > | Actual Exposure/ Level | High Risk | Low Risk |
> > |---|---|---|
> > | 12 or more days | 25% of monthly basic salary | 14% of monthly basic salary |
> > | 6 to 11 days | 14% of monthly basic salary | 8% of monthly basic salary |
> > | Less than 6 days | 8% of monthly basic salary | 5% of monthly basic salary[81] (Citation omitted.) |

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[78] *See Philippine Bank of Communications v. Commissioner of Internal Revenue*, *supra* note 76.

[79] *Supra* note 46.

[80] Entitled "Rules and Regulations on the Grant of Compensation-Related Magna Carta Benefits to Public Health Workers (PHWs)," dated November 29, 2012.

[81] *Supra* note 46.

Indubitably, it is of no moment that DOH AO No. 2006-0011 has been recognized in subsequent DOH and DBM issuances – DOH Executive Committee Resolution No. 178-326 dated July 20, 2009; DOH Department Memorandum No. 2010-0195 dated August 6, 2010; DOH Department Circular No. 2009-0187 dated August 11, 2009; and DBM Memorandum for all DBM Regional Directors dated April 22, 2009.[82] As we have held in *Kapisanan ng mga Manggagawa sa GSIS (KMG) v. COA*:[83]

> The Court has previously held that practice, no matter how long continued, cannot give rise to any vested right if it is contrary to law. The erroneous application and enforcement of the law by public officers does not estop the Government from making a subsequent correction of such errors. Where the law expressly limits the grant of certain benefits to a specified class of persons, such limitation must be enforced even if it prejudices certain parties due to a previous mistake committed by public officials in granting such benefit.[84] (Citations omitted.)

In all, the COA Proper committed no grave abuse of discretion in affirming the disallowance based on the governing law (RA No. 7305), the New Civil Code, and a prevailing Court pronouncement. Absent any semblance of grave abuse of discretion, due deference to the COA's constitutional mandate, as well as the limitations on the scope of inquiry in petitions under Rules 64 and 65 of the Rules of Court, behooves this Court to respect the COA's decision.[85] Verily, without any valid implementing policy on the rate of the hazard pay that conforms with the provisions of RA No. 7305 from the DOH and other concerned agencies, the COA Proper cannot be faulted for applying the minimum rate prescribed under Section 21 of the law. The resulting overpayments of hazard pay, computed by applying the minimum rate under RA No. 7305, were thus, properly disallowed.

III.
Petitioners should not be held liable to return the disallowed amounts.

The COA Proper, however, committed grave abuse of discretion in holding petitioners liable to refund the disallowed amounts on the ground of bad faith. Note that petitioners were held liable as recipients of the disallowed amounts. In *Madera v. Commission on Audit*,[86] we clarified that the recipients' good faith or bad faith is inconsequential in the determination of their liability in disallowed transactions. This is because their liability is grounded upon the principles of *solutio indebiti*[87] and unjust enrichment.[88]

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[82] *Supra* note 29.
[83] *Supra* note 73.
[84] *Supra* at 885-886.
[85] *Ramiscal v. Commission on Audit*, 819 Phil. 597, 604 (2017).
[86] G.R. No. 244128, September 8, 2020.
[87] CIVIL CODE.
ART. 2154. If something is received when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises.
[88] CIVIL CODE.

The recipients' liability to refund disallowed amounts is warranted due to the **receipt of public funds without valid basis** to rectify the prejudice caused to the government by the undue disbursement of public funds.

On that premise, the recipients' liability may be excused (1) upon a showing that the questioned benefits or incentives were genuinely given in consideration of services rendered; or (2) when excused by the Court on the basis of undue prejudice, social justice considerations, and other *bona fide* exceptions depending on the purpose, nature, and amount of the disallowed benefit or incentive relative to the attending circumstances,[89] because under these circumstances, the concept of unjust enrichment or mistake in payment is negated. To supplement *Madera*,[90] we have expounded in *Abellanosa*[91] that such exceptions shall be "limited to disbursements adequately supported by factual and legal bas[e]s, but were nonetheless validly disallowed x x x on account of procedural infirmities."[92] Similarly, factors such as "ostensible statutory/legal cover" for the grant and its "clear, direct, and reasonable connection to the actual performance of the Payee-recipients' official work and functions" must be considered in excusing the recipients' liability on equitable grounds.[93]

The disallowed amounts in this case represent the excess in the hazard pay, computed by applying the five percent (5%) minimum rate prescribed under Section 21 of RA No. 7305 for lack of valid definitive guidelines from the DOH on how to implement such grant. Certain factual circumstances should, however, be highlighted in this determination. *First*, it is undisputed that petitioners were entitled to hazard allowances under RA No. 7305 and its Revised IRR for being public health workers performing functions or assigned to an area identified as hazardously high risk, albeit the basis of the amount of hazard pay granted to them was already invalidated by this Court in *A.M. No. 03-9-02-SC*. *Second*, the hazard pay given to petitioners were, technically, within the amount authorized by Section 21 of RA No. 7305 as the law merely provided for minimum rates. Unfortunately, however, we cannot give judicial imprimatur to the grant of hazard pay on the basis merely of the minimum rate prescribed by law as it would utter a misguided precedent of allowing the grant of unbounded amounts of hazard benefits, the only limit being that they do not go below such minimum threshold. *Third*, the clear, direct, and reasonable connection of the hazard pay to the actual performance of petitioners' functions as public health workers in a high-risk area is undeniable. Consider that hazard allowances are meant to

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ART. 22. Every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him.

[89] *Abellanosa v. Commission on Audit* (Resolution), G.R. No. 185806, November 17, 2020.

[90] *Supra* note 86.

[91] *Supra* note 89.

[92] Citing the Reflections of Associate Justice Alfredo Benjamin S. Caguioa in *Abellanosa v. Commission on Audit*, *supra*.

[93] *Supra*.

recompense employees, like petitioners, whose nature of work exposes them to hazards such as radiation-exposed clinics, laboratories, disease-infested areas, contagious disease, among others.[94] Hazard allowances are, thus, concomitant to the performance of the employees' duties. In fact, the DBM and the DOH, in their Joint Circular No. 1[95] dated November 29, 2012, defined hazard pay as follows:

> 7.0 Hazard Pay
>
> Hazard Pay is an **additional compensation for performing hazardous duties and for enduring physical hardships in the course of performance of duties.**
>
> As a **general compensation policy**, and in line with Section 21 of [RA] No. 7305, Hazard Pay may be **granted to [public health workers] only if the nature of [their] duties and responsibilities of their positions, their actual services, and location of work expose them to great danger, occupational risks, perils to life, and physical hardships**; and only during periods of actual exposure to hazard and hardships. (Emphases supplied.)

We have also previously explained the nature and purpose of those allowances expressly excluded from the standardized salary rates under Section 12[96] of RA No. 6758[97] or the "Compensation and Position Classification Act of 1989," one of those is the hazard pay. We held that, in contrast to mere "bonuses," such non-integrated benefits are "allowances" which are "usually granted to officials and employees of the government to defray or reimburse the expenses incurred in the performance of their official functions."[98]

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[94] See REVISED IMPLEMENTING RULES AND REGULATIONS ON THE MAGNA CARTA OF PUBLIC HEALTH WORKERS OR [RA] 7305.

SEC. 7.1.2. *Basis for Granting Hazard Pay.* – The following hazards are recognized under RA 7305: difficult locations; strife-torn or embattled areas; distressed and isolated stations; prison camps; mental hospitals; radiation exposed clinics; laboratories and disease-infested areas; areas declared under a state of calamity or emergency for the duration when there is exposure to danger, contagious disease, radiation, volcanic activity or eruption, occupational risks and perils to life as determined by the Secretary of Health or the Head of the Unit with the approval of the Secretary of Health.

[95] *Supra* note 80.

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

Existing additional compensation of any national government official or employee paid from local funds of a local government unit shall be absorbed into the basic salary of said official or employee and shall be paid by the National Government. (Emphasis supplied.)

[97] Entitled "AN ACT PRESCRIBING A REVISED COMPENSATION AND POSITION CLASSIFICATION SYSTEM IN THE GOVERNMENT AND FOR OTHER PURPOSES," approved on August 21, 1989.

[98] *Maritime Industry Authority v. Commission on Audit*, 750 Phil. 288, 312-313 (2015), citing *Bureau of Fisheries and Aquatic Resources (BFAR) Employees Union v. Commission on Audit*, 584 Phil. 132, 139-140 (2008).

Accordingly, while we sustain the disallowance as the fixed amount of hazard pay granted was based on a void administrative issuance, the Court finds sufficient justification to excuse petitioners' liability on equitable grounds. To be sure, petitioners were entitled to the grant of hazard pay under the law. The clear, direct, and reasonable connection of the fair amount of hazard allowances to the actual performance of petitioners' official work cannot be denied. It is only the DOH's irregular implementation of such grant that caused the disallowance of the overpayments. Thus, this Court cannot brush aside the deplorable inequity that will be caused to petitioners if ordered to refund the disallowed amounts, which were purposely given to compensate the life-threatening risks that they had to endure in the performance of their duties and service to the public. As held in *Madera*:[99]

> x x x x
>
> 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.[100]
>
> x x x x

This is one of the cases wherein social injustice and undue prejudice will pervade should we oblige the deserving recipients to refund the disallowed amounts.

FOR THESE REASONS, the Petition for *Certiorari* is **PARTIALLY GRANTED**. The Decision No. 2014-158 dated August 15, 2014 of the Commission on Audit Proper is **AFFIRMED with MODIFICATION**. Petitioners are no longer required to refund the disallowed amounts that they individually received.

SO ORDERED.

MARIO LOPEZ
Associate Justice

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[99] *Supra* note 86.
[100] *Supra*.

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

SAMUEL H. GAERLAN
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JHOSEP Y. LOPEZ
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