

94 Phil. 494

[ G.R. No. L-6901. March 05, 1954 ]

**PIO S. PALAMINE, SULPICIO UDARBE, ALFONSO SAGADO, HIPOLITO EXCELISE, IRENEO SULITA, MELECIO DAMASING, AND LUDHERO BALOC, PETITIONERS, VS. RODRIGO ZAGADO, METRANO PALAMINE, BRIGIDO CAÑALES, DOMINADOR ACOBO, GUALBERTO SAFORTEZA, RESPONDENTS.**

**D E C I S I O N**

**BENGZON, J.:**

The petitioners were on June 12, 1953, the chief and members of the police force of Salay, Misamis Oriental. On that date they were removed from the service by the respondent Rodrigo Zagado as the acting mayor of the same municipality. The other respondents are the persons subsequently appointed to the positions thus vacated.

This litigation was instituted without unnecessary delay, to test the validity of such removals and appointments, the petitioners contending they were illegal, because contrary to the provisions of section 1, Republic Act No. 557, which reads in part as follows:

“Members of the provincial guards, city police and municipal police shall not be removed and, except in cases of resignation, shall not be discharged except for misconduct or incompetency, dishonesty, disloyalty to the Philippine Government, serious irregularities in the performance of their duties, and violation of law or duty, \* \* \*”

There is no question that on June 12, 1953 each of the petitioners, received from the respondent Rodrigo Zagado a letter of dismissal couched in these terms:

“I have the honor to inform you that according to the new policy of the present administration, your services as Municipal Police, this municipality will terminate at the opening of the office hour in the morning of June 13, 1953, and in view hereof, you are hereby respectfully advised to tender your resignation effective immediately upon receipt of this letter.”

There is also no question that on June 14, 1953 said respondent appointed the other respondents to the vacant positions, which the latter assumed in due course and presently occupy.

The respondents’ answer, without denying the letters of dismissal, alleges that Acting Mayor Zagado had dismissed the petitioners “with legal cause and justification” and that “charges have been preferred against the said petitioners.”

What that legal cause is, the pleading does not disclose. What the preferred charges were, we do not know. Whether they are charges of the kind that justify investigation and dismissal, respondents do not say. And when the controversy came up for hearing, none appeared for respondents to enlighten the court on charges or the outcome thereof.

Hence, as the record now stands the petitioners appear to have been dismissed simply in accordance “with the new policy of the present administration” as avowed in the letters of dismissal. Probably that is the “legal cause” alleged by respondents. But they forget and disregard Republic Act 557, inasmuch as no misconduct or incompetency, dishonesty, disloyalty to the Government, serious irregularity in the performance of duty or violation of law has been charged and proven against the petitioners. The Legislature in said statute has wisely expressed its desire that membership in the police force shall not be forfeited through changes of administration, or fluctuations of “policy”, or causes other than those it has specifically mentioned.

Reinstatement is clearly in order.<sup>[1]</sup>

Wherefore, judgment is hereby rendered in favor of the petitioners,

commanding the respondent Acting Mayor Rodrigo Zagado to reinstate them to their respective positions, and ordering the other respondents to vacate their places. Costs against respondents. SO ORDERED.

*Paras, C. J., Pablo, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, Concepcion, and Diokno, JJ., concur.*

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<sup>[1]</sup> Mission, et al., vs. Dell Rosario, G. R. No. L-6754, supra, p. 483; Manuel vs. De la Fuente, 48 Off. Gaz., 4829, 92 Phil., 302.

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