

NAZARIO EQUIZABAL, MUNICIPAL MAYOR OF BUHI, CAMARINES SUR, PETITIONER, VS. HON. APOLONIO G. MALENIZA, PROVINCIAL GOVERNOR OF CAMARINES SUR, AND THE HON. MEMBERS OF THE PROVINCIA...

G.R. No. L-24432. January 12, 1968

Ponente: BENGZON, J.P., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/037a28e4d7e0/>

BENGZON, J.P., J.:

The provincial governor of Camarines Sur issued an order dated January 22, 1965, suspending herein petitioner municipal mayor of Buhi in view of administrative charges (Adm. Case No. 3) filed against the latter for oppression, maladministration, violation of the Administrative Code, serious misconduct and neglect of duty.[1] Petitioner received the order on February 5, 1965.

On February 16, 1965, petitioner filed a motion with the provincial board to dismiss the administrative case. Respondent provincial governor filed his opposition, to which petitioner countered with his reply. On March 2, 1965, the provincial board denied the motion to dismiss and set the hearing of Administrative Case No. 3 to March 4, 1965.[2]

Petitioner's counsel received the notice of hearing on March 4, 1965 and since counsel was out of town, his office clerk appeared and manifested such fact before the provincial board which postponed the hearing to March 9, 1965. On said date, upon joint motion, the hearing was reset to March 15, 1965.[3]

On March 10, 1965, Francisco Arce, Pedro Esquivel and one Felipe Atutubo filed charges with the respondent governor who instituted Administrative Case No. 4 against petitioner.[4] On March 12, 1965, petitioner received a new order of suspension in connection with the second charge.

On March 15, 1965, hearings in Administrative Case No. 3 were conducted, the same lasting up to midnight and upon agreement of the parties, continuance was set to March 23, 1965.[5] On the other hand, in Administrative Case No. 4, two of the complainants - Esquivel and Arce - filed a motion to withdraw their complaint alleging that their signatures were obtained thru fraud and misrepresentation.[6] The provincial board set this motion for hearing on March 17, 1965 and required respective counsel for complainant and respondent to file written replies to said motion to withdraw not later than March 17, 1965.[7]

Respondent governor filed his reply on March 16, 1965, alleging that Esquivel and Arce were only corroborating witnesses and that the real complainant before him was Atutubo.[8] On March 18, 1965, upon continuation of Administrative Case No. 4, petitioner, thru counsel, asked for the outright dismissal of the charge in view of the motion to withdraw with its supporting affidavits.[9]

In Administrative Case No. 3, petitioner's counsel, on March 23, 1965, asked for another continuance.

On April 13, 1965, petitioner commenced the instant proceedings for mandamus and prohibition seeking: (a) to

compel respondent governor to reinstate him, effective as of March 12, 1965; (b) to enjoin the provincial board from continuing to hear Administrative Case No. 4, and (c) to recover actual and moral damages. On the same date, the petitioner, according to respondent governor in his answer, wired the latter to report his having reassumed the office of mayor.[10]

We gave due course to the petition. Respondents filed their answers, as required, with affirmative defenses and a counterclaim for damages. Petitioner replied to the counterclaim for damages. At the hearing here, both parties were required to file memoranda. Only petitioner complied.

The law involved here is Sec. 2189 of the Revised Administrative Code which states:

XX XX XX XX

"The preventive suspension of a municipal officer shall not be for more than thirty days. At the expiration of the thirty days, the suspended officer shall be reinstated in office without prejudice to the continuation of the proceeding against him until their completion, unless the delay in the decision of the case is due to the fault, neglect, or request of the accused, in which case the time of the delay shall not be counted in computing the time of the suspension: Provided, That the suspension of the accused may continue after the expiration of the thirty days above mentioned in case of conviction until the [Secretary of Interior] President shall otherwise direct or the case shall finally be decided by said [Secretary] President." (Stress supplied)

Petitioner's point seems to be this: from February 5, 1965 (when his 30-day suspension period began) to March 11, 1965, 35 days lapsed. From this period should be deducted the 5-day interval from March 4, 1965 (when he asked for a continuance) to March 9, 1965 (the date set for hearing). March 11, 1965 would then be the 30th - or last - day of his suspension. Ergo, he should have been reinstated on March 12, 1965. The postponement on March 9, 1965 ought not to be imputed to him since he did not ask for it solely, much less voluntarily.

Petitioner, however, overlooks the fact, alleged by respondents and not controverted by him, that he filed a motion to dismiss Administrative Case No. 3 on February 16, 1965, which the provincial board resolved only on March 2, 1965, to clear the way for the hearing on the merits which was set on March 4. The 14 days interval here is also imputable to petitioner because for this period, the provincial board was prevented, at his own instance, from forthwith proceeding and deciding the case on the merits on or before the 30th day from February 5, 1965. The board's attention was diverted to the disposing of the pending motion to dismiss first. It stands to reason that, under Sec. 2189, *supra*, the period of preventive suspension runs only when the respondent municipal official does nothing to hinder the provincial board from immediately proceeding to dispose of the administrative case on its merits.

Even assuming petitioner's submission to be correct, he could not be reinstated on March 12, 1965 because of the institution of administrative Case No. 4 against him wherein a new suspension order was issued. His claim, to prove malice and bad faith, that Atutubo is not the real complainant since the latter was not even mentioned in the copy of the administrative complaint furnished him, is without merit. The complainant in Administrative Case No. 4 is the Governor who filed the charges with the provincial board. Atutubo, Esquivel and Arce, who are the complainants before the governor, are only the latter's supporting witnesses in the charge presented to the provincial board. That petitioner was not furnished copy of Atutubo's affidavit at the very outset is no irregularity. Under Secs. 2188 and 2189 of the Revised Administrative Code, only a copy of the written charges filed with the provincial board is required to be served on the respondent municipal official. Supporting affidavits need not be attached thereto nor served therewith.

Regarding the delay in setting for hearing on the merits Administrative Case No. 4, the same appears to be partly due to petitioner himself. Respondents allege, and petitioner does not deny, that on March 18, 1965, he moved for

the dismissal of the case. Petitioner's own ex-parte motion[11] here for preliminary injunction against the administrative hearing set on May 28, 1965, confirms the existence of said motion to dismiss, the preliminary disposition of which would again temporarily divert the attention of the provincial board from the merits of the pending case.

WHEREFORE, the petition, being without merit, is hereby dismissed. Costs against petitioner.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, and Angeles, JJ., concur.
Sanchez, Ruiz Castro, and Fernando, JJ., in the result.

[1] Rollo, p. 9.

[2] Rollo, p. 53.

[3] Rollo, pp. 33, 85.

[4] Rollo, pp. 10, 12-22, 55; the charge was for corruption and dishonesty in office.

[5] Rollo, pp. 33, 42.

[6] Rollo, pp. 23-25.

[7] Rollo, p. 42.

[8] Rollo, p. 29.

[9] Rollo, p. 42.

[10] Rollo, p. 45.

[11] Rollo, p. 74.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.