

PHILIPPINE ASSOCIATION OF MECHANICAL AND ELECTRICAL ENGINEERS, PETITIONER, VS. PROSPERO SANIDAD, IN HIS CAPACITY AS SECRETARY OF PUBLIC WORKS AND COMMUNICATIONS, MARCIANO S. ANG...

G.R. No. L-3743. September 25, 1950

Ponente: REYES, J.

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REYES, J.:

Commonwealth Act No. 294, approved on June 9, 1938, regulates the practice of mechanical engineering in the Philippines and creates a Board of Mechanical Engineering Examiners to administer its provisions. The Board is composed of three members appointed by the Secretary of Public Works and Communications and for administrative purposes comes under the supervisory authority of that officer by virtue of Section 79(c) of the Revised Administrative Code.

The Act provides that "no person shall practice or attempt to practice mechanical engineering in the Philippines, without having previously obtained a certificate of registration" (sec. 12), and that this certificate is to be issued by the Secretary of Public Works and Communications upon the recommendation of the Board (sec. 28). The Act establishes hierarchy or grades in the profession and to that end provides that the "Certificates of registration for the practice of mechanical engineering shall be of four grades and in the order of rank as follows: (1) professional mechanical engineer, (2) mechanical plant engineer, (3) junior mechanical engineer, and (4) certified plant mechanic."

To obtain a certificate of registration the applicant must possess the qualifications prescribed for the grade applied for and is furthermore required to pass a technological examination. But by sections 24 to 27 of the Act this examination is dispensed with in the case of applicants with certain qualifications submitting proof of practical experience of a character satisfactory to the Board. Those sections read:

"Sec. 24. Registration as professional mechanical engineer without examination.—No examination shall be required of any person who shall, with his application for registration as professional mechanical engineer, submitted to the Board within one year from the date this Act becomes effective, present evidence or other proof satisfactory to the Board, showing that, on the date of the approval of this Act, he had a specific record of four years or more of active practice in mechanical engineering work of a character satisfactory to the Board and indicating that the applicant is competent to render professional mechanical engineering service and to be placed in responsible charge of such work; and, any of the following qualifications:

"(a) Had passed a civil-service examination for senior mechanical engineer; or

"(b) Was a mechanical engineer duly licensed by the Board of Examiners for Mechanical Engineers under Act Numbered Two Thousand nine hundred eighty-five of the Philippine Legislature of nineteen hundred twenty-one, as amended.

"Sec. 25. Registration as mechanical plant engineer without examination.—No examination shall be required of

any person who shall, with his application for registration as mechanical plant engineer, submitted to the Board within one year from the date this Act becomes effective, present evidence or sufficient proof satisfactory to the Board, showing that, on the date of the approval of this Act, he had any of the following qualifications:

"(a) Ten years or more of active practice in mechanical engineering work of a character showing that the application is competent to take charge of the construction, erection, installation, alteration, operation, and management of mechanical works, projects, or plants, and has the first three qualifications specified under section seventeen of this Act; or

"(b) Actual employment on the approval of this Act in a regularly organized mechanical works, protect, or plant of more than two hundred horse-power capacity and has rendered satisfactory supervisory services without any serious accident as certified by his employer; Provided, however, That his registration will be valid only for the works, plant, or project where he is actually employed or similar works, plant, or project; or

"(c) A civil service examination for senior mechanical engineer or a mechanical engineer license issued by the Board of Examiners for Mechanical Engineers under Act Numbered Two thousand nine hundred and eighty-five of the Philippine Legislature of the year nineteen hundred and twenty-one, as amended, with four years or more of active practice in mechanical engineering work of such character showing to the satisfaction of the Board, that the applicant is competent to take charge of the construction, erection, installation, alteration, operation, and management of mechanical works, projects, or plants, and to render engineering service in connection with the manufacture, sale, supply or distribution of mechanical equipment, machinery, or processes. (As amended by Com. Act No. 481.).

"Sec. 26. Registration as junior mechanical engineer without examination.—No examination shall be required of any person who shall, with his application for registration as junior mechanical engineer, submitted to the Board within one year after this Act becomes effective, present evidence or other sufficient proof satisfactory to the Board, showing that, on the date of the approval of this Act, he had any of the following qualifications :

"(a) Had passed a civil-service examination for senior or assistant mechanical engineer; or

"(b) Was a mechanical engineer duly licensed by the Board of Examiners for Mechanical Engineers under Act Numbered Twenty-nine hundred and eighty- five of the Philippine Legislature of the year nineteen hundred and twenty-one, as amended.

"Sec. 27. Registration as certified plant mechanic without examination.—No examination shall be required of any person who shall, with his application for registration as certified plant mechanic, submitted to the Board within one year after this Act becomes effective, present evidence satisfactory to the Board, showing that, on the date of approval of this Act:

"(a) He had ten years of more of active practice in mechanical plant operation of a character showing that the applicant is competent to undertake the operation and maintenance of mechanical works, projects, or plants of less than two hundred horse-power, has working knowledge of and can read, write, and speak English, Spanish, or any of the Filipino languages, and has the first two qualifications specified under section nineteen of this Act; or

"(b) He is actually employed on the approval of this Act in the operation of a regularly organized mechanical works, project, or plant of less than two hundred horse-power capacity without serious accident as certified by his employer: Provided, however, That his registration will be valid only for the works, project or plant where he is actually employed or for similar works, project, or plant." (As amended by CA No. 481.)

Also entitled to the benefit of exemption from examination are marine engineers with experience in marine or mechanical plant engineering. Their case has been specially provided for by Commonwealth Act No. 481, approved in June, 1939, amending Section 44 of the original As amended, that section reads:

"Sec. 44. Act not affecting other professions.—This Act shall not be construed to affect or prevent the practice of any other legally recognized professions: Provided, however, That until December thirty-first, nineteen hundred and forty-five, any holder of the title of marine engineer of the merchant marine duly issued by competent authority of the Commonwealth of the Philippines in pursuance with the requisites and qualifications provided by the laws for marine engineers of the merchant marine, shall be permitted to secure a registration certificate in mechanical engineering as defined by this Act with all the rights, privileges, and obligations incumbent in the practice of the same as provided by this Act, under the following limitations:

"(a) That any holder of the title of chief marine engineer of the merchant marine may, at any time, upon payment of thirty pesos registration fees to the Board of Mechanical Engineering Examiners, practice as professional mechanical engineer under this Act, without examination, provided he has in his favor fifteen years experience in marine and/or mechanical plant engineering;

"(b) That any holder of the title of chief marine engineer of the merchant marine may, at any time, upon payment of thirty pesos registration fees to the Board of Mechanical Engineering Examiners, practice as mechanical plant engineer under this Act, without examination, provided he has in his favor ten years experience in marine and/or mechanical plant engineering;

"(c) That any holder of the title of second marine engineer of the merchant marine may, at any time, upon payment of twenty pesos registration fees to the Board of Mechanical Engineering Examiners, practice as junior mechanical engineer under this Act, without examination, provided he has in his favor eight years experience in marine and/or mechanical plant engineering;

"(d) That any holder of the title of third and fourth marine engineer of the merchant marine may, at any time, upon payment of ten pesos registration fees to the Board of Mechanical Engineering Examiners, practice as certified plant mechanic under this Act, without examination, provided he has in his favor six years experience in marine and/or mechanical plant engineering." (As amended by CA No. 481)."

Taking advantage of the above amendment, Tomas F. Barreto and Pedro Fortun applied in 1941 for a certificate of registration for "professional mechanical engineer," without previous examination, on the strength of their status as holders of the title of chief marine engineer of the merchant marine with "fifteen years experience in marine and/or mechanical plant engineering" as specified in paragraph (a) of the amendment. But the board considered their experience inadequate for the class of certificate applied for and turned down their application. On appeal to the Secretary of Public Works and Communications, this office ruled (and the ruling is supported by the opinion of the Department of Justice) that the applicants were entitled to what they were applying for and instructed the Board to submit to his Department for approval registration certificates for professional mechanical engineer duly accomplished for issuance to the applicants. With the Board showing reluctance to act as directed, the Philippine Association of Mechanical and Electrical Engineers, a private entity claiming to have interest in the maintenance of high standards in the mechanical engineering profession, decided to intervene, and upon the ground that the Secretary's directive to the board was without the authority of law and constituted a grave abuse of official discretion, brought the present special civil action for a writ of prohibition and certiorari to have the directive declared void and the Secretary and the Board enjoined from proceeding further in the premises and from issuing to the applicants, without previous examination, certificates of registration for professional mechanical engineer. The petition is conformed to by the Board but opposed by the Secretary as well as by the applicants themselves, who, because of their interest in the subject matter of the action, have been allowed to intervene.

Brushing aside objection to the petitioner's legal capacity to institute this action, a technicality which may well be overlooked after the Board has, by its answer, made common cause with the petitioner, the case presents a simple matter of statutory application. The specific legal provision to be applied is section 44 (a) of Commonwealth Act

No. 294, as amended, which, until December 31, 1945, accords to any holder of the title of marine engineer of the merchant marine the has had "fifteen years experience in marine and/or mechanical engineering" the privilege to practice as professional mechanical engineer, without previous examination.

The record shows and it is not disputed that both applicants are holders of the title of chief marine engineer of the merchant marine. Neither is there any question that they both have fifteen years experience in marine and/or mechanical plant engineering, this experience being summarized in the opinion rendered by the Secretary of Justice on February 20, 1950, as follows:

"The record of Mr. Tomas F. Barretto shows that, from 1924 to 1935 (a period of 12 years), he served as engineer in various steamships in ranks ranging from 4th to 1st and as assistant chief engineer and chief engineer of the San Miguel Brewery, from 1936 to 1945 (a period of 9 years). Mr. Fortun's record shows that he was 3rd and 4th marine engineer from 1914 to 1921 (7 years) and a train engineer and a mill engineer from 1921 to 1939 (18 years)."

And it furthermore appears that both applicants, solely on the strength of their said title and experience, have already been issued by the Board a certificate of registration for it mechanical plant engineer" under another paragraph of the section now under consideration (Section 44(b), as amended). It is, however, claimed that applicants' experience, as above set forth, though sufficient for the profession of "mechanical plant engineer," is inadequate for that of "professional mechanical engineer," the Board being of the opinion that the exercise of the latter profession requires experience in the "preparation of plans, designs, investigations, technical reports, specifications or estimates." We find no legal basis for this claim. The law is clear and explicit. All that it requires, in the case of a marine engineer applying for a certificate of registration as a "professional mechanical engineer" is, in addition to the title of chief marine engineer of the Merchant marine, possession of "fifteen years experience in marine and/or mechanical plant engineering." It does not say, that that experience should include the preparation of plans, designs, investigations, technical reports, specifications or estimates. Experience in those matters might conceivably be desirable. But the law has not gone to the extent of requiring it, and the Board can go to further than the law. The board can only administer the statute as it is and not as it thinks it is had be.

That the Board wants to read into the law something that is not there, is obvious from a perusal of all the paragraphs of Section 44 of the Act as amended. For it is there to be noted that the same kind of experience is required of all the four grades of mechanical engineers entitled to a certificate of registration without previous examination. Be it for the grade of professional mechanical engineer (par. [a]), which occupies top rank, or for that of mere certified plant mechanic (par. [d]), which occupies the lowest, the only experience required is "experience in marine and/or mechanical plant engineering." The length of experience required varies according to grade: 15 years for professional mechanical engineer (par. [a]), 10 years for mechanical plant engineer (par. [b]), 8 years for junior mechanical engineer (par. [c]), and 6 years for certified plant mechanic (par. [d]). But the subject of experience remains the same and there is not the faintest suggestion that it should include more in one grade than in any of the others.

It should be noted in this connection that, in the matter of exemption from examination, the law has not placed marine engineers on the same footing as mechanical engineers on land. This is evident from the fact that their case has been provided for specifically and separately in an amendment to section 44 of the Act and not by an amendment to those sections (24 to 27) which specify the conditions under which mechanical engineers on land may register without previous examination. Obviously, the purpose of the law is to enable marine engineers with the requisite title and experience as such to practice mechanical engineering on land without subjecting them to the conditions specified in sections 24 to 27. To apply to them any of those conditions is to go against the clear intent of the lawmaker.

It follows from the foregoing that the Secretary of Public Works and Communications has correctly ruled that the applicants, Tomas F. Barreto and Pedro Fortun, are each entitled to a certificate of registration as professional mechanical engineer. And in directing that the proper certificates be prepared for issuance, the Secretary cannot, contrary to petitioner's claim, be said to have encroached upon or interfered with the technical functions of the Board, for this entity has no technical functions to perform in connection with the preparation and issuance of said certificates. As already noted, this is not a case falling under sections 24 to 27 of the Act, which empowers the Board to examine the nature and extent of the applicant's experience and determine from the standpoint of its technical knowledge whether that experience is sufficient for the practice of mechanical engineering. The case comes squarely and specifically under section 44, as amended, where all that is required, in addition to title, is experience in marine and/or mechanical plant engineering. It being undisputed that applicants have that experience to their credit, the Board may not require more.

The Board has by its answer made it plain that it is opposed to the aforementioned directive of the Secretary of Public Works and Communications, and the question may be asked whether the Secretary could legally compel it to do an act which in its opinion should not be done. But the question is of no importance and need not be decided here. It having been determined that the applicants are by law entitled to what they are asking for, it becomes the Board's plain duty to grant it, and this Court will not interfere with an official act directing compliance with that duty when the directive comes from the Department of the Government having supervisory authority over the Board.

For the foregoing considerations, the petition is denied, with costs against the petitioner.

Moran, C.J., Ozaeta, Paras, Pablo, Bengzon, Tuason, and Montemayor, JJ., concur.

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