

BASILIO L. GUISADIO, PETITIONER AND APPELLEE, VS. THE SECRETARY OF PUBLIC WORKS AND COMMUNICATIONS, THE CITY OF CEBU, THE CITY TREASURER OF CEBU, THE CITY AUDITOR OF CEBU AND TH...

G.R. No. L-11010. November 28, 1958

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/04d20c7af03b/>

PADILLA, J.:

Basilio L. Guisadio, a civil service eligible, was employed as property clerk in the office of the City Engineer of Cebu. On 26 September 1951 the Commissioner of Civil Service found him guilty of immorality for having maintained illicit relations with Rufina Bajo, a niece of his wife, as a result of which a child was born to her, and ordered him "to resign with prejudice to reinstatement effective the date he receives notice of this decision." (Adm. Case Ntf. R-4476; Exhibit 1, pp. 72-74, record of the case.) On 5 October 1951 he received notice of the decision (Exhibit 1-C; p. 76, record of the case). On 10 November 1951 he filed a motion for reconsideration (Exhibit 2-E; p. 84, record of the case). Acting upon the motion, on 23 October 1952 the Commissioner of Civil Service modified the dispositive part of the decision, as follows:

However, in view of the more than 30 years of satisfactory service rendered by respondent-petitioner Basilio L. Guisadio to the Government, and of the fact that the humiliation suffered by him on account of his separation from the service is itself a form of punishment, this Office believes that the ends of justice would be well served by modifying the original decision in the sense that the said respondent-petitioner's resignation therein decreed is considered as without prejudice to reinstatement. Notwithstanding this modification, the respondent-petitioner is precluded from availing of any leave earned by him under Section 286 of the Revised Administrative Code, as amended by Republic Act No. 611.

As thus modified, the decision stands. (Annex A to the Petition, p. 7, record of the case.)

He received notice of the resolution but did not appeal. On 4 November 1952 he requested the City Engineer to reinstate him to his position. The latter answered that he would study the matter. On 31 March 1953 the City Engineer submitted and the Secretary of Public Works and Communications approved effective 1 April 1953 the appointment of Ramon M. Labayan, a civil service eligible, to the position of property clerk in the office of the City Engineer. Notwithstanding repeated requests for reinstatement, the City Engineer refused to reinstate Basilio L. Guisadio to his former position.

On 18 April 1955 Basilio L. Guisadio filed a petition for mandamus in the Court of First Instance of Cebu against the City of Cebu and its officials concerned, and on 3 August 1955 he amended the petition to join the Secretary of Public Works and Communications as party-respondent, praying that the appointment of Ramon M. Labayan to the position of property clerk in the office of the City Engineer of Cebu be declared invalid; that the Secretary of Public Works and Communications and the City Engineer of Cebu be ordered to reinstate him (the petitioner) to the position of property clerk; that the City of Cebu be ordered to pay him his salary from 4 November 1952 to the

date of reinstatement; that the City Auditor and the City Treasurer be directed to pass in audit and pay him the amount therefor; that the City Engineer be ordered to pay him the sum of P5,000 as actual, moral and consequential damages and the sum of P1,000 as attorney's fees; and that he be granted such other just and equitable relief.

The motion to dismiss filed by the respondent City of Cebii and its officials was denied. They and the respondent Secretary of Public Works and Communications filed separate answers, setting up the identical affirmative defense that as the petitioner was found guilty of immorality by the Commissioner of Civil Service after proper investigation, and required to resign, he was considered separated from the service even without actual tender of resignation. They prayed that the petition be dismissed. The respondent City of Cebu and its officials filed a counterclaim for P15,000 as compensatory, moral and exemplary damages, and P1,000 as attorney's fees which the petitioner controverted.

After trial, the Court rendered judgment holding the petitioner entitled to the remedies prayed for, and ordering—

* * * the City Engineer of the City of Cebu to reinstate the petitioner immediately to his former position as property clerk of said respondent's office, with a compensation at the same rate that he was formerly receiving. Respondents City of Cebu, City Treasurer and City Auditor, are also hereby ordered to cause the payment of petitioner's salary at the rate of P1,680 accumulated from November 4, 1952 up to the date when the petitioner shall have resumed office. Without special pronouncement as to costs.

The respondents have appealed. In the notice of appeal filed by counsel for the respondent City of Cebu and its officials, it is stated that they appeal from the decision to the Supreme Court "purely on questions of law."

Section 695 of the Revised Administrative Code provides:

The Commissioner of Civil Service shall have exclusive jurisdiction over the removal, separation and suspension of subordinate officers and employees in the Civil Service and over all other matters relating to the conduct, discipline, and efficiency of such subordinate officers and employees, and shall have exclusive charge of all formal administrative investigations against them. He may, for neglect of duty or violation of reasonable office regulations, or in the interest of the public service, remove any subordinate officer or employee from the service, suspend him without pay for not more than two months, reduce his salary or compensation, or deduct therefrom any sum not exceeding one month's pay. From any decision of the Commissioner of Civil Service on administrative investigations, an appeal may be taken by the officer or employee concerned to the Civil Service Board of Appeals within thirty days after receipt by him of the decision.

The appellee was charged with immorality for having maintained illicit relations with Rufina Bajo, as a result of which a child was born to her. After investigation, the Commissioner of Civil Service found him* guilty as charged and ordered him to resign with prejudice to reinstatement. Upon motion for reconsideration, the Commissioner reiterated his finding and order but without prejudice to reinstatement. From this decision and resolution denying his motion for reconsideration, the appellee did not appeal to the Civil Service Board of Appeals. The decision, therefore, of the Commissioner of Civil Service became final and executory after the lapse of thirty days from receipt of notice. And although the appellee did not actually tender his resignation, the very nature of the offense with which he was charged and found guilty left no room for doubt that he was dismissed, and that the position of property clerk in the office of the City Engineer of Cebu was vacant when his successor was appointed

Needless to say, the respondents Secretary of Public Works and Communications and City Engineer cannot be compelled by mandamus to appoint the petitioner to another position. That lies entirely within their discretion.

The judgment appealed from is reversed, and the petition dismissed, with costs against the appellee.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes J. B. L., and Endencia, JJ., concur.

Judgment reversed,

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.