

**FRANCISCO PULUTAN, PETITIONER AND APPELLANT, VS.
HONORABLE TOMAS DIZON, AS MAYOR, THE MUNICIPAL BOARD,
CITY OF SAN PABLO, AND SIMON MAGPANTAY, CITY TREASURER OF
SAN PABLO CITY, ...**

G.R. No. L-7746. May 23, 1956

Ponente: JUGO, J.

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JUGO, J.:

Petitioner Francisco Pulutan is the incumbent Detective Second Lieutenant of the Secret Service Unit of the San Pablo Police Department of the Province of Laguna with a compensation of P1,680 per annum. He is duly qualified civil service eligible.

On January 11, 1954, respondent mayor Tomas Dizon of San Pablo City, Laguna, addressed a letter to the petitioner, requesting him to resign voluntarily from the service. The petitioner answered on January 12, 1954, in a letter in which he stated the reasons why he could not resign.

On January 14, 1954, the Municipal Board of the City of San Pablo passed and approved Resolution No. 19, current series, abolishing the position of Detective Second Lieutenant held by the petitioner in order to economize, and also on account of the alleged unbecoming record of Pulutan which, consisted of an act for which he had already been punished with a 30-day suspension without pay, which he had suffered.

It is evident that the mayor could not legally remove the petitioner without cause, for being a member of the Civil Service, his tenure of office is protected by Section 4, Article XII of the Constitution, which says:

"No officer or employee in the Civil Service shall be removed or suspended except for cause as provided by law".

The Committee on Civil Service of the Constitutional Convention, in recommending said provision, said:

"* * * The merit system will be ineffective if no safeguards are placed around the separation and removal of public employees. The Committee's report requires that removal shall be made only for 'cause' and in the manner provided by law. This means that there should be bona fide reasons and action may be taken only after the employee shall have been given a fair hearing. This affords to public employees reasonable security of tenure." (Aruego, *The Framing of the Philippine Constitution*, 1949 ed., p. 567)

It should be considered, in this connection that the petitioner had already been punished for his irregular act, and had suffered said punishment. There appears no reason why he should be punished again. Consequently, the abolition of his position on account of said act is unjustified.

The abolition of positions in the municipal police force for reasons of economy, which results in the separation of incumbents may be effected by complying with the provisions of the Provincial Circular of April 3, 1954, which says that:

"* * * II (d) Separations through abolition of positions.—The local legislative bodies have authority to abolish, for lack of funds and other valid grounds, positions which they are authorized by law to merge or abolish including those created by ordinance. Abolition of positions duly made necessarily results in the separation of the incumbents. However, in order to safeguard the tenure of officials and employees who are civil service eligibles and to prevent injustices to employees whose positions are abolished or suppressed for personal motives, Executive Order No. 506, series of 1934, requires that no reduction of personnel may be effected without the previous approval of the Department Head concerned. With respect to the local police forces and provincial guard organizations, paragraph 18 of Executive Order No. 175, series of 1938, provided that no position therein shall be abolished without the approval of the President of the Philippines. Abolitions of positions consummated in violation of the requirements of said executive orders shall have no force and effect."

It appears that neither the Department Head nor His Excellency, the President of the Philippines, has approved the suppression or abolition of the position of the petitioner,

In view of the foregoing, the decision of the Court of First Instance of Laguna is hereby reversed, and the respondents are ordered to reinstate petitioner Francisco Pulutan in the office of Detective Second Lieutenant, and to pay him the salary at the rate of P1,680 per annum, which he failed to receive during the period of his removal, with costs against the respondents. It is so ordered.

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

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