

PABLO R. AQUINO, PETITIONER, VS. THE GENERAL MANAGER OF THE GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENT.*G.R. No. L-24859. January 31, 1968*

Ponente: REYES, J.B.L., J.

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Original petition for a writ of mandamus to compel the General Manager of the Government Service Insurance System (GSIS for short) to approve the application of Pablo R. Aquino for retirement and to order payment of P1,500.00 attorneys' fees plus costs.

The basic facts, so far as material, appear to be that while holding the position of Chief Accountant II of the Central Luzon Agricultural College (hereinafter termed CLAC for brevity's sake), petitioner Aquino was charged by Bernardino Saplaco, Supply Officer of the same institution, with dishonesty through misrepresentation of his educational attainments. The Board of Trustees of the CLAC had Aquino investigated by a committee which reported as follows:

"Complainant also presented Exhibits "F" and "G" re respondent's Information Sheets, which clearly showed, that in answer to item 6, respondent placed 4th year as the highest grade attained at the Manila West High School and that for his college education said respondent wrote BTCS as the college share he obtained his BSC (Bachelor of Science in Commerce), Exhibit "G" which was an amendment of Exhibit "F", likewise showed that respondent consistently maintained that he was a graduate of the MWHS in 1926.

"In support of his charges of dishonesty through misrepresentation complainant presented Exhibit "H" respondents' application for Examination for the first grade (C.S. Form I) dated September 29, 1950, filed under oath wherein respondent stated that he was a high school graduate. No evidence was presented on the alleged misrepresentation of the respondent for the 2nd grade examination.

"Respondent for his defense claimed that he never misrepresented himself to be a high school graduate nor a holder of a BSC degree. He explained that he put 4th year and BSC in his Information Sheet because that is the equivalent of his training and experience in the government service and it is even equal to his being a degree holder. Respondent, however, admitted during the investigation that he finished only the Third Year of high school. He enrolled in the 4th year but did not continue the same. That he put BSC as his educational attainment in Exhibit "F" and to his application for examination in the belief that he is a BSC holder not by actual graduation from school but merely because of experience in the government service. Respondent said that was the very reason why he filed a second Information Sheet (Exhibit "C").

Respondent's explanation is not satisfactory, in the face of evidence and his virtual admission that he has not finished the high school nor graduated from the college with any degree and taking into account his consistent representation in various government records that he was a high school graduate and a holder of a Bachelor of Science in Commerce degree, this Committee finds him guilty of misrepresentation on three counts. The Committee, however, finds no evidence of misrepresentation at the time respondent took the Civil Service examination for the 2nd grade.

"In view of all the foregoing, the Committee respectfully recommends that respondent be considered resigned effective his last day of service with pay. Considering, however, the long service which the respondent has served in the government it is also recommended that his resignation be considered without prejudice to whatever retirement benefit he may be entitled. 'x x x'"

The Committee's report was approved by the Board of Trustees, and accordingly, it resolved (Res. No. 1076, Aug. 26, 1962)

"that Mr. Aquino be considered resigned effective his last day of service with pay and that his resignation be considered without prejudice to whatever retirement benefits he may be entitled, subject to the availability of funds."

Aquino then applied for retirement with gratuity under Commonwealth Act 188 and Republic Act No. 1616, with the GSIS, and his application was endorsed by the President of the Agricultural College, stating that "this Office has no objection to the retirement of Mr. Aquino under Republic Act No. 1616" (Petition, Annex D).

The General Manager of the GSIS, however, declared that since Aquino's administrative penalty of being considered resigned was deemed an involuntary separation from the service, which has the same effect as separation for cause, Aquino was not eligible for retirement benefits, but was only entitled to refund of the retirement premiums paid by him (Petition, Annex E).

After vain efforts to secure a rewarding of the CLAC resolution No. 1076, Aquino appealed to the President for relief, and approval of his retirement application. The Chief Executive referred the matter to the GSIS, for appropriate action, but the GSIS General Manager reiterated his original stand on the question. Hence, this application for mandamus.

The main contentions of the petitioner are that (a) he was not removed from the service for cause, because the filling of the information sheets had no connection with the performance of his official duties as Chief Accountant; (b) that the resolution of the CLAC Board of Trustees that petitioner be "considered resigned ... without prejudice to whatever retirement benefits he may be entitled subject to availability of funds" did not deprive him of his right to retirement benefits arising from his services; (c) that the GSIS is in estoppel to contest his right to retirement; and (d) that he had no other plain, adequate and speedy remedy.

On the first issue, no doubt can be entertained that petitioner was, to all intents and purposes, dismissed from the service. Despite the weaseling expression "considered resigned", probably invented by some official superior unwilling to face realities, the fact remains that Aquino was separated from the service against his will, and that can be nothing else but a dismissal.

Was the separation for cause? The brunt of petitioner's argument is directed at the misrepresentation in the information sheet, which he claims to have no connection with the discharge of his duties as accountant. He entirely omits all references to the misrepresentation of his educational attainments contained in his sworn application for civil service examination (Exh. H). There he claimed to be a high school graduate, which the Committee and Board of Trustees of the CLAC expressly found not to be true. This is an act of dishonesty and is expressly made a ground for disciplinary action under the Civil Service Rules, coming under the description of

"Intentionally making a false statement in any material fact, or practicing or attempting to practice any deception or fraud in securing his examination, registration, appointment or promotion." (Sec. 19, [v], Civil Service Rules)

We need not emphasize that acts of the kind herein discussed, which combine both perjury and falsification of an official document, infirm a public officer's integrity and reliability qualities that are necessarily connected with

the discharge of petitioner's functions and duties.

Hence, even if the misrepresentation committed in the information sheets (Exhs. F and G) were to be disregarded, there is still reason to consider petitioner as dismissed from the service for cause. That the enjoyment of retirement benefits under the Government Service Insurance System are conditioned upon a retiree's satisfactory service is not contested.

Anent the second issue, the consequences of dismissal or involuntary separation from service for cause are governed exclusively by the laws applicable. The offices or entities where service was rendered are powerless to affect such consequences, which are not dependent upon the discretion of the officials heading the particular office or entity. It follows that the resolution considering Aquino resigned, in so far as it provides that it shall be deemed "without prejudice to whatever retirement benefits he may be entitled" can not preserve for him such benefits if under the law he has no right thereto; the CLAC being powerless to condone malfeasance or misbehavior in office.

As to the alleged estoppel of respondent, suffice it to observe that the return of premiums and voluntary deposits with interest to petitioner is specifically prescribed by Commonwealth Act 186 (d) as amended; hence, no estoppel can be predicated thereon.

Viewed in the light most favorable to him, the claim of petitioner is neither clear nor indubitable; hence, he is not entitled to the coercive right of mandamus that requires a showing of complete and clear legal right in the petitioner to the performance of ministerial acts.[1]

WHEREFORE, the writ applied for is denied. No costs.

Concepcion, C.J., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] Rule 65, section 3; *Zamora vs. Wright*, 53 Phil. 613; *Palileo vs. Ruiz Castro*, 85 Phil. 272; *Cochoco vs. Icasiano*, L-599, Mar. 20, 1954; *Aprueba vs. Ganzon*, L-20867, Sept. 3, 1966.

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