

**CESAR C. ALTAREJOS, PETITIONER, VS. TEODORO K. MOLO,
SECRETARY OF THE COMMISSION ON APPOINTMENTS,
RESPONDENT.***G.R. No. L-25726. October 21, 1968*

Ponente: CONCEPCION, C.J.

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Original action for mandamus to compel respondent, Teodoro K. Molo, as Secretary of the Commission on Appointments, or whoever may later hold said office, to issue a certificate of con-firmation of petitioner's appointment as Provincial Assessor of Masbate. Petitioner, likewise, seeks to recover damages, in ad-dition to the costs and such other relief as may be proper.

On July 24, 1964, petitioner, Cesar C. Altarejos, was given by the President an ad interim appointment as Provincial Assessor for the Province of Masbate. Soon thereafter, or on August 1, 1964, he took his oath of office as such. Submitted to the Commission on Appointments - hereinafter referred to as the Commission - for confirmation, during the regular session of Congress in 1965, said appointment was confirmed by the Commission on May 19, 1965. Later, however, on the same date, Congressman Jose M. Aldeguer, as Member of the Commission, filed with its Secretary, respondent herein, a motion for reconsideration of the action thus taken on said appointment. When the Commission resumed its session, the next day, and petitioner's appointment was taken up, Senator Gil Puyat moved to defer action thereon. Subsequently thereto, that same day, Senator Francisco Rodrigo moved "that all pending motions for reconsideration and any and all motions for reconsideration that might be filed within the reglementary period be laid on the table." There being no objection thereto, the chairman of the Commission ruled that the motion was approved "unless a special session is called tomorrow."

Congress adjourned sine die on May 20, 1965, but it held a special session from May 21 to June 24, 1965. On May 27, 1965, Congressman Aldeguer addressed to herein respondent, as Secretary of the Commission, a communication withdrawing the motion, filed by him on May 19, 1965, for the reconsideration of the confirmation of petitioner's aforementioned appointment and stating that respondent "may, therefore, issue the corresponding certificate of confirmation" in petitioner's favor. This notwithstanding, respondent failed or refused to issue the certificate of confirmation. Hence, the present action for mandamus.

Respondent maintains that the motion for reconsideration filed by Congressman Aldeguer, on May 19, 1965, had the effect of recall-ing the confirmation of petitioner's appointment, and that, accordingly, said appointment should be considered by-passed when Congress adjourned sine die on May 20, 1965, and, hence, non-existent there-after.

This pretense is devoid of merit. Respondent's theory would give to the mere filing of a motion for reconsideration the effect which it would have if the motion were approved, and, hence, would dispense with the necessity of such approval, for which the concurrence of a majority of the members present is necessary. It is

inconsistent with Rule 21 of the Revised Rules of the Commission, reading:

"x x x Resolution of the Commission on any ap-ointment may be reconsidered on motion by a member presented not more than one (1) day after their approval. If a majority of the members present concur to grant a reconsideration, the appointment shall be reopened and submitted anew to the Commission. Any motion to re-consider the vote on any appointment may be laid on the table, and this shall be a final disposition of such a motion." [1]

Pursuant to this provision, the vote of a majority of the members present in favor of the motion for reconsideration is necessary to "reopen" the appointment - and, hence, to "recall" its confirmation - and to require a resubmission of the appoint-ment for confirmation. Indeed, before the Commission adjourned on May 20, 1965, a member thereof, then Congressman Wenceslao Lagumbay, inquired about the effect of a motion for reconsider-ation "if not acted upon" by the Commission. Its chairman answered: "the action of the chamber is suspended and the confirm-ation of the chamber that was originally voted upon and approved is also considered suspended." In other words, said confirmation is merely "suspended", not "recalled".

Moreover, before the adjournment sine die of the regular session of Congress in 1965, and of the session of the Commission, the same had approved a motion of Senator Rodrigo to the effect that "all pending motions for reconsideration" - including, there-fore, the motion for reconsideration of Congressman Aldeguer - be "laid on the table." Pursuant to Hinds:

"Without any express rule, but by long practice, the House has given to the motion (to lay on the table) a use different from this. It is now the motion by which the House puts away finally, without debate, a bill, a motion, an appeal, or other matter. A bill once laid on the table by vote of the House is practically passed on adversely. x x x "1

This view has been incorporated into the above-mentioned Rule 21, which provides that "x x x Any motion to reconsider the vote on any appointment may be laid on the table, and this shall be a final disposition of such a motion."2 In fact, construing this Rule, we held in *Quimsing v. Tajanglangit*:3

"x x x Under the aforequoted Section 21 of the rules of said body, the 'laying on the table' of the motion shall be the final disposition thereof. In other words, no further action need be taken by the Commission thereon. It is as if no motion for reconsideration was filed at all.4

At any rate, Congressman Aldeguer's motion for re-consideration was actually withdrawn by him. Hence, no matter how we may look at it, we cannot escape the conclu-sion that petitioner's appointment as Provincial Assessor of Masbate has been confirmed by the Commission on Appointments.

This conclusion is, likewise, borne out by the minutes of the session of the Commission on May 21, 1964, from which we quote:

"SEN. ALMENDRAS: Mr. Chairman, be-fore we adjourn, Mr. Chairman, I know this is the last day of meeting of the Commission, but I would like to know the ruling of the Chair, Mr. Chairman, as far as the motions for reconsider-ation are concerned. x x x I would like a ruling of the Chair, Mr. Chairman, if the Commission will adjourn tonight, what will be the status of those motions for reconsideration.

"CHAIRMAN: In case of an adjournment sine die, the motions for reconsideration are con-sidered as not approved and therefore the motions for reconsideration are not valid nor of any effect whatsoever.1

"SEN. ALMENDRAS: Do I need to under-stand, Mr. Chairman, if the motion for reconsideration could not be acted, the confirmation stands?

"CHAIRMAN: That is the ruling of the Chair in accordance with Section 22, Rules of the Commis-sion.

"MR. OSIAS: Mr. Chairman –

"CHAIRMAN: The Gentleman from La Union.

"SEN. OSIAS: Mr. Chairman, if I may be per-mitted by the Gentleman from Davao that does not preclude the motion for reconsideration to be revived if and when we meet again, if ever we meet again.

"SEN. ALMENDRAS: That will be another Com-mission meeting, Mr. Chairman. But what I mean on this particular meeting of the Commission inasmuch as we are going to adjourn tonight.

"CHAIRMAN: The ruling of the Chair is reiter-ated. In case of an adjournment sine die, the period for filing the motion for reconsideration having expired, under Sec. 22, then the motion for reconsideration not having been acted upon is not approved and, therefore, has no effect whatsoever. The confirmation, therefore, will stand.

x x x x

"SEN. RODRIGO: x x x Now, Mr. President in order to clarify more the ruling of the Chair may I first read the pertinent portion of Sec-tion 22 of our Rules: Notice of confirmation or dis-approval of an appointment shall not be sent to the President of the Philippines while a motion for recon-sideration is pending. Do I take it Mr. Chairman that after the adjournment of this Session all motions for reconsideration which were presented during this Session will no longer be considered pending?

"CHAIRMAN: Not having been acted upon they are no longer pending.

"SEN. RODRIGO: And therefore all confirm-ations approved during this Session even if motions for reconsiderations were presented during this Session but were not acted upon upon adjournment will be sent to the President of the Philippines as having been con-firmed by this Commission?

"CHAIRMAN: Under Section 22, the Secretary of the Commission can send notice of confirmation to the Republic of the Philippines.

"SEN. RODRIGO: Thank you very much Mr. Chairman."¹

It is urged that petitioner has no cause of action for mandamus against respondent herein, the former having allegedly failed to exhaust the appropriate administrative remedy, which, respondent says, was to appeal from his action to the chairman of the Commission. This argument is, however, untenable, for: (1) there is no law or rule prescribing said appeal to the chairman of the Commission on Appointments¹ and (2) the principle re-quiring exhaustion of administrative remedies does not apply when the issue is purely one of law, such as the one at bar.²

This notwithstanding, petitioner's claim for damages cannot be sustained, there being no proof of the actual damages allegedly suffered by him,³ apart from the fact that respondent herein is sued in his official capacity⁴ and that there is no evidence or allegation that he had acted in bad faith.⁵

Inasmuch as, pursuant to Section 6 of the Revised Rules of the Commission, the Secretary thereof has, inter alia, the duty "(c) to certify under his signature and the seal of the Commission the resolutions and orders thereof," respondent herein has the ministerial duty to issue the certificate of confirmation prayed for by petitioner herein, and is, accordingly, directed to comply with such duty, without special pronouncement as to costs. Writ granted.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, Angeles, Fernando, and Capistrano, JJ., concur.
Zaldivar, J., did not take part.

[1] Underscoring ours.

1 Hinds' Precedents of the House of Representatives, Vol. V, pp. 201-202. Underscoring ours.

2 Underscoring ours.

3 L-19981, February 29, 1964.

4 Underscoring ours.

1 Underscorings ours.

1 Underscoring ours.

1 Santos v. Moreno, L-15829, December 4, 1967; Talisay Silay Milling Company, Inc. v. Bunuan, L-16933, December 29, 1964.

2 Mitra v. Subido, L-21691, September 15, 1967; Dauan v. Secretary of Agriculture, L-19547, January 31, 1967; Abaya v. Villegas, L-25641, December 17, 1966; Cariño v. ACCFA, L-19808, September 29, 1966.

3 Raagas v. Traya, L-20081, February 27, 1968; Delfin v. CAR, L-23348, March 14, 1967; Suntay-Tanjangco v. Jovel-lanos, L-12332, June 30, 1960; Tomassi v. Villa-Abrille, 104 Phil. 310, 313-314.

4 Cariño v. ACCFA., L-19808, September 29, 1966.

5 Jaro v. Valencia, L-19327, April 29, 1966.

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