

RAFAEL PASTORIZA, PETITIONER AND APPELLANT, VS. THE DIVISION SUPERINTENDENT OF SCHOOLS, ET AL., RESPONDENTS AND APPELLEES.

G. R. No. L-14233. September 23, 1959

Ponente: BENGZON, J.

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BENGZON, J.:

To prevent the respondents Division Superintendent and Assistant Division Superintendent of Schools of Cebu from investigating¹ his alleged misconduct in office, Rafael Pastorizat Supervisor of the Cebu Normal School commenced this special civil action of prohibition in the court of first instance of that province.

He argued that only the Commissioner of Civil Service or his immediate subordinates could validly conduct such investigation in view of sec. 495 of the Administrative Code as amended by Commonwealth Acts 177 and 598, which is quoted in the margin. Advised that the Civil Service itself had referred the charges to the Director of Public Schools for investigation, and that the latter had directed the respondents to make such investigation, he maintained the proposition that the Commissioner of Civil Service had no power to delegate his authority to investigate.

The Hon. Jose S. Rodriguez, judge, overruled his contentions and dismissed his action. So he appealed to this Court, on pure questions of law, since there is no dispute as to the facts, which, according to his printed brief, were the following:

"On March 13, 1957, an administrative complaint was filed by Dr. Pablo U. Abella against herein appellant Rafael Pastoriza (Supervisor, Training Department, Cebu Normal School) in the Office of the Division Superintendent of Schools of Cebu, alleging that said appellant slapped complainant's son on March 12, 1957, inside the classroom.

SEC. 695. Administrative discipline of subordinate officers and employees.—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. * * *.

Acting on said complaint, herein appellees endorsed the same to appellant, requiring him to file his answer thereto within a period of seventy-two (72) hours from receipt of said endorsement; and in compliance therewith, appellant filed said answer, completely denying the charges. After said answer was filed, appellees set the complaint for formal investigation on March 22, 1957, but was postponed to April 2, 1957. During the hearing of said complaint" on the latter date, appellant presented a motion before the appellees praying that they desist from proceeding with the investigation for lack of jurisdiction, contending that under section 695 of the Revised Administrative Code, as amended, the power to investigate is vested exclusively in the Commissioner of Civil Service. Because of the filing of said motion, appellees sent a telegram to the Commissioner of Civil Service as

follows:

"NLT COMMISSIONER CIVIL SERVICE
MANILA

Authority investigate supervisor Pastoriza for allegedly slapping pupil accordance executive order number three hundred seventy questioned by counsel respondent stop request civil service investigator investigate said case please wire action.

PASCASIO"

"Instead of sending an investigator, the Chief, Law Division, Bureau of Civil Service, merely referred the same to the Director of Public Schools for appropriate action in accordance with Executive Order No. 370, series of 1941, of the President of the Philippines in an endorsement dated April 18, 1957, to wit:

"Respectfully referred to the Director of Public Schools, Manila, for appropriate action in accordance with the provisions of Executive Order No. 370, Series of 1941.

For the Commissioner:

(Sgd.) G. RASALAN
Chief, Administrative
and Law Division."

"Acting on the said endorsement, the Director of Public Schools in turn referred the same to appellee Division Superintendent of Schools of Cebu in a second endorsement dated April 26, 1957, which reads :

"Respectfully referred to the Division Superintendent of Schools for Cebu, requesting prompt compliance with the preceding 1st Indorsement.

(Sgd.) DEMETRIO M. ANDRES
Administrative Officer"

The appellant insists in his position that the Commissioner "cannot validly delegate his power of investigation to another" and if at all, such delegation may only be made to "a subordinate of the Bureau of Civil Service". And referring to Executive Order No. 370 series of 1941, on which rested the adverse decision of the court a quo appellant asserts its nullity because of inconsistency with sec. 695 above-mentioned.

"Pursuant to said Executive Order", says appellant "a complaint against an officer or employee of the government is to be filed with the head or chief of the bureau or offices where he is working and upon the filing thereof the head or chief of the office concerned shall notify the respondent in writing of the charges with the requirement to answer the same within 72 hours after receipt thereof; and that if the respondent elects to be heard on the charges, a hearing will be held by said chief or head of office who shall, after said hearing, forward to the Commissioner of Civil Service the records of the case with his comment and recommendation. In other words, the Commissioner of Civil Service has absolutely nothing to do with or has no participation whatever in the investigation from the time the charges are filed until its termination. In most, if not all cases, the investigation is done even without his knowledge. The Commissioner takes cognizance of the case only after the investigation is finished, when he receives the records together with the comment and recommendation of the head or chief of office. In effect, said Executive Order completely divests the Commissioner of his "exclusive" power of investigation expressly vested in him by said section 695 of the Revised Administrative Code."

It will be observed that said Executive Order was issued in 1940 before the grant of "exclusive" power to the Civil

Service by Commonwealth Act No. 598. And the question arises whether the latter Act operated to abrogate Executive Order No. 370. The issue could better be solved by considering this question: could the President have validly promulgated said order, after Commonwealth Act No. 598? We think the answer is yes, because the President as Department Head of the Commission of Civil Service could assume any of the powers of the Commissioner, under sec. 37, Public Law No. 4007 and promulgate rules and regulations to carry out the powers of the Commission on the subject (sec. 791 (B) Administrative Code).

As a matter of fact, the very statute that gave "exclusive" power to the Commission expressly acknowledged the superior authority of the President in providing for appeals from the Commissioner's ruling to the Civil Service Board of Appeals, appointed by the President, and a final determination by the latter.

But we do not need to pursue the matter further, because Republic Act No. 2260 effective June 19, 1959, has changed the Civil Service's jurisdiction from "exclusive" to "final"[1], and the procedure under Executive Order No. 370 substantially conforms in its general outline to the new legislation.[2] It would be useless to object to the application of the new law on the ground of initiation of proceeding before its approval; because it contains no saving clause as to matters previously arising, and it being procedural in nature, no vested rights may be invoked.

Wherefore, the appealed decision is affirmed with costs against appellant. So ordered.

Paras, C. J., Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia and Barrera, JJ., concur.

[1] See section 16(i) and (j) Republic Act 2260.

[2] See sections 20 and 24, Republic Act 2260.

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