

JESUS QUIATCHON, JOSE T. REAL, MANUEL CABILES AND ALFREDO T. SCHWAB, PETITIONERS AND APPELLEES, VS. MANUEL VILLANUEVA, IN HIS CAPACITY AS ACTING CITY MAYOR, RESPONDENT AND APPEL...

G. R. No. L-9903. July 31, 1957

Ponente: CONCEPCION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/2623bdd85b88/>

CONCEPCION, J.:

This is an action for mandamus to compel respondent Manuel M. Villanueva, "in his capacity as Acting Mayor of the City of Bacolod," to reinstate petitioners Jesus Quiatchon, Jose T. Real, Manuel Cabiles and Alfredo T. Schwab, as members of the police force of the City of Bacolod, as well as to recover their salaries during the period of their ouster, in addition to moral and exemplary damages.

There is no dispute about the facts, the case having been submitted for decision upon an agreed stipulation of facts. It appears that Ignacio or Engracio Manguin, Melanio Quizon, Democrito Nanta and Bonifacio Ormeo, none of whom is a civil service eligible, were temporarily appointed" as members of the police force of the City of Bacolod, on August 30, 1946, March 10, 1952, March 6, 1952 and August 15, 1951, respectively (Exhibits 1 to 4). Owing to the criminal action filed against them (Criminal Case No. 4262 of the Court of First Instance of Negros Occidental, entitled "People vs. Jose Grandeza"), these members of the police force were, on August 16, 1954, suspended from the service pursuant to section 4 of Republic Act No. 557 (Exhibits 5 and 5-A to 5-C). Two weeks later, or on August 31, 1954, the then Acting Mayor of the City of Bacolod addressed to them identical communications, the pertinent part of which reads:

"Sir:

In view of the filing of criminal case against you by the City Fiscal and of the temporary nature of your appointment which, under the law will in no case exceed three months, and in accordance with the opinion of the Commissioner of Civil Service dated August 18, 1954, concurred in by the Assistant Executive Secretary in a 1st Indorsement dated August 25, 1954, and by the Technical Assistant Incharge of Civil Affairs and Chairman, Provincial, City and Local Governments Division, Malacañang, in a telegram dated August 27, 1954, and in order not to unduly adversely affect public service, I am hereby informing you of your separation from the service effective on the date of your suspension.

Very respectfully,

(Sgd.) JOSE V. CORUÑA

Acting City Mayor"

(Exhibits 6 and 6-a to 6-c.)

Early in September, 1954, said Acting City Mayor appointed petitioners herein, who are civil service eligibles

(Exhibits A and A-1), as second (2nd) class patrolmen of said police force, with an annual compensation of P1,500 each, to fill the positions vacated by Manguin, Quizon, Nanta and Ormeo, as above stated (Exhibits B and B-1l to B-3), and soon thereafter, said petitioners assumed their respective offices and discharged the duties thereof. On or about December 20, 1954, the Court of First Instance of Negros Occidental rendered judgment in the aforementioned criminal case, acquitting the defendants therein (Exhibit 8). Thereupon, or on December 21, 1954, the then Acting Mayor of the City of Bacolod, Manuel M. Villanueva, removed the petitioners from their respective offices and appointed thereto the aforementioned Engracio Manguin, Melanio Quizon, Democrito Nanta and Bonifacio Ormeo (Exhibit 15), although the latter still lack civil service qualifications, and no administrative investigation had been conducted, or administrative charges filed, against said petitioners. Hence, the present action for mandamus against Manuel M. Villanueva, in his capacity as Acting Mayor of the City of Bacolod. After appropriate proceedings, the Court of First Instance of Negros Occidental rendered a decision, the dispositive part of which reads as follows:

"WHEREFORE, the writ of mandamus prayed for is hereby granted and judgment rendered ordering the respondent Acting City Mayor of Bacolod City, to forthwith reinstate the petitioners in their former positions, declaring the petitioners with the right to collect their salaries corresponding to the period from the day they were illegally ousted from their positions, up to the time when they shall be actually reinstated, further ordering the respondent to pay the petitioners out of his personal funds and by way of moral damages the amount of P5,000 to each of the petitioners, and by way of exemplary damages, the further sum of P2,500 also to each of the petitioners. The costs of these proceedings shall be taxed against the respondent." (Original Record, pp. 180-181.)

Manuel M. Villanueva, in his capacity as acting Mayor of the City of Bacolod and the City of Eacolod filed a "joint notice of appeal." However separate briefs were submitted by Villanueva, "in his capacity as Acting Mayor of Bacolod, as well as his capacity as private individual," and by the City of Bacolod. The "Brief for the appellant City of Bacolod" is entitled "Jesus Quiatchon, Jose T. Real, Manuel Cabiles and Alfredo T. Schwab, Petitioners-Appellees vs. City of Baeolod, Appellant," whereas, the brief for Villanueva is entitled "Jesus Quiatchon, Jose T. Real, Manuel Cabiles and Alfredo T. Schwab, Petitioners-Appellants vs. Manuel M. Villanueva, Respondent-Appellant."

Meanwhile, petitioner Alfredo T. Schwab died and was substituted, as petitioner-appellee, by Ms widow, Anunciacion Flores Schwab and their four (4) minor children, Mary Cathy, Marie Ingrid, Alfredo Jr. and Maria Jugie, all surnamed Schwab.

Appellants maintain: (1) that the appointments of petitioners herein, as members of the police force of the City of Bacolod, were illegal, for pursuant to Executive Order No. 175, series of 1938, of the Office of the President, "in no case shall the position of a suspended policeman * * * be filled without previous authority from the President of the Philippines;" (2) that although petitioners herein were given permanent appointments, the same merely had a temporary or provisional nature, said petitioners having failed to file competent proof of their physical fitness; (3) that, having been acquitted in the criminal case instituted against them, Engracio Manguin, Melanio Quizon, Democrito Nanta and Bonifacio Ormeo, who had been suspended upon the institution of said case, were entitled, as a matter of right, to reinstatement to their former positions; and (4) that, pursuant to section 5, of the Charter of the City of Bacolod, the same is exempt from any liability for damages arising from the acts of its officers.

Executive Order No. 175, series of 1938 refers to the position of a "suspended" policeman and, hence, it is inapplicable to the case at bar, for petitioners' predecessors in office were not merely suspended, but, also, removed from their respective offices. The right of the Mayor of Baeolod to make such removal is indubitable, it being admitted that the officers removed had merely "temporary" appointments and were, and still are, not civil service eligibles. Indeed, said temporary appointments were authorized by the Commissioner of Civil Service

"under section 682 of the Revised Administrative Code to continue only until replaced by an eligible but not beyond thirty (30) days from the date of receipt of the certificate of eligibility." What is more, said removal was made in accordance with an opinion of the Commissioner of Civil Service dated August 18, 1954, concurred in by the Assistant Executive Secretary on August 25, 1954, and by the Technical Assistant Incharge of Civil Affairs and Chairman of the Provincial, City and Local Governments Division, Malacañang, in a telegram dated August 27, 1954 (Exhibits 6 and 6-A to 6-C). Thus, regardless of the authority of the President to limit, by virtue of said Executive Order No. 175, the power of municipal or city mayors, to make valid appointments—on which we need not, and do not, express any opinion—the removal above referred to, and the appointment of petitioners herein, have been, in effect approved by the Office of the President. In fact, the latter, in a 5th Indorsement, to the Mayor of Bacolod City, dated November 4, 1954—in conformity with the views expressed by the Commissioner of Civil Service, in a 4th Indorsement dated October 11, 1954—requested, the reinstatement of several members of the police force of Bacolod, as of February 11, 1952— including petitioners herein, Jesus Quiatchon and Jose T. Real—who had been separated from the service, without the notice and hearing provided for in Republic Act No. 557, despite their civil service eligibility, and replaced by non-eligibles.

Appellants' second argument assumes that the appointments in favor of petitioners herein, though purporting to be permanent in nature, did not acquire said status and were merely temporary in character, said petitioners having failed to submit competent proof of their physical fitness. The argument is based, however, upon a predicate which has not been established. This case was submitted for decision upon an agreed stipulation of facts, which is silent on whether said proof of physical fitness of petitioners herein had been submitted or not. Inasmuch as their appointments are in terms permanent in character, it must be assumed that everything necessary to give such effect thereto has been complied with, it being presumed "that the ordinary course of business has been followed" and "that the law has been obeyed" (Rule 128, section 69 [q] and [ee], Rules of Court. Proof to the contrary, if any, was incumbent upon respondent-appellant, who should not be allowed, therefore, to profit by his own omission. In fact, there are strong indications that such proof does not exist, for: (1) the order of removal of petitioners herein (Exhibit 15) made no reference thereto, despite the efforts exerted therein to justify said removal; and (2) Exhibits B and B-1 to B-3 specifically state that the appointments of herein petitioners were in the nature of "reinstatement", thus showing clearly that they had already been regular members of the police force of the City of Bacolod and complied with all the prerequisites to the acquisition of a permanent status, including the presentation of proof of physical fitness.

The third (3rd) argument advanced by appellant herein assumes that the decision of acquittal above referred to ordered the reinstatement of the accused as members of the police force, but this is not a fact. Again, section 4 of Republic Act No. 557, cited by the appellants herein granting to a member of the police force, who has been acquitted of the criminal charges against him, the right "to payment of the entire salary he failed to receive during his suspension", refers to policemen who had merely been "suspended", without being legally dismissed from the service. It does not apply to said defendants in Criminal Case No. 4262 of the Court of First Instance of Negros Occidental, for they were legally separated from the service, because, being "temporary" members of the police force, without civil service eligibility, their right to hold office could be terminated by the City Mayor, at any time, with or without cause.

What is more, in view of their lack of civil service eligibility and the existence of civil service eligibles for the police force, the City Mayor had no choice but to remove said accused policemen, pursuant to the aforementioned section 682 of the Revised Administrative Code, under which their temporary appointments had been authorized. Thus, in *Orais vs. Ribo* (93 Phil., 385, 49 Off. Gaz., 5386, 5392-5393), we held:

"Petitioners invoke in support of their claim section 682 of the Revised Administrative Code, as amended by Commonwealth Acts Nos. 177 and 281. Said section provides:

"Temporary appointment without examination and certification by the Commissioner of Civil Service or his local representatives shall not be made to a competitive position in any case, except when the public interests so require, and then, only upon the prior authorization of the Commissioner of Civil Service; and any temporary appointment so authorized shall continue only for such period not exceeding: three months as may be necessary to make appointment through certification of eligibles, and in no case shall extend beyond thirty days from receipt by the chief of the bureau or office of the Commissioner's certification of eligibles; * * *.

"Appointments made under the section are temporary, when the public interests to require and only upon the prior authorization of the commissioner of civil service, not to exceed three months and in no case shall extend beyond thirty days from receipt by the chief of the bureau or office of the commissioner's certification of eligible. The fact that the petitioners held the positions for more than three months does not make them civil service eligibles. Also the fact that the acting' commissioner of civil service authorized their appointments 'under section 682 of the Revised Administrative Code to continue only until replaced by an eligible' does not make them eligibles. The holding of a position by a temporary appointee until replaced by an eligible in disregard of the time limitation of three months is unauthorized and illegal. The temporary appointment of other non-elighles to replace those whose term have expired is not prohibited. Hence the replacement of Teodulo T. Orais, David Lim, Domingo Saligo and Eulalio Bernades, who are non-eligibles, by Isidro Magallanes, Pedro Flores, Francisco Tavera and Narciso Ravago, who are eligibles, is in accordance with law. The replacement of non-eligibles by non-elighles is lawful under and pursuant to section 682 of the Revised Administrative Code." (Italics ours.)

This view was reiterated in *Pana vs. City Mayor* (94 Phil., 103, 50 Off. Gaz., 146, 147-148). We said therein:

* * * In accordance with section 682 of the Revised Administrative Code, when a position in the classified service is filled by one who is not a qualified civil service eligible, his appointment is limited to the period necessary to enable the appointing officer to secure a civil service eligible, qualified for the position, and in no case is such temporary appointment for a longer period than 3 months. As petitioners herein were not civil service eligibles at the time of their appointment, and it docs not appear that they have since then qualified for the positions they are holding, their respective appointments were only for periods of 3 months and not more.

With respect to the alleged exemption of the City of Bacolod from any liability for damages, under section 5 of Commonwealth Act 326, suffice it to say that in the City of Bacolod. and *Manuel Villanueva vs. Hon. Eduardo D. Enriquez*, supra, p. 644) between the same parties to the present appeal, and involving the execution of the aforementioned decision of Judge Enriquez in the case at bar, during the pendency of this appeal, we declaimed:

"It is true that section 2 of Rule 39 allows execution to issue pending appeal. But such execution can only be issued against one who is a party to the action and not against one who, not being a party in the case, has not yet had his day in court (*Tayson and Angeles vs. Ycasiano, et al.*, G. R; No: L-2283, May 31, 1949; *Manza vs. Santiago, etc.*, .G. R. No. L-7830, April 30, 1955; *An vs Gorospe, et al.*, G. R. L-9230, April 22, 1957). The recor that the city of Bacolod was not made a party to the case damus filed against its acting mayor. True, the order of execute is specifically directed to the acting mayor and the city treasurer, and not to the city itself, but there is no denying that the said order means to have the back salaries of the respondents policemen paid from city funds, so that in the last analysis, it is the city that is being made to satisfy that part of the judgment in the case."

Accordingly, the aforementioned writ of execution was annulled and the writ of preliminary injunction issued by this Court in said case No. L-9775 was made permanent. Modified, in the sense that the award for salaries corresponding to the period of the ouster of petitioners herein shall be understood to bind exclusively respondent Manuel Villanueva, in his private capacity, the decision appealed from is hereby affirmed, therefore, in all other respects, with costs against said respondent. It is so ordered.

Paras, C. J., Bengzon, Reyes, A., Bautista Angelo, Labrador, Endencia and Felix, JJ., concur.

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.