

LETICIA CIPRIANO, PETITIONER, VS. GREGORIO P. MARCELINO AND THE HONORABLE RAFAEL DELA CRUZ, PRESIDING JUDGE OF THE THIRD BRANCH, COURT OF FIRST INSTANCE, CAMARINES SUR, RESPONDE...*G.R. No. L-27793. February 28, 1972*

Ponente: CASTRO, J.

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Leticia Cipriano served as record clerk in the office of municipal treasurer Gregorio P. Marcelino of Calabanga, Camarines Sur, from January 1, 1963 to January 15, 1966, at a monthly salary of eighty pesos (P80). On the latter date she resigned. Because the respondent municipal treasurer, upon her severance from the service, refused to pay her salary corresponding to the period from September 1, 1965 to January 15, 1966, inclusive (P349), as well as the commutation equivalent of her accumulated vacation and sick leaves (P600), Cipriano filed on May 5, 1966 with the Court of First Instance of Camarines Sur an action for mandamus (civil case 6152) to compel the said municipal treasurer to pay her the total amount of P949. She also asked for moral and exemplary damages, attorney's fees and costs of suit.

Marcelino moved to dismiss upon the ground that she had not "exhausted all administrative remedies before filing the present action," arguing that exhaustion of all administrative remedies is a condition precedent before an aggrieved party may have judicial recourse. Granting, the motion, the court a quo ordered the dismissal of the case. Cipriano's motion for reconsideration was denied on May 15, 1967.

Hence, the present petition for certiorari on pure questions of law.

Cipriano contends that there is no law that requires an appeal to the Provincial Treasurer, Secretary of Finance, Auditor General and then the President of the Philippines, from the refusal by a municipal treasurer to pay the salary and money value of the unused vacation and sick leaves of a municipal employee; that assuming that an appeal all the way up to the President of the Philippines is an administrative remedy authorized by law, the same is not plain, speedy and adequate; that the doctrine of exhaustion is not applicable when the questions to be resolved are purely of law; that the payment of her claim being a ministerial duty of the municipal treasurer, mandamus is the proper remedy to compel such payment; and, finally, that to require a small government employee such as the petitioner Cipriano to appeal all the way up to the President of the Philippines on such an inconsequential matter as the collection of the sum of P949, would be oppressive and expensive not only to the employee but also to his dependents as well.

Upon the other hand, Marcelino insists that the petition for mandamus below states no cause of action as the petitioner Cipriano has not exhausted all administrative remedies available to her; that she has not acquired any right to be paid her salary and accumulated vacation and sick leave pay by reason of her failure to comply with the requirements prescribed in the 1966 Manual on Pre-audit of Government Disbursements; and that she still has outstanding accountability in the sense she has not accounted for the missing triplicate copies of three official

receipts which were in her custody.

The documents required to be accomplished before Cipriano can be paid her salary and her accumulated vacation and sick leave pay are (a) a letter of resignation duly accepted, (b) a certificate of clearance from money and property accountability, and (c) a certificate of clearance from the Government Service Insurance System (p. 9, 1966 Manual on Pre-audit of Government Disbursements).

In her memorandum filed on December 22, 1967 with this Court, Cipriano avers that she has a written resignation duly accepted by the mayor of Calabanga; that in the investigation conducted personally by the respondent Marcelino with respect to the triplicate copies adverted to by him, it was his finding that other persons, and not the petitioner, are accountable for them; that the petitioner has no money or property accountability; and, finally, that she need not present a certificate of clearance from the GSIS because she is not a member of the System.

These assertions are not controverted.

We have held time and time again that the principle of exhaustion of administrative remedies is not without exception^[1], nor is it a condition precedent to judicial relief.^[2] The principle may be disregarded when it does not provide a plain, speedy and adequate remedy.^[3] It may and should be relaxed when its application may cause great and irreparable damage.^[4]

It is altogether too obvious that to require the petitioner Cipriano to go all the way to the President of the Philippines on appeal in the matter of the collection of the small total of nine hundred forty-nine (P949) pesos, would not only be oppressive but would be patently unreasonable. By the time her appeal shall have been decided by the President, the amount of much more than P949, which is the total sum of her claim, would in all likelihood have been spent.

In *De Leon vs. Libay* (see footnote 3), this Court, with considerable emphasis, made this statement which is apropos of the case at bar

"The theory that a party must first exhaust his remedies in the administrative branch before seeking the aid of the strong arm of equity must give way to the reality that a government employee must depend for the support of himself and his family upon his salary, and were he to be deprived of that even alone for a few months, possible even less, that must mean starvation because more often than not, a government employee lives hand-to-mouth existence and he awaits with eager hands the arrival of the fortnightly envelope because upon it must hinge the supply of rice and fish and clothing of his spouse and children and himself and with it only can be maintained, and therefore were the dogmatic rule of exhaustion of administrative remedies be made to mean that he should wait for the most final administrative decision in his case, the only logical result must be vital disaster to his dependents and to himself, so that this is the reason why the rule of exhaustion of administrative remedies has always been understood to mean that the same have furnished a plain, speedy and adequate remedy."

All the documents required to support payment of Cipriano's salary and the cash commutation of her unused vacation and sick leaves have been accomplished. Cipriano having thus earned the right to the said payment, it has become the corresponding duty of the respondent treasurer to recognize such right and effect payment.

ACCORDINGLY, the present petition is granted, and the orders a quo of April 14 and May 15, 1967 are set aside. The municipal treasurer of the Municipality of Calabanga, Camarines Sur, is hereby ordered to pay to the petitioner, Leticia Cipriano, without further delay, the total sum of nine hundred forth-nine (P949) pesos. No pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Fernando, Teehankee, Barredo, Villamor, and Makasiar,

JJ., concur.

[1] Pascual vs. Provincial Board of Nueva Ecija, L-11959, October 31, 1959.

[2] Tapales vs. President of the U.P. and Board of Regents, 62 O.G. 3148.

[3] National Development Co. vs. Collector of Customs, L-19180, October 31, 1963; De Leon vs. Libay, 60 O.G. 7599.

[4] De Lara vs. Cloribel, L-21653, May 31, 1965.

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