

BENITO C. MANUEL, PETITIONER, VS. GENERAL AUDITING OFFICE, RESPONDENT.*G.R. No. L-28952. December 29, 1971*

Ponente: FERNANDO, J.

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This Court is faced with a question raised for the first time in this petition for the review of a ruling of an order of respondent General Auditing Office. It is whether or not an elective official may be entitled in the event that he voluntarily retires or be separated from the service without fault on his part to the commutation of his vacation and sick leave. The answer of respondent was in the negative, relying primarily on a civil service rule purportedly in accordance with the applicable Administrative Code provision. In thus denying the claim of petitioner, there was a neglect or disregard of the controlling section of such Code[1] as well as of the equally controlling statutory language in another enactment, which specifically speaks of both an elective or appointive official as being entitled to such benefits under such circumstances.[2] A reversal is thus indicated.

The facts are undisputed. Petitioner Benito C. Manuel applied for retirement, effective December 31, 1967, according to law,[3] after having to his credit more than twenty (20) years of service in the government, included in which were four successive terms as Mayor of Lingayen, Pangasinan from January 1, 1952 to December 31, 1967. Such application was approved on December 5, 1967. He had likewise sought the commutation of his vacation and sick leave, filing with the Municipal Treasurer of Lingayen, Pangasinan on December 22, 1967 a communication to that effect. In his memorandum filed with respondent General Auditing Office to which the matter was referred, he stressed that he was entitled to unused vacation and sick leave earned from May 31, 1957 (date of effectivity of Republic Act No. 1616) to December 31, 1967, or a period of 10 years and 7 months, and since his highest salary was P600.00 a month, the total amount which should accrue to him is P6,000.00, (one month for every year). Respondent Office in turn asked for the view of the Commissioner of Civil Service in an indorsement dated January 25, 1968. The reply, coming on February 22, 1968 was that such a claim for the commutation of the money value of his leave from January 1, 1952 to December 31, 1967 could not be favorably considered. Such a conclusion was based on his reading of Section 2187 of the Revised Administrative Code,[4] which for him implied that such a leave must be enjoyed during the year in which earned and that it could not be cumulative. There was likewise reliance on Section 9 of Civil Service Rule XVI which speaks categorically to that effect.[5] Respondent General Auditing Office on March 1, 1968 ruled that his application for commutation of his leave earned as Mayor during the period from January 1, 1952 to December 31, 1967 could not thus be allowed in audit. Hence this appeal to this Court.

The appeal is meritorious. As was clearly pointed out in the able brief of counsel for petitioner, the Bengzon, Villegas & Zarraga Law Firm, the controlling statutory provisions call for a reversal of the ruling of respondent.

1. It is expressly provided under Section 286 of the Revised Administrative Code that vacation and sick leave shall be cumulative, any part thereof not taken within the calendar year earned being carried over the succeeding years with the employee voluntarily retiring or being separated from the service without fault on his part, being

entitled to the commutation of all such accumulated vacation or sick leave to his credit provided that it shall in no case exceed ten (10) months.[6] The statute[7] providing for voluntary retirement is even more explicit. Thus: "Retirement is likewise allowed to any official or employee, appointive or elective, regardless of age and employment status, who has rendered a total of at least twenty years of service, the last three years of which are continuous." [8] Further: "Officials and employees retired under this Act shall be entitled to the commutation of the unused vacation and sick leave, based on the highest rate received, which they may have to their credit at the time of retirement." [9]

There cannot be the least doubt therefore that the petitioner, who was a municipal mayor and as such an elective official for sixteen (16) years, having to his credit four (4) successive terms as Mayor of Lingayen, Pangasinan, could not be denied his plea for the commutation for a vacation and sick leave. The law speaks categorically including him within its terms. It must, as insisted by counsel for petitioner, be obeyed. Whatever rights are granted petitioner must be respected. There is here no room for interpretation, simply the application of legal norms free from any ambiguity.[10]

2. Why then did respondent decide otherwise? It must have been due to a misreading of Section 2187 of the Revised Administrative Code. What must have misled respondent was a failure to take due note that this section deals solely with a situation when a municipal mayor is absent from his office because of illness. It does not cover therefore the specific case here presented of the right of the elective official to a commutation of his vacation and sick leave upon his retirement or separation from the service through no fault of his own. Moreover it must have felt justified in view of the endorsement of the Commissioner of the Civil Service, who applied Section 9 of Civil Service Rule XVI, included in which is the express injunction that the leave is not cumulative. Further reflection ought to have cautioned it that certainly this rule is far from being applicable as on its face it is based on the aforesaid Section 2187, which as noted is not in point.

If, however, to be considered as having pertinence and relevance, it cannot as an administrative order supplant the plain and explicit statutory command. Why such should be the case is explained in a recent decision, *Teoxon v. Member of the Board of Administrators*. [11] Thus: "The recognition of the power of administrative officials to promulgate rules in the implementation of the statute, necessarily limited to what is provided for in the legislative enactment, may be found in the early case of *United States v. Barrias* decided in 1908. Then came, in a 1914 decision, *United States v. Tupasi Molina*, a delineation of the scope of such competence. Thus: 'Of course the regulations adopted under legislative authority by a particular department must be in harmony with the provisions of the law, and for the sole purpose of carrying into effect its general provisions. By such regulations, of course, the law itself can not be extended. So long, however, as the regulations relate solely to carrying into effect the provisions of the law, they are valid.' In 1936, in *People v. Santos*, this Court expressed its disapproval of an administrative order that would amount to an excess of the regulatory power vested in an administrative official. We reaffirmed such a doctrine in a 1951 decision, where we again made clear that where an administrative order betrays inconsistency or repugnancy to the provisions of the Act, 'the mandate of the Act must prevail and must be followed.' Justice Barrera, speaking for the Court in *Victorias Milling Company, Inc. v. Social Security Commission*, citing *Parker* as well as *Davis* did tersely sum up the matter thus: 'A rule is binding on the courts so long as the procedure fixed for its promulgation is followed and its scope is within the statutory granted by the legislature, even if the courts are not in agreement with the policy stated therein or its innate wisdom * * *. On the other hand, administrative interpretation of the law is at best merely advisory, for it is the courts that finally determine what the law means.'" [12] The succeeding paragraph in such a decision is likewise in point. Thus: "It cannot be otherwise as the Constitution limits the authority of the President, in whom all executive power resides, to take care that the laws be faithfully executed. No lesser administrative executive office or agency then can, contrary to the express language of the Constitution, assert for itself a more extensive prerogative. Necessarily, it

is bound to observe the constitutional mandate. There must be strict compliance with the legislative enactment. Its terms must be followed. The statute requires adherence to, not departure from, its provisions. No deviation is allowable. In the terse language of the present Chief Justice, an administrative agency 'cannot amend an act of Congress.'"[13]

3. Nothing can be clearer therefore than that the claim of petitioner to a commutation of his vacation and sick leave not exceeding ten (10) months must be upheld, inasmuch as the facts show that the total amount sought to be paid to him was precisely in accordance with the controlling legal provisions. The ruling now on review must be reversed and petitioner's plea granted.

WHEREFORE, the ruling of March 1, 1968 of respondent office refusing to allow in audit the claim of petitioner Benito C. Manuel for commutation of his leave earned as Mayor for the period January 1, 1952 to December 31, 1967 is reversed and the application of petitioner for such commutation granted. Without pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Ruiz Castro, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] Section 286, Revised Administrative Code (1917) as last amended by Rep. Act. No. 1081 (1954).

[2] Rep. Act No. 4968 amending Com. Act No. 186 (1967).

[3] Rep. Act No. 1616 (1957) amending Com. Act No. 186 (1936).

[4] The portion of Section 2187 of the Revised Administrative Code relied upon follows: "The mayor shall receive full salary when absent from the municipality upon occasion of any meeting of mayors convoked by the provincial board or when absent therefrom upon any other business the performance of which is required of him by express provision of law or competent administrative authority or, if the general funds of the municipality permit, when he is absent from his office because of his illness contracted through no fault of his own, provided the absence in the latter case does not exceed thirty days during the year, which fact must be attested by an affidavit of the interested party and by a medical certificate or, if there be no physician in the locality, by a health officer's certificate; * * *."

[5] Such a rule reads: "Sec. 9. If the general funds of the municipality permit, Municipal Mayors may receive full salary due to illness contracted through no fault of their own: Provided, That such absences are duly attested and do not exceed 30 days during the year. This leave is not cumulative."

[6] Section 286 as last amended by Rep. Act No. 1081 insofar as relevant reads thus: "When vacation leave and sick leave may be taken. - Vacation leave and sick leave shall be cumulative and any part thereof which may not be taken within the calendar year in which earned may be carried over to the succeeding years, but whenever any officer, employee, or laborer of the Government of the Philippines shall voluntarily resign or be separated from the service through no fault of his own, he shall be entitled to the commutation of all accumulated vacation and/or sick leave to his credit: Provided, That the total vacation leave and sick leave that can accumulate to the credit of any officer or employee shall, in no case, exceed ten months: * * *."

[7] Com. Act No. 186 (1936) as amended by Rep. Act No. 4968 (1967).

[8] Section 6 of Rep. Act No. 4968 amending Com. Act No. 186.

[9] Ibid.

[10] Cf. *People v. Mapa*, L-22301, Aug. 30, 1967, 20 SCRA 1164; *Pacific Oxygen & Acetylene Co. v. Central Bank*, L-21881, March 1, 1968, 22 SCRA 917; *Dequito v. Lopez*, L-27757, March 28, 1968, 22 SCRA 1352; *Padilla v. City of Pasay*, L-24039, June 29, 1968, 23 SCRA 1349; *Garcia v. Vasquez*, L-26808, March 28, 1969, 27 SCRA 505; *La Perla Cigar & Cigarette Factory v. Capapas*, L-27948 & 28001-11, July 31, 1969, 28 SCRA 1085; *Mobil Oil Phil., Inc. v. Diocares*, L-26371, Sept. 30, 1969, 29 SCRA 656; *Luzon Surety Co., Inc. v. De Garcia*, L-25659, Oct. 31, 1969, 30 SCRA 111; *Vda. de Macabenta v. Davao Stevedore Terminal Company*, L-27489, April 30, 1970, 32 SCRA 553; *Republic Flour Mills, Inc. v. Commissioner of Customs*, L-28463, May 31, 1971; *Maritime Company of the Philippines v. Reparations Commission*, L-29203, July 26, 1971; *Allied Brokerage Corp. v. The Commissioner of Customs*, L-27641, Aug. 31, 1971.

[11] L-25619, June 30, 1970, 33 SCRA 585.

[12] *Ibid*, pp. 588-589.

[13] *Ibid*, p. 589.

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