

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
FRANCISCO V. BAUTISTA, MIGUEL PABALAN AND ANTONIO B.
RUBIO, DEFENDANTS AND APPELLANTS.**

G.R. No. L-7079. October 26, 1954

Ponente: BENGZON, J.

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BENGZON, J.:

Charged with rape, Francisco V. Bautista, Miguel Pabalan and Antonio B. Rubio all of the police department of Calamba, Laguna, were absolved from liability by the Court of First Instance of Laguna. But in the dispositive part of his decision the judge said the following:

"In view of the foregoing, the Court orders the dismissal of the above case and, in dismissing the case against the three accused herein, and notwithstanding the order of the Court of July 24, 1953, the said accused Francisco V. Bautista, Miguel Pabalan, and Antonio B. Rubio should not be reinstated to the service in the police department of Calamba, Laguna, and due to the above findings, they are not entitled to any salary." (Italics supplied.)

Although they had already been acquitted, the defendants appealed, in their desire to secure the elimination from the decision of those portions concerning their reinstatement and salary during suspension,

What happened was this: After the filing of the information Antonio B. Rubio married the offended party. Wherefore Rubio was excluded from the case. When the other two policemen were tried, the offended party turned a hostile witness, the prosecution collapsed, and the trial judge had to acquit. But suspecting some questionable maneuvers, he could not help expressing the opinion that defendant policemen should not be reinstated nor paid any compensation during their suspension. Obviously His Honor had in mind the provisions of section 2272 of the Revised Administrative Code.

"When a chief or member of the municipal police is accused in court of any felony or violation by the provincial fiscal, the mayor shall immediately suspend the accused from office pending final decision of the case by the courts, and, in case of acquittal, the accused shall be entitled to payment of the entire salary he failed to receive during his suspension if the court should so provide in its sentence." (Italics supplied.)

However, as the Solicitor General's office rightly admits, said section was modified by section 4 of Republic Act No. 557 which reads:

"When a member of the provincial guards, city police or municipal police is accused in court of any felony or violation of law by the provincial fiscal or city fiscal as the case may be, the provincial governor, the city mayor or municipal mayor shall immediately suspend the accused from office pending the final decision of the case by the court and, in case of acquittal, the accused shall be entitled to payment of the entire salary he failed to receive during his suspension." (Italics supplied.)

It is clear then that under the present law the defendants, after acquittal are ipso facto entitled to payment of their salary during suspension. As to reinstatement, it seems that the above section contemplates their automatic

reinstatement too, because they are suspended only "pending the final decision of the case by the court."

Wherefore the pronouncements in the appealed decision regarding reinstatement and non-payment of salary were erroneous and unjustified. In so far as they prejudice the appellants they could be eliminated. It is so ordered. No costs.

Paras, C. J., Pablo, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Concepcion, and Reyes, J. B. L., J.J., concur.

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