

(With Resolution of July 30, 1964)*G.R. No. L-22088. June 30, 1964*

Ponente: BAUTISTA ANGELO, J.

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Celestino C. Rosca, et ah, as officers and members of the Caloocan City Police Department, filed on July 19, 1963, in their behalf and for the benefit of others similarly situated, a petition for prohibition and injunction against the Acting Commissioner of Civil Service, the Mayor, Acting Chief of Police, Treasurer, and Auditor, all of Caloocan City, before the Court of First Instance of Manila, alleging therein that said Acting Commissioner of Civil Service re-examined on his own accord on various dates the official status of said petitioners and ordered them to take qualifying examinations for the rank which they respectively held, and that having refused to take the required examination, the Acting Commissioner of Civil Service in a letter dated June 21, 1963, addressed to his co-respondent city mayor, terminated "effective immediately" the services of the petitioners, transmitting copies of said letter to the city treasurer and city auditor of Caloocan City. The petition also alleges that the chief of police of Caloocan City took cognizance of the termination of petitioners' services. Petitioners prayed that a judgment be rendered declaring that their demotion in status, rank and salary, as well as the termination of their services are illegal, while enjoining the respondent Acting Commissioner of Civil Service from compelling the petitioners to take the qualifying examination and respondents Caloocan City officials from carrying out the order of said Commissioner in effecting the termination of petitioners' services and stoppage of their salaries as a consequence thereof. Petitioners likewise prayed that a preliminary preventive injunction be issued enjoining petitioners' re-examination of status, rank and salary, or taking the required qualifying examination, as well as a preliminary mandatory injunction directing all respondents to restore petitioners to the positions they were respectively holding and to pay them their salaries as if there had been no interruption in the payment thereof.

On July 25, 1963, the court a quo issued an order directing respondents to show cause why the injunction prayed for should not be issued. Counsel for both petitioners and respondents having waived the presentation of evidence and submitted the petition for resolution on the basis of the complaint and its annexes, the court a quo issued an order on August 5, 1963 whereby, upon the filing of the requisite bond, it enjoined respondent' Commissioner of Civil Service during the pendency of the case and until further orders from the court from continuing the re-examination of petitioners' status, rank and salary and the enforcement of his directive requiring them to take entrance or qualifying examination, as well as the reduction of their salaries ami/or the termination of their services. It also ordered all the respondents to restore petitioners to their respective positions and pay them all their salaries as if there had been no interruption in the payment thereof.

On August 8, 1963, the court a quo motu proprio, modified the above order by eliminating the portion of the dispositive part pertaining to the issuance of the preliminary mandatory injunction against all the respondent Caloocan city officials on the ground that the acts therein directed to be performed would have to be effected outside the territorial jurisdiction of the court which under the law it cannot do. Their motion for reconsideration having been denied, petitioners interposed the present petition for certiorari.

The main purpose of this petition is to have the court a quo reinstate in full its order of August 5, 1963 which grants not only the petition for preliminary preventive injunction but also the petition for preliminary mandatory injunction both against respondent Acting Commissioner of Civil Service and against all the officials of Caloocan City who are respondents herein with a view to the immediate restoration of petitioners to the positions they were respectively holding and the payment of their salaries as if there had been no interruption in their payment. In other words, what petitioners seek to accomplish in this petition is the nullification of the order of the court a quo of August 9, 1963 which modified its original order of August 5, 1963 by eliminating the mandatory directive against respondent officials of Caloocan City on the ground that said court had no power nor authority to make said directive effective beyond its territorial jurisdiction.

The dispositive part of the order of August 5, 1963, reads:

"WHEREFORE, upon filing a bond in the sum of 10,000.00 subject to the approval of the Court, the Acting Commissioner of Civil Service is hereby enjoined, during the pendency of this action and until further orders from this Court, from continuing the 're-examination' of petitioners' status, rank and salary, and enforcing his directive requiring the petitioners to take entrance and qualifying examinations as well as the deduction and reimbursements of salaries effected by said 're-examination' and/or termination of employment while the respondents Abelardo Subido, in his capacity as Acting Commissioner of Civil Service, Macario B. Asistio, in his capacity as Mayor, Dominador M. Danan, in his capacity as Acting Chief of Police, the City Treasurer and City Auditor, alt of Caloocan City, are further directed to restore petitioners to the service, in their respective positions and to pay them all their salaries as if there had been no interruption in the payment thereof."

And the dispositive portion of the order of August 9, 1963 also reads:

"WHEREFORE, upon filing a bond in the sum of P1.000, subject to the approval of the Court, the Acting Commissioner is hereby enjoined, during the pendency of this action and until further orders from this Court, from continuing the 're-examination' of petitioners' status, runk and salary, and enforcing his directive requiring the petitioners to take entrance and qualifying examinations as well as the deductions and reimbursements of salaries effected by said 're-examinations' and/or termination of employment."

It may thus be seen that the main issue raised herein refers to the power or authority of the court a quo to enforce its mandatory directive beyond its territorial jurisdiction for which reason it amended its original order of August 5, 1963 by eliminating therein the portion pertaining to the directive against respondent officials of Caloocan City. But as it appears the court a quo maintained its mandatory directive against respondent Commissioner of Civil Service who was required to restore petitioners to the positions they were respectively holding and to pay them their salaries as if there was no interruption in the payment thereof, even if it eliminated a similar directive against his co-respondents the mayor, the chief of police, the city treasurer, and the city auditor, all of Caloocan City. Since the latter officers of Caloocan City gave notice to petitioners' termination of their services merely in obedience to the directive given to them by respondent Civil Service Commissioner in the several letters sent to them involving the re-examination of the official status of petitioners and requiring them to take the qualifying examination if they wanted to retain their positions, a directive which responds officials of Caloocan City acquiesced in by terminating their services, this Court is of the view that a mandatory directive against respondent city officials of Caloocan City is unnecessary thereby making practically ineffective and superfluous the elimination of such directive made by the court a quo in its original order of August 5, 1963. Respondent Civil Service Commissioner having been ordered to restore petitioners to the positions they were respectively holding who were separated because of his directive to his co-respondents, this official has no other alternative than to recall or hold in abeyance the letters of re-examination and termination of service he had addressed to his co-respondents and to order petitioners reinstatement in the meantime pending the disposition of the main case on the merits. We, therefore, see no reason in further passing upon the issue raised herein as already pointed out.

WHEREFORE, petition is dismissed. No costs.

Bengzon, C. J., Padilla, Concepcion, Reyes, J. B. L., Paredes, Regala and Makalintal, JJ., concur.

RESOLUTION

July 30, 1964

BAUTISTA ANGELO, J.:

Respondents seek to clarify our decision rendered on June 30, 1964 declaring unnecessary the mandatory directive against respondent officials of Caloocan City prayed for herein for the reasons expressed in said decision.

On August 5, 1963, respondent judge issued an order the dispositive portion of which reads:

"WHEREFORE, upon filing a bond in the sum of P10,000, subject to the approval of the Court, the Acting Commissioner of Civil Service is hereby enjoined, during the pendency of this action and until further orders from this Court, from continuing the 're-examination' of petitioners' status, rank and salary, and enforcing his directive requiring the petitioners to take entrance and qualifying examinations as well as the deduction and reimbursements of salaries effected by said 're-examination' and/or termination of employment while the respondents Abelardo Subido, in his capacity as Acting Commissioner of Civil Service, Macario B. Asistio, in his capacity as Mayor, Dominador M. Danan, in his capacity as Acting Chief of Police, the City Treasurer and City Auditor, all of Caloocan City, are further directed to restore petitioners to the service, in their respective positions and to pay them all their salaries as if there had been no interruption in the payment thereof."

In the instant petition, petitioners state in paragraph 4 that on August 9, 1963 respondent judge, *motu proprio*, modified his previous order of August 5, 1963 by eliminating the portion of its dispositive part pertaining to the issuance of a preliminary mandatory injunction against respondent Caloocan City officials. This statement implies that the respondent judge left intact his mandatory directive against respondent Commissioner of Civil Service to restore petitioners to their respective positions and to pay them all their salaries as if there had been no interruption in the payment thereof. It is for this reason that this Court declared that the relief sought for in the petition is unnecessary because its purpose could be accomplished by enforcing merely the directive issued against said Commissioner of Civil Service.

It, however, appears that in issuing the amendatory order of August 9, 1963 premised on the ground that he has no authority to issue a directive which has to be effected outside of his territorial jurisdiction, respondent judge did not merely eliminate the mandatory directive against respondent Caloocan City officials but likewise that issued against respondent Commissioner of Civil Service contrary to the main purpose behind the amendment of his order of August 5, 1963.

We believe, however, that the elimination of the mandatory directive against respondent Commissioner of Civil Service from the dispositive part of the amendatory order of August 9, 1963 is merely due to an oversight considering the main purpose that prompted him to amend its order of August 5, 1963 as may be seen from the following portion of his amendatory order of August 9, 1963:

"In the dispositive part of the order dated August 6, 1963, this Court directed the respondents Mayor, Acting Chief of Police, Treasurer and Auditor, all of Caloocan City, to restore the petitioners to the service in their respective positions and to pay them all their salaries as if there had been no interruption in the payment

thereof.

"The above-named respondents are officials of Caloocan City and the acts they were directed to perform would be effected outside the territorial jurisdiction of this Court. In the case, however, of *Acosta versus Alvendia, et. al.*, 109 Phil., 1017, the Supreme Court held in effect that the authority of Courts of First Instance to control or restrain acts by means of the writ of preliminary injunction is limited to acts which are being committed within the territorial boundaries of the respective provinces and districts.

Accordingly, the portion of the dispositive part of the order dated August 5, 1963 pertaining to the issuance of a preliminary mandatory injunction against the officials of Caloocan City is not in order and should, therefore, be eliminated."

It thus appears that the main purpose of the amendatory order is merely to eliminate the mandatory directive against respondent Caloocan City officials because, as the same order states, "the portion of the dispositive part of the order dated August 5, 1963 pertaining to the issuance of the preliminary mandatory injunction against the officials of Caloocan City is not in order and should, therefore, be eliminated." However, in the dispositive portion of said order there appears eliminated not only the mandatory directive against the Caloocan City officials but also that against respondent Commissioner of Civil Service. Hence, as already stated, the elimination of the directive against the latter official is merely due to an oversight. This flaw should be here corrected.

Wherefore, the petition for certiorari is hereby granted as regards the portion of respondent Judge's order of August 0, 1963 which eliminates the mandatory directive against respondent Commissioner of Civil Service in the sense that such mandatory directive as it appears in the order of August 5, 1963 is hereby deemed restored. The petition is dismissed with regard to the prayer for relief against the Caloocan City officials. No costs.

Bengzon, C. J., Padilla, Concepcion, Reyes, J. B. L., Regala and Makalintal, JJ., concur.

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