

VICTORIO V. MULATO, PETITIONER, VS. ARTEMIO R. SALDIVAR, RESPONDENT.*G.R. No. L-38435. February 25, 1975*

Ponente: MAKASIAR, J.

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Respondent-Appellant Artemio R. Saldivar appealed to the Court of Appeals from the adverse decision of the Court of First Instance of Pangasinan in Civil Case No. U-2055 directing the reinstatement of petitioner-appellee Victorio V. Mulato to the position of chief of police. The records of the case were accordingly forwarded on June 3, 1969 to the Court of Appeals (p. 1, rec.). Respondent-appellant Saldivar and petitioner-appellee Mulato filed their briefs respectively on April 16, 1970 and June 20, 1970 (pp. 18-28, rec.), after which the case was deemed submitted for decision by the Court of Appeals on August 7, 1970 (p. 30, rec.).

In a resolution dated March 30, 1974, the 8th Division of the Court of Appeals elevated the case to the Supreme Court for only a question of law is involved.

Petitioner-appellee Mulato recapitulates the background facts thus:

"Petitioner-Appellee is the incumbent Chief of Police of Pozorrubio, Pangasinan, a civil service eligible and appointed to said position on August 5, 1963. By reason of an administrative charge filed against him with the Local Board of Investigators of Pozorrubio, Pangasinan, respondent-appellant in a letter dated June 27, 1968, ordered the suspension of appellee for a period of sixty (60) days to 'take effect at the close of office hours on June 28, 1968' (See Annex 'A' of the petition). On August 28, 1968, or sixty (60) days after the period of suspension expired, petitioner-appellee reported to duty and in a letter dated August 28, 1968 (Annex 'B') informed the respondent that he is assuming his position as Chief of Police. However, appellee received a letter from respondent-appellant dated August 27, 1968 (Annex 'C') ordering the suspension of the appellee for an 'indefinite period' 'until such time that the Administrative case shall have been fully terminated'. Subsequently, in a letter dated September 2, 1968 (Annex 'D') respondent-appellant advised appellee to desist from performing his duties 'until the Police Commission shall order otherwise' then in a letter dated September 10, 1968 (Annex 'E') a copy of which was received by appellant through the Municipal Secretary on the same day the letter was written, petitioner-appellee requested the respondent-appellant to consider his (appellant's) order of indefinite suspension and requested that he be immediately reinstated to his position, but respondent-appellant adamantly refused, until finally, when petitioner-appellee on October 3, 1968 received a letter dated September 24, 1968 (Annex 'G') from respondent ordering the suspension of petitioner for the third time by reason of the filing of a second administrative complaint against said petitioner-appellee with the Board of Investigators (Annex 'F')." (pp. 2 & 3, Appellee's Brief, p. 28, rec.).

Hence, he filed on September 19, 1968 a petition for mandamus with the Court of First Instance.

In Our resolution dated April 24, 1974, the parties were required "to manifest within ten days from notice as to the status of the administrative cases filed against petitioner-appellee and whether the present case is already moot and academic by virtue of Presidential Decrees Nos. 12 and 12-A, amending Republic Act No. 4864, otherwise

known as the Police Act of 1966." (p. 61, rec.). Pursuant to said resolution, respondent-appellant, through counsel, in a pleading dated May 15, 1974 and filed on May 24, 1974, manifested that the National Police Commission rendered on July 31, 1973 in the administrative case against petitioner-appellee Mulato a decision dismissing him as chief of police and prayed that this case be dismissed as moot and academic and that the decision rendered by the trial court ordering the reinstatement of the said plaintiff-appellee be set aside (pp. 62-64, rec.), attaching thereto the letter of the Chairman of the National Police Commission dated September 17, 1973 together with the decision of the National Police Commission dated July 31, 1973 finding petitioner-appellee Victorio V. Mulato "guilty of serious irregularity in the performance of duty (infidelity in the custody of court exhibits) and" dismissing him from the service (pp. 65-68, rec.).

On the other hand, petitioner-appellee Victorio V. Mulato, in his manifestation dated and filed on May 21, 1974, stated that it was only on May 21, 1974 when he came to know of the decision of the National Police Commission dated July 31, 1973 finding him guilty and dismissing him from the service; that he has filed a motion for reconsideration dated May 25, 1974 for the said decision (Annex C, pp. 103-107, rec.); and that Presidential Decrees Nos. 12 and 12-A, amending Republic Act No. 4864 did not render this case moot and academic (pp. 74-108, rec.).

In a resolution dated December 10, 1974, the Adjudication Board of the National Police Commission denied the motion for reconsideration filed by petitioner-appellee Mulato of the decision dismissing him from the service in Administrative Case No. 463. The said resolution was transmitted by Acting Chairman Juan Ponce Enrile of the National Police Commission in a letter dated January 19, 1975 addressed to respondent-appellant Saldivar for immediate execution of the decision dismissing petitioner-appellee Mulato from the service. (pp. 118-119, rec.).

Consequently, there is no point in resolving the merits of the instant case.

WHEREFORE, THIS PETITION IS HEREBY DISMISSED AS MOOT AND ACADEMIC. NO COSTS.

Castro, (Chairman), Teehankee, Esguerra, and Muñoz Palma, JJ., concur.

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