

THE ACTING DIRECTOR OF PRISONS, PETITIONER, VS. HON. ONOFRE A. VILLALUZ, AS JUDGE OF THE CIRCUIT CRIMINAL COURT OF PASIG, METRO MANILA, CLEMENTE DOMINGO, JR., EDUARDO ROXAS, JUA...

G.R. No. L-48352. January 31, 1987

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for Certiorari and Prohibition with Preliminary Injunction (Rollo, p. 19) seeking to set aside the Orders of the Circuit Criminal Court of Rizal in Criminal Case No. CCC-VII-1406: (a) dated June 4, 1974 amending its Resolution dated May 15, 1974 (Rollo, p. 28); (b) dated January 26, 1978 directing petitioner to comply with the Order of June 4, 1974 (Rollo, p. 44); and (c) dated April 21, 1978 denying petitioner's Motion for Reconsideration (Rollo, p. 50); and praying for the issuance of a writ of preliminary injunction, ex-parte and without bond, pending final resolution of the merits of the petition, restraining respondent Judge from enforcing said Orders insofar as they direct petitioner to reinstate the accused (herein private respondents) to their former positions and to authorize the payment of their back salaries.

The dispositive portion of the Resolution dated May 15, 1974 as amended by the Order dated June 4, 1974 (Rollo, p. 31), reads as follows:

"WHEREFORE, for failure of the prosecution to prove beyond reasonable doubt the guilt of the herein accused, this case is hereby DISMISSED. Consequently, accused Clemente Domingo, Jr., Eduardo Roxas, Juanito Leopando, Miguel Palamos, Vergel Ponciano and Deogracias Lizardo are hereby ACQUITTED of the charge of Murder, and forthwith, accused Domingo, Jr., Leopando and Ponciano are liberated from imprisonment and discharged from the custody of the law, unless they are being detained for some other legal cause.

The bailbonds posted by accused Palamos, Roxas and Lizardo for their provisional liberty are hereby cancelled.

The Acting Director of the Bureau of Prisons is hereby ordered to reinstate Prison guards Clemente Domingo, Jr., Eduardo Roxas, Juanito Leopando, Vergel Ponciano, and Deogracias Lizardo to their former positions and to authorize the payment of their salaries which they failed to receive during the period of their suspension.

Let a copy of this Order be furnished the Department of Justice and the Acting Director of Prisons for their valuable information and guidance."

The Order dated January 26, 1978 states:

"Considering that based on the manifestation of the Solicitor General, there is available funds and General Vicente Raval, Acting Director of the National Penitentiary, is willing to pay, the Court resolves, as it is hereby resolved, to direct the Acting Director of Prisons to comply with the Order of the Court dated June 4, 1974, within thirty (30) days from receipt hereof, reinstating all the above-named accused to their former positions

and to authorize the payment of their salaries each accused failed to receive during the period of their suspension."

The Order dated April 21, 1978, on the other hand states that:

"Acting on the Motion for Reconsideration dated March 22, 1978, filed by the Assistant Solicitor General Eulogio Raquel-Santos and considering the opposition thereto, dated April 12, 1978 filed by Atty. Leonides Ecarma, counsel for the accused in the above-entitled case, the Court resolves as it is hereby resolved, to DENY the instant Motion for Reconsideration.

The Order of the Court dated January 26, 1978 directing movant Acting Director of Prisons to comply with the Order dated June 4, 1974, stands."

The facts of the case are as follows:

Private respondents were prison guards at the New Bilibid Prison when they were charged with Murder in Criminal Case No. CCC-VII-1406-Rizal of the Circuit Criminal Court, Pasig, Metro Manila. Pending trial of said murder case they were suspended and subsequently dismissed from the service on orders of then Secretary of Justice, pursuant to Letter of Instructions No. 14-A of the President (Rollo, p. 20). On May 20, 1974 respondent Court promulgated its Resolution dated May 15, 1974 acquitting the accused of the crime charged for failure of the prosecution to prove the guilt of the accused, beyond reasonable doubt (Rollo, p. 28).

On motion of private respondents, dated May 27, 1974, respondent Court amended its Resolution of May 15, 1974, to include the reinstatement of private respondents to their respective positions before indictment and to authorize the payment of their back salaries during the period of their suspension. Thus the questioned Order of June 4, 1974.

On June 14, 1974 respondents, save Miguel Palamos who died during the pendency of the case, were reinstated to their positions. Instead of authorizing the payment of the back salaries of respondents, however, petitioner forwarded the Order to the Secretary of Justice who denied the same in a 2nd Indorsement dated August 7, 1974. Subsequently, on motion of respondents for the execution of the Order, respondent Court issued another Order dated October 3, 1977, stating that the Acting Director of Prisons is fully bound by its Order directing the payment of the back salaries claimed by respondents during the period of their suspension, April 6, 1971 to June 13, 1974, for the reason that it has become final and executory. Again, petitioner, instead of complying, forwarded the Order of October 3, 1977 to the Secretary of Justice who reinstated his denial in a communication to the respondents dated December 29, 1977 (Rollo, pp. 33-34).

On January 3, 1978 respondents filed their motion to declare petitioner in contempt of court (Rollo, p. 33), which was opposed by petitioner on the ground that an order or mandate which is void, because it was issued by a court without jurisdiction over the subject or the parties litigant, as in this case, cannot be considered a contempt and that respondent Court acted without jurisdiction in including in the order the reinstatement and payment of the back salaries of respondents (Rollo, p. 40). Without granting or denying the motion to declare petitioner in contempt of court, respondent Court issued the Order of January 26, 1978.

On March 16, 1978 petitioner filed a motion for reconsideration (Rollo, p. 45) of the Orders of respondent Court dated June 4, 1974 and January 26, 1978; which was however denied in the Order of Respondent Court dated April 21, 1978, above-quoted.

Hence, this petition, filed on August 23, 1978 (Rollo, p. 19). Respondents filed their Comment on October 2, 1978 (Rollo, p. 62) in compliance with the resolution of the First Division of this Court (Rollo, p. 52). On October 9, 1978, the Court resolved to give due course to the petition and to require both parties to submit simultaneous

Memoranda. (Rollo, p. 70).

Respondents filed their Memorandum on November 20, 1978 (Rollo, p. 79); petitioner filed his Memorandum on January 25, 1979 (Rollo, p. 101).

The only issue raised by Petitioner in this case is whether or not respondent Court acted within its jurisdiction when in an Order absolving the accused from criminal liability, it at the same time directed the Acting Director of Prisons to reinstate said accused to their former positions and to authorize the payment of their supposed back salaries during the period of their alleged suspension (actually dismissal).

Considering, however, that private respondents have already been reinstated to their former positions as prison guards, the issue with respect to the reinstatement of respondents to their previous positions before they were indicted has become moot and academic. All that remains to be decided is whether or not it is within the jurisdiction of respondent Court to order petitioner to authorize the payment of the salaries of respondents during the pendency of the criminal case filed against them.

Respondents alleged that they are entitled to payment of the salaries they failed to receive during their suspension (Rollo, p. 82), citing Section 4 of R.A. 557 repealing Sec. 2272 of the Revised Administrative Code, Sec. 4 of R.A. 557 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 the 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."

Also cited was the case of *Noremor v. Municipality of Oras*, 7 SCRA 405 (1963) which considered the above-quoted provision as mandatory.

Petitioner, on the other hand, holds a contrary view (Rollo, p. 104), citing *People v. Daleon*, 1 SCRA 759 (1961), wherein the Court held that:

"The question is not new. In at least three cases previously decided by this Court (*People v. Mañago*, 69 Phil. 496; *Pablo v. Lagutan*, 70 Phil. 481; *Manila Railroad Co. v. Baltazar, et al.*, L-5451, Sept. 14, 1953), We have ruled that the trial court, in a criminal action for malversation of public funds wherein the accused is acquitted, is without power to order the payment of his salary during the period of his suspension. The reason is that the only issue joined by the plea of not guilty is whether or not the accused committed the crime charged in the information, and in such case, the only judgment that the court is legally authorized to render is either one of acquittal or of conviction with the indemnity to the injured party and the accessory penalties provided for by law.

Appellee Daleon cites several cases wherein we upheld the right of an accused of the crime of malversation, in case of acquittal, to back salaries and reinstatement, but these cases are not in point because they involved appeals either from civil actions or from administrative proceedings seeking such remedies. In other words, while an accused acquitted of malversation may claim payment of back salaries during the period of his suspension and reinstatement, his relief lies not in the same criminal case wherein he is acquitted but in the proper administrative or civil action prescribed by law.

"WHEREFORE, the judgment appealed from is modified by eliminating therefrom the portion which orders the payment of appellee Antonio E. Daleon's salary during the period of his suspension from office. Costs against appellee Antonio E. Daleon." (*People vs. Daleon*, 1 SCRA 760).

Republic Act No. 557 is a special law which applies only to provincial guards, city and municipal policemen with

civil service eligibility (*Kordovez v. Carmona*, 21 SCRA 678 [1967]). It is evident that it does not apply to respondents who are neither provincial guards, city policemen or municipal policemen but prison guards. The *Noremor* case cannot be cited in favor of Respondents.

Another point that militates against the payment of back salaries of respondents which respondent Court failed to consider is the fact that respondents were removed from the service during their suspension pursuant to Letter of Instructions No. 14-A, dated September 29, 1972. It is a settled rule that in the absence of proof that the dismissal of respondents was tainted with bad faith and in grave abuse of discretion, they are not entitled to back salaries (*Octot v. Ibañez*, 111 SCRA 79 [1982]; *Clemente v. Commission on Audit*, 128 SCRA 297 [1984]).

The records show that when respondents were acquitted by the trial court in the Order of May 15, 1974, which was subsequently amended by the Order of June 4, 1974 including their reinstatement and payment of back salaries, petitioner readily reinstated respondents to their previous positions on June 14, 1974 (Rollo, p. 80) but could not authorize payment of back salaries against the advice of the then Secretary of Justice. This shows that the dismissal of respondents was not motivated by ill will or personal malice but only by a desire on the part of petitioner to comply with the mandate of Letter of Instructions No. 14-A. Moreover, as pointed out, LOI No. 647 does not authorize payment of backwages of reinstated employees. (*Octot v. Ibañez*, *supra*).

PREMISES CONSIDERED, this petition is hereby GRANTED, and the Orders of Respondent Court dated June 4, 1974, January 26, 1978 and April 21, 1978 are hereby SET ASIDE.

SO ORDERED.

Fernan, (Chairman), Alampay, Gutierrez, Jr., Padilla, and Bidin, JJ., concur.

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