

PROCOPIO F. ELEAZAR, PETITIONER, VS. AUDITOR GENERAL, RESPONDENT.*G.R. No. L-21693. April 30, 1966*

Ponente: BAUTISTA ANGELO, J.

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Petitioner was from 1947 to 1954 the Manager of the Industrial Department of the Rehabilitation Finance Corporation which later became the Development Bank of the Philippines. By virtue of Resolution No. 7416 of the Board of Governors of said corporation dated October 6, 1954, petitioner was suspended from office for the reason that he became involved in Criminal Case No. 36042 of the Court of First Instance of Manila which arose out of an anomaly committed in connection with the grant of a loan of P1,000,000.00 to Villanueva Steamship Co., Inc.

Petitioner was reinstated in March, 1961 by virtue of Board Resolution No. 1460 dated March 8, 1961 without prejudice to the continuance of the administrative proceedings then being conducted against him. And acting upon the recommendation of the committee that conducted said proceedings, the Board of Governors approved Resolution No. 4505 dated June 28, 1962 providing (1) that instead of imposing two months suspension which in effect is a fine equivalent to two months pay, petitioner be merely reprimanded; (2) that he be paid all his salaries corresponding to the period of his suspension; and (3) that his salary for purposes of retirement be increased to P15,260.00 per annum. Since said resolution did not specifically authorize the payment of other emoluments such as bonus, cost of living allowances, and gift certificates, the auditor of the office disallowed such emoluments amounting to P13,055.41. Petitioner requested the Board that it authorize the payment to him of said emoluments, but the request was denied. Petitioner requested the reconsideration of said denial, but the request was also denied. Hence, the matter was referred to the Office of the Auditor General who, in a letter dated July 26, 1963, denied petitioner's claim over the emoluments above-referred to amounting to P13,055.41. From this decision, petitioner interposed the present appeal under Section 1, Rule 44 of the Rules of Court.

There is no dispute that petitioner was suspended from office as Manager of the Industrial Department of the Development Bank of the Philippines because of his involvement in a criminal case which has a direct relation with a grant of a loan of P1,000,000.00 to Villanueva Steamship Co., Inc. For reasons that do not clearly appear in the records, he was only reinstated sometime in March, 1961 by virtue of a resolution of the Board of Governors of said Bank without prejudice to the continuance of the administrative proceedings then being conducted against him. And on June 28, 1962, acting on a recommendation made by the committee that was conducting said investigation, the Board of Governors approved another resolution which, among other things, ruled "that subject to the usual audit, respondent (now petitioner) be paid all his salaries corresponding to the period of his suspension from October 6, 1954 to March 6, 1961." Since this resolution does not specifically authorize the payment of other emoluments such as bonus, cost of living allowances, and gift certificates, the office auditor disallowed said emoluments amounting to P13,055.41.

Petitioner appealed this ruling to the Board of Governors invoking justice and equity in his favor, but the Board

denied his request. And when the matter was brought to the Auditor General, this official likewise denied his request stating in part as follows: "Considering that a perusal of the Board's resolution granting the emoluments clearly reveals that cost of living allowances, Christmas bonus and gift certificates were given out of the profits realized by the corporation in consideration of the services rendered by its employees, this Office, much to its regret, cannot grant the payment of the abovementioned emoluments."

It appearing that the Board of Governors of the Development Bank in its Resolution No. 4505 dated June 28, 1962 merely provided that petitioner be paid all his salaries corresponding to the period of his suspension and did not authorize the payment of other emoluments such as bonus, living allowances, and gift certificates that would have accrued during the same period amounting to P13,055.41, while his request for reconsideration was denied by said Board in its Resolutions Nos. 423 and 1574, and bearing in mind that the grant of said emoluments is not a matter of right but a mere privilege which the Board may or may not allow considering the circumstances of each case, this Court finds no valid reason for interfering with the discretion exercised by the Auditor General when he denied the request of petitioner. He based his ruling not only on the disallowance of the emoluments by the auditor of the bank but especially on Resolutions Nos. 423 and 1574 of said Board which must have been adopted having in view the best interest of the Bank. Verily, the Auditor General saw no reason to question such action since under the law the Board of Governors is invested with the exclusive power to determine the propriety of such grant in the light of the circumstances surrounding the suspension (Republic Act No. 5, as amended by Republic Act No. 208 and Republic Act No. 3147). In the circumstances, we also find no reason to disturb this ruling of the Auditor General.

Wherefore, the appeal is dismissed.[1] No costs.

Bengzon, C.J., Concepcion, Reyes, J.B.L., Barrera, Regala, Makalintal, Bengzon, J.P., Zaldivar, and Sanchez, JJ., concur.

[1] Another reason why this appeal should be dismissed, even though this question is not raised herein, is that petitioner failed to exhaust his administrative remedies by not appealing to the President as provided for in Section 3, Article XI of the Constitution and Section 2(b) of Commonwealth Act No. 327.

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