

BIBIANO MADERAZO, JR., PETITIONER-APPELLEE, VS. RAFAEL BAYLON, IN HIS CAPACITY AS DISTRICT SUPERVISOR, MAURO SABOLBORO, IN HIS CAPACITY AS DIVISION SUPERINTENDENT OF SCHOOLS, DI...

G.R. No. L-28676. March 29, 1984

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

The question presented in this quo warranto action is whether or not a public school district supervisor can be transferred from one district to another regardless of his consent. The defunct Court of First Instance of Manila gave a negative answer. The appellants assert that the answer should be in the affirmative.

The facts are simple enough:

On August 5, 1965, Bibiano G. Maderazo, the petitioner-appellee, was appointed Public Schools District Supervisor Range 41. The appointment did not state the district where he was to discharge his duties but the stipulation of facts shows that he was originally assigned to the Caibiran District in Leyte.

In a letter dated July 9, 1966, Mauro Sabolboro, Leyte Division II Superintendent of Schools, informed Maderazo of "your transfer from Caibiran District to Biliran District as District Supervisor effective immediately."

Maderazo requested reconsideration of the order of transfer in no less than four letters sent to the Director of Public Schools but the order was not reconsidered. In fact on March 7, 1967, Superintendent Sabolboro informed Maderazo that the Director of Public Schools had ordered the implementation of his transfer.

Maderazo had not been charged administratively prior to the transfer.

In Maderazo's letter dated March 10, 1967, addressed to the Secretary of Education wherein he asked for reconsideration of the order of the Director of Public Schools that the transfer be implemented, he stated, *inter alia*, "That I am now 61 years old and will retire in two years."

It is obvious that in this year of 1984, Maderazo's prayer that he be restored to his office in Caibiran has become moot and academic for the man is now well way beyond retirement age. Maderazo wrote a letter dated February 23, 1984, asking for the early decision of his case. In his letter he states, "I am now in my advanced age 79 years old, ailing and desirous that I will still be able to vindicate myself and enjoy the benefits or fruits of my labor."

What remains to be resolved is Maderazo's salary which was with-held because he refused the transfer on the ground that it was illegal for lack of consent on his part.

In deciding for Maderazo, the court a quo applied Republic Act No. 4670 known as the Magna Carta of Public School Teachers. The pro-visions of the law which are relevant to this case are the following:

"Section 1. Declaration of Policy. - It is hereby declared to be the policy of this Act to promote and improve

the social and economic status of public school teachers, their living and working conditions, their terms of employment and career prospects in order that they may compare favorably with existing opportunities in other walks of life, attract and retain in the teaching profession more people with the proper qualifications, it being recognized that advance in education depends on the qualifications and ability of the teaching staff and that education is an essential factor in the economic growth of the nation as a productive investment of vital importance.

"Sec. 2. Title-Definition. - This Act shall be known as the 'Magna Carta for Public School Teachers' and shall apply to all public school teachers except those in the pro-fessional staff of state colleges and universities.

As used in this Act, the term 'teacher' shall mean all persons engaged in classroom teaching, in any level of instruction, on full-time basis, including guidance counselors, school librarians, industrial arts or vocational instructors, and all other persons performing supervisory and/or administrative functions in all schools, colleges and universities ope-rated by the Government or its political subdivision; but shall not include school nurses, school physicians, school dentists, and other school employees.

"Sec. 6. Consent for Transfer-Transportation Expenses. - Except for cause and as herein otherwise provided, no teacher shall be transferred without his consent from one station to another.

Where the exigencies of the service require the transfer of a teacher from one station to another, such transfer may be effected by the school superintendent who shall previously notify the teacher concerned of the transfer and the reason or reasons therefor. If the teacher believes there is no justification for the transfer, he may appeal his case to the Director of Public Schools, or the Director of Vocational Education, as the case may be. Pending his appeal and the decision thereon, his transfer shall be held in abeyance: Provided, however, That no transfers whatever shall be made three months before any local or national election.

Necessary transfer expenses of the teacher and his family shall be paid for by the Government if his transfer is finally approved."

It is manifest that the transfer of Maderazo from Caibiran to Biliran was contrary to the law because it was made without his consent and over his opposition.

The respondents contend, however, that R.A. No. 4670 was not yet in force when the transfer was made. This is baseless.

R.A. No. 4670, according to its Section 35 took effect upon its approval. It was approved on June 18, 1966, or before Maderazo was ordered transferred from Caibiran to Biliran.

The Act stipulates that "The Secretary of Education shall formulate and prepare the necessary rules and regulations to implement the provisions of this Act. Rules and regulations issued pursuant to this Section shall take effect thirty days after publication in a newspaper of general circulation and by such other means as the Secretary of Education deems reasonably sufficient to give interested parties general notice of such issuance." (Sec. 30.) And the respondents claim that since the rules and regulations had not yet been published when Maderazo was transferred, the Act was not yet in force. Wrong. The Magna Carta covers a host of subjects which need elaboration by means of rules and regulations. But there is nothing in Section 30 that would warrant a conclusion that the promulgation of the rules and regulations is a condition precedent to the effectivity of the Act. Section 6 of the Act requiring consent for transfer is enforceable without recourse to the rules and regulations.

WHEREFORE, the appeal is dismissed and judgment is hereby rendered ordering the respondents or their successors to pay the sala-ries of the petitioner from the time of his illegal transfer to the time he had to retire compulsorily. No costs.

SO ORDERED.

Makasiar, (Chairman), Aquino, Concepcion, Jr., Guerrero, De Castro and Escolin, JJ., concur.

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