

ALFREDO S. MANUEL, PETITIONER AND APPELLEE, VS. MANUEL DE LA FUENTE, ETC., ET AL., RESPONDENTS AND APPELLANTS.*G.R. No. L-5009. November 29, 1952*

Ponente: PARAS, C.J.

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The petitioner, a member of the Manila Police Department with special assignment to the Detective Bureau, was suspended on September 9, 1950, by Hon. Manuel de la Fuente, then Mayor of the City of Manila. The petitioner was summarily investigated by the office of the legal adviser of the Manila Police Department upon complaint of Jose Romualdez and Conchita Revilla, and the Chief of Police, Col. Eduardo Quintos, recommended the petitioner's suspension to the Mayor. The latter caused the charges to be formally investigated by the summary court of the Manila Police Department, after which Colonel Quintos recommended petitioner's dismissal from the service. Mayor de la Fuente accordingly dismissed the petitioner by virtue of his Executive Order No. 319, dated June 8, 1951. In the meantime, failing to obtain any action on his petition for reinstatement from Mayor de la Fuente, the Municipal Board of Manila, and the President of the Philippines, the petitioner instituted on April 12, 1951 in the Court of First Instance of Manila a petition for mandamus against Mayor de la Fuente and Chief of Police Quintos and/or their agents or representatives, for the purpose of compelling the respondents to reinstate the petitioner, without prejudice to the continuation of his administrative investigation. It is noteworthy that the order of dismissal was issued by the respondent Mayor while the present mandamus proceeding was pending. After hearing, the Court of First Instance of Manila rendered a decision dated July 5, 1951 the dispositive part of which reads as follows: "Wherefore, judgment is hereby rendered ordering the respondents, Manuel de la Fuente in his capacity as City Mayor of Manila, Eduardo Quintos in his capacity as Chief of Police of the Manila Police Department, and/or their agents or representatives to reinstate the petitioner to his position as a member of the Detective Bureau of the Manila Police Department and to allow him to exercise the rights and prerogatives appurtenant to his office as such member. The respondents are likewise ordered to pay the petitioner the salary corresponding to petitioner's position from September 9, 1950 until he resigns or is legally suspended or removed from his office." From this decision the respondents have appealed.

The basis of the respondent Mayor in suspending and removing the petitioner after the procedure above referred to, is section 22 of Republic Act No. 409, known as the Revised Charter of the City of Manila, providing in part that "appointive City officers or employees not appointed by the President of the Philippines shall be suspended and removed by the Mayor, subject to appeal to the Secretary of the Interior, whose decision shall be final." Upon the other hand, it is contended for the petitioner, and this is the view of the trial court, that section 22 of Republic Act No. 409 was repealed by Republic Act No. 557, approved on June 17, 1950, in so far as the earlier provision of section 22 is inconsistent with the provisions of Republic Act No. 557.

Under section 1 of Republic Act No. 557, "Members of the provincial guards, city police and municipal police shall not be removed and, except in cases of resignation, shall not be discharged except for misconduct or incompetency, dishonesty, disloyalty to the Philippine Government, serious irregularities in the performance of

their duties, and violation of law or duty, and in such cases, charges shall be preferred by the provincial governor in matters against any member of the provincial guards, the City mayor in cases against a member of the city police, and the municipal mayor in cases involving a member of the municipal police, and investigated by the provincial board, the city or municipal council, as the case may be, in public hearing, and the accused shall be given opportunity to make their defense." Under section 2, the decision of the provincial board, the city or municipal council may be appealed to the Commissioner of Civil Service. Section 3 in turn provides as follows: "When charges are filed against a member of the provincial guard, city police or municipal police under this Act, the provincial governor, city mayor or municipal mayor, as the case may be, may suspend the accused, and said suspension to be not longer than sixty days. If during the period of sixty days, the case shall not have been decided finally, the accused, if he is suspended, shall ipso facto be reinstated in office without prejudice to the continuation of the case until its final decision, unless the delay in the disposition of the case is due to the fault, negligence, or petition of the accused, in which case the period of the delay shall not be counted in computing the period of suspension herein provided."

In ordering the reinstatement of the petitioner, the trial court held that as no charges have been preferred against the petitioner by the respondent mayor and no investigation has been conducted by the Municipal Board of Manila, the procedure taken against the petitioner by the respondents Mayor and Chief of Police which led to his suspension and ultimate removal, was in contravention of the provisions of Republic Act No. 557 and, therefore, null and void.

The fundamental point that arises is whether the later Republic Act No. 557 has repealed or modified section 22 of Republic Act No. 409, the Revised Charter of the City of Manila, in so far as the power of investigation over members of the Manila Police Department is concerned. We have no hesitancy in ruling in favor of petitioner's contention. Republic Act No. 567, in section 6, expressly provides that "the provisions of law and executive orders inconsistent with this Act are hereby repealed or modified." As applied to the case at bar, the obvious innovations introduced by Republic Act No. 557 lie in the fact that the Municipal Board has been granted the exclusive power to investigate, with the Mayor being conferred only the power to prefer charges against a member of the city police; that the duration of any suspension is limited to sixty days; that the Municipal Board, not the Mayor, decides the case; and that the decision may be appealed to the Commissioner of Civil Service, instead of to the Secretary of the Interior.

Respondents' contention, however, is that the Revised Charter of the City of Manila, being a special law, should not be deemed repealed by a general law, like Republic Act No. 557, on the supposition that the purpose of the latter Act was merely to take away from the Constabulary provincial commanders the power of investigation, and to place the same in the hands of provincial governors with respect to provincial guards, and in the hands of municipal or city mayors with respect to municipal or city police, because said officials are responsible for the peace and order in their respective jurisdictions. This contention is untenable, since said purpose, though expressed in the explanatory note accompanying the draft and in the explanation of Senator Tirona during the discussion in the Senate, was abandoned in Republic Act No. 557 as passed by the Congress, because the power of investigation has been expressly lodged in the provincial boards as to provincial guards, and in the municipal or city councils as to municipal or city police. (Section 1.)

If, as contended by the respondents, Republic Act No. 557 should not apply to city charters, like that of Manila, the explicit reference therein to "city police" would altogether have no meaning, resulting in discrimination against city police and in favor of municipal police or provincial guards, if not to a certain degree a denial of equal protection of the laws. It is fair to assume that the legislators were cognizant of the provisions in the charters of various cities in the Philippines, and that with such knowledge they really contemplated prescribing a uniform

procedure for the investigation of all provincial guards and members of the municipal or city police. The salutary provision limiting the period of suspension to sixty days tends to eliminate unjustified protracted investigations. Indeed, the following provisions of section 1 will more or less insure the speedy termination of administrative inquiries: "In every such case filed, a copy of the charges shall be furnished the accused by the said provincial governor, city mayor or municipal mayor personally or by registered mail, within five days from the date of the filing of the charges, and the investigating body shall try the case within ten days from the date the accused has been notified of the charge, unless the accused for good reasons, shall ask for a longer period to prepare his defense. The trial of the case shall be finished within a reasonable time, and the investigating body shall decide the case within fifteen days from the time the case is submitted for decision."

The procedure ordered by Republic Act No. 557 not having been followed in the case of petitioner, his suspension and removal, based on the investigation conducted by the summary court of the Manila Police Department, is of no force and effect. Of course, it should not be understood that the City Mayor, for the purpose of determining whether he should exercise his power of suspension conferred by Republic Act No. 557, may not conduct his own investigation; but this inquiry cannot replace the investigation that should be conducted under Republic Act No. 557 by the Municipal Board and which should form the basis for final administrative action or decision by said Board appealable to the Commissioner of Civil Service.

Wherefore, the appealed decision is hereby affirmed, without costs. So ordered.

Pablo, Padilla, Tuason, Montemayor, Jugo, Bautista Angelo, and Labrador, JJ., concur.

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