

JOSE L. LOPEZ, PETITIONER AND APPELLEE, VS. THE BOARD OF DIRECTORS AND GENERAL MANAGER OF THE NATIONAL MARKETING CORPORATION, RESPONDENTS AND APPELLANTS.

G. R. No. L-8907. April 30, 1957

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an appeal, taken by the Board of Directors and the General Manager of the Price Stabilization Corporation otherwise known as PRISCO—from a decision of the Court of First Instance of Manila. The facts are correctly set forth in said decision, from which we quote:

"In Ms petition for mandamus filed on May 8, 1953, petitioner Jose L. Lopez prays that the respondents Board of Directors and the General Manager of the Price Stabilization Corporation be ordered 'to reinstate petitioner to the PRISCO from the date of his illegal ouster on January 1, 1951, that respondents be prohibited thereafter from separating petitioner without lawful cause', and that respondents be ordered to pay the costs.

"The petitioner Jose L. Lopez was appointed as Relief Supervisor of the Philippine Relief and! Rehabilitation Administration (PKR-A) on August 26, 1946. He was promoted to Assistant Chief, Inspection and Supervision Section of the Philippine Relief and Trade Rehabilitation Administration (PRATRA) on October 1, 1948. On April 10, 1950, he was promoted to Chief, Research and Standardization Section of the PRATRA with compensation at the rate of P4,200 per annum until December 31, 1950 "when the PRISCO abolished said Section and created in lieu thereof a new section called the Equipment and Material Research Section. Petitioner is a lawyer, a first grade civil service eligible and has a record of over 35 years of service in the Philippine Government,

"On October 3, 19150, the President of the Philippines promulgated Executive Order No. 350 dissolving the PRATRA and the NARIC and creating* the PRISCO. Section 11 of said executive: order provides, 'Sec. 11. The Philippine Relief and Trade Rehabilitation Administration and the National hereby dissolved. Any reference to the Philippine Relief and Trade Rehabilitation and to the National Rice and Corn Corporation including its designation under Act No. 4198, in any existing law, or in any Executive Order, Administrative Order, or proclamation of the President of the Philippines, shall with respect to any duty or function assumed by the corporation created in this Order, be deemed hereafter to be reference to the PRISCO.'"

However, it is provided in section 12 of the same executive order that—

"The personnel, records, properties, equipment, assets, rights, choses in action, obligations, liabilities, and contracts of tho Philippine Relief and Trade Rehabilitation Administration and the National Rice and Corn Corporation are hereby transferred to, vested in, and assumed by the PRISCO, and all their businesses and affairs shall be liquidated, assumed, and continued by the PRISCO; Provided, That an inventory and valuation of the properties, equipment, assets, rights, choses in action, obligations, liabilities and contracts of salt) corporations shall be made by the Auditor General, and during the inventory and valuation, the accountable officers of said corporations shall continue to be fully accountable therefor, until actual physical transfer to, and acceptance by,

the corresponding accountable officers of the PRISCO; Provided, further, That the personnel of said corporations hereby transferred shall be reappointed in the PRISCO and those not reappointed within sixty (60) days from the effective date of this Order shall be considered sepa-rated from the service.' (Italics supplied).

"The petitioner was not reappointed by the PRISCO within sixty days from October 3, 1950, the date of effectivity of Executive Order No. 350, as required by section 12 thereof. Instead petitioner continued to be in office until December 31, 1950. And on January 1, 1951, as a "result of the reorganization of the PRISCO, petitioner was considered laid-off from the PRISCO pursuant to the latter's Administrative Order No. 106 dated December 29, 1950 (Exhibit 1),

"On January 16, 1951, petitioner received from the PRISCO the amount of P2,282.30 which respondents allege to be petitioner's lay-off gratuity and the commutation of his vacation and sick leaves'. Petitioner, however, stated that said amount is the money value of his vacation and sick leaves.

"On April 26, 1951, the Chairman of Respondent Board of Directors denied petitioner's request for a reconsideration of the action taken by the PRISCO' in laying-off petitioner from the service (Exhibit N).

"Similar requests were subsequently addressed by petitioner to respondents requesting1 that ho (petitioner) be reinstated as Chief 'of Section at a salary of P4,200 per annum, which requests, however, were consistently and repeatedly denied by respondents until on January 14, 1953, petitioner finally' succeeded in getting an indorsement from the Commissioner of Civil Service (Exhibit L) of the following tenor:

'In this connection, attention is invited to a 2nd indorsement of this Office dated March 7, 1951, copy enclosed, wherein this Office, among other things, stated:

'As already stated, under Executive Order No. 350r the PRATRA and the NARIC were dissolved and a new corporation, the PRISCO, .was created. Section 10 of said Executive Order provides as follows:

ALL OFFICERS AND EMPLOYEES OF TUB PRISCO SHALL BE SUBJECT TO THE CIVIL SERVICE LAW, RULES AND REGULATIONS EXCEPT THOSE WHOSE POSITIONS MAY, UPON RECOMMENDATION OP THE BOARD OF DIRECTORS AND THE. SECRETARY OF ECONOMIC COORDINATION, BE DECLARED BY THE PRESIDENT OF THE PHILIPPINES POLICY-DETERMINING, PRIMARY CONFIDENTIAL IN NATURE.

Under the aforequoted provision of Executive Order No. 350, all officers and employees of the PRISCO, except those holding- certain positions, arc subject to the Civil Service Law and Rules. It should be noted that the application of the Civil Service Law and Rules to the PRISCO is more far reaching than that provided in Section 6 of Executive Order No. 319. Since the aforementioned Executive Order has been promulgated! by the President pursuant to Republic Act No, 422, and considering that under Section 4 of said Act any action taken by him pursuant thereto 'shall be valid and subsisting until Congress shall provide otherwise', the above-quoted provision of section 10, not the aforementioned ruling of this Office, should apply to the PRISCO.

'From the foregoing, it may be seen that there exists no contradiction between section 10 of Executive Order No. 350 and the aforementioned ruling of this Office because the latter was based on a different Executive Order, namely, Executive Order No. 319.'

'Since under Executive Order No. 350 dated October 3, 1950 (and Section 14 of Executive Order No. 399 dated January 5, 1951), all officers and employees of the Price Stabilization Corporation, except those who are holding certain positions, are subject to the Civil Service Law and Rules, it would seem clear that the selection of employees for demotion or separation from said Corporation shall be subject to Executive Order No. 506, scribes of 1934, the pertinent portion of which provides as follows:

'In case it is deemed necessary to reduce personnel for insufficiency of funds or lack of work, the employees affected shall be given at least one month's notice in advance; and demotions or separations shall be made in order, beginning with temporary employees and those having the lowest efficiency ratings in each class, but persons regularly and permanently appointed in the classified civil service whose ratings are good shall always be given preference in selecting employees for retention.'

"Acting upon the aforesaid indorsement of the Commissioner of Civil Service, the Administrator of Economic Coordination on February 6S 1953 addressed a 2nd Indorsement to the General Manager, Price Stabilization Corporation (Exhibit M), to wit:

'In view thereof, this Office hereby directs that Mr. Lopez be reinstated to any position best suited to his training, experience and civil service eligibility, or he be given preference over any other appointees in that Corporation who have no civil service eligibility. However, should there be no position available, a new position at the same rate of compensation per annum that he was receiving at the time lie was laid oft* be created for him in any section, division or branch of the PRISCO which is presently undermanned. This is calculated to erase the impression that Mr. Lopez was eased out of the service on December 31, 1950 through the subterfuge of the abolition or the Research and Standardization Section and the creation of the Equipment and Materials Research Section in lieu thereof, as claimed by his counsel, aside from the consideration that being a first grade civil service eligible and having served the government for a long period of time, he is entitled to some measure of protection and security in position.'

"in view of the failure of respondents to comply with the afore-stated indorsement of the Administrator of Economic Coordination, petitioner Jose 7., Lopez on May 8, 1958 instituted the instant action for mandairms.

"On October 7, 19.53, petitioner was re-appointed Special Assistant in the PRISCO with compensation at the rate of F4,200 per annum, the appointment to take effect upon 'entrance to duty (Exhibit C).

"Upon petitioner's motion, the Court on July 1, 1954 issued a writ of preliminary injunction ordering respondents to refrain 'from enforcing Administrative Order No. 886 signed by the incumbent General Manager of the PRISCO insofar as Jose L. Lopez is concerned, and to continue paying petitioner's salaries as they fall due."

The dispositive part of the decision appealed from reads as follows:

"Wherefore, judgment is hereby rendered in favor of the petitioner Jose L. Lopez and against the respondents Board of Directors and General Manager of the Price Stabilization Corporation making-permanent the writ of preliminary injunction issued in the above-entitled case on July 1, 1954, making permanent the reinstatement of petitioner Jose L. Lopez on October 7, 1953 and ordering respondents to pay to petitioner his salary at the rate of P4,200 per annum during the period the was illegally laid-off from January 1, 1951 up to October 6, 1953, without any pronouncement as to costs."

Respondents have appealed from said decision and now they maintain that:

- "The lower court erred in holding that petitioner Jose L. Lopez automatically became an employee of the FRISCO when Executive Order No. 350 went into effect on October 3, 1950.
- "The lower court erred in not holding- that petitioner was legally separated from the service for cause.
- "The lower court erred in not holding that petitioner had no clear legal right to be reappointed in the PRTSCQ.
- "The lower court erred in not holding that petitioner is estopped from questioning the legality of his separation from the service."

In view of the consequences flowing therefrom, we will begin by considering the fourth assignment of error, under which it is urged that petitioner is estopped from questioning the legality of his separation from the service, he having received, immediately thereafter, or on January 16, 1951, the aggregate sum of P2,282.30 by way of lay-off gratuity and commutation of his vacation and sick leaves. Testifying thereon, petitioner said:

"Q.

At the time that you were laid off on December 30, 1950, did you receive any gratuity?

"A.

Yes, sir, I was forced to.

"Q.

What do you mean by 'I was forced to'?

"A.

Because whether I like it or not, I would be laid off; so I took the opportunity at least in order to maintain myself during the time I would be laid off.

"Q.

Who gave you that gratuity?

"A.

It was the General Manager.

"Q.

Of what office?

"A.

PRISCO.

"Q.

Do you remember how much gratuity you received from the PRISCO?

"A.

Four and a half (4 1/2) months' salary at the rate of P350.00 a month or about P1,375.

"Q.

In addition to gratuity, did you receive also the money value of your vacation and sick leave?

"A.

Yes."

The amount received by petitioners by way of gratuity was, therefore, P1,375. Obviously, however, he would have had no right thereto had he not been laid-off or retired from the service. Having thus accepted and enjoyed the benefits resulting from his retirement, he is now estopped from questioning its validity or deemed to have waived the right to contest it.

"Estoppel is frequently based upon the acceptance and retention by one having knowledge or notice of the facts of benefits from a transaction, contract, instrument, regulation, or statute, which he might have rejected or contested. This doctrine is obviously a branch of the rule against assuming inconsistent positions, and it has been said that such cases are referable, when no fraud either actual or constructive is involved, to the principles of election or ratification rather than to those of equitable estoppel. The result produced, however, is clearly the same and the distinction is not usually made. Such estoppel operates to prevent the party thus benefited from questioning the validity and effectiveness of the matter or transaction in so far as it imposes a liability or restriction upon him, or, in other words, it precludes one who accepts the benefits from repudiating the accompanying or resulting obligation." (19 Am. Jur., 682-687; see also, 31 C.J.S. 347.)

"One who has accepted the appointment to an office having at least a potential existence and has received the emoluments of it is estopped from endeavoring to show to his own advantage that the office was never been lawfully created because it was not done in the proper mode, as by ordinance. *Buck vs. Eureka*, 109 Cal. 504, 42 P. 248, 30 A.L.R. 409." (19 Am. Jur., pp. 684-685.)

"A public officer who accepts and retains the salary provided by the law in force when he takes office cannot question the validity of the statute. *Gross vs. White County*, 155 Ind. 531, 64 NE 25, 58 A.L.R. 394." (19 Am. Jur. p. 686.)

Thus in *Zanduetta vs. De la Cosla* (66 Phil., 615, 621), we held that a Judge of the Fifth Branch of the Court of First Instance of Manila, Ninth Judicial District, by virtue of an appointment duly confirmed by the Commission on Appointments, who subsequently accepted an ad interim appointment, as Judge of First Instance of the Fourth Judicial District, under Commonwealth Act No. 145, to preside over the Fifth Branch of the Court of First Instance of Manila and the Court of First Instance of Palawan, which position he assumed immediately, was estopped from questioning the constitutionality of said Commonwealth Act No. 145, when the Commission on Appointments subsequently disapproved said ad interim appointment and approved the appointment of another Judge, to preside the same Branch of the Court of First Instance of Manila and the Court of First Instance of Palawan.

Inasmuch, therefore, as petitioner is estopped from questioning the legality of his separation from the service, it follows that the lower court committed the errors which are the subject matter of the first three (3) assignments of error.

During the pendency of this appeal, petitioner-appellee filed a motion praying that the corresponding officers of the National Marketing Corporation, otherwise known as NAMARCO, be substituted in lieu of those of the PRISCO, as respondents-appellants herein, upon the ground that, by virtue of Republic Act 1545, the PRISCO has been dissolved and the NAMARCO created in lieu thereof, and the personnel and obligations of the former transferred to the latter. This motion was granted by resolution of this Court dated June 25, 1955. The next day, counsel for respondents-appellants filed an opposition to said motion, upon the ground that "the matter litigated in the above-entitled case is not among those transferred" to the NAMARCO. Upon the receipt of petitioner's comment on this opposition, it was resolved that the same "be taken up when the case is decided on the merits."

Republic Act No. 1345 (Section 18, paragraph [6]), dissolved the PEISCO, not absolutely or in an unqualified manner, but "in the manner hereinafter provided:"

"(1) Any reference to the PRISCO in any existing law, or in any executive order, administrative order or proclamation of the President shall, with respect to any duty or function assumed by the NAMARCO created in this Act, be deemed hereafter to have reference to the National Marketing Corporation (NAMARCO)."

Moreover, "the personnel * * * of the PRISCO * * - are hereby transferred to * * * the NAMARCO * * * and all the business concerning obligations and liabilities of the PRISCO on real estate, fixed assets and stock in trade

shall be liquidated, assumed and continued by the NAMARCO." Although "the liquidation, settlement and payment of other choses in action, obligations and liabilities of the PRISCO shall be handled by the Board of Liquidators", subdivision (2) of said paragraph (b), likewise ordains:

"* * * That the personnel of tile PRISCO hereby transferred shall be reappointed in the NAMARCO in accordance with Republic Act Numbered Nine hundred ninety-seven, commonly known as the 'Reorganization Act of Nineteen hundred and fifty-four,' and that those not reappointed within one hundred twenty days from the establishment and activation of the NAMARCO shall other be transferred to other offices or be considered separated or released from the service and that the said one hundred twenty days shall constitute as the advance separation notice required by law."

What is more, pursuant to subdivision (3) of the same paragraph:

"Tile officials and employees of the PRISCO who may be separated from the sendee by virtue hereof shall be entitled to the commutation of the money value of their vacation and sick leaves standin; to their credit. If the officials and employees of the PRISCO so separated from the service arc entitled to retire under the Osmena Retirement Law (Act 2589, as amended) or under Republic Act Numbered Six hundred sixty, they shall be so retired upon the payment of the obligation of the PRISCO to the Government Service Insurance System subsisting under the said Republic Act Numbered Six hundred sixty on the date of the approval hereof. Those who may not be retiree! under the aforesaid laws shall be entitled to gratuity, which shall be paid m one lump sum, equivalent to one month's salary for every year of continuous, satisfactory service rendered in the PEISCO and in any branch of the government and government agencies and instrumentalities on the basis of the last salary received by them, but not exceeding' twelve months in the aggregate. * * * And * * * the amount necessary to pay the said gratuity and the money value of the sick and vacation leaves standing' to the credit of the laid-off employees is hereby appropriated out of any general fund in the National Treasury not otherwise appropriated, which sum. shall be used by the NAMARCO to pay such obligations." (Italics supplied.)

The foregoing provisions indicate, to our mind, that the NAMARCO, assumes the obligations of the PRISCO in relation to the compensation of employees of the latter, including the sick and vacation leaves earned in the PRISCO, as well as the gratuity by reason of separation from service, and hence, the resolution of this Court of July 25, 1955, authorizing the aforementioned substitution of the Board of Directors and General Manager of the PRISCO, as respondents-appellants herein, by the Board of Directors and General Manager of the NAMARCO, should stand.

Wherefore, the decision appealed from, is hereby reversed, and another one shall be entered dismissing the petition and dissolving the writ of preliminary injunction issued by the lower court on October 7, 1953. It is so ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

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