

PEDRO Z. CLARAVALL, PETITIONER AND APPELLANT, VS. FRANCISCO PARAAN, ET AL., RESPONDENTS AND APPELLEES.

G.R. No. L-9941. November 29, 1956

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

This appeal is taken from a decision of the Court of First Instance of Baguio City (Civil Case No. 519) upholding the validity of Presidential Executive Order No. 108, of March 8, 1955, whereby petitioner Pedro Z. Claravall was "considered resigned as Chief of Police of Baguio City, effective upon receipt of notice hereof", and dismissing the quo warranto petition against Claravall's successor, Francisco Paraan, the Executive Secretary, the Mayor, the Treasurer and the Auditor of the City of Baguio.

There is no controversy on the facts. Petitioner-appellant Pedro Z. Claravall had risen from police sergeant in 1945 to Chief of Police of Baguio, with the rank of Major, by presidential appointment issued in 1953. Sometime in 1954, charges were filed against him that he had used the police motor car (jeepster), assigned to him for official use, in bringing his wife, children and other civilians to various places in the city. The President of the Philippines ordered an investigation, designated Major Luis A. Chaves, P. C. to conduct it, and ordered Claravall's preventive suspension. The investigation was regularly made; appellant was informed of the charges, was represented by counsel, and was given due hearing, evidence being taken, pro and con. After consideration of the investigator's report, the President of the Philippines found as follows:

"From the foregoing facts alone, I cannot conclude that the respondent is guilty of deliberately misusing a government-owned vehicle. However, I find him wanting in that proper decorum expected of a chief of police of a city like Baguio, when he used to allow members of his family to ride in the government vehicle assigned to him for official use, for such accommodations, although merely incidental, would subject his office and the government to criticism. For this reason, I am inclined to relieve the respondent as Chief of Police of Baguio City.

Wherefore, Mr. Pedro Z. Claravall is hereby considered resigned as Chief of Police of Baguio City effective upon receipt of notice hereof, without prejudice to receiving whatever rights and benefits he may be entitled to under existing laws." (Exh. "G", p. 3)

Claravall protested against the decision and petitioned for his reinstatement. His requests being unavailing, he instituted the present Quo Warranto and Mandamus proceedings in the court below, on April 12, 1955; but, as already noted, the court sustained the action of the Chief Executive. Thereupon petitioner appealed.

Before this Court, petitioner-appellant argues that :

a) While sec. 2545 of the Administrative Code expressly grants the President of the Philippines authority to appoint and remove the Chief of Police of Baguio, said section must be deemed unconstitutional in so far as it vests upon the President the power to remove an officer of a local government, the Constitution (Art. VII, sec. 10(1) having conferred on the President only a power of general supervision, and not of control, over local

governments.

b) Assuming that the President's removal power under sec. 2545. of the Administrative Code is constitutional, such power was impliedly repealed by the subsequent enactment of Republic Act 557, prescribing the causes and procedure for the investigation, suspension and removal of members of the provincial guards, city and municipal police forces; and the procedure therein fixed was not followed in appellant's case.

c) At. all events, the cause given in the Presidential order did not justify appellant's removal.

Before passing on these issues, it is well to note that while the original text of sec. 2545 of the Administrative Code gave to the President power to remove at pleasure specified officers of the City of Baguio (including the Chief of Police) this Court had already held, in *De los Santos vs. Mallari*, 48 Off. Gaz. 1787, that such unlimited power to remove was inconsistent with the civil service provisions of the Constitution (Art. XII), and hence, that, such removals must be "for a cause specified by law." (Art. XII, sec 4).'

We then said:

"We are not declaring any part of sec. 2545 of the Revised Administrative Code unconstitutional. What we declare is that the particular provision thereof which gave the Chief Executive power to remove officers at pleasure has been repealed by the Constitution and ceased to be operative from the time that instrument went into effect." (Cas. cit. p. 1794)

However, appellant would have us go further than this, and declare that, because the power over local governments vested by the Constitution in the Chief Executive is merely of general supervision, he can not be granted power to remove the officers of such governments, even for cause. We can not assent to such a proposition. True, we have held in *Jover vs. Borra* 93 Phil., 506; Off. Gaz., 49 [7] 2765, touching the office of City Mayor of Iloilo, that—

"The President can not derive from the constitutional provision the authority to relieve or remove the petitioner from office, because his power is merely one of general supervision over all local governments and each supervision is to be exercised 'as may be provided by law'"

and declared that in the absence of statutory authority the President could not remove the City Mayor. But the case of appellant is basically different from that of Mayor Jover, in that there is here an express statutory grant of the power to remove appellant, under section 2545 of the Administrative Code, altho such removal must be for cause (*De los Santos vs. Mallari*, supra). The power of the Legislature to confer the removal power on the President is implicit in the phrase "as may be provided by law" that in the Constitution follows and qualifies his right to "exercise general supervision over all local governments." The statutory grant, therefore, is the measure and the limit of the power of supervision; but the appellant has not pointed out any constitutional provision that would, expressly or by implication, restrain the Legislature from conferring upon the President the power to remove officials of the City of Baguio in the exercise of his general supervisory power.

Of course, sec. 2545 of the Administrative Code was enacted at a time when the American Governors General exercised over local governments not only supervision but control. However, the failure of the Legislature to alter or limit the executive powers granted by said section after the Constitution came into effect implied that it still believed those powers necessary or appropriate for the Chief Executive's supervision of the affairs of the city of Baguio, that like Manila has traditionally stood in closer relation to the national authorities than ordinary municipalities.

The second issue posed by appellant, that the enactment of Republic Act 557[1] repealed by implication the removal power of the President under sec. 2545 of the Administrative Code, rests upon the assumption that the

expression "members of the provincial guards, city police and municipal police" was designed to include, and does include, the chiefs and heads of such organizations. On the basis of that assumption, appellant contends that he, as chief of police of Baguio City, could be removed only for the causes and pursuant to procedure established by the Act.

Appellant's thesis on the comprehensive meaning of the word "members" of the city or municipal police is not borne out by the provisions of Republic Act 557. Thus, while Section 3 thereof provides that—

"When charges are filed against a member of the provincial guards, 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 no longer than sixty days".

Section 5, in turn, specifies that—

"The municipal mayor is hereby empowered to suspend any municipal chief of police for cause mentioned in sections one and four of this Act and in such cases it shall be the duty of the municipal mayor to report the fact of suspension to the municipal council for investigation in the manner and form provided for in sections one and two of this Act."

It is apparent that if the word "members" (of the municipal police force) was meant to include the chief of police, then section 5 would have been unnecessary, since in empowering the mayor to suspend any member, Section 3 would also enable him to suspend the police chief. Section 5, therefore, is evidence that in the expression "a member—of the municipal police" the municipal chief of police is not included; and that should be equally true of the case of members of city police. Nor is any reason shown why the term "member" of the city or municipal police, as used in sections 1 and 2 of the Act should be given a more comprehensive scope that when the same term is used in section 3, heretofore quoted.

It is also noteworthy that even section 5 of Republic Act No. 557 enables mayors to suspend only municipal chiefs of police and does not by its terms apply to chiefs of city police undoubtedly for the reason that said chiefs are not generally appointed by city mayors, but by the President of the Republic; and considering further the well established principle that repeals by implication are not favored, the conclusion is inevitable that the Presidential power to remove, for cause, the chief of police of the city of Baguio, as expressly conferred by sec. 2545 of the Administrative Code, has not been affected by Republic Act 557.

The last issue is whether the appellant was removed for cause. It is undeniable that the conduct of appellant in allowing his wife and members of his family, and other civilians unconnected with the service, to publicly use a vehicle expressly limited to official use tends to bring discredit to and loss of public confidence in, the entire police force. The fact that the appellant was at the time on official business as well was not known and did not serve to avoid public suspicion and disgust. All that the public witnessed, and could base its judgment upon, is that a vehicle for official use was being used by non-officials with appellant's, knowledge and consent. As chief of police, appellant was called upon to realize this equivocal situation; and his insensitiveness to the possible misinterpretation of his actions, and to the necessity of avoiding any ground of suspicion, redounded evidently to the prejudice of the service. We can not say that in considering it a serious irregularity, albeit unintentional, the President abused his discretion.

The appellant pleads that considering the circumstances, his service record, and the admitted lack of intent and of pecuniary prejudice to the Government, the penalty imposed is exceedingly severe. It must be admitted, however, that once the cause is established, the determination of the appropriate penalty should not be interfered with by the Courts, no legal standards in the matter being established by law. We are in accord with the doctrine in *Dickey vs. Civil Service Comm.* 201 Iowa, 1135, 205 N. W. 961:

"The rule which prevents the court, upon certiorari or by any other proceeding, from undue and meddlesome interference in the details of municipal government, is one so manifestly wise as to deserve and command general approval. If the law were such that every order of discharge or suspension or other measure of discipline intended to insure prompt and faithful discharge of duty by employees and ministerial officers generally could be dragged through the courts and set aside or nullified because the courts may disagree with the municipal authorities upon the merits of disputed questions of fact, discipline would be destroyed, and efficiency in public positions become a lost art." [1]

Finding no error in the decision appealed from, the same is affirmed with costs against appellant. So ordered.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Endencia and Felix, JJ, concur.

[1]Entitled "An Act providing for the suspension or removal of members of the provincial guards, city police and municipal police by the provincial governor, city mayor or municipal mayor." Enacted June 17, 1950.

[1]Dickey vs. Civil Service Comm., 201 Iowa, 1135, 205 N. W. 961.

CONCURRING:

MONTEMAYOR, J.,

In the lucid and well considered opinion of Mr. Justice J. B. L. Reyes, I concur, fully, including the statement that this Court can not say that in the view and action taken by the President, he abused his discretion. But in the discussion and voting of this case, not a few of the members of the Court, not excluding the writer of the above majority opinion, felt that considering the surrounding circumstances as well as the record of petitioner-appellant, the penalty of separation from the service was perhaps a little too severe, a bit too drastic. In this brief and modest concurring opinion, I am but just echoing that feeling and sentiment of my brethren, also of my own.

Petitioner-appellant when assuming the office of Chief of Police of Baguio did not enter it as an outsider and a total stranger. He was already inside the force and he rose from the ranks. He was what we may regard a career man. His record for public service and honesty stands unquestioned, unblemished. The only charge and complaint tending to tarnish said record is that he had committed the irregularity, the indiscretion of allowing the members of his family and other civilians to occasionally use the jeepster assigned for official use of the police force, not clandestinely or surreptitiously and for business, but openly and only to transport themselves. It was indiscreet, improper, to be sure, even irregular, but nothing more. The irregularity and impropriety could have easily and speedily been stopped and corrected with a call of attention, or warning, or even a reprimand, for after all, it was a mere violation of a regulation, or mere indiscretion, involving no dishonesty or lack of personal integrity.. Such was the finding and recommendation of Maj. Luis L. Chaves, designated by the President to investigate the charge or charges.

"V. CONCLUSION:

"16. Considering the foregoing facts of the case, this Special Investigation holds that the respondent Major Pedro Z. Claravall is not guilty of the charge of alleged Misuse of Government Vehicle. He is, however, guilty of indiscretion in allowing members of his family to ride in a government vehicle. This, he committed with the best of intention, but unfortunately, against existing regulations. This finding is well established in the direct testimony of the respondent and corroborated by the direct testimony of former City Mayor Gil R. Mallari of the City of Baguio.

"VI. RECOMMENDATIONS:

"17. For having consented or allowed members of his family to ride in a government vehicle, although without additional cost to the government because such rides were incidental, recommend that Chief of Police Pedro Z. Claravall be severely reprimanded, with admonition that a repetition of the same or similar offenses in the future, will be dealt with more severely. Recommend further that respondent's order of suspension be lifted and that he be restored to duty, if he is not suspended for other cases." (Exhibit 1-1) (*Italics mine*).

Viewed from another angle, the result of the investigation, though unfavorable to petitioner-appellant, in a way speaks well of him. The decline and fall in standards of morality and honesty in the public service as a result of the last world war, is of public knowledge; and it is not difficult to see and realize the many temptations and opportunities for abuse of office, corruption, bribery, etc., that beset and surround a city police chief. And when all that the enemies and those unfriendly to petitioner-appellant can dig up and prove against him is that he violated, though in good faith, the regulation about the proper use of a vehicle intended for official use only, then it is evident that he is not such a bad public official after all, and that the City of Baguio has not been unfortunate in, having had him as Chief of Police.

The present considerations are far from being designed or intended as a disapproval or criticism of the action of the Chief Executive in separating petitioner-appellant from the branch of public service of which he had made a career. That was well within the President's sound discretion with which this Court as well as the undersigned does not wish to and will not interfere. The aspect of the case is being mentioned only so that, should the Chief executive perchance be convinced that the separation as a penalty, in view of all the circumstances, was a bit too severe, or that the more than two years suspension from office up to date, is sufficient punishment for his improper conduct, His Excellency might temper the justice herein administered and even reinstate the petitioner-appellant, as his own investigator, Maj. Chaves, had originally recommended.

Bautista Angelo and Concepcion, JJ., concur.

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