

**GAUDENCIO MANIGRAS, PETITIONER AND APPELLANT, VS.
ESTEBAN DE GUZMAN AND RAFAEL MACATANGAS, RESPONDENTS,
APPELLEES.**

G.R. No. L-6137. January 22, 1954

Ponente: REYES, J.

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REYES, J.:

Appointed Chief of Police of Rosario, Batangas, on September 21, 1951, by the mayor of that municipality, but replaced by another more than three months there-after, the petitioner Gaudencio Manigbas brought quo warranto proceedings in the Court of First Instance of the province to contest the legality of his removal from office and the appointment of the respondent Esteban de Guzman in his place, and upon receiving an adverse decision took an appeal to this Court, contending that the lower court erred in holding that a municipal mayor had discretionary power summarily to remove without cause a chief of police holding a temporary appointment as a civil service non-eligible and replace him with another non-eligible under an appointment likewise temporary.

It appears that petitioner and respondent were civil service non-eligibles and their appointments were authorized by the Commission on Civil Service as "temporary" under section 682 of the Revised Administrative Code, which provides that when a position in the classified service—and the post of municipal chief of police is of that nature—is temporarily filled by the appointment of one who is not a qualified civil service eligible, such appointment "shall continue only for such period not exceeding three months as may be necessary to make appointment through certification of eligibles, and in no case shall extend beyond thirty days from receipt by the chief of the bureau of office of the Commissioner's certificate of eligibles." Interpreting this provision in the case of *Orais et al. vs. Ribo et al.*, G. R. No. L-4945, decided on October 28, 1953, we held that "the holding of a position by a temporary appointee until replaced by an eligible in disregard of the time limitation of three months is unauthorized and illegal," and that "the replacement of non-eligibles by non-eligibles is lawful under and pursuant to section 682 of the Revised Administrative Code." Conformably to those pronouncements, we ruled in the case of *Pena et al. vs. City Mayor et al.*[*] G. R. No. L-5700, decided December 18, 1953, that, as the positions of members of the police department of a city are embraced within the classified service, non-eligibles appointed to those positions can not continue in office for more than three-months and can, therefore, be thereafter replaced by other non-eligibles.

The present case being on all fours with the one last cited, the decision appealed from must be, as it is hereby, affirmed, with costs against the appellant.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Jugo, Bautista Angelo, and Labrador, JJ., concur.

[*] *Supra*, p. 103.

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