

URBANO TABORA, PLAINTIFF AND APPELLANT, VS. HONORABLE ALFREDO MONTELIBANO, IN HIS CAPACITY AS SECRETARY OF ECONOMIC COORDINATION, AND NATIONAL RICE AND CORN CORPORATION (NARIC),...*G.R. No. L-8667. April 13, 1956*

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/69bcbe078bea/>**PADILLA, J.:**

Plaintiff brought this action to compel the National Rice and Corn Corporation commonly known as "NARIC" to reinstate him to his position as warehouseman in warehouse No. 9-B; to pay him his back salaries at P190 per month from 30 June 1950, the date of his suspension, until reinstated, together with lawful interest from the date of the filing of the complaint (10 June 1954); to pay him the sum of P5,000 by way of actual and moral damages and P2,000 by way of exemplary damages; to pay him his accumulated sick and vacation leave of five months amounting to P950 at the rate of P190 a month and to pay him his severance pay under NARIC Resolution No. 416, which provides one month salary for every year of service, amounting to P1,900 corresponding to ten months, should he no longer be entitled to reinstatement. He further prays for such other and further relief as law and justice may warrant. In support of his prayer he alleges that on 30 June 1950 he was suspended as warehouseman of warehouse No. 9-B by the Assistant General Manager of the NARIC when it was reported by the Inventory Committee that there was a shortage of 4,775 sacks valued at P24,750 in the total number of sacks entrusted to his custody and responsibility as such warehouseman; that he was suspended upon recommendation of a committee which investigated the case but without affording him a chance to be informed of the nature and cause of the accusation against him and to be heard and to defend himself; that the case was brought to the City Fiscal's Office and after investigation he was charged with malversation in an information filed before the Court of First Instance of Manila of which he was tried and acquitted on 20 September 1952; that despite his acquittal and demand to be reinstated and paid his salary during suspension, the defendant refused to do so; that he appealed to the Secretary of Economic Coordination but the latter ignored and refused to take action on his claim for payment of back salaries; that since April 1936 he served the NARIC as clerk continuously until 2 January 1942 when the Japanese Army invaded the Philippines; that he was reemployed and resumed the same position from 2 May 1946 until 30 June 1950 when he was suspended; that he has never enjoyed his 15 days vacation and 15 days sick leave for every year of service to which he was entitled during the time he was employed by the defendant, but not more than five months vacation and sick leave which is the maximum period provided by law; that on 27 October 1952 the board of directors of the NARIC adopted Resolution No. 416 granting severance pay to the personnel of the NARIC equivalent to one month salary for every year of service but not exceeding twelve months! subject to the approval of the Secretary of Economic Coordination..

The NARIC admits the pleaded facts in paragraphs 1, 2' and 5 of the first cause of action but alleges that plaintiff's position as warehouseman was of a highly confidential nature and his suspension was adopted as a precautionary measure; denies those alleged in paragraphs 3 and 4 of the first cause of action, avers that the

plaintiff was notified of the hearing of the committee but failed to appear, and denies finally those stated in paragraphs 10 and 11 of the first cause of action referring to actual, moral and exemplary damages as under the law they are not recoverable states that the salary of the plaintiff is not as alleged in paragraph 12 of the first cause of action but P2,280 per annum only; admits those alleged in paragraph 2, 8. and 4 of the second cause of action but states that the entity or entities that employed the plaintiff before his suspension were distinct from the NARIC,; denies specifically those pleaded in paragraph 5 of the second cause of action concerning vacation and sick leave; admits the allegations in paragraph 2 of the third cause of action but alleges that plaintiff is not qualified or entitled to enjoy the benefits of Resolution No. 416 adopted by the board of directors of the NARIC mentioned in paragraph 2 of the third cause of action of the complaint. By way of special defenses, the NARIC alleges that aside from the criminal prosecution against the plaintiff there was an. administrative investigation conducted against him and the investigating committee found him guilty of participation in the over issue of sacks under his charge and that his suspension was predicated on the findings of the investigating committee and not on the criminal case brought against him; that section 260 of the Revised Administrative Code is not applicable to the defendant because it is not a bureau or office and its officers and employees do not come under the civil service rules; that under its charter the NARIC by its board of directors is empowered to prescribe its own rules and regulations for the removal and compensation of its employees different from those that govern employees under the civil service rules; that Resolution No; 416 referred to in paragraph 2 of the third; cause of action of the complaint cannot be availed of by the plaintiff; that under the law at the time the plaintiff was separated from the service unused vacation and sick leave were forfeited in favor of the Government; and that Republic Act No, 611 which authorizes the commutation of vacation and sick leave approved on 5 May 1952 (1951) cannot be availed of by the plaintiff because the act has no retroactive effect.

A motion to dismiss was filed by the defendant Alfredo Montelibano as Secretary of Economic Coordination and acted upon favorably by the Court dismissing the complaint as to him in his official capacity.

On the date set for hearing, the parties entered into the following stipulation of facts:

Come now the parties in the above entitled case assisted by the undersigned counsel and to this Honorable Court hereby stipulate (on) the following facts:

- That herein complainant has been employed with the NARIC in 1936, date of organization,' continuously up to the Japanese occupation on January 2, 1942 and was employed again on (its) organization on May 1946 up to June 1950;
- That during these periods of. employment of the plaintiff he has to his credit sick and vacation leave of 77.416 days;
- (That) on June 1950, plaintiff was suspended as warehouseman at warehouse Ho. 9-B, The suspension order was signed by Mr. V. R. Concepcion, Asst. Gen. Manager of the NARIC;
- That Administrative Investigation has been conducted and the said report was submitted to the Board ,of Directors. The draft is hereby attached, NARIC Exhibit 1. That Administrative Investigation has been conducted against Mr. Vicente Gualberto, Auditor's Representative; Mr, Ramon Ramirez, Checker;. Mr. Wilson Albania and herein Mr. U. P. Tabora,' plaintiff. The above three persons appeared. during the administrative investigation while the herein plaintiff was not able to appear and defend himself, because he did not receive any notice to appear in the Administrative Investigation ;
- That plaintiff was prosecuted and tried in the Court of First Instance, Manila (No. 13064) of qualified theft. The case has been dismissed. He was charged also of (with) malversation (in) criminal case No. 14069 and was acquitted;

- That plaintiff after his acquittal filed "with the NARIC thru his counsel for the payment of his salary corresponding to the period of his suspension until reinstatement, but despite several and repeated demands made by the plaintiff, defendant NARIC refused and continuously refuses to reinstate and to pay the plaintiff his salary corresponding (to) the period of his suspension until reinstatement.

- That thru the request of the NARIC for an opinion' on plaintiff's claim, the Solicitor General's Office, who at the same time is the Government Corporate Counsel, rendered an opinion, No. 123, requiring the NARIC to pay plaintiff's salary corresponding to the period of his suspension; copy of said opinion is hereby attached as Annex "C" consisting of four (4) pages.

Estanislao A. Fernandez and
Celso A. Fernandez

By: (Sgd.) Celso A. Fernandez
Counsel for the Plaintiff
308 Samanillo Bldg., Manila

By: (Sgd.) Jose Pagaduan
Special Counsel for the NARIC

Upon the foregoing stipulation of facts the Court dismissed the complaint without costs, on the ground that the plaintiff as NARIC employee cannot invoke the civil service rules and regulations because Republic Act No. 663 does not so provide. In support of its opinion" the trial court invokes section 6(b) of Republic Act No. 663 approved on 16 June 1951 which provides—

The Board of Directors shall establish and prescribe its own rules, regulations, standards and records for the employment, promotion, demotion, removal, transfers, welfare, compensation and appraisal of performance of employees and officers of the Corporation, and provide a system of organization to fix responsibility and promote efficiency.

To strengthen its opinion it cites Section 4 of Republic Act No, 821 Creating the Agricultural Credit and Cooperative Financing Administration which provides—

The Administration is hereby authorized * * * to appoint and fix the salaries of a secretary and such experts, and subject to the provisions of the civil service laws, such other officers and employees, as are necessary to execute such function; * * *.

It notes that whereas in the quoted provision of Republic Act No. 663 no mention is made of the civil service law embodied in the Revised Administrative Code, in the quoted provision of Republic Act No. 821 mention is made of such law. From that contrast it draws the conclusion that the Congress did not intend to place the officers and employees of the NARIC under the civil service rules and regulations but under the rules and" regulations to be promulgated by the board of directors,. especially on reinstatement, payment of back salaries, vacation and sick leave privileges and such other gratuities as might be granted by the board of directors in accordance with law.

The NARIC was established by the Government to protect . the people against excessive or unreasonable rise in the price of cereals by unscrupulous dealers. With that main objective there is no reason why its function should not be deemed governmental. The Government owes its very existence to that aim and purpose—to protect the people. If that is the case, there is no valid reason for holding that the officers and employees of a government institution, organization or agency entrusted with part of the governmental functions do not fall under the protection afforded by the civil service rules and regulations.[1] To bring about honesty and efficiency of officers and employees of such institutions, organizations or agencies a climatic condition should be created to make them

feel secure in the enjoyment of their office or employment in the same way as all other officers and employees of the government are safeguarded in the tenure of their office or employment. That safeguard, guarantee, or feeling of security that they would hold their office or employment during good behavior and would not be dismissed without justifiable cause to be determined in an investigation, where an opportunity to be heard and defend themselves in person or by counsel is afforded them, would bring about such a desirable condition. To do away with it would lead to inefficiency and most likely to dishonesty on the part of the officers and employees and abuse on the part of the board of directors.

Republic Act No. 663 invoked by the trial court was approved on 16 June 1951. It cannot be made retroactive and to apply to the plaintiff who was suspended on 30 June 1950. But even if the provisions of Republic Act No. 663, invoked by the trial court, were to be applied, still the plaintiff as warehouseman of the defendant cannot be suspended or removed from employment without an investigation and a finding that a sufficient cause exists to suspend or remove him. Section 6(b) of Republic Act No. 663 does not and cannot authorize the board of directors of the defendant to remove any officer or employee of the corporation without cause, for the authority of the board of directors to prescribe its own rules and regulations, etc. for the removal of officers and employees of the defendant was not and could not have been intended to clothe the corporation with despotic and tyrannic power of removal of its officers or employees at its whim and caprice. A power granted to the board of directors such as that claimed by the corporation would not be conducive to good government but would tend to create abject and slavish officers and employees.

While the suspension of the plaintiff upon information received by the Assistant General Manager of the defendant that there was an overissue of sacks in the plaintiff's custody as warehouseman was justified, his separation from the service, which was actually done because he has never been reinstated and his request for reinstatement and demand for payment of back salaries during his suspension was denied,[1] is unlawful, because he was acquitted by the court of malversation with which he was charged[2] and such acquittal would entitle him to reinstatement and payment of back unpaid salaries.[3] If, as alleged and claimed by the defendant, his separation was the result of the recommendation of a committee that conducted an inquiry into the charges against him for over issue of sacks, and not of criminal charges brought against him, such inquiry and recommendation is of no legal effect, because although the defendant claims that the plaintiff was notified of such investigation and to be present and defend himself, nevertheless the stipulation of facts states that "the herein plaintiff was not able to appear and defend himself, because he did not receive any notice to appear in the Administrative Investigation." (Paragraph 4 of the stipulation of facts.) And although in the unsigned report on the investigation attached to the stipulation of facts (Exhibit 1-NARIC), the plaintiff's dismissal from the service was recommended, still such report cannot be made the basis of the plaintiff's dismissal from the service, because according to the stipulation of facts he did not receive any notice to appear in the investigation and for that reason did not appear thereat to defend himself.

For lack of evidence the prayer for moral and exemplary damages cannot be granted.

The prayer of the petition is in the alternative. So, if the plaintiff is reinstated to his former employment as warehouseman and paid his back unpaid salaries during the period from the date of his suspension to that of his reinstatement, the prayer for sick and vacation leave of five months and severance pay pursuant to NARIC Resolution No. 416 need not be granted. There is no showing that the plaintiff cannot be reinstated.

Conformably thereto, the judgment appealed from is reversed; and the NARIC is directed to reinstate the plaintiff to his employment as warehouseman and to pay him his back unpaid salaries during his suspension from 30 June 1950 to the date of his reinstatement. No costs shall be taxed.

Parás, C. J., Bengzon, Reyes, A., Jugo, Bautista Angelo, Labrador, Reyes, J. B. L. and Endencia, JJ., concur.
Concepcion, J., concurs in the result.

[1] National Rice and Corn Corporation vs. NARIC Workers' Union, *supra*, p. 663.

[1] Exhibit B.

[2] Resolution No. 3.62 (Exhibit E or 3-NARIC) and Resolution No. 384 (Exhibit G).

[3] Battmgbakal vs. National Development Co., 49 Off. Gaz., 2290; National Rice and Corn Corporation vs. NASIC Workers' Union, *supra*, p. 563.

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