

EUSEBIO TANALA, PETITIONER AND APPELLEE, VS. MARIANO LEGASPI, ET AL., RESPONDENTS AND APPELLANTS.*G. R. No. L-22537. March 31, 1965*

Ponente: ZALDIVAR. J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/729b2959355c/>**ZALDIVAR. J.:**

This is an appeal from a decision of the Court of First Instance of Leyte in its Civil Case No. 2774, an action for mandamus. The appeal was brought to the Court of Appeals, but because the issues involved are purely questions of law the Court of Appeals remitted this case to this Court pursuant to the provisions of section 17, par. (6) in relation to section 31 of the Judiciary Act of 1948, as amended.

The petitioner-appellee Eusebio Tanala, a permanent civil service employee, was appointed Assistant Sanitary Inspector in the Province of Leyte on September 18, 1917, assigned in Ormoc, Leyte, and he worked in that place until May 20, 1942. After the war, or on May 14, 1946, he resumed his work in said assignment. On November 1, 1947 the appellee was transferred to the municipality of Tacloban, and when that municipality was converted into a city on June 12, 1953, he continued to work as sanitary inspector in the Health Department of the city and since then he had been receiving his salary from Tacloban City.

On February 22, 1954, as sanitary inspector of Tacloban City, the appellee confiscated from one Maria Llarinas, a vendor, four cans of salted fish. Llarinas filed an administrative complaint against the appellee alleging that the day after the appellee had confiscated the salted fish, one by the name of Cresencio Sefiora, a prisoner from the city jail, had offered for sale one of the confiscated cans of salted fish to Lorenzo Bardilla at the instance of the appellee.

On April 5, 1954, a criminal complaint for robbery was filed against the appellee at the city court of Tacloban by the City Fiscal at the instance of Llarinas, alleging practically the same facts as those alleged in the administrative complaint. On April 6, 1954, the city Judge dismissed the complaint for robbery. But on April 13, 1954, the City Fiscal again filed a criminal complaint against the appellee in the Court of First Instance of Leyte, charging him of the crime of malversation of public Property.

On May 6, 1954, the appellee was suspended from office. On May 22, 1954, the City Health Officer of Tacloban City Quired the appellee to answer in writing the charges in the administrative complaint that was filed against him, h the appellee did. The administrative investigation was commenced on June 8, 1954. During the investigation the complainant tried to prove a case of extortion against the appellee. After investigation the District Health Officer of Leyte recommended the exoneration of the appellee. The Director of Health concurred in the recommendation of the District Health Officer and recommended his exoneration to the Secretary of Health. The Secretary of Health, on October 5, 1954, forwarded the papers of the case to the Commissioner of Civil Service, endorsing the recommendation for exoneration. Before the Commissioner of Civil Service could act on the recommendation for exoneration, however, the Court of First Instance of Leyte, on October 21, 1954, rendered a decision finding the appellee guilty of the crime of malversation of public property. Based on the said

decision of the Court of First Instance of Leyte, the Commissioner of Civil Service, on February 19, 1955, rendered a decision in the administrative case dismissing the appellee from the service effective May 6, 1954, the date of his suspension.

But the appellee had appealed to the Court of Appeals from the decision of the Court of First Instance of Leyte convicting him of the crime of malversation of public property. On October 2, 1956, the Court of Appeals reversed the judgment of the Court of First Instance of Leyte, thereby acquitting the appellee. Armed with the judgment of acquittal, the appellee immediately asked the Commissioner of Civil Service for the reconsideration of the decision of February 19, 1955 dismissing him from the service, and prayed for his reinstatement to his office. On February 5, 1957, the Commissioner of Civil Service modified his decision by ordering that the appellee be considered resigned from office effective as of May 6, 1954, the date of his suspension, without prejudice to reinstatement. The appellee appealed from the decision of the Commissioner of Civil Service to the Civil Service Board of Appeals, but the Board dismissed the appeal on the ground that it had been filed late. The appellee filed a motion for reconsideration of the order of dismissal of the appeal, but the Civil Service Board of Appeals denied said motion for reconsideration on October 21, 1958.

As a last recourse the appellee appealed to the Office of the President, and on March 21, 1960, the Executive Secretary, by authority of the President, rendered a decision ordering the immediate reinstatement of the appellee to his position.

The records show that on the date of the order of the President reinstating the appellee in office, he was already 65 years, 3 months and 13 days old. The records also show that the position of the appellee, as Sanitary Inspector in the Health Department of the City of Tacloban, had been occupied by one Filomeno Villamor since October 1, 1955.

The decision of the President of the Philippines ordering the reinstatement of the appellee was forwarded to the Secretary of Health who, on April 8, 1960, ordered the Regional Health Officer of Cebu City to implement the decision. On April 18, 1960, the Regional Health Officer endorsed the order of the Secretary of Health to the Provincial Health Officer of Leyte, the respondent Dr. Mariano Legaspi, for compliance. The respondent Provincial Health Officer refused to reinstate the appellee, in spite of the personal request made on him by the appellee, and the fact that said officer had received the decision of the President of the Philippines on April 26, 1960 as embodied in the endorsement of the Regional Health Officer. The respondent Provincial Health Officer, Dr. Mariano Legaspi, offered to reemploy the appellee provided the appellee waive collection of his back salaries during the period of his suspension of six years. The appellee was to sign a waiver of the collection of his back salaries, as Prepared by the Chief Clerk of the office of the Provincial Health Officer, but the appellee refused to accede to the proposition. The appellee went to the City Health

Officer of Tacloban City, the respondent Dr. Carlos V. Matriano, and asked for reinstatement to his office in the health department of the City; but this latter officer also refused to reinstate the appellee.

Having failed to obtain reinstatement to his office, in spite of the order of the President of the Philippines and the favorable endorsement of the Secretary of Health and the Regional Health Officer, the appellee filed in the Court of First Instance of Leyte a petition for mandamus, on May 11, 1960. Made parties respondent in the petition for mandamus were Mariano Legaspi, Provincial Health Officer of Leyte; the Provincial Government of Leyte; the Provincial Board; the Provincial Treasurer and the Provincial Auditor of Leyte; Carlos V. Matriano, City Health Officer of Tacloban City; the City Board, the City Treasurer and the City Auditor of Tacloban City. In the petition it was prayed that the respondent Provincial Health Officer Mariano Legaspi, or City Health Officer Carlos V. Matriano, be ordered to reinstate the appellee as Sanitary Inspector of Tacloban City and to order the Provincial

Government of Leyte or the City Government of Tacloban City to cause the immediate payment of appellee's back salaries from the date of his suspension to the date of his actual reinstatement to the office. The petition included a prayer for damages and attorney's fees.

After trial the lower court found that the appellee was an employee of Tacloban City and ordered his reinstatement to his position as Sanitary Inspector in the Health Department of said City. However, because the appellee was already over 65 years of age at the time the decision was rendered, the lower court held that he should be paid his back salaries only from the date of his suspension from office on May 6, 1954 to December 8, 1959 when he attained the age of 65 years. The lower court held that the City of Tacloban and its co-respondent officials, the Municipal Board, the City Auditor, the City Treasurer and the City

Health Officer, are duty bound to reinstate the appellee and to pay his salary during the period of his suspension. The dispositive portion of the lower court's decision reads as follows:

"FOR ALL THE FOREGOING CONSIDERATIONS, the Court hereby orders the respondent City Health officer, Carlos V. Matiano, to immediately reinstate Eusebio Tanala to his position; and the respondent City of Tacloban, The Municipal Board, The City Auditor, and the City Treasurer to pay the back salaries of the petitioner from May 6, 1951, to December 8, 1959, at the rate of P120.00 per month, plus costs.

"The respondents Province of Leyte, the Provincial Board, the Provincial Auditor, the Provincial Treasurer, and the Provincial Health Officer, are hereby exonerated herefrom without pronouncement as to costs.

"There being no sufficient evidence to form the basis of a judgment, no award for damages is hereby made against the respondents."

The respondents, the City of Tacloban, the Municipal Board, the City Auditor, the City Treasurer, the City Health Officer, of the City of Tacloban, have brought this appeal from the decision of the lower court.

In the arguments adduced by the appellants to support their assignment of errors the following points have been raised:

(1) That the decision of the President of the Philippines, rendered through the Executive Secretary on March 21, 1960, exonerating the appellee and ordering his immediate reinstatement was without authority of law because at the time of the rendition of that decision the new Civil Service Law (Republic Act 2260) was already in force and under said new law the President of the Philippines has no power to review, much less modify or reverse, the decision of the Commissioner of Civil Service Board of Appeals.

(2) That the order of the President reinstating the appellee being contrary to law the decision of the Commissioner of Civil Service of February 5, 1957 declaring the appellee as resigned from office without prejudice to reinstatement had become final on October 21, 1958 when the Civil Service Board of Appeals dismissed the appeal of the appellee.

(3) That considering that the present action was filed on May 11, 1960, or more than one year after October 21, 1958, that appellee is considered to have abandoned his right to his office and had lost his right to reinstatement.

(4) That granting for the sake of argument that the President of the Philippines had the power to review the decision of the Commissioner of Civil Service and of the Civil Service Board of Appeals the order of the President to reinstate the appellee as well as the decision of the lower court to reinstate the appellee are contrary to the provisions of Sec. 12(c) of Republic Act 660 because at the time when the order and decision had been promulgated the appellee had already attained the age beyond the compulsory retirement age of 65 years, and, moreover, the position of the appellee had already been occupied by another appointee, so that his reinstatement had become legally impossible.

Regarding the first point raised by the appellants, let it be noted that the suspension and the separation of the appellee from the service had been ordered by the Commissioner of Civil Service on February 5, 1957, or before the new Civil Service Law (Republic Act 2260) took effect. The new Civil Service Law took effect on June 19, 1959. The law that is applicable to the case of the appellee is that portion of the old Civil Service Law as embodied in Section 695 of the Administrative Code as amended by Sections 1 and 2 of Commonwealth Act 598 where it provided that the decision of the Commissioner of Civil Service may be appealed to the Civil Service Board of Appeals within 30 days, and that the decision of the Civil Service Board of Appeals shall be final unless reversed or modified by the President of the Philippines. The President may even review, modify or reverse the decision of the Civil Service Board of Appeals *motu proprio* (*Negado vs. Castro*, 104 Phil. 103; 55 Off. Gaz., 10534).

In the case of *Beafnato Atay, et al. vs. Diego II. Ty Deling, et al.*, 107 Phil., 1146, this Court held as follows:

"Petitioner Atay was appointed janitor-guard on May 10, 1956 and was removed after notice on September 10, 1957, while petitioner Yamuta was extended a promotional appointment on July 1, 1957 and was removed also after notice on September 10, 1957.

As petitioners' appointment and removal took place before the new Civil Service Law, Republic Act 2260, took effect on June 19, 1959, this new law not having retroactive effect does not apply to petitioners. What governs are the provisions of the Revised Administrative Code."

It can thus be gathered from the above-quoted portion of a decision of this Court that in cases affecting the rights of persons in the civil service of the Government the law existing at the time of their suspension or removal from office is the one that is applicable. And so in the case of the appellee, now before Us, because his separation from the service was ordered by the Commissioner of Civil Service on February 5, 1957 (confirmed by the Civil Service Board of Appeals in its order dismissing appellee's appeal on October 21, 1958), long before the new Civil Service Law took effect, it follows that the old Civil Service Law must be applied. In the case now before Us the appellee had appealed to the Office of the President from the decision of the Civil Service Board of Appeals dismissing his appeal from the decision of the Commissioner of Civil Service pursuant to the provisions of the old Civil Service Law, so that when the President took cognizance of the appeal and reversed the order of the Civil Service Board of Appeals dismissing the appeal and at the same time reversed the decision of the Commissioner of Civil Service and ordered the immediate reinstatement of the appellee the action of the President was in accordance with the old Civil Service Law which is the law applicable to the case. It follows, therefore, that the order of the President reinstating the appellee to his position as Sanitary Inspector of Tacloban City was in accordance with law.

The decision of the President must prevail over the decision of the Civil Service Board of Appeals and of the Commissioner of Civil Service. The contention of the appellants, therefore, that the decision of the Commissioner of Civil Service of February 5, 1957 declaring the appellee as resigned from the service without prejudice to reinstatement had become final, has no merit.

Likewise, the contention of the appellants that the appellee should have filed an action in court within one year from October 21, 1958, the day when the Civil Service Board of Appeals dismissed the appeal of the appellee from the decision of the Commissioner of Civil Service, also has no merit.

The appellee had shown due diligence in asserting and/or protecting his rights. When the Commissioner of Civil Service, on February 19, 1955, ordered his dismissal from the service the appellee bid his time. He waited for the result of his appeal in the Court of Appeals from the judgment of the Court of First Instance of Leyte finding him guilty of the crime of malversation of public property. When the Court of Appeals rendered its decision on

October 2, 1956 acquitting him of the charge of malversation of public property, the appellee lost no time in asking the Commissioner of Civil Service to reconsider its decision of February 19, 1955 ordering his dismissal from the service. On February 5, 1957 the Commissioner of Civil Service modified his decision by declaring that instead of being dismissed from the service the appellee was considered as resigned from the service without prejudice to reinstatement. Not being satisfied with the decision of the Commissioner of Civil Service the appellee appealed to the Civil Service Board of Appeals, and after the Civil Service Board of Appeals had dismissed his appeal he brought the Case to the President of the Philippines. The President decided the case on March 31, 1960. When the respondents, Provincial Health Officer, Dr. Mariano Legaspi, and the respondent City Health Officer Dr. Carlos V. Matriano, refused to implement the order of the President to reinstate the appellee to his position the appellee filed this action for mandamus in the Court of First Instance of Leyte on May 11, 1960. It will thus be noted that this action for mandamus was filed by the appellee less than two months after the decision of the President was rendered.

It appearing that the appellee had been acquitted of the criminal charges that had been filed against him, and the President had reversed the decision of the Commissioner of Civil Service in the administrative case which ordered his separation from the service, and the President had ordered his reinstatement to his position, it results that the suspension and the separation from the service of the appellee were thereby considered illegal. The President had declared that the appellee was entitled to reinstatement in office, and the President had ordered that the appellee be reinstated immediately to his office. That order of the President was in accordance with law and it became the ministerial duty of the authorities concerned to comply with that order. When the respondent-appellant City Health Officer Dr. Carlos V. Matriano refused to reinstate the appellee in office, said appellant had thereby unlawfully excluded the appellee from the enjoyment of a right to which he is entitled. Mandamus lies when a person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office or who unlawfully excludes another from the use or enjoyment of a right or office to which such other is entitled (Sec. 3, Rule 65, Revised Rules of Court).

The appellee is entitled to payment of his back salaries "port his reinstatement in office. This Court has held that a regular employee of the government who has been suspended as a result of the filing of a criminal complaint against him is, after acquittal, entitled to be paid all salaries for the period covering his suspension (National R and Corn Administration vs. NAR1C Workers n, 98 Phil. 563; Tabora vs. Montelibano, G.R. No. L-8867, April 13, 1956). This Court has likewise held that after the order of reinstatement of a government employee to his position had been issued, the reinstatement becomes the ministerial duty of the proper authorities and the payment of back salaries is merely incidental to reinstatement; because to deny him the right to collect his back salaries during his suspension would be tantamount to punishing him after his exoneration from the charges which caused his dismissal from the service (Tan vs. Gimenez, 107 Phil., 17, (Pablo Manlapit, et al.), Valentin C. Garcia vs. Land Settlement & Development Corporation, 95 Phil. 698).

The appellants also contend that the appellee cannot be reinstated in office because said position had already been filled by the appointment of another person during the suspension of the appellee. This contention is without merit. In the case of Batungbakal vs. National Development Co. et al., 93 Phil. 182, this Court held that when a regular government employee was illegally suspended or dismissed, legally speaking, his position never become vacant, hence there was no vacancy to which a new incumbent could be permanently appointed, it being considered that the incumbency of the person appointed to the position is temporary and he has to give way to the employee whose right to the office has been recognized by the competent authorities. The fact, therefore, that the position of the appellee as sanitary inspector in Tacloban City is presently occupied by one Filomeno Villamor is no legal impediment to appellee's being reinstated to said position. Filomeno Villamor has to give way to the appellee.

Finally, the appellants contend that the appellee cannot be reinstated in office because as of the time that his reinstatement was ordered by the President he was already over the age of 65 years, and to reinstate him would violate the provisions of Section 12 (c) of Republic Act 660, which provides for the automatic and compulsory retirement of the government official or employee at the age of 65 years if he has completed 15 years of service. While it may be correct to say that the appellee cannot continue being employed in the government service because he is already over 65 years of age, this does not mean that he should

be deprived of the rights and privileges that accrued to him by virtue of his office during the period of his service until he reached the age of 65 years. When a government official or employee in the classified civil service had been illegally suspended or illegally dismissed, and his reinstatement had later been ordered, for all legal purposes he is considered as not having left his office, so that he is entitled to all the rights and privileges that accrue to him by virtue of the office that he held.

In the case of the appellee, by virtue of the order of the President reinstating him in office his suspension and separation from the service effective as of May 6, 1954 was thereby declared illegal, so that for all intents and purposes he must be considered as not having been separated from his office. The lower court has correctly held that the appellee is entitled to back salaries from the date of his suspension on May 6, 1954 to December 8, 1959. We declare that by virtue of the order of the President reinstating him in office, the appellee was legally in office as of December 8, 1959 when he reached the age of 65 years, and, as such, he is entitled not only to his back salaries from the date of his suspension until that date but also to all the retirement and leave privileges that are due him as a retiring employee in accordance with law.

In view of the foregoing, the decision appealed from is affirmed. The appellee is hereby considered reinstated in office as of December 9, 1959 when he reached the age of 65 years, with all the rights and privileges that he is entitled to as a regular government employee reaching the age of 65 in the government service, as provided by law. Appellants must pay the costs.

Bengzon, C. J., Bautista Angela, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, Makalintal and Bengzon, J. P., JJ., concur.

Judgment affirmed.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.