

EMILIANO D. MANUEL, ET AL., PETITIONERS AND APPELLEES, VS. PEDRO JIMENEZ, TIMOTEO ABDON AND PEDRO RAVAL, RESPONDENTS AND APPELLANTS.*G.R. No. L-22058. May 17, 1966*

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

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Direct Appeal by respondents from a decision of the Court of First Instance of Ilocos Norte.

Appellees, the Vice-Mayor and Councilors of Laoag, Ilocos Norte, had collected per diems for forty-eight (48) special sessions held by the Council during 1960, and an equal number during 1961, at the rate of P18.00 per session. The Provincial Auditor, however, acting upon a directive of the General Auditing Office (Provincial Auditor's Memorandum No. 250) took the position that, pursuant to Section 2220 of the Administrative Code, the councilors were only entitled to collect for twenty-four (24) special sessions per annum; and directed the Municipal Treasurer to withhold payment of compensation for subsequent sessions, starting December, 1961, until the alleged overpayment was covered. Contending that Section 2187 of the Administrative Code, as amended by Republic Act 2368, Section 2, in providing "that no per diems may be granted for more than four special sessions a month" authorized the holding of forty-eight such sessions per year, the Vice-Mayor and councilors of Laoag instituted suit in the Court of First Instance of Ilocos Norte against the Auditor General, the Provincial Auditor and the Municipal Treasurer to declare the plaintiffs entitled to hold 48 special sessions a year, and petitioned for injunction to compel payment of the per diems withheld, plus damages and costs. The respondent officers moved to dismiss, on the ground that petitioners had failed to exhaust their administrative remedies; but the Court denied their motion and issued a preliminary injunction as prayed for, upon plaintiffs putting up a bond of P2,000.00 each. Respondents then answered pleading lack of cause of action. After the case was submitted upon a stipulation of facts, the Court, by Judge Delfin B. Flores, found for petitioners, and made the preliminary injunction permanent, but awarded no damages or costs. Respondents duly appealed to this Court.

We agree with appellant officers that the decision should be reversed. Under section 653 of the Administrative Code as amended by Commonwealth Act 327, any person aggrieved by action or decision of a provincial or city auditor, can appeal to the Auditor General, and thereafter to the President, or to the Supreme Court if the appellant is a private person or entity. Appellees Vice Mayor and Councilors of Laoag should have first exhausted this administrative remedy before resorting to the Courts, since it is a well established rule that—

"Where the law provides for the remedies against the actions of an administrative board, body or officer, relief from the Courts against such actions can be sought only after exhausting all the remedies provided for" (42 Am. Jur. 579)

and this rule has been repeatedly upheld in our jurisprudence.[1] The rule is peculiarly binding on appellees herein, since they are claiming for compensation in their official capacity, and as officers of the administration they should not attempt to circumvent the jurisdiction of the administrative authorities. Reasons of comity and

orderly procedure demand that resort be made to the President, as head of the administrative system, before recourse is had to the Courts.

That the former Auditor General had ruled against the pretense in the case of other municipalities does not excuse appellees in sidestepping administrative remedies and resorting immediately to the Courts. Hence, in entertaining these proceedings without such preliminary steps being taken, the Court below incurred in reversible error.

The foregoing dispenses this Court from delving into the other errors assigned by appellants.

Wherefore, the decision appealed from is reversed and the petition below ordered dismissed. The injunction issued by the Court a quo is likewise ordered dissolved. Cost against appellees, Emiliano Manuel, et al.

Bengzon, C.J., Bautista Angelo, Concepcion, Barrera, Dizon, Regala, Makalintal, Bengzon, J.P. and Zaldivar, JJ., concur.

Decision reversed.

[1] See *Montes vs. Civil Service Board of Appeals*, 54 Off. Gaz., (No. 7) 2174; *Villanueva vs. Ortiz*, 56 Off. Gaz., (No. 2) 276; *Sec. of Agri.us. Minlawi Mining Asso.*, 97 Phil., 125; *Bongcawil vs. Prov. Board*, 119 Phil. 591; *Gonzales vs. Prov. Auditor*, L-20568, Nov. 28, 1964.

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