

**NICETAS A. SUANES, PETITIONER, CHIEF ACCOUNTANT,
ACCOUNTING DIVISION, SENATE, AND DISBURSING OFFICER,
DISBURSEMENT AND PROPERTY DIVISION, SENATE, RESPONDENTS.**

G.R. No. L-2460. December 02, 1948

Ponente: MORAN, C.J.

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MORAN, C.J.:

Respondents seek the reconsideration of the decision of this Court wherein a writ of mandamus was issued directing them to pay to petitioner his salary as Private Secretary to Honorable Ramon Diokno, member of the Electoral Tribunal for the Senate, in accordance with the appointment issued by the Chairman of said tribunal.

All the points raised in the motion for reconsideration, including that of jurisdiction, had been fully considered by the Court before rendering its decision. However, in view of the several unwarranted assertions and abstract interpretations tendered by respondents, some points of the decision must be reiterated.

Respondents alleged that this Court "denies that the Senate has anything to do with the Senate Electoral Tribunal, but in effect, makes the disbursing officer of the Senate the disbursing officer of the Senate Electoral Tribunal," and that "this Honorable Court cannot take away the funds of the Electoral Tribunal from the custody of the respondents and in the same breadth order them to make payments from the same funds." Evidently, respondents failed to understand the decision of the Court. There is absolutely no ground for the frantic accusation that this Court has taken away the funds of the Electoral Tribunal from the custody of respondents. This Court held that the Electoral Tribunal is an entity independent of and distinct from the Legislature and entrusted with a specific mission. In order that this entity may function and may carry out its mission, the Election Code (section 182) provided that the expenses for the Electoral Tribunal shall be paid from the funds of the respective Houses of Congress. In pursuance of this mandate, the Appropriations Act set aside from the funds of the Senate the sum of P180,000 for the Senate Electoral Tribunal. Hence, we ruled that this sum of P180,000 belongs to the Senate Electoral Tribunal and not to the Senate nor to any other entity. The custody of said funds may still be, technically at least, with the officers of the Senate, but the funds no longer belong to the Senate but to the Electoral Tribunal. What remains with respondents is their ministerial duty of disbursing the funds for the Electoral Tribunal whenever that entity so requests. Since the Appropriations Act set aside the sum of P180,000 from the funds of the Senate and gave it to the Electoral Tribunal for the Senate, said sum must be kept and may be disbursed only for the purposes provided for by law, namely, for the Electoral Tribunal.

For the first time respondents allege in their motion for reconsideration that this Court has no jurisdiction to issue a writ of mandamus against respondents because it would in effect constitute a compelling act against the Senate. There is a misconception of the doctrine laid down by this Court on this matter. "Mandamus will not lie against the legislative body, its members, or its officers to compel the performance of duties purely legislative in their character which rightly pertain to their legislative functions and over which they have exclusive control * * *", thus is the rule reiterated by this Court in the case of *Alejandrino v. Quezon*, 46 Phil. 88. 'In the case at bar, there

is no pure or exclusive legislative function involved. The instant action relates to the performance of respondents' ministerial duty to disburse to the Electoral Tribunal the funds that rightly belong to it. "The Courts will not interfere by mandamus proceedings with the legislative department of the government in the legitimate exercise of its powers, except to enforce mere ministerial acts required by law to be performed by some officer thereof." (55 C. J. S., sec. 130, p. 215; see also 34 Am. Jur., pp. 910-911; 95 A. L. R. 273, 277-278). Thus, the writ has been granted, upon the application of a member of the house of representatives of a State, to compel the Speaker of the house to certify to the Comptroller of Public Accounts the amount to which the member was entitled as compensation for mileage. (See High's Extraordinary Legal Remedies, sec. 136, pp. 151-152).

It is maintained by respondents that there is no specific provision of law granting to the Chairman of the Electoral Tribunal for the Senate the power to appoint its subordinate officers. What is true, however, is that 'there is no specific provision of law giving said power to the President of the Senate. It is a well-settled rule that when jurisdiction is conferred by law on a court or tribunal, that court or tribunal, unless otherwise provided by law, is deemed to have authority to employ all writs, processes and other means necessary to make its power effective. In the instant case, the Electoral Tribunal was created by the Constitution to perform a specific mission. That tribunal cannot accomplish its mission without subordinate personnel. Consequently, in the absence of any specific provision of law to the contrary, the Tribunal may, either by rules or by specific orders, provide for the manner of selecting its employees. And in this case, the Electoral Tribunal, by rule, provided that the power of appointment is lodged in its Chairman with the approval of the Tribunal. This rule, having the force of law, is valid, there being no provision of law against it and it being necessary for the proper accomplishment of the purposes for which the Tribunal was created by the Constitution.

The main burden of respondents' motion for reconsideration consists in the argument that in the past, the electoral tribunals had submitted themselves administratively to the Legislature. Perseverance in error is no reason for perpetuation of error.

For all the foregoing, the motion for reconsideration is denied.

Feria, Pablo, Perfecto, Bengzon, and Briones, JJ., concur.

Montemayor, J., in the result.

Ozaeta, Paras, Tuazon, and Reyes, JJ., no part.

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