

ELPIDIO PINULLAR, PETITIONER AND APPELLANT, VS. THE PRESIDENT OF THE SENATE, IN HIS CAPACITY AS ADMINISTRATIVE HEAD OF THE SENATE, RESPONDENT AND APPELLEE.

G. R. No. L-11667. June 30, 1958

Ponente: FELIX, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7e0dc7817eb0/>

FELIX, J.:

Sometime in June, 1945, Elpidio Pinullar secured employment as a temporary laborer in the Philippine Senate at P760 per annum. On October 8, 1947, he was given a permanent appointment (promotional) to the same position at an increased salary of P840 annually. He held said post continuously and received salary increases from time to time so that in 1952, the same item carried with it a salary of P1680 per annum.

On June 24, 1952, Elpidio Pinullar received a letter from the President of the Senate informing him of his temporary relief from the service effective July 1, 1952, on the ground that the "rotation system" of employment would be introduced in that office to afford employment to those who were in financial difficulties (Exhibit B), and pursuant to said policy, Pinullar was laid off with the understanding that he would be re-appointed after the lapse of a certain period of time. Accordingly, he was extended an appointment as a temporary laborer and actually entered such employment from November 1, 1952, up to December 31, 1952.

In a letter dated November 6, 1952, addressed to the President of the Senate, Pinullar objected to the adoption by said office of the rotation system of employment and prayed for his reinstatement as a permanent laborer (Exhibit C), which was followed by another letter dated January 3, 1953, signed by him and four other employees similarly voicing their objection to the temporary appointments extended to them (Exhibit D). Obviously, their petition was not acted upon favorably because Pinullar was only given another temporary employment, which he accepted, from October 1, 1953, to November 30, 1953 (Exhibit 2).

As he was unable to secure any further appointment, on January 9, 1956, Pinullar filed a petition for mandamus with the Court of First Instance of Manila naming the President of the Senate in his capacity as administrative head of the Senate as respondent, praying for his reinstatement to the service with backpay at the rate of P1,680 per annum from July 1, 1952, until the date of actual reinstatement; for damages; attorney's fees, and costs. In his answer, respondent through counsel alleged that petitioner merely held office at the pleasure of the Senate, and that granting hypothetically that he belong to the unclassified civil service and therefore enjoyed security of tenure, yet same may be lost upon the abolition of his office, consented transfer, estoppel or laches. Considering that petitioner had entered employment on two occasions after his relief on June 30, 1952, i. e.: from November 1 to December 31, 1952, and again on October 1 up to November 30, 1953—respondent argued that such action could only mean assent or amenability to his temporary relief under the rotation system and amounted to a renunciation or waiver of whatever right he may have. Respondent likewise cited petitioner's failure to assert whatever right he may have seasonably, the petition having been filed long after the cause of action accrued, and thus concluded that petitioner was barred and estopped from instituting any action relative thereto. And

contending further that the Court was without jurisdiction to entertain the case, it being co-equal and co-ordinate with the Senate of which he is the presiding officer, respondent prayed for the dismissal of the petition.

The issues having been joined and based on a stipulation of facts agreed upon by the parties, the lower Court rendered judgment holding that it lacked jurisdiction to entertain the case for the reason that the judiciary cannot by a writ of mandamus restrain or control the action of the legislature or a branch thereof. Moreover, even if it could validly pass upon the petition, in view of the fact that the action was presented more than a year after the petitioner's dismissal, the Court ruled that the latter may be considered to have abandoned his office. From this decision, petitioner brought the matter up to Us on appeal and in this instance contends that the lower court erred:

- In holding that it has no jurisdiction over the case at bar;
- In holding that the present action is already barred;
- In holding that petitioner's service under the rotation system is acquiescence thereto; and
- In dismissing the case.

There is no controversy as to the fact that although petitioner was originally holding office as a permanent employee, instead of asserting whatever right he may have upon being notified of his "temporary" removal from office, he accepted a temporary appointment extended to him by respondent by actually entering the service in such temporary capacity on two different occasions, firstly from November 1 to December 31, 1952, and again from October 1 to November 30, 1953. Petitioner's action in subsequently accepting a temporary appointment thus changed the nature of his employment from permanent to that of a temporary one and as he does not possess any Civil Service eligibility, in the light of the doctrine laid down by this Court in the recent case of Cuadra vs. Cordova, 103 Phil., 391, his term of office thus becomes terminable at the pleasure of the appointing power, for the law affords him no protection against dismissal nor basis to question the right of the President of the Senate to remove him from the service.

Furthermore, it appears that although petitioner received the letter informing him of his "temporary relief" on June 24, 1952, the petition for mandamus was actually filed only on January 9, 1956. This may not only be considered as acquiescence or consent to his removal, but his failure to institute the proper proceedings to assert his right, if he had any, may be also considered either as abandonment or lack of interest in said office. While the court exhorts the institution of the corresponding action for the redress of wrong or unlawful act committed either by a private person or an official of the Government, and discourages laches and inaction, such relief must be sought for within a reasonable period; otherwise any remedy to which he may be entitled would be denied him for his apparent loss of interest, or waiver, or even acquiescence on his part (Mesias vs. Jover, 97 Phil., 899; 51 Off. Gaz. [12] 6171). The rationale of this doctrine is given when this Court said:

"* * *, the Government must be immediately informed or advised if any person claims to be entitled to an office or a position in the civil service as against another actually holding it, so that the Government may not be faced with the predicament of having to pay two salaries, one, for the person actually holding the office, although illegally, and another, for one not actually rendering service although entitled to do so * * *." (Unabia vs. The Hon. City Mayor, 99 Phil., 258).

It may be asked, however, how long is "a reasonable time"? This Court answered the said query in the case of Unabia vs. The Honorable City Mayor, *supra*, when it declared that the period of one year is reasonable enough for this purpose. Considering that the petition in the instant case was filed after more than 3 years had elapsed from the time the cause of action accrued, the answer to the question presented by this appeal is all too obvious.

In view of the conclusions thus arrived at, we find it unnecessary in this instance to pass upon the other questions

also raised by petitioner herein.

Wherefore, the decision appealed from is hereby affirmed and the petition dismissed, without pronouncement as to costs. It is so ordered.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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.