

EDGARDO R. HOJILIA, PETITIONER VS. HON. SALVADOR L. MARIÑO, ET AL., RESPONDENTS.*G. R. No. L-20574. February 26, 1965*

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Petitioner is a first grade civil service eligible who on March 24, 1953 was appointed Chairman of the Board of Special Inquiry of the Bureau of Immigration pursuant to Section 27 (a) of Commonwealth Act 613. The appointment contains a proviso that it may be terminated anytime, "without any proceedings", at the pleasure of the President of the Philippines. This position was later classified by the WAPCO as Hearing Officer II, Range 39.

On January 23, 1962, petitioner was served by the Commissioner on Immigration with an indorsement bearing the same date enclosing therewith a letter of Executive Secretary Amelito R. Mutuc and another from Secretary of Justice Jose W. Diokno advising him that his appointment as such has been terminated effective immediately by the President of the Philippines. Upon receiving such advice, petitioner asked the President to have his decision terminating his appointment reconsidered inviting attention to the fact that his separation was effected summarily, without cause, without any charge previously filed against him, and without the benefit of any hearing, in violation of the safeguards that are extended to an employee of the government by our Constitution and our Civil Service Law. And when this step failed, he commenced the present petition for quo warranto directly before this Court seeking his reinstatement to his former position with payment of salaries from January 23, 1962, date of his separation, to his actual reinstatement.

This petition was given due course and, in due time, respondents filed their answer stating the reason justifying the separation of petitioner from the service.

Petitioner was admitted to the Philippine bar on December 21, 1948. He began serving the government way back in July, 1941, as a mere clerk in the immigration. On August 2, 1944, he was appointed acting immigration inspector, and on March 22, 1953 he was promoted to the position of Chairman of the Board of Special Inquiry of the Bureau of Immigration. On November 25, 1957, such position was classified by the WAPCO as Hearing Officer II Range 39. He discharged the duties of this office until January 23, 1962, when he was notified by the Immigration Commissioner that his services in the government have been terminated, effective immediately, by the President of the Philippines.

Petitioner now contends that his appointment as Chairman of the Board of Special Inquiry of the Bureau of Immigration cannot be terminated without cause and without due process because (1) he is a civil service eligible; (2) his appointment, though terminable at the pleasure of the President, should be construed in the light of the Civil Service Act of 1959; (3) he is exercising quasi-judicial powers; and (4) the classification made by the WAPCO of his position has the effect of giving permanence to his tenure.

Petitioner's status of being a civil service eligible cannot be made use of by him as an armor to protect him against

any action that the appointing power may want to take in connection with his appointment it having been made in pursuance of Section 27(a) of Commonwealth Act No. 613 which makes the appointee "removable at (his) pleasure." In fact, his appointment contains the following proviso; that it may be terminated anytime, without any proceedings, at the pleasure of the President of the Philippines. It may, therefore, be said that, though not technically a temporary appointment, as this term is used in Section 24 (b) of the Civil Service Act of 1959, petitioner's appointment in essence is temporary because of its character that it is terminable at the pleasure of the appointing power. Being temporary in nature, the appointment can be terminated at a moment's notice without need to show cause as required in appointments that belong to the classified service. Thus, in *Cuadra vs. Cordova*, 103 Phil. 391, we held:

"* * * His appointment being temporary does not give him any definite tenure of office but makes it dependent upon the pleasure of the appointing power. A temporary appointment is similar to one made in acting capacity, the essence of which lies in its temporary character and its terminability by the appointing power. And one who bears such, an appointment cannot complain if it is terminated at a moment's notice."

Petitioner's appointment being temporary, it can be terminated at pleasure even if he is a civil service eligible.[1] And this holds true notwithstanding his badge of eligibility for, having accepted a temporary appointment, he cannot invoke the security of tenure guaranteed by our Constitution[2] In fine, to him cannot apply the safeguard embodied in Section 32 of the Civil Service Act. of 1959 which provides : "No officer or employee in the civil service shall be removed or suspended except for cause as provided by law and after due process."

Petitioner's claim that as Chairman of the Board of Special Inquiry he exercises quasi-judicial powers which give him some stability in his tenure is of no moment, for what characterizes the security of tenure is not the nature of one's duties or functions but the nature of the appointment.

The Reorganization Act of 1954 which gives to the WAPCO the necessary authority to undertake the classification of those who are in the government service does not authorize the latter to change the nature of appointments from temporary to permanent. Neither Republic Act 997 nor any executive order issued to implement the Reorganization Plan give such authority. As a matter of fact, in Executive Order No. 279 issued on November 7, 1957, the WAPCO was merely charged with the responsibility of "enforcing all laws, rules and regulations governing appointments and promotions pursuant to the classification and compensation plans and other salary laws" (53 Off. Gaz., 8339). And the law governing- the appointment of petitioner is Section 27 (a) of Commonwealth Act No. 613 which, as above stated, makes petitioner's appointment "removable at pleasure."

WHEREFORE, petition is dismissed. No costs.

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

[1] *Mendez vs. Ganzon*, 101 Phil. 48; *Madrid vs. Auditor General*, 108 Phil., 578; *Dela Torre vs. Trinidad*, 108 Phil. 635; *Hortillosa vs Ganzon*, 105 Phil. 105; *Quitiquit vs. Villacorta*, 107 Phil., 1060; *Azuelo vs Arnaldo*, 108 Phil., 293.

[2] *Taboada vs. Municipality of Badian*, L-14604, My 31, 1961; *Roque, et al. vs. President of the Senate*, 104 Phil. 131.

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