

PEDRO TABOADA, PETITIONER-APPELLEE, VS. THE MUNICIPALITY OF BADIAN, ALFONSO D. SUERTE & JULIO LLENOS, MUNICIPAL MAYOR AND MUNICIPAL TREASURER, RESPECTIVELY, OF BADIAN,CEBU, RESP...*G.R. No. L- 14604. May 31, 1961*

Ponente: PAREDES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/84fcc7a26f35/>**PAREDES, J.:**

Pedro Taboada, believing that his dismissal as patrolman of the police force of Badian, Cebu, was not justified, filed with the Court of First Instance of Cebu, a petition for Mandamus, directed against the municipality of Badian, its mayor and treasurer, praying that a judgment be entered against the respondents, ordering (1) the respondent Mayor to immediately reinstate said petitioner to his position as patrolman of Badian; (2) the respondent mayor to pay to him the amounts of P3,000.00, as consequential damages; P5,000.-00 as attorney's fees and the costs; (3) all the respondents to pay to him his salary computed at P540.00 per annum from January 1, 1956, until reinstatement.

The respondents, answering, interposed Special and Affirmative defenses, to the effect that the petitioner not being a Civil Service eligible, his appointment was only good for 3 months, subject to renewal; that since his last appointment was July 1, 1955, his services were deemed terminated as of October 1, 1955, the same not having been renewed; and his continuance in the service from October 1, 1955 to January 14, 1956, was unauthorized.

The case was submitted on the following Stipulation of Facts:-

"1. That the parties agreed as to the legal capacities of the parties to sue and be sued, their ages, residences and other personal circumstances; as alleged in subparagraphs 1 and 2 of the petition; 2. That on January 24, 1950, the petitioner was originally appointed 'temporary municipal policeman' of the Municipality of Badian, Cebu, with a compensation of P396.00 per annum.

3. That pursuant to the said appointment, dated January 24, 1950, as stated in the next preceding paragraph, petitioner took his oath of office as 'temporary municipal policeman' for the Municipality of Badian, Cebu.

4. That on December 13, 1954, petitioner was given another appointment by respondent Mayor Alfonso D. Suerte, as a municipal patrolman of Badian, Cebu, with compensation at the rate of P454.00 per annum, the appointment to take effect on July 1, 1954. The last paragraph of this appointment reads: 'Promotion from P420.00 to P444.00 per annum'. 5. That on July 1, 1955, the petitioner was again extended another appointment by respondent Mayor Alfonso D. Suerte, as member of the Municipal Police Force of Badian, Cebu, effective July 1, 1955, with compensation of P540.00 per annum. The last line of said appointment reads: 'Promotion from P444.00 to P540.00 per annum'.

6. That on January 7, 1956, respondent Mayor Alfonso D. Suerte wrote a letter to petitioner advising the latter to resign, he being non-civil service eligible and further advised him to turn over all government properties and other accountabilities to the Chief of Police of Badian, Cebu.

7. That on January 14, 1956, respondent mayor addressed a letter to petitioner advising the latter to terminate his services as patrolman of Badian, Cebu, to take effect on January 31, 1956, at the close of office hours and further instructing petitioner to turn over any property accountability to the Chief of Police of Badian, Cebu.

8. That on February 6, 1956, petitioner wrote a letter to Mr. Edilberto Rosario, Vice-Mayor of Badian, Cebu, in reply to a letter of the respondent Mayor Alfonso D. Suerte to turn over all property accountability in petitioner's possession to the Chief of Police, manifesting that until then petitioner believes himself entitled to the lawful custody of the articles therein mentioned as he has never been legally dismissed nor has he tendered resignation from his position as patrolman of Badian, Cebu.

9. That either party may present such additional evidence should it desire on points not covered by this stipulation.

10. That the petitioner as well as the person appointed to replace him are non-civil service eligibles,,"

The lower court rendered judgment, the dispositive portion of which recites:-

"IN VIEW THEREOF, the Court hereby declares the petition in order, gives it due course - and hereby orders the Municipal Mayor of Badian, Cebu, to reinstate the petitioner Pedro Taboada, with further orders for the municipal treasurer Julio Llenos to pay petitioner his corresponding salaries from January 14, 1956, until his reinstatement, with costs against the respondents."

The above decision is now before us for review on six (6) alleged errors, which may be reduced to the following propositions, to wit:

- (1) Whether the petitioner-appellee's appointment is temporary or not; and
- (2) Whether petitioner-appellee was unlawfully dismissed, so that reinstatement and payment of his back salaries would be proper.

There is no dispute that petitioner-appellee was originally appointed "temporary municipal policeman" of Badian, Cebu, and that in subsequent periods, he had been extended other appointments; that this subsequent appointments did not contain the designation "temporary", although they bore the phrase "Promotion from x x x." The petitioner contends and with him the trial court, that the absence of the word "temporary" in his subsequent appointments, conclusively proves that the latter appointments were no longer temporary. Respondents-appellants, however, assert that petitioner's temporary status had been carried over and continued to be so, the subsequent appointments having been merely promotional in character and not necessarily indicative of a change from temporary to permanent status.

There would seem to be more logic in the contention of appellants which finds support in the provisions of Sec. 682 of the Rev. Adm. Code, to wit:

"Temporary and emergency employees.- Temporary appointment without examination and certification by the Commissioner of Civil Service or his local representative shall not be made to a competitive position in any case, except when the public interest so require, and then only upon prior authorization of the Commissioner of Civil Service; and any temporary appointment so authorized shall continue only for' such period not exceeding: three months as may be necessary to make appointment through certification of eligible, x x x."

The petitioner-appellee has not shown that he had qualified for the position held by him (as patrolman), nor had he taken any government test, equivalent to eligibility for such position, so as to entitle him to a change of his temporary status. It is argued that the extension to him of other appointments, revealed an intention to make him a permanent employee. This is a conceptualistic argument, not to say misleading. The length of efficient and satisfactory service alone, would not change appellee's status from temporary to permanent. And if we take into

account the fact that his subsequent appointments were merely promotions or increases in salary, the presumption of the continuity of his temporary status gains added strength. It is true that in the original appointment no indication was made to show that the employment was good only for 3 months as provided for by law, but from all appearances, the first extension (which might also be the circumstance of the subsequent appointments) was merely an act of grace of the appointing officer and not necessarily a change of status from temporary to permanent (*Jimenez v. Francisco, et al.* G.R. No. L-9699, Feb. 28, 1957). Moreover, if the intention of the appointing power was to give the permanent status, it would have stated so in the promotional appointments, considering the fact that the original appointment was of a temporary nature. It is our belief, therefore, that petitioner-appellee was merely a temporary employee.

Was the dismissal of appellee unlawful which would warrant his reinstatement and payment of his salaries? The learned trial judge was of the opinion that the petitioner could not be dismissed from his position, except in accordance with the requirements of Republic Act No. 557. The observation is not well taken, for Act No. 557 only guarantees the tenure of office of municipal policemen who are eligible. Non-eligibles do not come under the protection of the said Act (*Orais, et al. v. Ribo, et al.*, G.R. No. L-4945, Oct. 28, 1953). Appellee is admittedly a non-eligible. And even eligibles who accept temporary appointments cannot claim and are not entitled to the protection of security of tenure M office guaranteed by the Constitution (*Roque, et al. v. Pres. of the Senate, etc.*, G.R. No. L-10949, July 25, 1958; See also *Pinular v. Pres. of the Senate*, G.R. No. L-11667, June 30, 1953; *Tolentino v. Torres*, 51 O.G. 753; *Quitiquit v. Villacorta*, G.R. No. L-15048, Apr. 29, 1960). One who holds a temporary appointment has no fixed tenure of office; his employment can be terminated at the pleasure of the appointing power, there being no need to show that the termination is for cause (*U.P. et al. v. CIR, et al.*, G.R. No.L-15416, Apr. 28, 1960; *Mortero, et al. v. Castellanes*, L-12694, June 30, 1960).

IN VIEW HEREOF, we find that the decision appealed from is not in conformity with the facts and the law on the matter, and the same is hereby reversed and another entered dismissing the case. No pronouncement as to costs.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Dizon, De Leon, and Natividad, JJ., concur.

Barrera, J., no part.

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.