

ISIDRO B. RAMOS, PETITIONER-APPELLANT, VS. HON. ABELARDO SUBIDO, ET AL., RESPONDENTS-APPELLEES.

G.R. No. L-26090. September 06, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Petitioner Isidro B. Ramos was first appointed police-man of Tanay, Rizal, on October 1, 1933, at the rate of P240.00 per annum. Subsequently, on October 2, 1937, he passed the patrolman (qualifying) examination given by the Civil Service Commission. Furthermore, he received pro-motions in salary on March 14, 1939 (raised to P276.00 per annum) and on September 1, 1939 (raised to P288.00 per annum).

On December 2, 1941, he was dismissed from the ser-vice due to immorality, without prejudice to reinstatement, subject, however, to existing civil service laws and rules.

Ramos was thereafter extended the following appointments:

Date

Position

Nature of Appointment

Salary

Per Annum

February 1, 1942

Policeman of Tanay

Temporary

P 324.00

May 4, 1943

“ “ ”

“

300.00

March 16, 1946

Prov. Guard, Rizal

“

600.00

July 1, 1946

“ “ ”

“

720.00

July 1, 1948

“ “ ”

“

1,200.00

July 1, 1949

“ “ ”

“

1,260.00

October 1, 1951

“ “ ”

“

1,320.00

July 1, 1953

“ “ ”

Permanent

1,440.00

July 1, 1958

Sgt.Prov.Guard ”

“

1,560.00

Ramos continue in said last mentioned position up to March 31, 1960. On April 1, 1960 he was given "permanent" appointment as Chief of Police of Tanay, Rizal, at the rate of P1,500.00 per annum. Said appointment was approved by the municipal council. After this, he received further so-called permanent appointments to the same position, raising his salary, as follows:

Date of Promotion

Salary

July 1, 1960

P1,620.00

July 1, 1962

1,680.00

June 7, 1963

2,040.00 retroactive to July 1, 1962

July 1, 1963

2,280.00

Ramos last appointment as Chief of Police dated July- 1, 1963 was received by the Civil Service Commissioner on November 18, 1963 and approved by him on March 24, 1964. Said approval, however, was expressly stated to be only "for the period of actual service rendered to continue until replaced by an eligible but not beyond thirty days from the date of receipt thereof in the officer of the provincial treasurer." Said date of receipt by the provincial treasurer of the Civil Service Commissioner's aforesaid indorsement, attaching the list of eligibles, took place on April 2, 1964, at the latest.

Ramos had taken the Civil Service examination for the position of Chief of Police on November 23, 1963, but failed therein. So his only eligibility remained that of patrolman.

Now, meanwhile, on March 15, 1964, attempts were made to remove Ramos in a so-called reorganization of the police force. And finally on June 11, 1964, Guillermo Castillo, who had civil service eligibility for the position of Chief of Police, having passed the examination for said rank, was appointed Chief of Police of Tanay, Rizal.

Ramos, on November 12, 1964, filed this petition for certiorari and prohibition in the Court of First Instance of Rizal, against the Civil Service Commission, the Ma-yor, the Municipal Treasurer and his newly-appointed suc-cessor, to declare illegal and to restrain respondents' attempts to remove him from office. Preliminary injunc-tion was issued by the lower court on November 21, 1964, directing the respondents "to refrain from implementing the order of removal from office of petitioner marked xxx from disturbing him in the discharge of his duties and from taking any further action thereon; and the respondent Guillermo B. Castillo from discharging the duties of Chief of Police of the municipality of Tanay, Rizal."

On April 7, 1965, respondent Castillo died. Nonetheless, the case proceeded. And on March 2, 1966, the Court of First Instance rendered judgment, ruling that Ramos' la-test appointment was void to lack of municipal council approval: that at any rate, the same was to last only not more than thirty days from receipt of the list of eligibles and thus had expired when his successor was appointed; but that he should be paid salaries from November 21, 1964 - date of issuance of preliminary injunction - up to the date of appointment, as de facto officer.

Ramos appealed to Us to raise the purely legal question of whether his patrolman eligibility is appropriate for the position of Chief of Police, thereby rendering his latest appointment thereto permanent.

We rule that appellant's eligibility was not appropriate; that his term of office lasted until May 2, 1964, thirty days after receipt of the list of eligibles; that respondent Castillo's subsequent appointment to the same office was valid and effective; and that Castillo's death on April 7, 1965 left the position vacant up to the present, unless another valid appointment had supervened in the meantime.

As of July 1, 1963, the date of Ramos' latest appoint-ment, the position of Chief of Police had a separate civil service eligibility requirement. It is clear therefore that the one who holds only a patrolman eligibility does not have an appropriate eligibility for Chief of Police. Considering the difference between the position and rank of

patrolman and that of Chief of Police, the requirement of a different examination for eligibility to the latter position is reasonable and well within the powers of the Civil Service Commissioner among others, "to enforce, execute and carry out the constitutional and statutory provisions on the merit system" (Sec. 16[b], Rep. Act 2260). The Philippine Constitution provides that: "Appointments in the Civil Service, except as to those which are policy determining, primarily confidential or highly technical in nature, shall be made only according to merit and fitness, to be determined as far as practicable by competitive examinations." (Sec. 1, Art. XII, Phil. Const.) It cannot be denied that the appropriate examination to determine fitness for the position of Chief of Police is not that for patrolman but that for Chief of Police.

Furthermore, Sec. 23 of Rep. Act 2260 expressly states:

x x x

"Qualification in an appropriate examination shall be required for appointment to positions in the competitive or classified service in accordance with the civil service rules, except as otherwise provided for in this Act: Provided, That whenever there is a civil service eligible available for appointment, no person who is not such an eligible shall be appointed even in a temporary capacity to any vacant position in the competitive or classified service in the government or in any government-owned or controlled corporation: Provided, further, That non-eligible employees who, upon the approval of this Act, have rendered five years or more of continuous and satisfactory service in classified positions and who meet the other qualifications for appointment to their positions, shall, within one year from the approval of this Act, be given qualifying examinations in which their length of satisfactory service shall be accorded preferred consideration: Provided, further, That those who fail in those examinations as well as those who fail or refuse to take the examinations when offered shall be replaced by eligibles:"

The position in question is under the classified service; Ramos accepted his latest appointment thereto, dated July 1, 1963, without having the requisite appropriate civil service eligibility for said position. Accordingly, his appointment can only be deemed provisional and good only until replacement by one holding such appropriate eligibility, in no case to extend more than thirty days from receipt of the appointing officer of the list of eligibles (Ferrer v. Hechanova, G.R. No. L-24418, January 25, 1967).

Receipt, as stated, of such list, in this case took place on April 2, 1964. Ramos' last appointment therefore extended at most only up to May 2, 1964. Castillo's appointment in his place on June 11, 1964 was therefore proper and valid.

WHEREFORE, the appealed decision is hereby affirmed. Costs against appellant.

SO ORDERED.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

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