

**DIOSDADO OCTOT, PETITIONER, VS. JOSE R. YBAÑEZ, IN HIS
CAPACITY AS REGIONAL DIRECTOR OF REGIONAL HEALTH OFFICE
NO. VII, CLEMENTE S. GATMAITAN, IN HIS CAPACITY AS
SECRETARY OF HE...**

G.R. No. L-48643. January 18, 1982

Ponente: TEEHANKEE, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/88d9bf0afd0c/>

TEEHANKEE, J.:

Petitioner Diosdado Octot sought in this action of mandamus his reinstatement in the government service as Security Guard in Regional Health Office No. VII, Cebu City from which he was summarily dismissed "for being notoriously undesirable".

It appears that petitioner was employed as Security Guard since 1970 and at the time of his separation from the service was receiving a salary of P4,632 per annum, plus P50.00 per month as cost of living allowance. On October 1, 1975, petitioner was summarily dismissed pursuant to P.D. No. 6 and LOI Nos. 14 and 14-A directing heads of departments and agencies of the government to weed out undesirable government officials and employees, specifically those who were facing charges or were notoriously undesirable on ground of dishonesty, incompetence or other kinds of misconduct defined in the Civil Service Law. Petitioner had been convicted by the Court of First Instance of Cebu of the crime of libel, but his appeal therefrom was pending in the Court of Appeals.

Believing that his dismissal was illegal, petitioner continued reporting for work the whole month of October, 1975 but respondent Regional Director refused to order the release of his salary for the period and instead ordered that his name be deleted from the office payroll.

In due time, petitioner was acquitted of the libel case by the Court of Appeals. On March 10, 1977, one Mr. Alfredo Imbong wrote to the Undersecretary of Justice seeking assistance to reinstate petitioner to his former position which letter was forwarded by the Undersecretary of Justice to the Secretary of Health on March 22, 1977. When the letter-request was referred by the Secretary of Health to the Regional Health Office for comment, Dr. Felicito Aniceto, Officer-in-Charge of the same regional office favorably recommended petitioner's reinstatement, not only because of petitioner's acquittal in the criminal case but also because of his satisfactory performance rating.

Petitioner's papers were likewise favorably acted upon by the Presidential Executive Assistant but in returning the papers to the Secretary of Health, attention was invited to the provision of LOI No. 647, dated December 27, 1977.[1]

The papers were then forwarded to herein petitioner informing him that his request for reinstatement may now be given due course.

When petitioner failed to appear, petitioner was personally furnished sometime on May, 1978 by Personnel

Officer Ramon R. Encarnacion with the necessary papers to be filled up to support his new appointment. This notwithstanding, petitioner again sent a letter, dated June 6, 1978, to respondent Secretary of Health, reiterating his request for reinstatement and demanding back salaries from the date of his dismissal from the service, furnishing the Regional Health Director a copy thereof, who upon receipt of his copy, contacted petitioner instructing him to come so that the necessary papers for his new appointment could be prepared. Again, petitioner did not appear, and instead filed the instant petition for mandamus wherein he prays that respondents be ordered (1) to reinstate him to his former position (2) to pay his back salary, as well as the cost of living allowance of P50.00 a month from the date of his alleged dismissal (3) to grant him compensatory, exemplary and moral damages (4) to pay his attorney's fees and cost of the suit.

Since petitioner's right to reinstatement was not effectively disputed, for his reinstatement had been authorized by the Office of the President of the Philippines, (although the Solicitor General in his comment prayed for denial of the petition) this Court in a resolution dated January 29, 1979 directed respondents public officials to immediately reinstate petitioner to his former position. In compliance therewith, petitioner was reappointed and his appointment duly attested by the Civil Service Commission on May 23, 1979. Petitioner reported for duty on June 11, 1979.

The remaining question to be resolved under the Court's aforesaid Resolution is whether petitioner is entitled to his claim for backwages from the date of his dismissal in 1975 up to the date of reinstatement and damages. In the absence of proof that respondent Regional Director acted in bad faith and with grave abuse of discretion, petitioner is not entitled to backwages^[2] and consequently cannot claim for damages. In the case at bar, the record manifests that respondents officials were not motivated by ill will or personal malice in dismissing petitioner but only by their desire to comply with the mandates of Presidential Decree No. 6. Accordingly, when petitioner was acquitted by the Court of Appeals, and made a request for his reinstatement, respondents readily showed their willingness to take him back and recommended to the authorities concerned his reinstatement. Moreover, the Office of the President of the Philippines, in approving the reinstatement of petitioner, specifically invited attention to the provisions of LOI No. 647 which does not authorize payment of backwages of reinstated employees.

The Court likewise denies petitioner's claim for moral damages, because as pointed out by the Solicitor General, if there was any delay in his reinstatement, it was attributed to his own fault and negligence. After his reinstatement was authorized by the Office of the President, respondents had promptly communicated with him, directing him to report to the Regional Office and accomplish the necessary papers for his reinstatement, but he delayed doing so, as above stated. It is clear that since the separation of petitioner from the government service had not been shown to be in bad faith, an award for damages under the circumstances would not be just and proper. Neither is it among the cases mentioned in Articles 2219 and 2220 of the Civil Code wherein moral damages may be recovered.

Exemplary damages are not generally recoverable in a special civil action for mandamus unless the defendant patently acted with vindictiveness or wantonness and not in the exercise of honest judgment. The claim for exemplary damages must presuppose the existence of the circumstances enumerated in Articles 2231 and 2232 of the Civil Code.^[3]

Exemplary or corrective damages are imposed by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.^[4] Such damages are required by public policy, for wanton acts must be suppressed. They are an antidote so that the poison of wickedness may not run through the body politic.^[5]

Thus, our jurisprudence sets certain conditions when exemplary damages may be awarded, as follows:

First: They may be imposed by way of example or correction only in addition, among others, to compensatory damages, and cannot be recovered as a matter of right, their determination depending upon the amount of compensatory damages that may be awarded to the claimant.[6]

Second: The claimant must first establish his right to moral, temperate, liquidated or compensatory damages.[7]

Third: The wrongful act must be accompanied by bad faith,[8] and the award would be allowed only if the guilty party acted in a wanton, fraudulent, reckless, oppressive or malevolent manner.[9]

ACCORDINGLY, considering that petitioner has already been reinstated to his former position since 1979 pursuant to the Court's Resolution of January 29, 1979, the petition for mandamus for his reinstatement is now moot. Petitioner's claim for backwages and damages is hereby denied. No costs. Makasiar,

Fernandez, Guerrero, Melencio-Herrera, and Plana, JJ., concur.

[1] TO: All Heads of Departments, bureaus, offices, agencies and instrumentalities of the Government.

All concerned:

WHEREAS, it has been observed that many of the officials and employees purged in September, 1975, have been found to be innocent of the charges leveled against them;

WHEREAS, in several administrative orders that I have issued, many of them have been ordered reinstated to their former positions upon recommendation of the Appeals Committee created under Administrative Order No. 370, series of 1975;

WHEREAS, in order to end anxiety among the deserving officials and employees not yet reinstated up to the present, it is necessary that their cases should be decided once and for all.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and direct:

1. All officials and employees who were not recommended for reinstatement by the Appeals Committee but are qualified to reenter the government service are hereby granted executive clemency for purposes of reemployment subject to Civil Service Law and rules if recommended by their respective department heads.
2. All officials and employees who cannot be reinstated for any reason shall be allowed to retire, if qualified, or receive such other benefits granted by law.

All Heads of Departments, bureaus, offices, agencies and instrumentalities of the Government, are hereby enjoined to strictly comply with these instructions.

These instructions shall take effect immediately.

[2] San Miguel Corporation vs. Secretary of Labor, 64 SCRA 56.

[3] Corpus vs. Cuaderno, Sr., 13 SCRA 59.

[4] Article 2229, Civil Code.

[5] Report of the Code Commission, pages 75-76.

[6] Philippine Rabbit Bus vs. Mendoza, 26 SCRA 731.

[7] Yutuk vs. Manila Electric Co., 2 SCRA 337.

[8] Corpus vs. Cuaderno, Sr., supra.

[9] Ong Yiu vs. CA, 91 SCRA 223.

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.