

PASTOR ESCALANTE, PETITIONER-APPELLANT, VS. ABELARDO SUBIDO AS CIVIL SERVICE COMMISSIONER, HON. ALEJANDRO ROCES AS SECRETARY OF EDUCATION AND BENIGNO ALDANA AS DIRECTOR OF PUBL...

G.R. No. L-22013. November 28, 1969

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Appeal, taken by petitioner Pastor Escalante, from a decision, of the Court of First Instance of Manila, denying the writ prayed for in his amended petition herein and dismissing this case, without special pronouncement as to costs.

Said petitioner was Division Superintendent of Schools for Albay from July 16, 1956 to June 30, 1962 and, thereafter, for Camarines Sur. In a letter, dated November 25, 1959, the Director of Public Schools advised the petitioner that, according to a report of the Chief Supervising Auditor on detail in the Department of Education, an inspection of the industrial arts shop in his (petitioner's) Division had disclosed certain irregularities therein in relation to the purchase of carpentry tools. After quoting portions of said report, the Director of Public Schools required the petitioner to explain "why no administrative disciplinary action should be taken" against him for:

"(1) Not utilizing the services of industrial arts supervisors in processing requisitions for tools needed by industrial arts classes in violation of General Letter No. 24, s. 1951;

"(2) Circumventing Department Order No. 4, s. 1951, by splitting requisitions to less than P2,000.00;

"(3) Purchasing tools and equipment at exorbitant prices without consulting the local school officials in violation of paragraph 2-e of the aforementioned Department Order; and

"(4) Keeping these tools in bodegas where they are gathering dust, thus wasting government funds."

Petitioner seasonably explained: (1) that he had always sought the advice of the industrial arts supervisor, concerning requisitions of tools for industrial arts classes; (2) that his office files do not show any splitting of requisitions to less than P2,000.00; (3) that he has no control over the prices of the articles purchased, the same having been approved by the Bureau of Supply; (4) that tools were kept in the Division office bodega "only pending their being checked by the office of the Provincial Auditor and payment"; and (5) that he had moreover issued a confidential memorandum to district supervisors and principals urging the immediate distribution of tools to schools in need thereof.

After due notice, a formal investigation was conducted by special investigators of the Bureau of Public Schools, who submitted their report, dated September 29, 1960, to the Director thereof, in effect finding that petitioner had substantially, although not strictly, complied with applicable rules and regulations, and recommending that the charges be "dropped" and that petitioner be admonished, however, "to comply more faithfully with existing regulations, particularly with General Letter No. 24, s. 1951," and "likewise, to check with extreme care his

requisitions so that only the best articles available will be bought." In a 1st indorsement of October 5, 1960, this report was forwarded to the Secretary of Education by the Director of Public Schools, who concurred in the foregoing recommendation. So did the Acting Secretary of Education, in his second indorsement, dated December 12, 1960, transmitting, to the Commissioner of Civil Service, said report of the investigators and the 1st indorsement of the Director of Public Schools.

On April 18, 1962, G. G. de Jesus, Department Legal Counsel of the Civil Service Commission, rendered, "for the Commissioner" of Civil Service, a "decision" adopting the aforementioned findings and dropping the charges against petitioner herein, but, admonishing him "to comply more faithfully with existing regulations particularly with General Letter No. 24, series of 1951, and further to check much more carefully the requisitions so that only the best articles available will be purchased." Notice and copy of this decision were received by the petitioner on the same date.

Over nine (9) months later, or on February 8, 1963, respondent Abelardo Subido, as Acting Commissioner of Civil Service, issued an "order", addressed to the Secretary of Education, stating that "the authority to discipline subordinate officers and employees in the civil service is inherently a quasi-judicial power involving the exercise of discretion which cannot legally be delegated"; that the delegation of such authority to the Department Legal Counsel, by an office order, dated April 12, 1962, "is void ab initio"; that the decision rendered by said Counsel, on April 18, 1962, is, therefore, "void" and "of no effect"; that, upon a review of the evidence, herein petitioner was "found guilty as charged" and "dismissed from the service effective on his last day of office with pay"; and that "in the public interest", it was ordered that such "decision is executed immediately."

Thereupon, or on February 12, 1963, petitioner commenced, with the Court of First Instance of Manila, the present action against respondents Abelardo Subido, as Commissioner of Civil Service, Hon. Alejandro Roces, as Secretary of Education, and Benigno Aldana, as Director of Public Schools, with the prayer that, pending the determination of this case, a writ of preliminary injunction be issued ex parte "ordering the respondents to desist and refrain from dismissing and separating the petitioner from his present position", and "that, after due notice and hearing, a writ of prohibition issue commanding the respondents to desist absolutely and perpetually from removing the petitioner from office, with costs." Soon later, the Court of First Instance of Manila issued a restraining order enjoining respondents to abstain from performing the acts above mentioned during the pendency of the present case.

Duly summoned, respondents filed their joint answer reiterating the view of respondent Subido, in his order complained of, regarding the alleged illegality of the delegation of power made in favor of the Department Legal Counsel of the Civil Service Commission, and the nullity of his decision of April 18, 1962, as well as setting up the defense of failure to exhaust administrative remedies, petitioner not having appealed from said order, either to the Civil Service Board of Appeals, or to the President of the Philippines.

After appropriate proceedings, the trial court rendered the decision appealed from, sustaining the aforementioned defense and dismissing the case, as well as denying the writ prayed for. A reconsideration of said decision having been denied, petitioner interposed the present appeal, which is well taken.

Although it is well-settled that, in general, courts of justice will not interfere with or review decisions of administrative officers or organs, unless the aggrieved party shall have first exhausted the administrative remedies available to him, this rule is subject to exceptions, among which are those cases involving purely legal questions[1] - particularly when the contested act is patently illegal or has been performed without jurisdiction or in excess of jurisdiction[2] - and those calling for urgent action.[3] The case at bar falls under these exceptions. Indeed, the order complained of directed the immediate execution of the decision dismissing petitioner from

office. Then, again, said order hinges upon two (2) questions, which are purely legal in nature, namely: (1) whether the authority to render the decision of April 18, 1962 could be va-lidly delegated to the Department Legal Counsel of the Civil Service Commission; and (2) whether said decision was subject to review by the Commissioner of Civil Service on February 8, 1963.

As stated in the order complained of, "in an Office order dated April 12, 1962, the former Commissioner of Civil Service delegated to the Department Legal Counsel the authority to sign, among others, decisions in Administrative Cases where the re-spondent shall be exonerated or where the recommended penalty is reprimand and warning." Respondents maintain that said office order was an absolute nullity because the power to discipline sub-ordinate officers and employees in the civil service is inherently a quasi-judicial power involving the exercise of discretion which cannot be delegated. This pretense would be correct, in the ab-sence of a law authorizing such delegation, but, the same is sanc-tioned by the Civil Service Act of 1959 (Republic Act No. 2260), Section 20 of which reads:

"Sec. 20. Delegation in the Civil Service Com-mission and to the Agencies. - The Commissioner may, at his discretion and in the interest of the public service, delegate to Chiefs of Divisions or other heads of primary units in the Civil Service Commission, or to the Heads of Departments and agencies of the National Government, provinces, chartered cities, municipalities and other instrumentalities of the Republic authority to act on personnel matters and to enforce the provisions of this law in accordance with standards, guidelines and regulations set by the Commissioner: x x x Periodic review of ac-tions in the discharge of delegated authority shall be made by the Commissioner to insure compliance with standards or regulations, x x x." [4]

Respondents argue that the delegation contemplated in the foregoing provision must be understood to refer exclusively to ministerial functions. This is, however, a mere assertion, de-void of any legal or other justification, apart from the fact that it cannot be accepted without reducing the enactment of said Section 20 to an exercise in futility. Indeed, without said pro-vision, the Commissioner of Civil Service could delegate the power to exercise ministerial acts to any of his subordinate of-ficers or employees, as provided in Section 4 of the Revised Ad-ministrative Code.⁵

Moreover, respondents' theory would have the effect of amending this section, insofar as it applies to the Civil Service Commission, without any reason therefor, and, worse still, with absurd consequences. Indeed, under such theory, the Civil Service Commissioner would have to discharge personally all functions requiring the exercise of judgment or discretion, and, although he is authorized to delegate those which are ministerial in nature, he may do so in favor only of "Chiefs of Divisions or other heads of primary units in the Civil Service Commission," apart from the "Heads of Departments and agencies of the Na-tional Government, provinces, chartered cities, municipalities and other instrumentalities of the Republic." The result would be that all other officers and employees of the Civil Service Com-mission - and this means the bulk of its personnel - would thereby be left without any duties whatsoever to discharge. Surely, the framers of Republic Act No. 2260 could not have intended, and did not intend, to create such a ridiculous situation.

On the contrary, the pre-existence of said section 4 of the Revised Administrative Code, conferring upon public officers the general authority to delegate ministerial functions, indicates that the only possible reason for the insertion of the above-quoted Section 20 in Republic Act No. 2260 was to permit the delegation of non-ministerial duties or functions, such as those involving the exercise of discretion or judgment in connection with "personnel matters", within the limits prescribed in appropriate "standards, guidelines and regulations." Indeed, it is humanly impossible to expect the Commissioner of Civil Service to attend personally to the matter of appointment, promotion and discipline of hundreds of thousands of officers and employees in the Civil Service.

It is true that, pursuant to Section 16(i) of the said Act: "It shall be among the powers and duties of the Commissioner of Civil Service - x x x (i) Except as otherwise provided by law, to have final authority to pass upon the removal, separation and suspension of all permanent officers and employees in the competitive or classified service x x x." It should be noted, however, that this "final authority to pass upon the removal, separation and suspension" of said officers and employees, is subject to the qualification "except as otherwise provided by law", and that the of aforementioned Section 20 partakes of the nature of such exception. Moreover, the delegation authorized in Section 20 does not necessarily detract from the "final authority" of the Commissioner of Civil Service to seasonably review the acts of his delegates. On the contrary, the "final" character of his aforementioned authority is in itself an indication that others may, also, have the same authority, although subordinate to that of the former, who has the last say on the subject-matter thereof. Otherwise, the term "final" would be meaningless, if not improperly used. Hence, in an opinion of the Secretary of Justice, rendered on February 17, 1961, upon the request of the very Commissioner of Civil Service, the former expressed the view that:

"Under the law adverted to, the Commissioner of Civil Service 'may, at his discretion and in the interest of the public service, delegate to Chiefs of Divisions or other heads of primary units in the Civil Service Commission, or to the Heads of Departments and agencies of the National Government, provinces, chartered cities, municipalities and other instrumentalities of the Republic authority to act on personnel matters,' including 'transfer, demotion, separation and reinstatement,' or somewhat broadly expressed, matters involving the imposition of disciplinary measures upon erring civil servants. (See Section 20 in connection with Section 24). Thus, what used to be the 'exclusive jurisdiction' of the Civil Service Commissioner over the imposition of administrative penalties under Section 695 of the Revised Administrative Code has been reduced to 'final authority' to pass upon the removal, separation and suspension of public officers and employees, but with the accompanying obligation 'to prescribe standards, guidelines and regulations governing the administration of discipline.' (See Republic Act No. 2260, Section 16(i).

"This being so, I fail to see any reason why similar delegation of power may not be made in favor of the Deputy Commissioner of Civil Service, the next ranking official in the Civil Service Commission who, aside from enjoying the rank of a department undersecretary, is appointed in the same manner and required to have the same qualifications as the Commissioner himself. (Ibid., Section 7, 14). Incidentally, I must state that this conclusion is consistent with the underlying policy of the law to enable the Civil Service Commissioner to farm out his multifarious functions among responsible subordinates in the interest of efficiency and dispatch."

Upon the other hand, even if said Commissioner has the "final authority" to pass upon matters of discipline of officers and employees in the competitive and classified service, and, consequently, the power to review and revise the acts of his delegates in connection therewith, it does not follow that he can do so at any time. When rendering a decision, in pursuance of an authority lawfully delegated to him, the Department Legal Counsel acts for and on behalf of the Commissioner of Civil Service, and the former's decision is, in legal contemplation, that of the latter. Pursuant to Section 36 of Republic Act No. 2260, such decision "may be appealed by the respondent to the Civil Service Board of Appeals within thirty (30) days after receipt by him of the decision." That rendered by the Department Legal Counsel, on April 18, 1962, was served upon petitioner herein on the same date, so that it became final on May 18, 1962. On February 8, 1963, the Commissioner of Civil Service had no more authority to revise or modify said decision and his order of that date, in effect reviewing and reversing it, is, accordingly, null and void.

We note that Honorable Alejandro Roces, Jr. and Benigno Aldana are still named as respondents in this case, in their respective capacities as Secretary of Education and Director of Public Schools, at the time of the institution of the present case, although, since then, they have long ceased to hold said offices, the incumbents of which are now Honorables Onofre D. Corpuz and Juan L. Manuel. The latter should therefore, be deemed to have

substituted their respective predecessors in office as respondents herein, in their aforementioned official capacities.

WHEREFORE, the decision appealed from is hereby reversed, and another one shall be entered perpetually prohibiting respondents herein from enforcing said order of February 8, 1963, without special pronouncement as to costs.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, Teehankee, and Barredo, JJ., concur.

[1] Tapales v. The President, L-17523, March 30, 1963; Pascual v. Provincial Board, L-11959, October 31, 1959.

[2] Mangubat v. Osmeña, L-12837, April 30, 1959; Baguio v. Rodriguez, L-11078, May 27, 1959.

[3] Fernandez v. Cuneta, L-14392, May 30, 1960; Reeber v. Rossell, 91 F. Supp. 108. See also: Oklahoma Natural Gas v. Russell, 261 U.S. 290; Hillsborough v. Cromwell, 326 U.S. 620.

[4] Underscoring ours.

5 "SEC. 4. Authority of officer to act through deputy. - A ministerial act which may be lawfully done by any officer may be performed by him through any deputy or agent lawfully created or appointed."

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