

ENRIQUE SISON, MUNICIPAL MAYOR, BAMBAN, TARLAC AND PABLO L. SANTOS, JR., AS ACTING CHIEF OF POLICE, BAMBAN, TARLAC, PETITIONERS AND APPELLANTS, VS. THE HON. JUAN PAJO, EXECUTIVE...

G. R. No. L-18443. May 31, 1965

Ponente: DIZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/af93607e0e24/>

DIZON, J.:

Appeal by petitioners Enrique Sison and Pablo L. Santos, Jr. as Acting Municipal Mayor and as Acting Chief of Police, respectively, of Bamban, Tarlac, from the decision of the Court of First Instance of said province in Civil Case No. 3303, "dismissing the petition for injunction; declaring the removal of respondent Bonifacio Lacanlale as Acting Chief of Police of Bamban, Tarlac, on June 30, 1957, as illegal, as well as the appointment in his stead of petitioner Pablo L. Santos, Jr.; and ordering the reinstatement of Bonifacio Lacanlale as Acting Chief of Police of Bamban, Tarlac, effective June 30, 1957 with the incident of payment of back salaries by the municipality of Bamban."

Appellants filed this action for injunction, with a prayer for a writ of preliminary injunction, on September 8, 1958 against appellees Juan Pajo, Executive Secretary, Arsenio Lugay, Provincial Governor of Tarlac, and Bonifacio Lacanlale, relieved Acting Chief of Police of Bamban, Tarlac, to restrain them from compelling appellant Enrique M. Sison to reinstate Bonifacio Lacanlale as Acting Chief of Police of Bamban, Tarlac, and from filing charges, administrative or otherwise, against said appellant for insubordination.

The facts, which are not disputed, are as follows: On January 1, 1953, Enrique Sison, then Mayor of Bamban, Tarlac, appointed Bonifacio Lacanlale, a veteran and non-civil service eligible, as Acting Chief of Police of said municipality, with a salary of P1,080.00 per annum (Exhibit A), and reappointed him on April 1, 1955 (Exhibit 1-A). On June 29, 1957, Mayor Sison recalled and cancelled Lacanlale's appointment as Acting Chief of Police effective 4:00 o'clock in the afternoon (Exhibit B) and at the same time designated Patrolman Pablo L. Santos, Jr., likewise a veteran and non-civil service eligible, in his place.

On June 29, 1957, Lacanlale sought the opinion of the Commissioner of Civil Service on the legality of the recall and cancellation of his appointment, which query was indorsed by the Commissioner to Mayor Sison, for comment. On October 22, 1957, the Mayor commented that since Lacanlale was appointed by him in acting and temporary capacity and was found to be inefficient and incompetent in discharging his official duties and lie taw 1081 his confidence and trust in him, it was best for the inters of the service that his appointment be recalled. (pp. 3-4 record on appeal).

On July 9, 1957, Lacanlale likewise wrote the President asking for his reinstatement and for the investigation of Mayor Sison. The Executive Secretary, on July 19, 1957, referred the request to Governor Arsenio Lugay of Tarlac for investigation and appropriate action (Exhibits 5 and 5-A).

On January 8 and 27, 1958, the Provincial Board of Tarlac conducted an investigation, and both Mayor Sison and Lacanlale testified before the Secretary of the Board. Upon termination of the investigation, the Board rendered its decision declaring the separation of Lacanlale to be illegal, and recommended to the Office of the President his immediate reinstatement. (Exhibits 6, 6-A and 6-B).

By way of 6th indorsement dated April 28, 1958, the Executive Secretary directed the Governor of Tarlac to request Mayor Sison to reinstate Lacanlale immediately as the latter's relief by Pablo Santos, Jr., a non-civil service eligible and veteran, was illegal under Republic Act No. 65, as amended, and advising the Mayor to conduct administrative proceedings against Lacanlale under Republic Act No. 557. Mayor Sison refused to reinstate Lacanlale; instead, on May 26, 1958 he wrote the President, thru the Provincial Governor of Tarlac, asking for the reconsideration of the order of reinstatement. This was denied on June 12, 1958 by the Executive Secretary who reiterated his indorsement dated April 28, 1958, directing immediate reinstatement of Lacanlale. (Exhibits D, E and F). In spite of a letter of the Provincial Governor threatening to charge him with insubordination should he fail to comply with the order of reinstatement, Mayor Sison failed and refused to reinstate Lacanlale. (Exhibits F, F-1, H and 1), and later filed this action.

On September 13, 1958, the Provincial Governor of Tarlac filed his opposition to the petition for writ of preliminary injunction, while Lacanlale filed his answer on September 23 wherein, aside from adopting in toto the opposition of the Governor, claimed moral and exemplary damages and attorney's fees amounting to P11,000.00. The Executive Secretary's answer averred that the appointment of petitioner Santos, Jr. was void ab initio, and by way of affirmative and special defense invoked the provisions of Republic Act No. 65, as amended by Republic Act Nos. 154 and 1363 which gives preference and security to veterans, and Provincial Circular (Unnumbered) dated April 3, 1954 relative to the removal and suspension of subordinate officials in the local governments. On October 4, 1958, the Executive Secretary also filed his opposition to the issuance of a writ of preliminary injunction.

On October 20, 1958, upon appellants' filing a bond of P500.00, the lower court issued a writ of preliminary injunction restraining appellees from compelling Mayor Sison to reinstate Lacanlale as Acting Chief of Police of Bamban, Tarlac, and from filing administrative charges against him (Sison) for insubordination, but on March 21, 1960, after hearing the parties, said Court rendered the appealed judgment.

On April 7, 1960 appellants moved for a new trial on the ground of newly discovered evidence consisting of the passing by Santos, Jr. on January 16, 1959 of the civil service examination for patrolman given on October 27, 1956 with a rating of 73.33% (Exhibit N) and his reappointment as Chief of Police of Bamban, Tarlac, at the rate of P1,320.00, promoted to P1,440.00 per annum on January 17 and July 1, 1959, respectively (Exhibits O and S). These appointments were eventually authorized as temporary by the Commissioner of Civil Service "without prejudice to the outcome of the decision in the Civil Case No. 3303 for injunction" and approved on September 1, 1959 by Assistant Executive Secretary Enrique C. Quema (Exhibits 16, 17, N, O, P, Q and R). On April 29, 1960 the Court reconsidered its decision and granted the new trial. Appellants adduced their newly discovered evidence, but the Court, considering it not sufficient to alter the result, rendered judgment reiterating its original decision.

On December 22, 1960, the lower Court issued a writ of execution of the judgment, *pendente lite*, which was stayed on January 3, 1961 upon appellants filing a supersedeas bond in the amount of P7,766.66. An additional bond of P3,000.00 was posted on August 24, 1964.

The main point to be determined now is whether Lacanlale's removal as acting Chief of Police of Bamban, Tarlac, by Mayor Enrique Sison was legal or not.

Appellants contend that, since Lacanlale's appointment was only in an acting capacity, the same could be terminated at the pleasure of the appointing power (the Mayor) on such grounds as loss of confidence or incompetence and inefficiency.

Section 1 of Republic Act No. 1363 enacted on June 18, 1955 provides for the preference to be given to veterans in the matter of appointment to positions in the government, as follows:

"Section 1. The policy of the Government is to give preference, other considerations being approximately equal, to persons who are veterans under section four of this Act."

Section 2 penalizes the violation of the provisions of the Act, while Section 4 defines the term "veterans". Section 5 provides that in order to enable a veteran to obtain preference, it must be shown that he has approximately the same qualifications as other applicants, and further states that it is not intended that a veteran shall have priority over civil service eligibles, unless he himself is of the same or higher civil service eligibility.

The replacement on June 29, 1957 of Bonifacio Lacanlale, a non-eligible but veteran, by Pablo Santos, Jr., likewise a veteran and non-eligible is unlawful! because the former, although appointed in an acting capacity, was entitled, by reason of the preference established by the law in force at the time of his appointment (Republic Act No. 65, as amended by Republic Act No. 154), to keep his position until the availability of a civil service eligible was duly certified by the Commissioner of Civil Service. If the preference accorded to a veteran were to be confined to appointment and promotion and does not give him the right to keep the position he is holding until the availability of a civil service eligible is certified by the Commissioner of Civil Service, then a veteran would be in no better situation than a non-eligible and non-veteran—which should not be the case. His appointment may be cancelled and he" may be removed by competent authority, only for cause, as when the Commissioner of Civil Service makes such certification.²

In the recent case of *Gonzales vs. Aldana, et al.*, 107 Phil, 754, interpreting Republic Act 1363, We said in part:

"* * *. In other words, the Government takes the position that in getting appointments to the positions occupied by petitioners, they could invoke the provisions of Republic Act No. 1363, for being veterans, but after the appointment, said law ceases to give them preference and protection.

We are unable to agree to the above proposition. Section 1 of the Act aforementioned speaks of preference in general and although the other sections, such as. Sections 2 and 5, speak of appointments, our impression is that the preference contemplated by the law is not only an appointment whereby a veteran is accepted in the service of the Government but also his enjoyment of the benefits, rights and emoluments accruing from said appointment. It would certainly be unjust as well as illogical if after appointing a non-veteran to a Government position today, he may be replaced and dismissed tomorrow, when there are non-veterans occupying other and similar positions who could and should be replaced first. In the present case, petitioners are veterans occupying similar positions with five other non-veterans. The seven of them are non-civil service eligibles. As already stated, the petitioners have approximately the same qualifications as the other five, at least the two next preceding them in the objective ranking. Consequently, the preference accorded to veterans is still applicable.

* * *. All their wish and desire is that they be allowed to retain their positions and continue serving the Government. By interpreting the law in this manner, namely, giving preference to a veteran, not only in the appointment but also in keeping the position to which he is appointed, we would be following and implementing the intention of the Legislature. As the lower court, citing Section 1 of Republic Act No. 1363 rather vehemently observed:

"The aforementioned provisions of law should be given full force and effect. The intention of the framers of the law to reward those who have risked their lives and sacrificed much in order that we could be freed from Japanese domination should not be implemented with empty promises and hollow gestures. We should give

what is due the veterans as contemplate)I by law. For that is the only way we could repay and show our gratitude to the heroes of the last world war.'"

As stated heretofore, the Provincial Board of Tarlac, as directed by the then Executive Secretary, conducted an Investigation. Its finding was that inspite of the 35 listed unsolved crimes during Lacanlale's incumbency as Chief of Police of Bamban, Mayor Sison filed no case, administrative or otherwise, against him under Republic Act No. 557 (Exhibits 6, 6-A, and 6-B). The charge of inefficiency and incompetence as justification for his summary removal is, therefore, clearly unfounded.

Appellants' contention in their third assignment of error that the subsequent reappointment of Pablo Santos, Jr. on January 17, 1959 after he had passed and qualified in the civil service examination for patrolman on January 16, 1950 was lawful and had the effect of validating, retroactively, the unlawful removal of Lacanlale is without merit. The latter's Reparation from the service being illegal, Santos, Jr. could not have validly replaced him as acting Chief of Police in 1957 or 1959, because, by legal fiction, when an employee is suspended or dismissed without complying with the procedural requirements of Republic Act No. 557, his position is deemed to have never been legally vacated.

Neither can the eligibility acquired by Santos, Jr., nor his temporary reappointment approved on January 17, 1959 by the Executive Secretary and the Commissioner of Civil Service subject to the result of the present case cure the invalidity or illegality of Lacanlale's removal or validate Santos' appointment in his instead. The former's replacement by an eligible must be made by competent authority and only after the Commissioner of Civil Service has certified that there is such an eligible available.(3)

The case of Booc vs. Osmeña, Jr. (G. R. No. L-14810, May 31, 1961) cited by appellants in their brief is not applicable to the present because the facts involved therein are different from those of the latter. Booc was a laborer who, unlike Lacanlale, did not enjoy preference as a veteran. Lacanlale's appointment was in the nature of one to List until he was replaced by an eligible certified by the Commissioner of Civil Service, whereas that of Booc was subject to the condition that his employment would cease automatically at a given period. Booc was properly charged administratively, investigated and found guilty of dishonesty and serious misconduct in office, while Lacanlale was investigated but exonerated.

For the same reason, the case of Manigbas vs. do Guzman et al., 94 Phil. 245 cited by appellants is not applicable, the peace officer involved therein not being a veteran.

Appellants likewise claim that the lower court erred in ordering not only Lacanlale's reinstatement but also the payment of his back salaries as Chief of Police of Bamban, Tarlac, it appearing that said municipality was not impleaded in this case. This contention is without merit.

It is already settled in this jurisdiction that an illegal removal of a public official does not render his position vacant (Fernandez et al., vs. Cuneta et al. 80 Phil., 427.) No. Inasmuch as, for all legal intents and purposes, Lacanlale is deemed to have continued in office even after his illegal removal therefrom, his right to draw the corresponding salary can not be questioned. Payment of back salaries is merely incidental to, and follows reinstatement. (Batungbakal vs. National Development Company et al., 98 Phil., 182; Off. Gaz., 2290, June 1953; Tan vs. Jimenez, 107 Phil. 17).

That the municipality of Bamban, Tarlac was not by name impleaded in this case does not affect Lacanlale's right to the payment of back salaries, as We have already ruled in several cases. (Mission vs. del Rosario, 94 Phil., 483., 50 Off. Gaz., 1571; Abella vs. Rodriguez, 95 Phil., 289., 50 Off. Gaz., 3090; Uy vs. Rodriguez, 95 Phil., 493; 50 Off. Gaz., 3574; Meneses vs. Lacson, G. R. L-7025, October 01, 1955; and Mangubat vs. Osmeña, G. R. No. L-12837, April 30, 1959). The following considerations We made in the last case are particularly applicable

to the present:

"The necessity of making the City a respondent herein is based upon its right to defend itself, as demanded by the requirements of due process. However, these requirements have been substantially complied with in, the case at bar. The parties herein have handled the case, and the same was heard and decided in. the lower court, as if the City had been named respondent in the pleadings. The officer required by law, 'to cause to be defended all suits against the City, namely, its Mayor, (Sec. 8, Commonwealth Act No. 58), is respondent in his official capacity. The officer charged with the duty to represent the City in all civil cases wherein the City * is a party'—to wit, its city attorney (Sec. 17, Commonwealth Act No. 58)—counsel for respondents herein. In addition thereto, the auditor, the treasurer, and even the municipal board of the City of Cebu, are parties respondents.

There is no reason to believe that these officers and the City Mayor would have exerted greater effort, than those already displayed by them in protecting the interests of the City of Cebu, it is only logical to expect that, having been individually named as respondents, said officers, must have taken as much concern, if not more, in warding off petitioner's claim. Under the foregoing circumstances, we would be subordinating the substance to the form if the action for mandamus—insofar as the claim for back salaries is concerned—were either dismissed, or remanded to the lower court, for the corresponding amendment of the pleading and a repetition of the proceedings held for the last five (5) years, in order to reach the same decision rendered by the lower court and the same conclusions set forth in this decision, as regards the substantive rights of the parties. It is our considered opinion, therefore, that the ends of justice and equity would, be served best if the inclusion of the City of Cebu, as one of the respondents herein were considered a mere formality and deemed affected, as if a formal amendment of the pleadings had been made."

On November 19, 1964, there was filed in this case a motion alleging that on the 4th of said month, appellee Bonifacio Lacanlale was murdered in his hometown of Bamban, and that at the time of his demise, he left as heirs, his widow, Lolita Sibal, and his children named Juan, Arturo, Abel, Jessie, Ruth, Elisa, and Bonifacio, and it was prayed therein that said heirs be substituted in place of said deceased. We find this motion to be well founded, and said heirs are hereby substituted in his place. However, to avoid any possible question as to whether they are the only heirs entitled to inherit from the deceased, payment of the back salaries provided for in the appealed decision should be made only to the judicial administrator of his estate duly appointed by a competent court.

Wherefore, the appealed decision being in accordance with law and the evidence, the same is affirmed, with the sole modification indicated in the preceding paragraph.

Bengzon, C. J., Bautista Angelo, Regala, Makalintal, Bengzon, J. P. and Zaldivar, JJ., concur.

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.