

RICARDO P. GOROSPE, PETITIONER-APPELLANT, VS. ARTURO PADUA, IN HIS CAPACITY AS MUNICIPAL MAYOR, JOHNNY DAPIAOEN, VICE-MAYOR, IGNACIO MADRIAGA, ROMANA ANNAGUEY, BENJAMIN FLORES, ...

G.R. No. L-24387. February 29, 1972

Ponente: CASTRO, J.

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CASTRO, J.:

Ricardo P. Gorospe, chief of police of the municipality of Sison, Pangasinan, filed on June 24, 1964 with the Court of First Instance of Pangasinan a petition for preliminary injunction (civil case U-748) to restrain the municipal council of Sison from further proceeding with the hearing and investigation of the administrative case filed by Mayor Arturo Padua against the said petitioner. The petitioner prays for reinstatement to his position as chief of police.

On October 20, 1964, the parties submitted a stipulation of facts, as follows:

"1. That the petitioner is the Chief of Police of the Municipality of Sison, Pangasinan, Philippines, possessed with the necessary civil service eligibility; that the Respondent Arturo Padua and the respondent Johnny Dapiaoen are the mayor and vice-mayor, respectively, of the said municipality; and the other respondents are councilors in the said municipality;

"2. That on April 14, 1964, the respondent Arturo Padua filed Administrative Case No. 1 against the petitioner;

"3. That in support of the charge, affidavits were executed and attached to the complaint;

"4. That pursuant to Republic Act 557,[1] the respondent Arturo Padua issued a letter on April 14, 1964, informing the petitioner of the complaint against him and directing him to explain in writing to the Municipal Council within 72 hours;

"5. That on the same day, and also pursuant to Republic Act 557, the respondent Arturo Padua issued another letter suspending the petitioner from the discharge of his duties as Chief of Police of Sison, Pangasinan, to which the petitioner made a formal communication dated April 17, 1964;

"6. That the said Administrative case No. 1 was set for investigation by the Municipal Council of Sison, Pangasinan, whereupon the petitioner sought to stop the proceedings for reasons of lack of jurisdiction and authority, the case being within the sole original and exclusive jurisdiction of the Court of First Instance to hear and determine, for which reason Petitioner through counsel filed a Manifestation with the Municipal Council;

"7. That the Municipal Council of Sison, Pangasinan overruled the objection of the Petitioner to the jurisdiction of the said Council to hear and determine the case, and thereupon proceeded to hear the case;

"8. That on the first day of hearing two witnesses were presented against the herein petitioner who were cross-examined by counsel of the Petitioner;

"9. That no subsequent hearing has been held due to the requests for postponement by herein petitioner through counsel, and also because of the verbal agreement in open court on July 20, 1964, to suspend the hearing on the Administrative Case, pending the decision in the above-entitled case;

"10. That before the proceedings were held in accordance with the foregoing paragraphs, the respondent in the Administrative Case, petitioner herein, filed his formal answer to the same, and to which the respondent filed his reply on April 28, 1964;

"11. That in the meantime the period of more than sixty (60) days has elapsed without the case having been finally decided and the petitioner continues to be under suspension; and

"12. That herein petitioner sent a letter on June 17, 1964 to the respondent Arturo M. Padua, requesting reinstatement, to which the respondent Arturo M. Padua issued instead a memorandum to all Policemen of the Municipality of Sison, Pangasinan on the same date, stating the reasons why reinstatement is not possible."

On December 29, 1964 the court a quo rendered judgment dismissing the petition. The court reasoned as follows:

"The issue now involved in this case is: Whether injunction lies to restrain the Municipal Council of Sison from investigating Administrative Case No. 1 filed before it by the municipal mayor thereof against a member of the municipal police therein, and Whether this court can legally order the reinstatement of the petitioner who has been suspended by reason of the administrative case filed against him.

"It is the considered view of this court that inasmuch as Administrative Case No. 1 charges the respondent therein who is a member of the municipal police with electioneering in violation of Republic Act 2260, otherwise known as the Civil Service Act of 1959, and the charge in said case is one of the cases by which a member of the municipal police may be suspended or removed, it is clear that said case has been filed pursuant to the provision of Republic Act 557. This being so, therefore, the Municipal Council of Sison, of which the respondents are members, has the power and authority to investigate the charge against the petitioner under said Republic Act No. 557.

"It appearing that the Municipal Council of Sison, in conducting the investigation of Administrative Case No. 1, is only performing its duty in accordance with Republic Act 557, injunction will not lie to restrain said municipal council from proceeding with said investigation.

"The contention of the petitioner that the Municipal Council of Sison does not have jurisdiction to try the administrative case against him because the charge therein is for violation of the election law on electioneering, and that it is the Court of First Instance that has original and exclusive jurisdiction thereof is without merit. The petitioner herein and respondent in the administrative case is only administratively charged and not criminally. He is only a respondent and not an accused therein. Such being the case, it is the Municipal Council which has jurisdiction and not the Court of First instance as claimed by him.

"It is evident that the investigation being conducted by the Municipal Council of Sison has for its purpose the determination as to whether the respondent therein is guilty of violation of law. If he is guilty therein, pursuant to Republic Act No. 557, he may be suspended or removed from office.

"In other words, the only penalty that can be imposed on him is either suspension or removal but never imprisonment.

"In view of the foregoing, the court is of the opinion, and so holds, that the Municipal Council of Sison has power and authority under Republic Act No. 557 to conduct the investigation of Administrative Case No. 1 filed before it, and injunction will not lie to enjoin, that body from performing its duty especially enjoined by law.

With respect to the petition for reinstatement of the petitioner, the court hereby expresses the opinion that if he is

entitled at all to a reinstatement, the remedy is not injunction like this instant case, but an action to compel the Municipal Mayor of Sison to reinstate him, if under the law he is entitled to a reinstatement after the period of suspension fixed by law."

The petitioner appealed to this Court, alleging that the court a quo gravely erred when it held

"That inasmuch as administrative case number 1 charges respondent therein who is a member of the municipal police with electioneering in violation of Republic Act 2260, otherwise known as Civil Service Act of 1959, and the charge in said case constitutes a violation of law which is one of the cases by which a member of the municipal police may be suspended or removed, it is clear that said case was filed pursuant to the provisions of Republic Act No. 557;

"That the municipal council of Sison, Pangasinan, instead of a Court of First Instance, has authority and jurisdiction to determine whether or not the petitioner is guilty of violation of election law on electioneering;

"That injunction will not lie to restrain the respondent municipal council from proceeding with the investigation which is in the performance of a public duty imposed by law; and

"That the petitioner herein is not entitled to reinstatement after a period of sixty days of suspension."

With the passage of the Police Act of 1966 (Republic Act 4864),^[2] effective on September 8, 1966, resolution of the issues posed in the case at bar must now necessarily be resolved in accordance with the pertinent provisions of the said Act. The provisions which have a direct bearing on this case are to be found in sections 16 and 26. These sections read as follows:

"SEC. 16. Suspension of Members of the Police Force or Agency. When an administrative charge is filed under oath against any member of the local police agency, the city mayor or municipal mayor, as the case may be, may suspend the respondent: Provided, That the charge involves disloyalty to the government, dishonesty, oppression, grave misconduct, serious irregularities, or serious neglect of duty, if there are strong reasons to believe that the respondent is probably guilty thereof which would warrant his suspension or removal from the service. The preventive suspension shall not be more than sixty days, after which the respondent shall be reinstated to the service without prejudice to the continuation of the case until its final disposition: Provided, however, That if the delay in the disposition of the case is due to the fault, negligence, or petition of the respondent, the period of the delay shall not be counted in computing the period of suspension herein provided. The respondent shall be entitled to his salary for the period of suspension upon exoneration." (1st paragraph)

"SEC 26. Saving clause. All pending administrative cases involving police service and personnel shall be absorbed by the Police Commission one hundred days after the publication of the Police Manual containing rules and regulations relative to such matters."

Section 26 ordains that "all pending administrative cases involving police service and personnel shall be absorbed by the Police Commission one hundred days after the publication of the Police Manual containing rules and regulations relative to such matters." The Police Manual (Executive Order No. 113) dated December 30, 1967 was published on May 20, 1968 in the Official Gazette (vol. 64, number 21) and became effective on August 28, 1968. The administrative case against the petitioner, Gorospe must now be deemed to have been absorbed by the Police Commission as of August 28, 1968, and all the papers thereof must therefore without delay be forwarded to the Police Commission for proper action and disposition in accordance with the Police Act of 1966.

With respect to the petitioner's insistent plea that he be reinstated because the preventive suspension imposed on him by the respondent mayor has lasted more than sixty days, the provisions of section 16 of the Police Act of 1966 govern and must be complied with.

We have carefully perused the record of this case, and it is our view that it is not indubitable that the period of

sixty days (of suspension) after which reinstatement may be had, has already lapsed without any delay in the disposition of the case being attributable "to the fault, negligence or petition" of the petitioner Gorospe. The pertinent portion of section 3 of Republic Act 557 (which is substantially reproduced in section 16 of the Police Act of 1966) is to the effect that "if during the period of sixty days, the case shall not have been decided finally, the accused, if he is suspended, shall ipso facto be reinstated in office without prejudice to the continuation of the case until its final decision, unless the delay in the disposition of the case is due to the fault, negligence or petition of the accused, in which case the period of the delay shall not be counted in computing the period of suspension herein provided." the administrative case against Gorospe was filed on April 14, 1964; he was suspended from office on the same day. Investigation of the administrative charge suffered delay at his instance or behest. He filed several petitions for postponement of the investigation which were granted, and then finally filed his action in the court below on June 24, 1964, which action served to stop the administrative investigation.

Moreover, the remedy of Gorospe is not an action for injunction like the action below, but an action to compel the municipal mayor of Sison to reinstate him if he is in fact entitled to reinstatement because of the full expiration of the sixty-day period of suspension allowed by law.

The above notwithstanding, the Police Commission, in the discharge of its duties and the exercise of its powers under the Police Act of 1966, should inquire into this matter, and, if it finds that the petitioner should now be reinstated, take such steps as would assure compliance with the intendment of section 16 of the Police Act.

ACCORDINGLY , the present petition is dismissed. The mayor, vice-mayor and municipal council of the Municipality of Sison, Pangasinan, are, however, hereby directed to forward, forthwith and without delay, to the Police Commission, for action and disposition, the records of the administrative case against the petitioner Ricardo P. Gorospe, pursuant to section 26 of the Police Act of 1966. No pronouncement as to costs.

Let a copy of this decision be immediately forwarded to the Police Commission for its information and guidance.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] "An Act Providing For The Suspension or Removal of Members Of The Provincial Guards, City Police and Municipal Police By The Provincial Governor, City Mayor or Municipal Mayor" (effective June 17, 1950).

[2] "An Act Creating The Police Commission, Amending And Reversing The Laws Relative To The Local Police System, And For Other Purposes."

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