

**(PABLO MANLAPIT, ET AL.,) VALENTIN C. GARCIA, PETITIONER, VS.
LAND SETTLEMENT AND DEVELOPMENT CORPORATION,
RESPONDENT.**

G.R. No. L-6259. August 31, 1954

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

This is a petition for certiorari to review a portion of the decision of the Court of Industrial Relations, in its Case No. 422-V, denying the petition of Valentin Garcia for gratuity and back pay by the Land Settlement and Development Corporation, hereafter termed LASEDECO.

The record is to the effect that on April 17, 1950, the Board of Directors of the National Land Settlement Administration (NLSA), by resolution No. 570, laid-off several of its officers and employees, effective as of May 16, 1950, on account of lack of funds, but granting them whatever benefits and privileges that may be granted to laid-off officers and employees of the government and/or government owned or controlled corporations. Subsequently, the laid-off personnel instituted these proceedings in the Court of Industrial Relations (Case No. 422-V) to secure reappointment and for payment of their gratuity and the money value of their unenjoyed vacation and sick leaves. After hearing the evidence for the petitioners and that of the respondent Land Settlement and Development Corporation (LASEDECO), which had substituted and taken over the NLSA on October 23, 1950, by virtue of Executive Order No. 335, of His Excellency, the President of the Philippines, the Court of Industrial Relations rendered a decision ordering the payment of the gratuities and cash value of the unenjoyed vacation and sick leaves of the petitioner. But with respect with one of the petitioners, Valentin Garcia, the Court made the following findings:

"RE-VALENTIN C. GARCIA

This petitioner claims that he was one of the laid-off NLSA employees. Respondent denies this claim on the ground that, after Garcia was suspended from the service of the NLSA by Manager Paguia, he was never legally reinstated thereto. Counsel for the respondent correctly summarized the case of Valentin Garcia as follows:

'Garcia, Acting Officer-in-Charge and Accountant of the Koronadal Valley Project of the NLSA was suspended by the Manager for illegal disposition of cattle. A committee was created to investigate him. At the same time, a criminal complaint was filed against him for malversation of public property. The criminal complaint was dismissed for insufficiency of evidence. Similarly, the investigating committee recommended his exoneration. Under the circumstances, Manager Paguia reinstated Garcia, who, in no time, submitted a voucher covering his salary during the period of his suspension for the approval of the NLSA Board of Directors. The Board under Resolution No. 552, indorsed Garcia's voucher to the NLSA Auditor for amount and recommendation (Exhibit "1"). The NLSA Auditor in a 2nd Indorsement (Exhibit "2-A") returned Garcia's papers to the Manager, explaining that pursuant to Commonwealth Act No. 441 (Exhibit "16"), the reinstatement of Garcia should be approved first by the Board of Directors before payment of his claim could

be made. In the meantime, Executive Order No. 355 abolishing the NLSA and creating the LASEDECO was promulgated. So Garcia submitted his claim to the LASEDECO, through its General Manager, Felix D. Maramba. On May 2, 1951, the latter made Report No. 31, s. 1951 (Exhibit "3") to the LASEDECO Board of Directors ignoring the recommendation of the NLSA investigating committee. On the strength of the report of Manager Maramba, the LASEDECO Board of Directors approved Resolution No. 256 (Exhibit "1"), the pertinent portions of which are quoted hereunder:

'1. That Valentin C. Garcia be considered as dismissed from the service effective as of the date of his suspension; Provided that the salary received by him from the time of his recall to resume his duties shall be considered as earned for services rendered during the pendency of the administrative case against him.'

Since the NLSA Board of Directors failed to act on Garcia's exoneration by the NLSA Investigating Committee and Manager Paguia, said decision never became final. And because Garcia's reinstatement was not approved by said Board of Directors, Garcia lost his status of employee of the NLSA. The Court fails to find justification for altering or modifying the action taken by the LASEDECO on Garcia's claim." (Pages 6-7, Annex "I" of petition)

In view of the unfavorable decision against him, appellant Garcia appealed to this Court, alleging that in its decision the Court of Industrial Relations committed grave errors of laws and serious abuse of judicial discretion.

We are of the opinion that the decision appealed from is in error in holding that "because Garcia's reinstatement was not approved by said Board of Directors, Garcia lost his status of employee of the NLSA," and therefore, he could not lay claim to the benefits of its Resolution No. 570 that, according to the Court of Industrial Relations, entitled the laid-off employees to the gratuity provided for by section 45 of Executive Order No. 392, and to the money value of their accrued vacation and sick leaves.

When appellant Garcia was suspended by the NLSA manager pending his administrative investigation, he did not thereby cease to be an employee of the NLSA; otherwise, he could not have been subjected thereafter to administrative investigation by the NLSA management. And when the manager later recalled him to duty, Garcia underwent no change in his status, and remained as much an employee of the NLSA as he was before suspension. The Board of Directors of the NLSA was not called upon to approve a reinstatement that had produced no change in the status of the employee and which was neither an appointment nor a dismissal.

Commonwealth Act No. 441, creating the NLSA, only provides in its section 5 that "The Manager shall, subject to the approval of the Board, appoint such technical, clerical and other employees as may be necessary," but the section is silent as to reinstatements and removals. Evidently, the section refers to original appointments that create the relation of employer and employee. The recall of Garcia could not have that effect, because the relation already existed.

The respondent corporation invokes section 12 (d) of Executive Order No. 399, the Uniform Charter For All Government Corporations. This provision reproduces section 6(d) of Executive Order No. 355 creating the Land Settlement Administration, to the effect that the Manager has power.

"with the approval of the Board, to remove, suspend or otherwise discipline, for cause, any subordinate employee of the Corporation."

In the first place, Executive Order No. 355, promulgated on October 23, 1950, and the subsequent Executive Order No. 399, issued in January, 1951, could not retroactively apply to appellant Garcia, who was separated and laid-off as early as May, 1950, to the prejudice of the latter. But granting that they could apply, still, the provisions quoted do not refer to reinstatements to duty, since these are neither removals nor suspensions, nor acts of discipline for cause. Hence, even under the Executive Orders invoked, the approval of the reinstatement of Garcia by the Board of Directors was unnecessary.

We are thus led to the conclusion that since the administrative investigation of the appellant Valentin Garcia did not end in his removal or discharge, said appellant was and remained an employee of the defunct NLSA and did not lose that status until he was laid off definitely in May, 1950, due to lack of funds that forced the corporation "to adopt a retrenchment policy by reducing its personnel to the minimum", as expressed in the Board of Directors' Resolution No. 570, quoted in the decision of the Court of industrial Relations. The latter was, therefore, not justified in denying to said appellant the gratuities it awarded to the other laid-off employees of the NLSA.

This conclusion is not altered by the fact that the Board of Directors of the respondent LASEDECO adopted on May 31, 1951 (one year after Garcia was separated or laid-off) a resolution (No. 256 "that Mr. Valentin C. Garcia be considered as dismissed from the service effective as of the date of his suspension". Garcia was no longer in the service when the LASEDECO was created (in October of 1950) and was not of the personnel that the LASEDECO took over from the NLSA; the LASEDECO Directors could not decree the dismissal of one who had never become their employee. The fact that Garcia resubmitted to the LASEDECO the claim he originally filed with the NLSA for payment of salary during the period of his suspension, did not constitute a recognition that he was or had been a LASEDECO employee; the claim was but a consequence of section 13 of Executive Order No. 355 transferring to the LASEDECO all "assets, rights, choses in action, obligations and liabilities" of the NLSA.

Wherefore, the decision appealed from is reversed in so far as appellant Valentin Garcia is concerned; and the records are ordered remanded to the Court of Industrial Relations for ascertainment of the benefits to which said Valentin Garcia may be entitled, on the same basis as the other personnel of the National Land Settlement Administration who were laid-off pursuant to its Resolution No. 570,

Costs against respondent Land Settlement and Development Corporation.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador and Concepcion, JJ., concur.

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