

RENATO L. AMPONIN, PETITIONER, VS. THE COMMISSION ON ELECTIONS AND ROMEO CACANINDIN, RESPONDENTS.

G. R. No. L-27420. September 29, 1967

Ponente: RUIZ CASTRO, J.

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RUIZ CASTRO, J.:

Armed with an appointment issued to him by the Commission on Elections (COMELEC) on February 1, 1964 as "Election Registrar in the Commission on Elections," admittedly "without any specification of the place where he was to discharge his duties," and a memorandum-directive assigning him as such to San Jose, Occidental Mindoro, the petitioner Renato L. Amponin brings this action for certiorari, prohibition and mandamus, with preliminary injunction, principally to enjoin the COMELEC from ousting him from said office and reassigning him to another municipality and from implementing an appointment extended to the respondent Romeo Cacanindin as permanent election registrar of San Jose, Occidental Mindoro, as well as to command the COMELEC to issue in his favor, if need be, a reappointment as permanent election registrar of the said municipality. The petitioner's thesis is that by virtue of the appointment and assignment relied upon and consequent to meritorious service in the capacity aforesaid — as, in fact, he had risen to the rank of officer-in-charge of the election registrars' office in San Jose, Occidental Mindoro — he has not only acquired a vested right to, and security of tenure in, the office in question but also a preferential right to be maintained therein pursuant to appropriate "guidelines" theretofore adopted by the COMELEC. Accordingly, the petitioner submits that the appointment of the respondent Cacanindin to the said office, after it was declared vacant by the COMELEC, and the proposal to reassign him to some other municipality, are constitutionally and statutorily infirm.

The petitioner's case must fall.

To begin with, we have already rejected the theory that, in ascertaining the applicability of the guaranty of security of tenure, the terms of the appointment should be considered jointly with those of an assignment made thereafter. In *Ibañez, et al., vs. Commission on Elections, et al.*, L-26558, April 27, 1967, we unequivocally expressed our unwillingness to

"... subscribe to the theory that an assignment to a particular station, in the light of the terms of the appointments in question (i.e., without stating a definite official station), was necessary to complete the said appointments. The approval thereof by the Commissioner of Civil Service gave those appointments the stamp of finality. With the view that the respondent Commission took of its power in the premises and the demands of the mission it set out to accomplish with the appointments it extended, said appointments were definitely meant to be complete as then issued. The subsequent assignment of the appointees thereunder that the said Commission held in reserve to be exercised as the needs of each locality justified did not in any way detract from the perfection attained by the appointments before."

In the face of the undisputed facts that the herein petitioner's appointment did not particularize any official station and that he was merely detailed to his current assignment in a memorandum-directive issued thereafter, we have

no alternative but to conclude (as we concluded in Ibañez) that he is entitled only to such security of tenure as the appointment papers actually conferred — not in that of any place to which he may have been subsequently assigned. As things stand, in default of any particular station stated in his appointment, no security of tenure can be asserted by him on the basis of the assignment given to him. A contrary rule will erase altogether the demarcation line we have repeatedly drawn between appointment and assignment as two distinct concepts in the law of public officers.[1]

Nor can any preferential right be accorded to him by the "Guidelines" invoked by him. As we have held in *Braganza vs. Commission on Elections*, *supra*:

"The petitioner's reliance upon the so-called 'Guidelines In The Assignment Of Election Registrars' adopted by the COMELEC in its session of February 17, 1966 is misplaced. As pointed out by the respondents and confirmed by the certified copy of said guidelines, the rules of preference therein provided were intended merely as criteria for 'the assignment of election registrars without making new appointments'. Said guidelines, unmistakably, were not intended to control the discretion of the COMELEC in making appointments of permanent election registrars."

Finally, considering that the power to appoint is in essence discretionary, and that there is here absent a showing that in the exercise of the right of choice the COMELEC abused its discretion, we will not even attempt to substitute our own discretion for that exercised by the COMELEC.

Accordingly, the petition is dismissed, and the writ of preliminary injunction heretofore issued is dissolved, at petitioner's cost.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Angeles and Fernando, JJ., concur.

Petition dismissed.

[1]See also: *Co vs. Commission on Elections, et al.*, L-26956, July 21, 1967; *Salazai, et al vs. Commission on Elections, et al.*, L-27121, July 21, 1967; *Suarez, et al. vs. Commission on Elections, et al.*, L-26605, July 27, 1967; *Braganza vs. Commission on Elections, et al.*, L-27017, August 15, 1967.

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