

NATIONAL RICE AND CORN CORPORATION, PETITIONER, VS. NARIC WORKERS' UNION, RESPONDENT.

G.R. No. L-7788. February 29, 1956

Ponente: LABRADOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ce73754aeb26/>

LABRADOR, J.:

This is an appeal by certiorari against a decision of the Court of Industrial Relations ordering the petitioner to reinstate Luis Mabagos to his former position as warehouseman or any equipment position, with back wages from January 1, 1950 until reinstatement, at P3.000 per annum.

Luis Mabagos started working in the service of the Government in 1918. He had three civil service eligibilities, third grade, second grade and typist. In 1937 he transferred to the Naric. He served in said Government corporation in various capacities, namely, as provincial inspector, district inspector, branch manager, provincial buyer and cashier, warehouseman, and lastly supervisor of all Naric warehouses in Manila. According to the records he was an efficient employee. In July, 1948, he was suspended because he was implicated in a case of theft in a warehouse under his supervision. The case was not finished until 1950, when he was acquitted by the Court of Appeals. Upon his acquittal, he demanded his reinstatement and the payment of his back wages. He was paid back wages until December 31, 1949, but the reinstatement was denied on the ground that his position had been abolished. He sought the payment of his gratuity under the Osmena Retirement Act, but this was also denied. So his union instituted these proceedings for his reinstatement and for the payment of his back salary from January 1, 1950 until, he is actually reinstated. The Court of Industrial Relations found that his separation was without just cause and granted the petition. The Naric appealed from this decision.

It is claimed that the decision directly contravenes Executive Order No. 350, Series of 1950, which provides in part:

"* * *; Provided, further, That the personnel of said corporations hereby transferred shall be reappointed in the PRISCO and those not reappointed within sixty (60) days from, the effective date of this Order shall be considered separated from the service" (Italics ours.)

It is argued that as Mabagos was not reappointed within 60 days from October 3, 1950 he should be considered separated from the service in accordance with the abovequoted provision.

In order to decide the issue presented, it seems pertinent and relevant to determine the status of Mabagos as an employee by reason of his suspension. The suspension must have been ordered by the head of the Naric by virtue of section 694 of the Revised Administrative Code, which provides:

"* * *. With the approval of the proper head of department, the chief of a bureau or office may likewise suspend any subordinate or employee in his bureau or under his authority pending an investigation, if the charge against such subordinate or employee involves dishonesty, oppression, or grave misconduct or neglect in the performance of duty."

He was implicated in the charge of theft, which implies dishonesty. As he was merely suspended from office pending determination of the criminal charge, there was a temporary cessation of his duties, not a removal, dismissal or permanent separation from service. Suspension means temporary withdrawal or separation, as distinguished from removal or dismissal, which amounts to permanent separation.

"Word 'suspend' is defined as to cause to cease for a time. *Derrick vs. City of Vallejo*, 40 P. 2d H&,-951, 4 Cal. App. 2d. 25". (Words and Phrases, Vol. 40, p. 918)

"Suspend means to cause to cease for a time; to postpone. *Bishop vs. Bacon*, 196 A, 918, 921, 130 Pa. Super. 240." (Id., P. 918)

"Municipal employee who suffers a 'layoff suffers a 'suspension,' and such 'layoff' or 'suspension' differs from 'removal' from service only in degree, in that 'removal' implies permanent separation from service, while 'suspension' or 'layoff' implies temporary separation from service. *State ex rel. Ausburn vs. City of Seattle*, 67 P. 2d 913, 921, 190 Wash. 222, 111 A. L. E. 418," (Id., p. 920.)

"Under statute' giving municipal janitors and laborers two weeks' vacation without loss of -pay except in cases of 'dismissal,' 'dismissal' means permanent severance or complete separation from service accomplished by removal, and imports an ending of the employment; 'whereas 'suspension' means temporary withdrawal or cessation from public work and imports possibility or likelihood of return to work when reason for suspension ceases to be operative. *G. L. (Ter. Ed.) c. 41, Sec. Ill, as amended by St. 1932, c, 109, Commissioner of Labor and Industries vs. Downey*, 135 N. E, 742, 230 Mass. 432." (Id., pi 920)

The suspension of Mabagos in 1948 did not operate to separate Mm from the service. The rule is that if an employee is exonerated from the charges preferred against him, by virtue of which he was suspended, his back salaries withheld during the full period of his suspension are paid to him (section 260, Revised Administrative Code.) To this effect is our ruling in the case of *Batungbakal vs. N.DC, et al.*, 93 Phil., 182; 49 Off. Gaz. No. 6, pp. 2290, 3399.

"Having proven that he (the plaintiff had been suspended and dismissed without' cause, contrary to the express provision of the Constitution, his reinstatement becomes a plain ministerial duty of the Auditor General, a duty whose performance may be controlled and enjoined by mandamus. There is no room for discretion. The Auditor General is not being directed to perform an act which he may or may not execute according to his discretion. He is being asked and enjoined to redress a grievance, to right a wrong. And the payment of the back salary is merely incidental to and follows reinstatement, this, aside from the parallel and analogy which may be found in section 200, paragraph 1, Revised Administrative Code which provides for the payment of back salary upon reinstatement

The import of section 260 of the Revised Administrative Code and of the ruling herein above-quoted, which direct the payment of back salaries of a suspended employee, is that the position is not vacated by the incumbent or suppressed by reason of the suspension. The legal provision requiring payment of salaries during the suspension implies the continuance of the position during the said suspension; the salaries corresponding to the position during the time of suspension can not be ordered paid if the position is suppressed or eliminated. The argument of the petitioner that Mabagos was no longer in the employ of the Naric upon the approval of Executive Order No. 350, s. 1950, by reason of the suspension, is therefore incorrect. The position was still in existence, with the salary corresponding thereto. The suspension merely operated to prevent Mabagos from exercising the duties and prerogatives pertaining to his office, not his removal or dismissal therefrom. The petitioner should have retained the position of Mabagos during the suspension, to await the result of the charges brought against him. The petitioner had no right to abolish the suspended employee's position, or to give it permanently to another during the pendency of the case against the employee.

It is to be noted that the principle we have explained above, to the effect that Mabagos should be returned to his position upon his exoneration, is applicable to officials and employees belonging to the Civil Service. But these rights and privileges have also been extended to employees in Government-owned or controlled corporations, such as the Naric, by virtue of Executive Order No. 399, s. 1951, section 14, which provides:

"All officers and employees of the corporation shall be subject to the Civil Service Law, rules and regulations, except those whose positions may, upon recommendation of the Board of Directors and the Administrator of Economic Coordination, be declared by the President of the Philippines as policy-determining, primarily confidential or technical in nature."

Section 6 of Executive Order No. 319, s. 1950, is also to the same effect.

"The officers and employees of the department of Economic Coordination and of the different corporations and agencies, under it may hereafter be employed shall be subject, in all respects to the application of the Civil Service rules and regulations, as in the case of the other officers and employees of the Government." Section 1 of the above Order (Executive Order No. 319) includes the Naric among the government corporations under the supervision of the Department of Economic Coordination.

The petitioner also contends that as Mabagos was under suspension at the time of the merger of the Naric into the Prisco, and as he was not reappointed within sixty days from the said merger, he should be considered as permanently separated from the service (section 12, Executive Order No. 350, s. 1950). The argument fails to consider the directive contained in the Executive Order which in effect is as follows: "Provided, further, that the personnel of said corporations hereby transferred shall be reappointed in the PRISCO." Mabagos was a personnel of the Naric at the time of the promulgation of said Order. In accordance with the directive Mabagos should have been reappointed. The failure of petitioner to comply with the order is without justifiable reason because it was found out that the suspension was illegal and unjust.

Another defense submitted by the petitioner is the supposed fact that the position of Mabagos had been abolished or given to some other employee of the Naric. It is impossible to conceive that the position of Mabagos held by him at the time of the merger could have been suppressed. The maintenance of warehouses is an inherent and indispensable activity of the Naric. The Naric would find it impossible to comply with its' duties and functions without warehouses. If Mabagos could not be appointed to the position of supervisor because this position was abolished, he could hold that of actual warehouseman wherever such warehouse of the Naric may be situated. In any case, as pointed out above, the Naric should have kept the position open for Mabagos when the latter's case was terminated by the dismissal of the charges against him.

For the foregoing considerations, the decision of the Court of Industrial Relations appealed from is hereby affirmed, with costs against the petitioner.

Parás, C. J., Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Concepcion, Reyes, J. B. L., and Endencia, 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.