

R. MARINO CORPUS, PETITIONER-APPELLANT, VS. MIGUEL CUADERNO, SR., THE CENTRAL BANK OF THE PHILIPPINES AND THE MONETARY BOARD AND MARIO MARCOS, RESPONDENTS-APPELLEES. FILEMON MEN...

G.R. No. L-17860. March 30, 1962

Ponente: DE LEON, J.

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DE LEON, J.:

While petitioner-appellant was holding the position of Special Assistant to the Governor of the Central Bank of the Philippines—a position declared by the President of the Philippines as "highly technical in nature and placed in the exempt class" (Appendix "D", Exhibit W)—he was, on or about March 7, 1958, charged in an administrative case, for alleged dishonesty, incompetence, neglect of duty and/or abuse of authority, oppression, misconduct, etc., preferred against him by employees of the Bank, resulting in his suspension by the Monetary Board of the Bank and the creation of a 3-man committee to investigate him. The committee was composed of representatives of the Bank, Bureau of Civil Service and the Office of the City Fiscal of Manila. After receiving the answer of the respondent therein, the committee heard the case, receiving testimonies of witnesses on both sides. On May, 5, 1959, the committee submitted its Final Report, the pertinent conclusion and recommendation therein reading as follows:

"(1) In view of the foregoing, the Committee finds that there is no basis upon which to recommend disciplinary action against respondent and therefore respectfully recommends that he be immediately reinstated."

Unable to agree with the committee report, the Monetary Board adopted Resolution No. 957 on July 20, 1959 which considered "the respondent, R. Marino Corpus, resigned as of the date of his suspension." The pertinent portion of the resolution reads thus:

"After an exhaustive and mature deliberation of the report of the aforesaid fact finding committee, in conjunction with the entire records of the case and representations of both complainants and respondent, through their respective counsel; and, further, after a thorough review of the service record of the respondent, particularly the various cases presented against him, object of Monetary Board Resolution No. 1527 dated August 30, 1955, which all involves fitness, discipline, etc. of respondent, and moreover, upon formal statement of the Governor that he has lost confidence in the respondent as Special Assistant to the Governor and In-Charge of the Export Department (such position being primarily confidential and highly technical in nature), the Monetary Board finds that the continuance of the respondent in the service of the Central Bank would be prejudicial to the best interests of the Central Bank, and, therefore, in accordance with the provisions of Section 14 of the Bank Charter, considers the respondent, Mr. K. Marino Corpus, resigned as of the date of his suspension."

Three days after, the Monetary Board adopted Resolution No. 995, dated July 23, 1959, approving the appointment of herein respondent Mario Marcos to the position involved in place of petitioner R. Marino Corpus.

On August 18, 1959, petitioner filed a petition for certiorari, mandamus and quo warranto, with preliminary mandatory injunction and damages, against the herein respondents. The complaint, as amended, embodied four causes of action, and the reliefs sought therein read as follows:

"1. Upon the FIRST CAUSE OF ACTION, to reinstate petitioner immediately to the position of Special Assistant in charge of the control of exports in conformity with the Final Report of the Investigating Committee of May 5, 1959 and to declare that the action of the respondents per Monetary Board Resolution No957 is null and void, respondents having acted in connection with the same in excess of their jurisdiction and with grave and gross abuse of discretion and authority; and for the purposes thereof to order respondent Miguel Cuaderno, Sr., as Governor of the Central Bank, to prepare an agenda including therein as part of the business to be taken up by respondent Monetary Board petitioner's said reinstatement;

"2. Upon the SECOND CAUSE OF ACTION, to remove respondent Mario Marcos from the Office of Special Assistant in charge of the Export Department of the Central Bank, the same office to which petitioner in possession of the same and to declare that the attempted appointment of the said respondent Mario Marcos to the same is unwarranted and illegal, there being no vacancy in the same as it has at all times been legally and physically filled by petitioner were it not for the unlawful acts of respondents in ousting him therefrom;

"3. Upon the THIRD CAUSE OF ACTION, to pay petitioner the sums of P500,000.00 as moral damages, P34,000.00 as salaries accrued and uncollected since March 18, 1958, plus those that may subsequently accrue, p20,000.00 as bonuses, overtime pay, equity pay and other allowances, which petitioner had failed to collect by reason of his unwarranted and unjustified suspension by respondents, P20,000.00 attorney's fees plus the costs of this suit;

"4. Upon the UPON THE FOURTH CAUSE OF ACTION, to immediately reinstate petitioner to the position of Special Assistant in charge of the control of exports and not to remove or molest him therefrom pending the determination of this case and, to this end, upon petitioner's filing of a bond with sufficient sureties in an amount to be fixed by this Honorable Court, to issue a preliminary mandatory injunction com manding respondents to do and/or refrain from doing the acts hereinabove referred to.

Petitioner further prays for such other and further relief as may be just and equitable in the premises."

The respondents filed their answer on September 4, 1959. Filemon Mendoza, a Central Bank employee, filed a petition for intervention. The respondents and the intervenor , filed separate motions to dismiss, against which an opposition was filed by petitioner. On October 8, 1959, an order was issued by the Court below holding in abeyance the resolution of the motions to dismiss until the trial, stating that the grounds alleged therein do not appear to be indubitable. Subsequently, petitioner manifested in open court that he was abandoning his prayer for the issuance of a preliminary mandatory injunction so that the case can be speedily terminated. On June 8, 1960, upon representations of the respondents and intervenor, an order was issued vacating the order of October 8, 1959 and ordering that "the Motions to Dismiss are deemed submitted anew for resolution." On June 14, 1960, after several hearings, another order was issued granting the motions to dismiss the amended petition, on the ground that petitioner did not exhaust all administrative remedies available to him in law. Petitioner filed a motion for reconsideration, which was denied in an order dated November 16, 1960. From said order of June 14, 1960, dismissing the petition, and the order of November 16, 1960, denying the motion for reconsideration, petitioner has brought this appeal, claiming that the lower court erred:

- In dismissing his petition for certiorari, mandamus and quo warranto, with preliminary mandatory injunction and damages;
- In not finding that the Monetary Board removed him for a cause not provided by law, therefore, in violation of the Constitution; and

- In not finding that the appointment of Mario P. Marcos, the officer appointed by the respondent Monetary Board to the position to which he was appointed, to have been made to a position that is not yet vacant.

The lower court was of the opinion that petitioner-appellant should have exhausted all administrative remedies available to him, such as an appeal to the Commissioner of Civil Service, under Republic Act 2260, or the President of the Philippines who under the Constitution and the law is the head of all the executive departments of the government including its agencies and instrumentalities. This is the main issue disputed in this appeal.

True, the appellant did not elevate his case for review either by the President or the Civil Service Commission. However, it is our opinion that a resort to these administrative appeals is voluntary or permissive, taking into account the facts obtaining in this case.

(1) There is no law requiring an appeal to the President in a case like the one at bar. The fact that the President had, in two instances cited in the orders appealed from, acted on appeals from decisions of the Monetary Board of the Central Bank, should not be regarded as precedents, but at most may be viewed as acts of condescension on the part of the Chief Executive. (2) While there are provisions in the Civil Service Law regarding appeals to the Commissioner of Civil Service and the Civil Service Board of Appeals, We believe the petitioner is not bound to observe them, considering his status and the Charter of the Central Bank. In *Castillo Bayona, et al.*, 106 Phil., 1121, We said that Section 14; Republic Act 265, creating the Central Bank of the Philippines, particularly paragraph (c) thereof, "is sufficiently broad to vest the Monetary Board with the power of investigation and removal of its officials, except the Governor thereof. In other words, the Civil Service Law is the general legal provision for the investigation, suspension or removal of civil service employees, whereas Section 14 is a special provision of law which must govern the investigation, suspension or removal of employees of the Central Bank, though they may be subject to the Civil Service Law and Regulations in other respects" In this case, the respondent Monetary Board considered petitioner resigned from the office to which he has been legally appointed as of the date of his suspension, after he has been duly indicted and tried before a committee created by the Board for the purpose. An appeal to the Civil Service Commission would thereby be an act of supererogation, requiring the presentation of practically the same witnesses and documents produced in the investigation conducted at the instance of the Monetary Board. Moreover, Section 16 (i) of the Civil Service Law provides that "except as otherwise provided by law" the Commissioner of Civil Service shall have "final authority to pass upon the removal, separation and suspension of all permanent officials and employees in the competitive or classified service and upon all matters relating to the conduct, discipline, and efficiency of such officials and employees; x x x." Considering again the fact that the Charter of the Central Bank provides for its own power, through the Monetary Board, relative to the investigation, suspension or removal of its own employees except the Governor, coupled with the fact that petitioner has admitted that he belongs to the non-competitive or unclassified service, it is evident that an appeal by petitioner to the Commissioner of Civil Service is not required or at most is permissive and voluntary.

"On the other hand, the doctrine does not apply where, by the terms or implications of the statute authorizing an administrative remedy, such remedy is permissive only, warranting the conclusion that the legislature intended to allow the judicial remedy even though the administrative remedy has not been exhausted." (42 Am. Jur 583).

There is another reason. It must be remembered that the amended petition is for certiorari, mandamus and quo warranto. The allegations of the second cause of action of the amended petition as abovequoted sufficiently comply with Section 7, Rule 68 of the Rules of Court on quo warranto proceedings, which requires that "When the action is against a person for usurping an office or franchise, the complaint shall set forth the name of the person who claims to be entitled thereto, if any, with an averment of his right to the same that the defendant is

unlawfully in possession thereof." And the complaint was filed within the period of one year from the date of separation, pursuant to Section 16 of the same Rule (Madrid vs. Auditor General 108 Phil., 578; 58 Off. Gaz., May, 1960, pp. 41, 42-43).

Section 9 of said Rule 68 provides that the time for pleadings and proceedings may be shortened and the action may be given precedence over any and other civil business. Section 16 of the same Rule requires the filing of the action against an officer for his ouster within one year after the cause of such ouster. These judicial rules underscore the need for speed in the determination of controversies to public offices (Remata vs. Javier, 37 Phil., 699; Tumalak vs. Egay, 82 Phil., 828). As was stated in Pinullar vs. President of the Senate, 104 Phil., 131, the rationale is that the Government must be immediately informed or advised if any person claims to be entitled to an office or position in the civil service as against another actually holding it, so that the Government may not be faced with the predicament of having to pay two salaries, one, for the person actually holding the office, although illegally, and another, for one not actually rendering service although entitled to do so (see also Madrid vs. Auditor General, *supra*).

Giving life and effect to these provisions, we have held in Casin vs. Caluag, 80 Phil., 758; 45 Off. Gaz., Supp. No. 9, p. 379, that a special civil action for quo warranto may be tried and decided independently of a pending criminal case. In another case (Abeto vs. Rodas 82 Phil., 59; 46 Off. Gaz., 930), we denied by resolution a supplemental motion for reconsideration where the petitioner had contended that the reglementary period of one year was suspended by the order of the President exonerating him from certain administrative charges because the petitioner "was justified in waiting for the President of the Philippines to reappoint him as the logical and legal consequence of his exoneration," and "only after considerable delay, when his hopes failed, did petitioner institute the present proceedings." Finally, in Torres vs. Quintos, 88 Phil., 436, we recalled the Abeto case, *supra*, by commenting therein that the denial of the motion for reconsideration in that case had of course the effect of rejecting the theory that the pendency of an administrative remedy suspends the period within which a petition for quo warranto should be filed, and we gave the reason thus:

"The reason is obvious. While it may be desirable that administrative remedies be first resorted to, no one is compelled or bound to do so; and as said remedies neither are prerequisite to nor bar the institution of quo warranto proceedings, it follows that he who claims the right to hold a public office allegedly usurped by another and who desires to seek redress in the courts, should file the proper judicial action within the reglementary period. As emphasized in Bautista vs. Fajardo, 38 Phil. 624, and Tumalak vs. Egay, 82 Phil., 828; 46 Off. Gaz., 3683, public interest requires that the right to a public office should be determined as speedily as practicable."

Upon the foregoing, we have to disagree with the legal opinion of the trial judge and hold that the doctrine of exhaustion of administrative remedies is inapplicable and does not bar the present proceedings.

Considering the two views we have taken in the case, we deem it unnecessary to pass upon the second and third assignments of error which partially involve the evaluation of facts. The court below has started to receive the evidence, and it is better equipped and should be given the chance to pass upon the credibility of the witnesses who testified before it (Veraguth vs. Isabela Sugar Co 57 Phil., 266).

WHEREFORE, the orders under consideration are hereby set aside and the record of the case is hereby ordered remanded to the trial court for further proceedings and judgment on the merits. No pronouncement as to costs.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, and Dizon, JJ., concur.

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