

AMADO BELLA JARO, PETITIONER AND APPELLANT, VS. HON. ELPIDIO VALENCIA, SECRETARY OF HEALTH AND HON. JESUS NOLASCO, DIRECTOR OF HEALTH SERVICES, RESPONDENTS AND APPELLEES.

G.R. No. L-19327. April 29, 1966

Ponente: DIZON, J.

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DIZON, J.:

On August 30, 1960, petitioner Amado Bella Jaro filed an action (Civil Case No. 440003) in the Court of First Instance of Manila against the Secretary of Health and the Director of Health Services to (a) compel them to return him to his original station at Cateel, Davao as municipal health officer thereof and (b) to declare null and void Special Order No. 2 dated February 17, 1959 issued by the second respondent temporarily assigning him as rural health physician of the Municipality of Padada, Davao.

After due trial the Court rendered judgment on March 25, 1961, the pertinent portion of which reads as follows:

"* * * * *

"Since the questioned order is illegal, the petitioner is entitled to be paid his back salaries from August 1, 1959, the date when payment of petitioner's salary was ordered withheld. The petitioner's claim for reimbursement of transportation expenses from Cateel, Davao to Manila and return and for payment of his per diems during his stay in Manila when he was summoned by respondents in connection with petitioner's transfer should be allowed, subject to auditing requirements.

"Since there is no indication that the respondents were motivated by bad faith in issuing the challenged order for, in fact, respondent Nolasco appears to be against any move to transfer petitioner, there is no justification for awarding damages and attorney's fees to the petitioner.

"IN VIEW OF THE FOREGOING, the Court hereby renders judgment declaring Special Order No. 2, dated February 17, 1959 (Exhibit 'W-12', also Exhibit '3') issued by respondents null and void; that the petitioner is entitled to the payment of his back salaries as Municipal Health Officer of Cateel, Davao from August 1, 1959 and transportation expenses and per diems in coming to Manila from Cateel, Davao, subject to auditing requirements.

"The counterclaim of respondents is hereby declared dismissed for lack of merit. This proceeding is without pronouncement as to costs."

In due time the respondents appealed (G. R. No. L-18352) raising purely questions of law.

Petitioner also appealed, the case having gone to the Court of Appeals (CA-G.RO No. 29352-R) because it raised the question of whether or not the respondents had acted in bad faith in connection with the issuance of the questioned Special Order No. 2 of the respondent Director of Health Services, aside from the error allegedly committed by the trial court in not awarding him moral damages and attorney's fees. The Court of Appeals,

however, elevated the case to Us for final disposition in conjunction with respondents' appeal (G. R. No. L-18352) pursuant to the provision of Section 17, paragraph 5 of the Judiciary Act of 1948, as amended.

It appears that on August 30, 1963, in G. R. No. L-18352 (respondents' appeal), We reversed the lower Court's decision except with regard to the portion which dismissed the then respondents' counterclaim, by holding that appellee's (Jaro) transfer from Cateel to Padada, Davao, was valid because his appointment was not for any specific assignment or station but as a physician in the Municipal Maternity and Charity Clinics, Bureau of Hospitals and that, as such he could be transferred or assigned to any station where, in the opinion of the Secretary of Health, his services may be utilized more effectively.

The validity of the respondents' order effecting petitioner's transfer to his new station having thus been upheld, it is clear that respondents could not be held to have acted in bad faith in ordering petitioner's transfer, in view of the lack of sufficient evidence showing that, in connection therewith, they had acted arbitrarily or inspired by purely personal motives.

Wherefore, the portion of the decision of the lower court covered by petitioner's appeal is hereby affirmed, with costs.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Regala, Makalintal, Bengzon, J.P., Zaldivar, and Sanchez, JJ., concur.

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