

SILVERIANO ANTIPORDA, PETITIONER, VS. HON. REINERIO J. TICA, MAYOR OF ILOILO CITY, ANIANO NARBONETA, TREASURER OF ILOILO CITY, AND HON. RAMON BLANCO, JUDGE OF THE COURT OF FIRS...*G.R. No. L-30796. April 15, 1988*

Ponente: YAP, J.

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This is a petition for review on certiorari seeking the reversal of the decision of the Court of First Instance of Iloilo in Civil Case No. 7593 dismissing petitioner's action for mandamus with damages to compel respondent Mayor Reinerio J. Tica to reinstate him to his position as secret serviceman in the Iloilo City Police Department.

Petitioner Silveriano Antiporda was a member of the Iloilo City Police Department from October 3, 1960 until January 23, 1968 when his services were terminated by respondent City Mayor on the ground that his provisional appointment had expired.

Petitioner claims that when his services were terminated by respondent, he was already a civil service eligible, hence, he could no longer be dismissed without just and lawful cause.

The trial court in Civil Case No. 7593 held that at the time of the termination of his services by the respondent City Mayor, the petitioner was holding a "provisional appointment" under Section 24 (c) of Republic Act 2260 and had not taken or passed the appropriate civil service examination. Granting that petitioner had already rendered continuous satisfactory service for a period of more than five (5) years at the time of the approval of Republic Act No. 4864 (Police Act of 1966), it was not shown that he applied for eligibility pursuant to Memorandum Circular No. 6 of the Police Commission dated April 1, 1968. He therefore remained a "provisional" employee and could not claim security of tenure as a civil service eligible.

We do not agree. Section 9 of the Police Act of 1966, which took effect upon its approval on September 8, 1966, provides that "persons who at the time of the approval of this Act have rendered at least five years of satisfactory service in a provincial, city or municipal police agency, although they have not qualified in an appropriate civil service examination, are considered as civil service eligibles for the purpose of this Act." By virtue of this provision, petitioner was deemed a civil service eligible since, at the time of the approval of the Police Act of 1966, he had already rendered more than five years of satisfactory service in the Iloilo City police department. The issuance of a certificate of civil service eligibility by the Civil Service Commission, for which he had to apply pursuant to Memorandum Circular No. 6 of the Police Commission, dated April 1, 1968, was a mere procedural formality. Section 9 of the Police Act itself conferred civil service eligibility on members of the police force who had rendered at least five years of satisfactory service at the time of the approval of the act. Petitioner must be deemed a civil service eligible as a matter of law, even if he did not qualify in an appropriate civil service examination, since he had already rendered more than five years of satisfactory service in a city police agency when the Police Act of 1966 took effect. He could not have applied for a certificate of eligibility in accordance

with Memorandum Circular No. 6 of the Police Commission, dated April 1, 1968, since he had been dismissed from the service by respondent Mayor of Iloilo City on January 23, 1968. In any event, at the time of his dismissal, he was already a civil service eligible by virtue of the provisions of Section 9 of the Police Act of 1966.

ACCORDINGLY, we grant the petition and set aside the appealed decision. However, since reinstatement of petitioner may no longer be feasible, private respondents are hereby sentenced to pay the petitioner backwages equivalent to five (5) years pay without qualification or deduction, as we held in *Lagampan vs. Asedillo*, G.R. No. 28353, September 30, 1987, and *Cristobal vs. Melchor*, 78 SCRA 175.

SO ORDERED.

Melencio-Herrera, Paras, Padilla, and Sarmiento, JJ., concur.

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