

**RAMON P. FERNANDEZ, PETITIONER, VS. EDUARDO ROMUALDEZ, AS SECRE-TARY OF FINANCE; ABELARDO SUBIDO, AS COMMISSIONER OF CIVIL SERVICE; JACINTO GAVINO, AS COMMISSIONER OF CUS-TOMS; ...**

*G.R. No. L-26208. April 03, 1968*

Ponente: BENGZON, J.P., J.

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**BENGZON, J.P., J.:**

On June 5, 1962, Ramon P. Fernandez was appointed Collector of Customs of the Port of Jose Panganiban, Camarines Norte. On its face, the appointment was "Proba-tionary" and it stated that "This appointment is good for a period of six months only from assumption to duty."\* (Petition, Annex "A") Said appointment was approved by the Civil Service Commissioner, "as indicated on the face thereof." (Petition, Annex "R") Fernandez assumed duty on June 18, 1962.

On December 12, 1962, Fernandez wrote the Commissio-ner of Customs, thus:

"Following my original appointment as Col-lector of Customs of the Port of Jose Pangani-ban, my probationary period of six months will end on the 18th of this month. As of this date, I have no permanent appointment although ins-tructed verbally by the Deputy Commissioner of Customs for Administration to continue on my job."

On January 10, 1963, Acting Secretary of Finance Rod-rigo D. Perez, Jr. extended another appointment in favor of Ramon P. Fernandez, to the same position, effective De-cember 19, 1962 (Answer, Annex "6"). Said appointment was expressly stated to be "temporary in nature and without prejudice to the final outcome of the administrative case against Mr. Democrito R. Septimo, former incumbent of the position."\* Ramon P. Fernandez continued occupying the position in question.

On April 2, 1966, Ramon P. Fernandez was informed at a conference by Commissioner of Customs Gavino that his appointment was terminated. This was reiterated in a for-mal notice in writing on April 19, 1966.

On May 17, 1966, Customs Commissioner Gavino issued Customs Personnel Order No. 513-66 ordering Alfredo de la Fuente (Collector of the Port of Aparri) to assume the post of Acting Collector of Customs of the Port of Jose Panganiban effective immediately but not to exceed thirty days. Said order was transmitted to Fernandez on May 19, 1966 with a directive to turn over his money and property accountabilities to De la Fuente.

De la Fuente reported to the office of the Collector in Jose Panganiban and assumed his new position on May 24, 1966. Fernandez, however, refused to relinquish the posi-tion. On the same day, Fernandez instructed his personnel not to recognize De la Fuente as Collector.

The next day, May 25, 1966, Fernandez telegraphed the Commissioner of Customs, questioning De la Fuente's detail.

On June 6, 1966, Fernandez filed the present action in this Court for quo warranto and mandamus with preliminary injunction, against Eduardo Romualdez as Secretary of Finance, Abelardo Subido as Commissioner of Civil Service, Jacinto Gavino as Commissioner of Customs, Alfredo de la Fuente and Job P. Guinto. Respondent Guinto, who is a deputy collector, is sued on the allegation that De la Fuente's detail as collector for 30 days is designed merely to enable deputy collector Guinto to assume the position of collector after Fernandez is ousted.

Respondents filed their answer on July 15, 1966. After hearing, this case was submitted for decision on December 8, 1966.

At issue is whether Fernandez's appointment was legally terminated.

The first appointment extended to Fernandez was termed "Probationary" and specified to be good only for six months from assumption of duty, or until December 18, 1962, he having assumed duty on June 18, 1962. It was approved as such by the Commissioner of Civil Service. Subsequently, Fernandez was extended merely a "temporary" appointment and he continued to perform his duties under said temporary appointment, effective December 19, 1962. There is therefore no question that on April 19, 1966, when Fernandez was notified that his appointment was terminated, he was holding merely a temporary appointment, which is terminable at any time.

WHEREFORE, the petition for quo warranto and mandamus is hereby denied, with costs.

**SO ORDERED.**

Reyes, J.B.L., (Acting C.J.), Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

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\* [Sic ]

\* Collector Septimo was ordered dismissed by the Civil Service Commission on May 29, 1961. The decision became final on May 16, 1962. Appeal to the Civil Service Board of Appeals was made on June 1, 1962, but was dismissed for being late, under the Board's resolution promulgated on August 2, 1965.

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