

JESULITO A. MANALO, PETITIONER, VS. PEDRO G. SISTOZA, REGINO ARO III, NICASIO MA. CUSTODIO, GUILLERMO DOMONDON, RAYMUNDO L. LOGAN, WILFREDO R. REOTUTAR, FELINO C. PACHECO, JR., ...

G.R. No. 107369. August 11, 1999

Ponente: PURISIMA, J.

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PURISIMA, J.:

The case at bar is not of first impression. The issue posed concerning the limits of the power of the Commission on Appointments to confirm appointments issued by the Chief Executive has been put to rest in a number of cases. The court finds no basis for departing from the ruling laid down in those cases.

In this special civil action for Prohibition under Rule 65 of the Revised Rules of Court, petitioners question the constitutionality and legality of the permanent appointments issued by former President Corazon C. Aquino to the respondent senior officers of the Philippine National Police who were promoted to the ranks of Chief Superintendent and Director without their appointments submitted to the Commission on Appointments for confirmation under Section 16, Article VII of the 1987 Constitution and Republic Act 6975 otherwise known as the Local Government Act of 1990. Impleaded in the case is the former Secretary of Budget and Management Salvador M. Enriquez III, who approved and effected the disbursements for the salaries and other emoluments of subject police officers.

The antecedents facts are as follows:

On December 13, 1990, Republic Act 6975 creating the Department of Interior and Local Government was signed into law by former President Corazon C. Aquino. Pertinent provisions of the said Act read:

Sec. 26. Powers, Functions and Term of Office of the PNP Chief. - The command and direction of the PNP shall be vested in the Chief of the PNP who shall have the power to direct and control tactical as well as strategic movements, deployment, placement, utilization of the PNP or any of its units and personal, including its equipment, facilities and other resources. Such command and direction of the Chief of the PNP may be delegated to subordinate officials with respect to the units under their respective commands, in accordance with the rules and regulations prescribed by the Commission. The Chief of the PNP shall also have the power to issue detailed implementing policies and instructions regarding personnel, funds, properties, records, correspondence and such other matters as may be necessary to effectively carry out the functions, powers and duties of the Bureau. The Chief of the PNP shall be appointed by the President from among the senior officers down to the rank of the chief superintendent, subject to confirmation by the Commission on Appointments: Provided, That the Chief of the PNP shall serve a term of office not to exceed four (4) years: Provided, further, That in times of war or other national emergency declared by Congress, the President may extend such term of office." [1](underlining supplied).

Sec.31. Appointment of PNP Officers and Members. - The appointment of the officers and members of the PNP shall be effected in the following manner:

(a) Police Officer I to Senior Police Officer IV - Appointed by the PNP regional director for regional personnel or by the Chief of the PNP for the national headquarters personnel and attested by the Civil Service Commission;

(b) Inspector to Superintendent - Appointed by the Chief of the PNP, as recommended by their immediate superiors, and attested by the Civil Service Commission;

(c) Senior Superintendent to Deputy Director General - Appointed by the President upon recommendation of the Chief of the PNP, with the proper endorsement by the Chairman of the Civil Service Commission and subject to confirmation by the Commission on Appointments; and

(d) Director General - Appointed by the President from among the senior officers down to the rank of chief superintendent in the service, subject to confirmation by the Commission on Appointments; Provided, That the Chief of the PNP shall serve a tour of duty not to exceed four (4) years; Provided, further, That, in times of war or other national emergency declared by Congress, the President may extend such tour of duty. " (underlining supplied).

In accordance therewith, on March 10, 1992, the President of the Philippines, through then Executive Secretary Franklin M. Drilon, promoted the fifteen (15) respondent police officers herein, by appointing them to positions in the Philippine National Police with the rank of Chief Superintendent to Director[2], namely:

Chief Supt. PEDRO G. SISTOZA

-

Director

Chief Supt. REGINO ARO III

-

Director

Chief Supt. NICASIO MA. CUSTODIO

-

Director

Chief Supt. GUILLERMO DOMONDON

-

Director

Chief Supt. RAYMUNDO L. LOGAN

-

Director

Senior Supt. WILFREDO REOTUTAR

-

Chief Superintendent

Senior Supt. FELINO C. PACHECO, JR.

-

Chief Superintendent

Senior Supt. RUBEN J. CRUZ

-

Chief Superintendent

Senior Supt. GERONIMO B. VALDERRAMA

-

Chief Superintendent

Senior Supt. MERARDO G. ABAYA

-

Chief Superintendent

Senior Supt. EVERLINO NARTATEZ

-

Chief Superintendent

Senior Supt. ENRIQUE T. BULAN

-

Chief Superintendent

Senior Supt. PEDRO J. NAVARRO

-

Chief Superintendent

Senior Supt. DOMINADOR MANGUBAT

-

Chief Superintendent

Senior Supt. RODOLFO M. GARCIA

-

Chief Superintendent

The appointments of respondent police officers were in a permanent capacity. Their letters of appointment stated in part :

"By virtue hereof, they may qualify and enter upon the performance of the duties of the office, furnishing this office and the Civil Service Commission with copies of their oath of office."[3]

Without their names submitted to the Commission on Appointments for confirmation, the said police officers took their oath of office and assumed their respective positions. Thereafter, the Department of Budget and

Management, under the then Secretary Salvador M. Enriquez III, authorized disbursements for their salaries and other emoluments.

On October 21, 1992, the petitioner brought before this Court this present original petition for prohibition, as a taxpayer suit, to assail the legality of subject appointments and disbursements made therefor.

Petitioner contends that:

"I. Respondent officers, in assuming their offices and discharging the functions attached thereto, despite their invalid appointments, in view of the failure to secure the required confirmation of the Commission on Appointments as required by the Constitution and the law, are acting without or in excess of their jurisdiction or with grave abuse of discretion, considering that :

A. Republic Act 6975 is a valid law that duly requires confirmation of the appointments of officers from the rank of senior superintendent and higher by the Commission on Appointments;

B. The Philippine National Police is akin to the Armed Forces where the Constitution specifically requires confirmation by the Commission on Appointments.

II. Respondent Secretary in allowing and/or effecting disbursements in favor of respondent officers despite the unconstitutionality and illegality of their appointments is acting without or in excess of his jurisdiction or with grave abuse of discretion."

The petition must fail. It is not impressed with merit.

Petitioner theorizes that Republic Act 6975 enjoys the presumption of constitutionality and that every statute passed by Congress is presumed to have been carefully studied and considered before its enactment. He maintains that the respect accorded to each department of the government requires that the court should avoid, as much as possible, deciding constitutional questions.

The Court agrees with petitioner. However, it is equally demanded from the courts, as guardians of the Constitution, to see to it that every law passed by Congress is not repugnant to the organic law. Courts have the inherent authority to determine whether a statute enacted by the legislature transcends the limit delineated by the fundamental law.[4] When it does, the courts will not hesitate to strike down such unconstitutional law.

The power to make appointments is vested in the Chief Executive by Section 16, Article VII of the Constitution, which provides:

"Section 16. The President shall nominate and, with the consent of the Commission on Appointments, appoint the heads of the executive departments, ambassadors, other public ministers and consuls, or officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him in this Constitution. He shall also appoint all other officers of the Government whose appointments are not otherwise provided for by law, and those whom he may be authorized by law to appoint. The Congress may, by law, vest the appointment of other officers lower in rank in the President alone, in the courts, or in the heads of departments, agencies, commissions, or boards.

The President shall have the power to make appointments during the recess of the Congress, whether voluntary or compulsory, but such appointments shall be effective only until disapproval by the Commission on Appointments or until the next adjournment of the Congress."

The aforecited provision of the Constitution has been the subject of several cases on the issue of the restrictive function of the Commission on Appointments with respect to the appointing power of the President. This court touched upon the historical antecedent of the said provision in the case of *Sarmiento III vs. Mison*[5] in which it

was ratiocinated upon that Section 16 of Article VII of the 1987 Constitution requiring confirmation by the Commission on Appointments of certain appointments issued by the President contemplates a system of checks and balances between the executive and legislative branches of government. Experience showed that when almost all presidential appointments required the consent of the Commission on Appointments, as was the case under the 1935 Constitution, the commission became a venue of "horse-trading" and similar malpractices.[6] On the other hand, placing absolute power to make appointments in the President with hardly any check by the legislature, as what happened under 1973 Constitution, leads to abuse of such power. Thus was perceived the need to establish a "middle ground" between the 1935 and 1973 Constitutions. The framers of the 1987 Constitution deemed it imperative to subject certain high positions in the government to the power of confirmation of the Commission on Appointments and to allow other positions within the exclusive appointing power of the President.

Conformably, as consistently interpreted and ruled in the leading case of *Sarmiento III vs. Mison*[7], and in the subsequent cases of *Bautista vs. Salonga*[8], *Quintos-Deles vs. Constitutional Commission*[9], and *Calderon vs. Carale*[10]; under Section 16, Article VII, of the Constitution, there are four groups of officers of the government to be appointed by the President:

First, the heads of the executive departments, ambassadors, other public ministers and consuls, officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him in this Constitution;

Second, all other officers of the Government whose appointments are not otherwise provided for by law;

Third, those whom the President may be authorized by law to appoint;

Fourth, officers lower in rank whose appointments the Congress may by law vest in the President alone.

It is well-settled that only presidential appointments belonging to the first group require the confirmation by the Commission on Appointments. The appointments of respondent officers who are not within the first category, need not be confirmed by the Commission on Appointments. As held in the case of *Tarrosa vs. Singson*[11], Congress cannot by law expand the power of confirmation of the Commission on Appointments and require confirmation of appointments of other government officials not mentioned in the first sentence of Section 16 of Article VII of the 1987 Constitution.

Consequently, unconstitutional are Sections 26 and 31 of Republic Act 6975 which empower the Commission on Appointments to confirm the appointments of public officials whose appointments are not required by the Constitution to be confirmed. But the unconstitutionality of the aforesaid sections notwithstanding, the rest of Republic Act 6975 stands. It is well-settled that when provisions of law declared void are severable from the main statute and the removal of the unconstitutional provisions would not affect the validity and enforceability of the other provisions, the statute remains valid without its voided sections.[12]

It is petitioner's submission that the Philippine National Police is akin to the Armed Forces of the Philippines and therefore, the appointments of police officers whose rank is equal to that of colonel or naval captain require confirmation by the Commission on Appointments.

This contention is equally untenable. The Philippine National Police is separate and distinct from the Armed Forces of the Philippines. The Constitution, no less, sets forth the distinction. Under Section 4 of Article XVI of the 1987 Constitution,

"The Armed Forces of the Philippines shall be composed of a citizen armed force which shall undergo military training and service, as may be provided by law. It shall keep a regular force necessary for the security of the State."

On the other hand, Section 6 of the same Article of the Constitution ordains that:

"The State shall establish and maintain one police force, which shall be national in scope and civilian in character to be administered and controlled by a national police commission. The authority of local executives over the police units in their jurisdiction shall be provided by law."

To so distinguish the police force from the armed forces, Congress enacted Republic Act 6975 which states in part:

Section 2. Declaration of policy - It is hereby declared to be the policy of the State to promote peace and order, ensure public safety and further strengthen local government capability aimed towards the effective delivery of the basic services to the citizenry through the establishment of a highly efficient and competent police force that is national in scope and civilian in character. xxx

The police force shall be organized, trained and equipped primarily for the performance of police functions. Its national scope and civilian character shall be paramount. No element of the police force shall be military nor shall any position thereof be occupied by active members of the Armed Forces of the Philippines.

Thereunder, the police force is different from and independent of the armed forces and the ranks in the military are not similar to those in the Philippine National Police. Thus, directors and chief superintendents of the PNP, such as the herein respondent police officers, do not fall under the first category of presidential appointees requiring the confirmation by the Commission on Appointments.

In view of the foregoing disquisition and conclusion, the respondent former Secretary Salvador M. Enriquez III of the Department of Budget and Management, did not act with grave abuse of discretion in authorizing and effecting disbursements for the salaries and other emoluments of the respondent police officers whose appointments are valid.

WHEREFORE, for lack of merit, the petition under consideration is hereby DISMISSED. No pronouncement as to costs.

SO ORDERED.

Davide, C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.

[1] Republic Act 6975, otherwise known as the Department of Interior and Local Government Act of 1990

[2] Rollo, p. 15

[3] Ibid.

[4] Tatad vs. Secretary of the Department of Energy, 282 SCRA 337

[5] 156 SCRA 549

[6] Ibid., p.556.

[7] Ibid.

[8] 172 SCRA 160

[9] 177 SCRA 259

[10] 208 SCRA 254

[11] 232 SCRA 553

[12] Tatad vs. Secretary of the Department of Energy, 282 SCRA 337

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