

**PRIMITIVO P. CAMMAYO, PETITIONER AND APPELLANT,, VS.
GUILLERMO VIÑA, IN SUBSTITUTION FOR THE DECEASED
CELESTINO V. RAMOS, RESPONDENT AND APPELLEE.**

G.R. No. 11196. August 30, 1957

Ponente: ENDENCIA, J.

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ENDENCIA, J.:

In the court below, petitioner instituted this action for quo warranto to test the legality and constitutionality of Administrative Order No. 73 issued by the President of the Philippines, removing petitioner herein from office as Assistant Fiscal of Manila, as well as the appointment of the respondent Celestino V. Ramos as Assistant Fiscal of Manila to replace him.

There is practically no dispute as to the facts of the case.

The petitioner was a duly appointed Assistant Fiscal of Manila who took his oath of office on June 1, 1951.

On July 19, 1954, letters written by him to prisoner Domingo Bebania, then serving sentence for parricide at the New Bilibid Prisons in Muntinlupa, Rizal, were found in the latter's hut in a routinary inspection of the prisoners.

The letters were confiscated by the authorities of the prison and at the investigation of prisoner Bebania, he executed an affidavit stating therein, among other things, that the petitioner asked him the sum of P200 and a rooster so that he could work for Bebania's pardon. Subsequently, the Hon. Secretary of Justice charged the petitioner with dishonest conduct as follows:

"In view hereof, you are hereby charged with dishonest conduct highly prejudicial to the best interest of the service and given five days from receipt hereof within which to submit to this Department a detailed answer thereto, together with whatever written evidence you may desire to present in support of your side. You are, however, advised that if you so elect, a formal investigation of the charge may be conducted, at which formal investigation you will be given the opportunity to defend yourself personally or by counsel. If you elect to have a formal investigation, you may make a request therefor in your answer."

Petitioner chose a formal investigation, hence the Department of Justice appointed a special investigator to conduct a formal hearing" of the charges against the petitioner. Thereafter said hearing was held where evidence was adduced both in support of the charges and in defense of petitioner. After the investigation, the investigator found the petitioner guilty as charged and, on the basis of the findings of the investigator, the Secretary of Justice, in turn, recommended to His Excellency, the President of the Philippines, the dismissal of the petitioner. Upon receipt of said recommendation, the President issued Administrative Order No. 73 finding the petitioner guilty of dishonest conduct highly prejudicial to the best interest of the service and removing him from the service effective upon receipt of said order, the most pertinent portions of which are as follows:

"It is undisputed that prisoner Bebania solicited respondent's help to obtain his release from prison; that the respondent asked from Bebania the amount of P200 and a "Texas" rooster; and that the rooster was never

delivered to the respondent.

* * * * *

"The sum total of the efforts exerted by the respondent in behalf of Bebania consisted, it appears, in writing and filing two petitions for executive clemency, the last of which was denied by the President on June 23, 1954. Whatever expenses these efforts entailed could not possibly have come up to P200. As to his request for a fighting cock, even on the assumption that it was really intended for his co-employees, the cold fact remains that he again unconsciously sought to take advantage of a poverty-stricken prisoner by attempting to take away the latter's poor possessions.

"The foregoing amply shows that the respondent is guilty of the charge. While respondent's actuations in the premises had no connection with the discharge of his official duties and while he may not have actually succeeded in obtaining what he sought to obtain, yet his acts clearly show his moral unfitness for public service. Observance of the highest standards of personal integrity and decorum is required of all public officials if the Government is to deserve the trust and confidence of the people. A fiscal, a vital part of the machinery for the administration of justice, who deceives a prisoner hungry for freedom and seeks to extract from him what little he possesses certainly falls far too short of those standards.

"Wherefore, Mr. Primitivo P. Cammayo is hereby removed from office as assistant fiscal of Manila, effective upon receipt of notice hereof."

On November 15, 1954, petitioner received copy of said order and shortly thereafter he filed with His Excellency, the President of the Philippines, a petition for its reconsideration, but it was denied for lack of merit. As immediately after the issuance of the Administrative Order No. 73, Celestino V. Ramos was appointed Ad interim Assistant Fiscal to replace the petitioner, the latter immediately instituted the present case on the ground that his removal from office was illegal, that the appointment of respondent Celestino V. Ramos was likewise illegal, and that Administrative Order No. 73 was null and void because (a) in the investigation conducted against the petitioner the requirement of due process of law had not "been complied with, and (b) that the act of which he was found guilty did not constitute legal ground for his removal.

After due hearing, the case was dismissed mainly on the following grounds:

"That the petitioner has been legally separated and removed from office can not be disputed. The administrative order of the President was based on the result of an investigation wherein the petitioner was given an opportunity to be heard and to present his defense. The investigation was conducted by order of the Secretary of Justice, who has general supervision of the office of the City Fiscal (Section 38, Republic Act No. 409, as amended by Sec. 2, of Republic Act No. 1201),

"The finding of the investigator that the petitioner is guilty of dishonest conduct highly prejudicial to the best interest of the service, is based on facts established during the hearing. It has been sufficiently proved that the petitioner sought to obtain some gifts from Domingo Bebania, Jr., a prisoner in Muntinlupa, who is serving sentence for parricide, in consideration of petitioner's efforts to secure his pardon. The petitioner's letters to Bebania were all written on official papers bearing the letterhead of the City Fiscal's Office. Evidently he intended to impress Bebania with his official position.

"That the petitioner's misconduct has no connection with the discharge of his duties as assistant fiscal is immaterial. As was said in the President's administrative order 'observance of the highest standards of personal integrity and decorum is required of all public officials if the government is to deserve the trust and confidence of the public' The petitioner was found guilty of dishonest conduct after proper investigation and hearing, and such finding, which the court has no authority to alter, renders him unfit for the office of assistant fiscal and undeserving of the trust and confidence of the public."

Thereupon the petitioner appealed and in this instance he contends that the lower court erred:

"I. In finding that, petitioner was legally removed from office and in not declaring administrative order No. 73 by the President of the Philippines removing petitioner from office as assistant fiscal of Manila illegal and unconstitutional altho the dishonest conduct imputed to the petitioner as ground for his removal was according to the text of said administrative order, not related to nor connected with the performance of the official duties of assistant fiscal of Manila and petitioner was not convicted nor even prosecuted in court for its commission;

"II. In not finding that petitioner's removal from office as assistant fiscal of Manila was in violation, of the constitutional and legal requirement on due processes of law when he was not given a fair and impartial hearing;

"III. In holding that the position of assistant fiscal of Manila which petitioner had been holding became vacant upon petitioner's removal from office, and that there was no usurpation and unlawful holding of the office by the respondent altho respondent was appointed to the same office in place of petitioner;

"IV. In denying the petition for quo warranto and in not rendering judgment in favor of the petitioner ousting and excluding the respondent from office and reinstating petitioner to the office of assistant fiscal of Manila with the right to receive all the emoluments appurtenant to said office from date of his removal to his reinstatement in office."

Upon careful consideration of appellant's contentions as embodied in the foregoing assignments of error, we find that the decisive one is whether he was removed from office without due process of law and whether the facts proven against him during" the investigation do constitute sufficient legal ground for his removal. Petitioner-appellant does not deny that there has been a formal hearing of the charges filed against him by the Department of Justice; that in that hearing, he was given opportunity to defend himself from said charges; that the investigator found him guilty of dishonest conduct highly prejudicial to the best interest of the service and accordingly the Department of Justice has recommended his removal to His Excellency, the President of the Philippines, and that the latter approved such recommendation and dismissed him from the service because of his moral unfitness for public service. Evidently, having these facts in view, it cannot be pretended that the constitutional provision of due process of law for the removal of the petitioner has not been complied with.

As to whether the cause for which he was dismissed constitutes a legal ground sufficient for his removal from office, we concur with the court below that the acts committed by the appellant as conclusively established by the evidence adduced during the investigation so that he could work for the pardon of prisoner Bebania who was at the time serving sentence for parricide, do constitute disgraceful conduct and show his moral unfitness for public service, especially for the position of a fiscal who is an officer entrusted with the duty to prosecute crimes.

It is vigorously contended by the petitioner-appellant that under Article XII, Section 4, of the Constitution which provides that "No officer or employee in the Civil Service shall be removed or suspended except for cause as provided by law", the cause for which petitioner-appellant was removed was not one of those "provided by law." It cannot be denied, however, that the cause for which the petitioner was removed, as could be seen from the Administrative Order No. 73, does not constitute dishonesty and conduct prejudicial to the best interest of the service which, pursuant to Section 6 of Rule XIII of the Civil Service Rules, are sufficient grounds for removal. And since the President of the Philippines is the administrative head of our Government and as such is empowered to dismiss from the service, after due investigation, any presidential appointee found guilty of the acts mentioned in the aforesaid Civil Service Rule, we are constrained to hold that the petitioner having been properly removed from office, the present action has no foundation in fact and in law and that the lower court correctly dismissed it.

Wherefore, the decision appealed from is hereby affirmed in toto without costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L.,

and Felix, JJ., concur.

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