

ROGERIO GENDRALA, PETITIONER AND APPELLANT, VS. TEOFISTO CORDOVA, ETC., RESPONDENT AND APPELLEE.*G.R. No. 11569. March 30, 1959*

Ponente: REYES, A., J.

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Removed from his position as policeman of Bacolod City without benefit of investigation, Rogerio Gendrala brought an action for mandamus in the Court of First Instance of Occidental Negros to compel the Mayor of said city to reinstate him and pay him backpay, plus moral and exemplary damages. And the action having been dismissed in that court, he took the present appeal.

It appears from the agreed statement of facts that appellant was appointed policeman of Bacolod City on October 16, 1955; that he was not a civil service eligible and his appointment was merely temporary; that his position was newly created and the salary therefor was included in the city budget for the fiscal year 1955-1956, which was approved by the city council on November 14, 1955 and by the Secretary of Finance on January 18 of the following year; that previous to his dismissal he had never been accused of any crime or charged with any anomaly, irregularity or inefficiency in the performance of his duties; that though he had asked the mayor to reconsider his dismissal he did not appeal to the higher authorities; and that following his dismissal he was paid his total salary for the entire period of his service.

It is apparent at once that the appeal is without merit. Not being a civil service eligible and his appointment being merely temporary appellant could legally be dismissed at any time. (*Cuadra vs. Cordova*, 103 Phil., 391; 54 Off. Gaz. [35], 8063 *Galon vs. Cordova*, G. R. No. L-11515, November 29, 1958.) Though removed without previous investigation, he cannot invoke the protection accorded to municipal policemen by Republic Act No. 557 for the simple reason that he is a non-eligible. (*Orais, et al vs. Ribo, et al.*, 98 Phil., 985, 49 Off. Gaz. 5386; *Amora, et al., vs. Bibera, et al.*, 99 Phil., 1; 52 Off. Gaz., No. 6, 3015.) And being merely a temporary employee and with no civil service eligibility, he does not come under the constitutional guarantee against removal without cause. (*Galon vs. Cordova*, *supra*, and cases cited therein.) As appellant's dismissal was lawful, his action for reinstatement and damages was properly dismissed. Appellant's case is, as a matter of fact, identical with those of *Cuadra vs. Cordova* and *Galon vs. Cordova*, *supra*, which were decided last year.

In view of the foregoing, the decision below is affirmed, but without special pronouncement as to costs.

Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, and Reyes, J. B. L. JJ., concur.

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