

MARIANO CONDE, PLAINTIFF AND APPELLANT VS. THE NATIONAL TOBACCO CORPORATION AND THE BOARD OF LIQUIDATORS, DEFENDANTS AND APPELLEES.

G.R. No. 11985. January 28, 1961

Ponente: DIZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-11985/>

DIZON, J.:

Appeal by Mariano Conde from the decision of the Court at First Instance of Manila dismissing the complaint filed by him against the National Tobacco Corporation and the Board of Liquidators, without costs.

It appears that on September 6, 1940 appellant was appointed Secretary-Treasurer of the National Tobacco Corporation with an annual compensation of P4,800 effective as of October 15, 1940. On August 22, 1941 he was appointed Secretary and Administrative Officer of the same company with the same annual compensation. On October 23, 1945 he was appointed Acting Secretary and Administrative Officer of the company with an annual compensation of P5,100.00. On March 18, 1946 he was appointed Acting Secretary and Administrative Officer with an increased annual compensation of P6,000.00. On September 16 of the same year he was appointed Treasurer and Chief, Credit Department, with the same annual compensation of P6,000.00. The appointment extended indicated that it was a mere "change in designation". On November 18, 1946 he was appointed Treasurer and Credit Manager with an increased annual compensation of P7,200.00 effective as of November 1st of said year. Finally, on December 21, 1948 he was appointed Treasurer with a reduced annual compensation of P6,000.00 effective as of December 16, of laid year. This was in pursuance of Resolution No. 265 passed by the Board of Directors of the company on December 6, 1948, which stated, inter alia, that the reduction of the salary of appellant was for the purpose of making uniform the annual compensation of the Department Chiefs of the company. In this connection the resolution also relieved appellant of his duties as Secretary of the Board of Directors and Administrative Officer, presumably in order that his work as department chief would not be much more than that of other department chiefs. Several petitions for reconsideration filed by appellant in connection with the reduction of his annual compensation were denied by the Board of Directors.

By executive order No. 372 the National Tobacco Corporation was dissolved and a Board of Liquidators was created for the purpose of settling and closing its affairs within a period of three years. Appellant also sought twice from the Board of Liquidators a reconsideration of the Board resolution reducing his annual compensation, but his petitions were denied. As a result, after his retirement from the service of the National Tobacco Corporation on January 31, 1952, he commenced the present action to recover from the latter and/or the Board of Liquidators, jointly and severally, the sum of P5,283.33, with legal interest from the filing of the complaint, plus the sum of P1,750.00 for attorney's fees, and the costs of the suit. The first amount represented alleged salaries and gratuity differentials which he failed to receive by reason of the fact that the computations made for the payment of his salaries and gratuity were based on his reduced compensation of P6,000.00 per annum.

The questions raised by appellant in this instance may be summarized as follows: firstly, that the document

Exhibit B constituted an appointment and not a mere notice of the reduction of his salary, and that, therefore, it was not valid without the approval of the Chief Executive; secondly, that the approval of the Operation Budget of the company for the fiscal year July 1, 1948 to June 30, 1949 by the Control Committee of the Government Enterprises Council did not amount to presidential approval of Exhibit B; and lastly, that the court should have rendered judgment in his favor by reason of the prevailing governmental practice of not applying any reduction of salary for any particular position to the incumbent, and on the further ground that the Board of Directors of the National Tobacco Corporation had discriminated against appellant.

Appellant concedes the authority of his former employer to reduce his salary or compensation, but argues that the document Exhibit B appointing him as Treasurer was never approved by the President of the Philippines and, for this reason, never became legally effective. This contention is untenable.

It is true that the approval of the President was necessary in the case of appointments to positions in the National Tobacco Corporation involving a salary of P3,000.00 or more annually. It is likewise a fact that the appointments extended to appellant mentioned heretofore were submitted to and approved by the President of the Philippines, through the Chief of the Executive Office, with the exception of the last which appointed him as Treasurer only and reduced his annual compensation from P7,200.00 to P6,000.00. The rule referred to, however, would apply to appellant's case only if the document marked Exhibit B constituted, in fact and in law, a real appointment and not a mere notice advising him of the reduction of his annual salary and of his duties as employee of the company. After a careful consideration of the circumstances that led to the issuance thereof, we are inclined to believe that the document was in the nature of a mere notice and, therefore, needed no presidential approval. It must be observed that the preceding appointments were as Secretary-Treasurer (Exhibit C); as Secretary and Administrative Officer (Exhibit D); as Acting Secretary and Administrative Officer (Exhibit E); as Acting Secretary and Administrative Officer (Exhibit F); as Treasurer and Chief, Credit Department (Exhibit G); and as Treasurer and Credit Manager (Exhibits A, A-1); while the one in question was as Treasurer exclusively. Appellant, therefore, was not given a new job; the so-called "appointment" merely reduced his duties and, as a consequence, made a corresponding reduction in his annual compensation. Exhibit B itself expressly states that the change was made in pursuance of Board Resolution No. 265 which was adopted for the purpose of standardizing the salaries of chiefs of departments, for which reason, "the compensation of the treasurer be was reverted to six thousand (P6,000.00) pesos per annum effective December 16, 1948" (Exhibit 6). It is clear, therefore, that exhibits 6 and B, in effect, merely took away from appellant his additional duties as credit manager, and in view of his reduced duties and to accomplish standardization of salaries, his compensation was reverted to P6,000.00 per annum.

Moreover, the reduction of appellant's duties was not at all arbitrary. It was motivated principally by the fact that there had been created in the corporation a separate position with an annual compensation of P6,000.00, entrusted with the discharge of the duties of which appellant was relieved.

From a technical point of view, there would seem to be less reason to uphold appellant's contention. The term "appointment" is in law equivalent to "filling a vacancy" (6 C.J.S. 89). In this case it seems obvious to us that appellant never vacated the position of treasurer; he did not have to vacate it in order to accept the position to which he was "appointed" on December 21, 1948 (Exhibit B). In point of fact, therefore, the position of Treasurer was not vacated by him by reason of his alleged appointment as Treasurer only.

The fact that the appointments extended in favor of appellant prior to the one in question were submitted to and actually approved by the Office of the President of the Philippines is explained by the fact that the appointment of September 6, 1940 was his original appointment as Secretary-Treasurer and the subsequent ones involved increases in salary or additional duties imposed upon the appointee. Their submission to the Office of the

President was in pursuance of a policy in relation to appointments in government controlled corporations involving additional expenditure and disbursement or appropriation of funds. There is no showing in the record that the same policy applied to a case of reduction of salary.

But even granting that the so-called appointment required presidential approval, it may be gleaned from the record that there had been substantial compliance with this requirement. The reduction of appellant's salary, after its approval by the General Manager and the Board of Directors of the National Tobacco Corporation, was carried in the Operation Budget of the corporation for the fiscal year July 1, 1948 to June 30, 1949. This Operation Budget was submitted to and approved by the Control Committee of the Government Enterprises Council, through its Chairman. This affirmative action was taken by authority of the President of the Philippines (Exhibit 8-A). It must be stated in this connection that by Executive Order No. 93 (Exhibit 15) the Government Enterprises Council and particularly the Control Committee thereof is the representative of the President in the supervision of all government-owned and controlled corporations. The act of said body, therefore, should be deemed to be an act done on behalf of the President of the Philippines himself. This must be binding upon appellant for the reason that all his appointments prior to the one in question—which he deems valid and regular—were not approved by the President of the Philippines personally but by the Executive Secretary acting "by authority of the President". (Exhibits 1 to 5).

With what has been stated heretofore we deem fully resolved the main questions involved in this appeal and, finding the appealed decision to be in accordance with law, the same is hereby affirmed, with costs.

Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, Gutierrez David, and Paredes, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.