

JOSE MONTERO, ET AL., PETITIONERS AND APPELLANTS, VS. GUIDO D. CASTELLANES, RESPONDENT AND APPELLEE.*G.R. No. 12694. June 30, 1960*

Ponente: GUTIERREZ DAVID, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-12694/>**GUTIERREZ DAVID, J.:**

This is a petition for mandamus filed with the Court of First Instance of Negros Occidental by herein appellants Jose Montero, Melecio Gayondato and Pablo Sorposa, to compel the respondent-appellee Guido D. Castellanes, mayor of the municipality of Calatrava of the same province, to reinstate them as policemen in said municipality with back salary and damages. It is alleged that they were summarily and arbitrarily dismissed in violation of the provisions of Republic Act No. 557.

Answering the petition, the respondent mayor alleged, among other things, that the provisions of Republic Act No. 557 cannot be invoked by appellants since they were not Civil Service eligibles and their appointments were temporary in nature; that mandamus was not the proper remedy; and that appellants were legally relieved and replaced with appointees with better qualifications and with preferential rights under Republic Act No. 1363[1] as implemented by Administrative Order No. 130, series of 1955, of the President of the Philippines.

At the trial, the parties entered into a stipulation of facts, wherein it was admitted that appellants, who are non-civil service eligibles, were appointed temporary policemen of the municipality of Calatrava, Negros Occidental, by the respondent mayor on December 30, 1955, and took their oath of office the following day; that on January 6, 1956, the Assistant Executive Secretary, upon receipt of a telegram from the respondent mayor recalling the appointments of appellants, returned the appointment papers without taking any action thereon; that appellants were separated from the service on January 16, 1956 and thereafter replaced by the temporary appointment of other non-eligibles.

On the basis of the above stipulation of facts, the lower court, on June 11, 1956, rendered a decision dismissing the petition for mandamus for lack of merit. From that decision, appellants appealed to the Court of Appeals. The question raised in the appeal being purely legal, the case was certified to this Court.

The appeal is clearly without merit

The appointment of appellants being admittedly temporary in character, the same can be terminated at pleasure by the appointing power. In a long line of decisions, this Court has held that one who holds a temporary appointment has no fixed tenure of office; his employment can be terminated at the pleasure of the appointing power, there being no need to show that the termination is for cause (UP et al., vs. CIR et al., 107 Phil., 848; 58 Off. Gaz. [8] 1536; Quitiquit vs. Villacorta etc., 107 Phil., 1060; 58 Off. Gaz. [10] 1967, and cases cited therein.) Being non-eligibles with temporary appointments, appellants contrary to their contention, do not come under the protection of Republic Act No. 557. (Reyes et al., vs. Dones et al., 103 Phil., 884; 56 Off. Gaz. [3] 509.) And the temporary appointment of other non-eligibles to replace them is not prohibited. Orais vs. Ribo et al., 93 Phil., 985; 49 Off. Gaz. [12] 5386; Sigue et al., vs. Rabaya et al., G. R. No. L-11717, December 27, 1958.) In the

circumstances, it is apparent that appellants have no clear and certain legal right to the positions to which they seek to be reinstated, which may be enforced by mandamus.

It should also here be stated that appellants' temporary appointments were recalled by the appointing officer, and consequently had never been approved or authorized by the Commissioner of Civil Service as prescribed by section 682 of the Revised Administrative Code. Not having any lawful appointment, said appellants may only be considered as de facto officers. They had, prior to their formal separation, been acting only under color of appointment and cannot, therefore, claim for reinstatement as a matter of right.

In view of the foregoing, the decision appealed from is affirmed, with costs against appellants.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Barrera, JJ., concur.

[1] An Act giving preference to veterans in appointments in the government, government-controlled, or semi-government corporations, and for other purposes.

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.