

JOSE BALDIVIA, MARCELO CAPUNO, CARLITO CATAPANG, ELISEO DIMACULANGAN, AND RICARDO BATHAN, PETITIONERS AND APPELLANTS, VS. FLAVIANO LOTA, AS MAYOR OF TAAL, BATANGAS, RESPONDENT A...

G.R. No. 12716. April 30, 1960

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is a petition for mandamus to compel respondent, Flaviano Lota, as Mayor of Taal, Batangas, to approve certain vouchers. In due course, the Court of First Instance of Batangas, presided over by Hon. Conrado M. Vasquez, Judge, denied the petitions without pronouncement as to costs. Hence, this appeal in which only questions of law are raised.

The facts, about which there is no dispute, are correctly set forth in the decision appealed from in the following language:

"The petitioners Jose Baldivia, Marcelo Capuno, Carlito Catapang, Eliseo Dimaculangan and Ricardo Bathan were former members of the police force of the municipality of Taal, province of Batangas. Shortly after the last election held in November 1955, the petitioners resigned from their positions. They have brought this instant action to compel the respondent Flaviano Lota in his capacity as municipal mayor of Taal, Batangas, to approve the vouchers submitted by the petitioners for the payment of the leave pay which they had in their favor at the time of their separation from the service.

"The evidence of the petitioners show that the petitioners resigned because they belong to a different political faction from that of the respondent. In connection with their claim for their leave pay, they had gone to the Office of the President in Malacanang, and were able to secure a note from Assistant Executive Secretary Enrique C. Quema, addressed to the Provincial Treasurer of Batangas, requesting the latter to help the petitioners in securing the payment of their accumulated vacation and sick leave (Exhibit 'A'). Acting on the said note of Mr. Quema, the Provincial Treasurer wrote separate letters to the respondent municipal mayor and to the municipal treasurer of Taal, Batangas, interceding in behalf of the petitioners and suggesting a manner by which their claim may be paid (Exhibits 'B' and 'C'). The petitioners Jose Baldivia was actually able to receive and month leave pay on two separate occasions, on December 1, 1955, and February 10, 1956, respectively. The other petitioners were likewise able to receive one month leave pay each on February 10, 1956. The petitioners claim, however, that there is a balance remaining in their favor of unpaid vacation leave un the amount of three and one-half (3 ½) months in the case of Jose Baldivia, and four months each in the case of the rest of the petitioners, all at the rate of P35.00 a month. The municipal treasurer prepared the corresponding vouchers for the payment of another one month vacation leave to each of the petitioner and submitted them to the respondent mayor for approval. The respondent, however, refused to approve the same."

In justification for his act, respondent alleged that there is no appropriation for the amount covered by said voucher; that petitioners held their positions illegally, they having served beyond the time limit prescribed by law

for the effectivity of their appointment as temporary employees; and that said appointments were illegal, the same having been made without the consent of the municipal council, which is required in sections 2199 and 2200 of the Revised Administrative Code.

Commenting thereon, the lower court said:

"The parties are agreed that the municipal council of Taal has not approved any budget, regular or otherwise, for the payment of the leave pay being claimed by the petitioners. Aurelio Beron, municipal treasurer of Taal, testifying for the petitioners, had admitted that the previous payments made to the petitioner were in pursuance of a supplementary budget duly approved, but no budget has been authorized by the municipal council in connection with the payment of the balance of the leave pay corresponding to the petitioners. He stated, however, that the financial position of the municipal government permits the payment of the instant claim. The respondent municipal mayor has offered the excuse for the inability of the municipal Council to appropriate the necessary funds on the alleged ground that the municipal government of Taal is heavily indebted to several government institutions, and the funds presently in its treasury are not sufficient to liquidate all of the said indebtedness. Moreover, the municipal government has other and more pressing obligations to meet before it could afford to set aside funds for the leave pay of the petitioners.

"Under the circumstances set forth above, the instant action of the petitioners must necessarily fail. If there are no funds validly appropriated for the purpose, the respondent municipal mayor, or anybody else for that matter, may not be compelled to approve a voucher for the payment of the claim. The disbursements of municipal fund is not the sole prerogative and responsibility of the municipal mayor. Section 2300 of the Revised Administrative Code explicitly declares that 'The disbursement of municipal funds shall be made by the municipal treasurer upon properly executed vouchers, pursuant to the budget, with the approval of the mayor.' It would indeed be not only futile, but likewise illegal, for the mayor to approve a voucher to pay a claim for which no appropriation has been made by the council."

Hence, the petition was denied, despite the sympathetic attitude of His Honor, the Trial Judge, towards the plight of petitioners herein. They, however, maintain that the decision appealed from should be reversed because they are clearly entitled to collect the equivalent of the unpaid portion of their terminal leave and the municipal government of Taal is in financial position to meet their respective claims, and because respondent's inaction has had the effect of excluding them from getting what is due to them under the law.

Petitioners' right to commutation of their terminal leave is indubitable. Pursuant, however, to our fundamental law, "no money shall be paid out of the Treasury except in pursuance of an appropriation made by law." (Article VI, section 23 (2), Constitution of the Philippines). Implementing this constitutional mandate, section 2300 of the Revised Administrative Code provides that "disbursements of municipal funds shall be made by the municipal treasurer upon properly executed vouchers, pursuant to the budget and with approval of the mayor," and the budget must be incorporated into an appropriation ordinance, which shall be passed by the municipal council, in accordance with law (sections 2237-2239, 2295 and 2296, Revised Administrative Code). There being, admittedly no such budget or appropriation ordinance setting aside the sums necessary to pay the claims of petitioners herein, it is apparent that respondent mayor was, not only justified in refusing, but bound to refuse to approve the vouchers in question.

At this point, we cannot overlook, however, the well considered observations made in the decision appealed from respecting the behaviour of respondent herein as a public officer. We quote, from said decision:

"* * * while the Court feels itself powerless to grant the relief prayed for by the petitioners, it could not help but express its sympathy with their situation, and its displeasure with the manner by which they had been deprived of a claim which appeared to be valid and meritorious. This case is another manifestation of that unfortunate phenomenon in local politics in this country wherein considerations of public interest have been

set aside for the satisfaction of petty factional jealousies and sacrificed on the altar of political rivalries. The instant petitioners are claiming only what is due them nothing more, nothing less. The payment of leave pay to an employee who has been separated from the service and who generally depends for his continued sustenance on such amounts as may be collected by him by reason of his past services, is not only an expression of simple justice on the part of the government, but is also designed for the maintenance of the loftier ideal of morale in the public service. The respondent in this case has shown unusual interest" not for the purpose of affording the petitioners the justice that is due them, but in his attempt to find ways and means of defeating the petitioners' claim. The respondent has admitted that he had spent over a thousand pesos in going to different government offices and in making several trips to Manila to consult with 'legal luminaries' to research and find reasons to justify his refusal to pay the petitioners. It is ironic indeed that in so doing, he actually spent more than what the petitioners are claiming to be the balance of their unpaid leave. It may well be said that had the respondent instead spent his money, time and effort to look for means by which he could pay the petitioners, he would have dedicated himself to a worthier cause and with decidedly lesser effort and expense."

Indeed, respondent could have, and should have, either included the claim of petitioners herein in the general budget he is bound to submit, pursuant to section 2295 of the Revised Administrative Code, or prepared a special budget for said claim, and urged the municipal council to appropriate the sum necessary therefor. In any event, if the municipal mayor fails or refuses to make the necessary appropriation, petitioners may bring an action against the municipality for the recovery of what is due them and after securing a judgment therefor, seek a writ of mandamus against the municipal council and the municipal mayor to compel the enactment and approval of the appropriation ordinance necessary therefor (19 R. C. L. 1051-1052; 34 Am. Jur., 950-951; 35 Am. Jur., 21).

Wherefore, the decision appealed from is hereby affirmed, without special pronouncement as to costs. It is so ordered.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Endencia, Barrera and Gutierrez David, JJ., concur.

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