ANDRES CASTILLO, ETC., ET AL., PETITIONERS, VS. HON. FROILAN BAYONA, ETC., AND ESPERANZA ARZAGA-GALLARDO, RESPONDENTS.

G.R. No. 14375. January 30, 1960

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is a petition for certiorari and prohibition filed by Andres V. Castillo in his capacity as Deputy Governor of the Central Bank of the Philippines, Ruben Ledesma, Amado R. Briones and Jesus C. Razon, in their capacity as members of the committee created under Monetary Board Resolution No. 608, to restrain respondent Judge Froilan Bayona, presiding over Branch I of the Court of First Instance of Manila, from taking further action in Civil Case No. 34956, and to annul his orders dated January 23, March 24 and August 28, all of the year 1958. Esperanza Arzaga-Gallardo, later on referred to as Esperanza, is included as one of the respondents.

The petition was given due course; respondents were required to answer it; and after depositing a cash bond in the sum of P500.00, respondent Judge was enjoined not to take any action in Civil Case No. 34956, until further orders from this Tribunal.

The facts in this case as gathered from the record are as follows: Respondent Esperanza, presently employed in the Central Bank as assistant drug consultant in the Office of Exchange Tax Administration, was prior to December 7, 1956, a processor in said office with the duty of investigating and screening thoroughly applications for refund of the 17 per cent special excise tax levied on foreign exchange (Memorandum of Petitioner, p. 8). In view of reports received by the Monetary Board (Appendices Q, P, and N attached to Petitioner's Memorandum) to the effect that respondent Esperanza and other employees in the Central Bank had committed irregularities in connection with the processing of applications for refund, the Monetary Board, by Resolution No. 608, dated May 15, 1927, created a fact finding committee composed of herein petitioners Ledesma, Briones and Razon, to investigate the supposed tax refund anomalies (Annex 1 to Appendix D). On July 17, 1957, respondent Esperanza, one of those employees in the Central Bank mentioned in the reports aforementioned, was advised in writing to submit an explanation within seven days why disciplinary action should not be taken against her for negligence in the performance of her duties in connection with the processing, of applications for tax refund. She refused to submit an explanation because, according to her, the charges against her were not specific and what is more, the committee had no jurisdiction to conduct the investigation. In view of the insistence of the Deputy Governor Castillo that she submit her explanation and appear before the committee personally or by counsel to present her defense (Annexes I and L to Appendix A), Esperanza filed against herein petitioners as respondents, a petition for prohibition with preliminary injunction ex parte with Branch I of the Court of First Instance, presided by respondent Judge Bayona (Civil Case No. 34956). In her petition, she alleged that Deputy Governor Castillo, herein petitioner, had sent her a letter dated July 17, 1957, demanding the explanation already mentioned; that in answer to said demand, she had requested the following:

"* * * (1) "What was the exact nature of the actions taken by my clients which constitute what you term 'gross

> negligence'?; (2) what are the alleged falsified documents and please state with particularity and definiteness the acts constituting the fraud?; (3) how did you arrive at the conclusion that these documents are forgeries?; (4) does the Auditor, whose report you adopted, have academic background in pharmacy and chemistry to determine scientific issues?; (5) has the decision of the Central Bank on these applications been revoked?; and (6) under what Civil Service Rules have your letters been predicated?
>
> "The application mentioned in your letter being actionable documents, it is respectfully requested that my clients be furnished with photo static copies of said applications and be allowed a period of ten (10) days within which to examine the originals and at least fifteen (15) days from the date of such examination to answer your charges. It is of the utmost urgency that my clients review these applications because the action they took thereon was made a long time ago and they cannot rely on memory for an answer." (Annex B to Appendix A);

that in reply to said request, respondent Castillo in his letter of August 2, 1957, said that the information contained in his letter of July 17, 1957 more than satisfied her request and that it could serve her in the preparation of her answer; so, on August 11, 1957, Esperanza wrote respondent Castillo that she could not submit an explanation in view of his failure to give her the information she had requested; that on November 18, 1957, respondent Castillo directed her to appear before the committee created by Monetary Board Resolution No. 608 on November 21, 1957, so that she may be given an opportunity to present her defense, either personally or through counsel, to examine the papers and documents pertaining to her case and to be confronted with witnesses; and that on November 21, 1957, she entered her appearance with counsel and questioned the jurisdiction of the committee to investigate her. She likewise alleged in her petition that in December, 1957, respondent Castillo voluntarily withheld the Christmas bonus due to her.

Respondent Judge gave due course to Esperanza's petition and by his order of January 23, 1958, required petitioner to answer, at the same time, issuing a writ of preliminary injunction ex parte.

On February 13, 1958, herein petitioners, as respondents in that case, filed their answer with a motion to dismiss and/or to dissolve the injunction. They alleged that the petition stated no cause of action; and that the committee had no juridical personality or legal capacity to be sued.

In an order dated March 24, 1958, respondent Judge dismissed herein petitioner's motion to dismiss. A motion for reconsideration was likewise overruled by an order dated August 28, 1958. It was to set aside the three orders of respondent Judge of January 23, 1958, giving due course to the petition for prohibition filed by respondent Esperanza and requiring herein petitioners to answer it, of March 24, 1958 dismissing petitioner's motion to dismiss, and of August 28, 1958, denying the motion for reconsideration, and to restrain respondent from taking further action in Civil Case No. 34956, that the present petition was filed. In support of their present petition for certiorari and prohibition, petitioners take the stand that under the broad powers granted to it by Section 14 of Republic Act No. 265, the Monetary Board is authorized to create a committee or designate an officer to conduct an administrative investigation of any act of irregularity in the Central Bank. Said Section 14 reads thus:

> "SEC. 14. Exercise of authority.—In order to exercise the authority granted to it under this Act the Monetary Board shall:
>
> "(a) Prepare and issue such rules and regulations as it considers necessary for the effective discharge of the responsibilities and exercise of the powers assigned to the Monetary Board and to the Central Bank under this Act;
>
> "(b) Direct the management, operations and administration of the Central Bank and prepare such rules and regulations as it may deem necessary or convenient for this purpose;

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> "(c) On the recommendation of the Governor, appoint, fix the remunerations, and remove all officers and employees of the Central Bank, with the exception of the Governor; * * *."

On the other hand, respondent Esperanza contends that being a civil service employee, she should be governed by the civil service law and regulations, pursuant to Section 132 of the Central Bank Charter (Republic Act No. 265), which reads:

> "No officer or employee of the Central Bank subject to the Civil Service Law and Regulations shall be removed or suspended except for cause as provided by law.";

and Section 695 of the Revised Administrative Code, which provides that:

> "SEC. 695. Administrative Discipline of Subordinate Officers and Employees.—The Commissioner of Civil Service shall have exclusive jurisdiction over the removal, separation and suspension of subordinate officers and employees in the Civil Service and over all other matters relating to the conduct, discipline, and efficiency of such subordinate officers and employees, and shall have exclusive charge of all formal investigations against them. * * *"

The conclusion the respondent urges is that the committee created by the. Monetary Board to investigate her not having been appointed by the Commissioner of Civil Service himself, the said committee was not legally created, and so had no jurisdiction to investigate her.

Reading the two legal provisions invoked by respondent Esperanza and Section 14 of Republic Act No. 265, relied on by petitioner, we find that the latter provision of law (Section 14, Republic Act No. 265), particularly, paragraph (c) is sufficiently broad to vest the Monetary Board with the power of investigation and removal of its officials, except the Governor thereof. In other words, the Civil Service Law is the general legal provision for the investigation, suspension or removal of civil service employees, whereas Section 14 is a special provision of law which must govern the investigation, suspension or removal of employees of the Central Bank, though they be subject to the Civil Service Law and Regulations in other respects. We must not lose sight of the fact that the Central Bank is called upon to administer the monetary and banking business in the country (Section 2, Republic Act No. 265); and its powers and functions are exercised by the Monetary Board. So, it is but just and reasonable that in order to perform the functions assigned to it by law, it be given broad powers in issuing such rules and regulations as it considers necessary to direct and effect the operation and administration of the Central Bank, and with the recommendation of the Governor, the authority to appoint, fix the remunerations, and remove all officials and employees of the Central Bank, with the exception of the Governor, which power to remove naturally includes the authority to investigate.

But assuming for a moment that employees of the Central Bank were governed by Section 695 of the Revised Administrative Code in that the Commissioner of Civil Service should have exclusive jurisdiction over their removal, separation and suspension, nevertheless, inasmuch as respondent Esperanza was not being removed by the committee but only was being subjected to an investigation by it, the committee would still have jurisdiction.

Executive Order No. 370, dated September 29, 1941 (40 Off. Gaz., 2787) provides that administrative proceedings may be commenced against a government officer or employee by the head or chief of a bureau or office concerned. It is only after the investigation that the record of the case, with comment and recommendation of the investigator is forwarded to the Commissioner of Civil Service. So, again, under the view urged by respondent Esperanza, the Monetary Board could still investigate respondent Esperanza.

Furthermore, under Republic Act No. 2260, known as the Civil Service Act of 1959, Section 16 (i) changed the jurisdiction of the Civil Service Commissioner from "exclusive" to "final". We reproduce Section 16 (i) and (j) for purposes of reference:

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> "SEC. 16. Powers and Duties of the Commissioner of Civil Service.—It shall be among the powers and duties of the Commissioner of Civil Service—

* * * * * * *

> (i) Except as otherwise provided by law, to have final authority to pass upon the removal, separation and suspension of all permanent officers and employees in the competitive or classified service and upon all matters relating to the conduct, discipline, and efficiency of such officers and employees; and to prescribe standards, guidelines and regulations governing the administration of discipline.
>
> (j) To hear and determine appeals instituted by any person believing himself aggrieved by an action or determination of any appointing authority contrary to the provisions of the Civil Service law and rules, and to provide rules and regulations governing such appeals, and he may make such investigations or inquiries into the facts relating to the action or determination appealed from as may be deemed advisable and may affirm, review, or modify, such action or determination, and the decision of the Commissioner shall be final. * * *" (Italics supplied).

Again, even according to respondent's stand, the Monetary Board would still have jurisdiction to investigate her, either to suspend or remove her or otherwise take disciplinary action against her as the result of their investigation may warrant, subject to the final authority of the Commissioner of Civil Service on appeal to him by the aggrieved party.

In the case of Rafael Pastoriza vs. Superintendent of Schools, et al., supra, p. 216, this Tribunal said:

> "Pursuant to Executive Order No. 370 a complaint against an officer or employee of the government is to be filed with the head or chief of the bureau or office where he is working and the officer or employee concerned shall be required to answer the complaint within 72 hours after receipt thereof. If the officer or employee elects to be heard on the charges, a hearing will be held by the chief or head of office who shall, after said hearing, forward to the Commissioner of Civil Service the records of the case with his comment and recommendation. In other words, the Commissioner of Civil Service has absolutely nothing to do with or has no participation whatever in the investigation from the time the charges are filed until the termination. The commissioner takes cognizance of the case only after the investigation is finished, when he receives the records. In effect, said executive order completely divests the commissioner of his 'exclusive' power of investigation. * * *."

And as to the authority of the Monetary Board to conduct an administrative investigation of its employees, considering that said Monetary Board may be regarded as a department head, we have Section 79 (c) of the Revised Administrative Code which reads:

> "The department head may order the investigation of any act or conduct of any person in the service of any bureau or office under his department and in connection therewith may appoint a committee or designate an official or person who shall conduct such investigation, and such committee, official, or person may summon witnesses by subpoena and subpoena duces tecum, administer oath, and take testimony relevant to the investigation."

As regards the contention of respondent that she was not given sufficient notice and information of the charges filed against her, it is true that the charges could have been made more specific and detailed. However, she was given seven days within which to make the explanation required, and was informed that at the investigation, she would be allowed either personally or through counsel, to examine the papers and documents pertinent to the case. If she needed more time to prepare her defense after examining said papers and documents, she could have asked for postponement of the investigation. But instead, she immediately resorted to the Court of First Instance.

In view of the foregoing, we are of the opinion that the committee created to investigate respondent was validly

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constituted by Resolution No. 608, and that in proceeding or trying to proceed with said investigation, it did not act in excess or with abuse of discretion. Consequently, the present petition for certiorari and prohibition is granted and the writ of preliminary injunction heretofore issued is hereby made permanent. Respondent Esperanza will pay the costs.

Paras, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, Barrera, and Gutierrez David, JJ., concur.
Bengzon, J., took no part.

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