

AGRINELDA N. MICLAT, PETITIONER AND APPELLEE, VS. ELVIRA GANADEN, ET AL., RESPONDENTS AND APPELLANTS.*G.R. No. 14459. May 30, 1960*

Ponente: BAUTISTA ANGELO, J.

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Agrinelda N. Miclat filed a petition for quo warranto before the Court of First Instance of Baguio seeking to have respondent Elvira Ganaden declared not entitled to the position of Social Welfare Administration Officer of Mt. Province and to have herself instead assigned to said station which she claims to be her rightful assignment.

It is alleged that petitioner is a duly appointed Welfare Officer Incharge, Division of Urban, Rural and Community Welfare in the Social Welfare Administration under which she was assigned as Social Welfare Incharge of Mt. Province, by virtue of Special Order No. 14, dated January 21, 1956, of the Acting Administrator, Social Welfare Administration; that she has been uninterruptedly discharging the functions of said office until January 15, 1957, when she was granted a maternity leave of absence, and while on such leave respondent Ganaden was designated as officer incharge in her place; that on April 3, 1957, when petitioner reported back to her position, respondent Ganaden refused to vacate the position as a consequence of which petitioner wrote to the Commission of Civil Service on April 3, 1957 which resulted in the issuance of Special Order No. 104, series of 1957, dated May 10, 1957, directing Ganaden to assume her former duties as Social Welfare Officer of Baguio City; that later respondent Amparo Villamor issued Special Order No. 114, dated May 25, 1957, relieving petitioner as Officer Incharge of Mt. Province and designating Ganaden to take her place; that petitioner requested for a reconsideration followed by a letter dated November 27, 1957, addressed to the President for the same purpose; that the Chief of the Field Services of the Social Welfare Administration wrote a 4th indorsement dated January 24, 1958 addressed to the Acting Chief, Division of Administration of the SWA, which recognized the right of petitioner to the office of Welfare Officer Incharge of Mt. Province, as in fact respondent Villamor addressed to the Commission of Civil Service a communication stating that she has already issued Special Order No. 14, dated January 21, 1958, returning petitioner to her position as Officer Incharge of Mt. Province; that despite the aforementioned Special Order No. 14, respondent Ganaden refused to turn over the office to petitioner; that for reasons unknown to petitioner, respondent Villamor ordered petitioner to report to her at the central office in Manila for conference and while there Villamor attempted to prevail upon her to give up her position as Officer Incharge of Mt. Province in favor of Ganaden, to which petitioner did not consent; that after petitioner has filed a criminal action against Ganaden for the latter's refusal to turn over the office in dispute, Special Order No. 44, series of 1958, dated March 21, 1958 was issued by respondent Villamor revoking Special Order No. 14 and replacing petitioner in the position of Officer Incharge of Mt. Province; that despite her appeal to respondent Villamor for the revocation of Special Order No. 44, Villamor has not taken any action thereon.

In their answer, respondents set up the following special defenses: (1) that as stated clearly in the appointment extended to petitioner dated December 3, 1955, said petitioner was appointed as Welfare Officer Incharge, Division of Urban, Rural and Community Welfare in the Social Welfare Administration, not as Welfare Officer

Incharge with station at Mt. Province; (2) that the Social Welfare Administrator, as Department Head, is not precluded from exercising her authority under the law to order the transfer of personnel in her office from one station to another as she may see fit in the interest of public service; (3) that the complaint states no cause of action; and (4) that the court has no jurisdiction to entertain this petition because petitioner has not exhausted all her administrative remedies before resorting to court.

After hearing, the trial court rendered judgment the dispositive part of which reads:

"Judgment is, therefore, rendered, ordering the Social Welfare Commissioner to place Petitioner in her position as Welfare Officer in Charge, Mt. Province (La Trinidad Section) and ordering Respondent Ganaden to allow Petitioner to assume her position. No damages or attorney's fees are awarded as Respondent acted in good faith. No pronouncement as to costs."

Respondents have appealed.

The trial court, in holding that petitioner cannot be transferred from her assignment as Officer Incharge of Mt. Province to another with station at Bagnio City, for that would amount to a removal, made the following comment:

"Under the leading cases of *Lacson vs. Romero* and *Santos vs. Mallari*, the mantle of protection has been spread over a school principal from transferring him without his consent, as such a transfer would amount to a removal (*Alzate vs. Mabutas*, CA 51 Off. Gaz. 2452). Inhere is no doubt that petitioner falls within a similar category as a school principal who was not appointed for a particular place."

While the doctrine laid down in the cases cited by the trial court is to the effect that the transfers of officers against their will amount to a removal, the same is predicated upon the theory that said officers are appointed to particular stations and as such cannot be transferred without their consent. Their appointments to their stations are their safeguards and to transfer them to another place without their consent would be tantamount to removing them from the positions they actually hold.

The case before us, however, does not involve any appointment to any particular station. It merely concerns an assignment to a station made in the interest of the service. Thus, it appears that the appointment extended to petitioner is that of Welfare Officer Incharge, Division of Urban, Rural and Community Administration, the appointment having been extended by the President, upon the recommendation of the Social Welfare Administrator. Likewise, respondent Elvira Ganaden has also been extended an appointment to a similar office, also by the President, upon the recommendation of the same official. They both, therefore, bear appointments as welfare officers attached to the central office without any definite stations. As such, considering the nature of their appointments, both may be assigned to any place or station where their services may be needed, and wherever they are assigned they retain their position as Welfare Officer of the Social Welfare Administration. And this power and discretion the Social Welfare Administrator may exercise under Section 79 (d) of the Revised Administrative Code which partly provides: "The Department Head also may, from time to time, in the interest of the service, change the distribution among the several Bureaus and offices of his Department of the employees or subordinates authorized by law."

It appearing that petitioner has been merely assigned as Officer Incharge of Mt. Province because her appointment is to hold office as Welfare Officer of the Social Welfare Administration without any particular station, it is evident that she may be reassigned to another place or station if such is necessary in the interest of the service. This can be done in the exercise of the discretion given by law to the Social Welfare Administrator. This assignment does not come into conflict with the doctrine laid down in the cases cited by the trial court.

The trial court has cited the provisions of Section 32, Republic Act No. 1800, as authority to support its

conclusion that petitioner cannot be transferred to Baguio City against her consent because her transfer was made without the approval of the Commission of Civil Service. Said Section 32, Republic Act 1800, reads as follows:

"Sec. 32. Authority to change designations of positions and assignments.—The heads or chiefs of bureaus and offices are hereby authorized to change the designations of positions and to make changes in the assignments of personnel as the exigencies of the service may require: Provided However, That such changes shall not affect the tenure of office of incumbents of positions, shall not constitute a demotion, either in rank or salary, nor result in a change in status, and shall in all cases be subject to the approval of the Commissioner of Civil Service."

The above provision does not refer to all kinds of assignment of personnel. It rather contemplates the giving of temporary assignment to a public officer or employee with a fixed and definite place or station. It does not apply to a public officer or employee whose appointment is not for a particular place, like petitioner or respondent Ganaden, where there is no necessity for the approval of the Commission of Civil Service for their assignment to another station if the interest of the service should require.

Wherefore, the decision appealed from is reversed, without pronouncement as to costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur.

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