

**PURA M. DE LA TORRE, PETITIONER AND APPELLANT, VS.
VENANCIO TRINIDAD, ET AL., RESPONDENTS AND APPELLEES.***G.R. No. 14907. May 31, 1960*

Ponente: GUTIERREZ DAVID, J.

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This is an appeal from the decision of the Court of First Instance of Camarines Sur, dismissing appellant's petition for mandamus to compel respondents-appellees to "reinstate" her to her temporary position as teacher-librarian of the Camarines Sur School of Arts and Trades, with prayer for back salary and damages. The appeal was taken to the Court of Appeals, but that court has certified the case to us on the ground that the questions involved are purely legal.

The record shows that appellant, a substitute teacher in the Camarines Sur School of Arts and Trades since 1952, was, on January 27, 1955, appointed temporary teacher-librarian in the same school, with salary at P1,920.00 per annum.

Having been found to be suffering from moderately advanced pulmonary tuberculosis, she was forced to go on sick leave effective January 5, 1955. On December 15, 1955, the terminal date of her leave, she applied for "reinstatement" and submitted a statement from the provincial health officer of the Camarines Sur that she could be allowed to resume her work in the school. Upon receipt of her application, the superintendent of the school, Manuel T. Espinosa, referred it to the Director of Public Schools, with the statement that he is not in favor of appellant's reinstatement as she had been found "to be very inefficient and negligent" in her duties, thereby causing "losses of library properties amounting to about P1,000.00." The Acting Second Assistant Director of the Bureau of Public Schools, in turn, informed the superintendent that appellant is "eligible for reinstatement on December 15, 1955, the date on which she applied for reinstatement," but at the same time advised that in connection with the loss of library properties, "she be required to explain in writing why no administrative disciplinary action should be taken against her." Complying with the directive, but taking no action on the matter of the reinstatement, Superintendent Espinosa required appellant to explain within 72 hours from receipt of his letter why no administrative disciplinary action should be taken against her for the loss of library properties under her responsibility. In her letter dated April 5, 1955, appellant denied having been inefficient or negligent and disclaimed "knowledge or information sufficient to form a belief as to the truth of the loss of more than P1,000.00 worth of books as reported by the Audit Clerk of that school." The matter was then referred to the Audit Clerk, who, after conducting an investigation and physical inventory of the losses, submitted a written report to the superintendent, certifying to the aggregate shortage of library books amounting to P1,994.36. This report, together with all the papers pertinent to the case, was forwarded by the superintendent to the Director of Public Schools, with the recommendation that appellant be required to pay all the losses and that she be dealt with administratively for her negligence and inefficiency. Superintendent Espinosa also reiterated his recommendation that appellant be not allowed to return to the service.

In the meantime, appellant was pressing for her re-admission. She went to see Superintendent Espinosa in his

office three times, and failing to secure favorable action from him, she appealed directly to the Director of Public Schools in a communication dated May 17, 1956. Not having received any answer, she again wrote to Superintendent Espinosa on June 5, 1956, requesting information on the status of her application. In a letter dated June 14, 1956, the said superintendent replied that action could not yet be taken on her application because of the administrative charge against her and, moreover, the final decision has to be made not by him but by the Director of Public Schools.

Alleging that she has been unlawfully excluded from the use and enjoyment of an office to which she is legally entitled, appellant, on June 12, 1956, filed the present petition for mandamus against Superintendent Espinosa and the Director of Public Schools to compel them to reinstate her, with prayer for payment of her salary from December 15, 1955 until actual reinstatement, plus moral and exemplary damages, attorney's fees and costs.

Answering the petition, the respondents allege that appellant's appointment being temporary in character the same conferred no permanent civil service status as would entitle her to invoke the provisions of law on security of tenure, and that their refusal to readmit her is justified because of her poor health and inefficiency and negligence.

After trial, the lower court, holding that under Sec. 682 of the Revised Administrative Code, appellant's appointment had already expired at the end of the first semester of the school year 1954-55, rendered a decision dated January 30, 1957, dismissing the petition. From that decision, appellant took the present appeal.

The appeal is without merit.

Appellant's appointment as temporary teacher-librarian was made "in the absence of Teacher Civil Service eligibles" as authorized by section 682 of the Revised Administrative Code. That section, insofar as pertinent to this case, reads:

"Sec. 682. Temporary and emergency employees.—Temporary appointment without examination and certification by the Commissioner of Civil Service or his local representative shall not be made to a competitive position in any case, except when the public interests so require, and then only upon the prior authorization of the Commissioner of Civil Service; * * * Provided, that in the case of teachers such temporary appointment may be authorized to continue for a period not exceeding one school semester, or until eligibles who meet the desired qualifications are certified for employment, but not sooner than the beginning of a school semester. * * *."

It is appellant's contention that under her appointment and by virtue of the above provisions she is entitled to continue in the service until eligibles are certified for employment by the Commissioner of Civil Service.

In the light of the view we have taken of the case, we do not think it necessary to pass upon the above question raised by appellant. It is not disputed that appellant's appointment is temporary in nature and, therefore, can be terminated at pleasure by the appointing power (in this case the Director of Public Schools). Well settled is the rule 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. (*U.P. et al., vs. CIR et al.*, 107 Phil., 848; 58 Off. Gaz. (8) 1536 and cases cited therein; see also *Quitiquit vs. Villacorta* 107 Phil., 1060; 58 Off. Gaz. (10) 1967. Even assuming, therefore, that appellant is authorized, to hold her temporary position until replaced by an eligible in disregard of the time limitation of one school semester, it is apparent that she has no clear and valid claim to the office to which she seeks to be readmitted, especially since an administrative case against her is still pending action by the Director of Public Schools. Consequently, mandamus will not lie to compel the respondents-appellees to readmit her.

Moreover, it does not appear that appellant has exhausted all administrative remedies before filing her present petition for mandamus. She could have waited for the action on her letter by the respondent Director of Public

Schools and if the latter's action had been unfavorable, she could still have appealed to the Secretary of Education. No recourse to courts can be had until all administrative remedies have been, exhausted and special civil actions against administrative officers should not be entertained if superior administrative officers could grant relief.

In view of the foregoing, the decision of the court below dismissing appellant's petition for mandamus is hereby affirmed, with costs against said appellant.

Paras, C.J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, and Barrera, JJ., concur.

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