

**PHILIPPINE LAND-AIR-SEA LABOR UNION (PLASLU), PETITIONER,
VS. COURT OF INDUSTRIAL RELATIONS AND CEBU PORTLAND
CEMENT COMPANY, RESPONDENTS.***G.R. No. 15984. March 30, 1962*

Ponente: PADILLA, J.

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Review under Rule 44 of the Rules of Court of an order entered on 21 January 1953 by the Court of Industrial Relations (644 PHILIPPINE REPORTS Philippine Land-Air-Sea, Labor Union vs. Court of Industrial Relations, et al. Relations dismissing an incidental motion filed on 17 September 1956 by the Philippine Land-Air-Sea Labor Union (PLASLU) (Annex E), which prayed for the reinstatement with back salary of Marieta Tapia to her former position as receptionist in the Cebu Portland Cement Company (Annex A) and of its resolution en banc dated 10 April 1958 (Annex H) denying the union's motion for reconsideration of the order of dismissal (Annex F) (case No. 241-V-17).

It appears that on 26 June 1951 Marieta Tapia, a member of the PLASLU, was appointed clerk at ₱4.00 a day in the Naga Cement Plant of the Cebu Portland Cement Company in Cebu; on 1 July 1951 was designated laborer in the hospital department of the plant; on 12 March 1953 was detailed with the same compensation in the paymaster's office of the plant; on 9 November, 1953 was appointed clerk-receptionist at ₱5.00 a day; on 1 December 1954 not being a civil service eligible was appointed a receptionist under section 682 of the Revised Administrative Code, the appointment to be renewed every three months. On 4 January 1956 she had a quarrel with Matilde Lorico, a co-employee, whom she slapped for describing as "sideline" her (Tapia's) giving of a Christmas gift to Constantino Abenden, a janitor in the plant. A committee created by the Company investigated the incident. Finding Marieta Tapia guilty of misconduct in office for slapping and inflicting less serious physical injuries on Matilde Lorico, the committee recommended that the former be severely reprimanded. On 5 April 1956 the CEPOC Board of Directors passed a resolution to the effect that it would not object if Marieta Tapia's appointment be not renewed. On 31 January 1956 Marieta Tapia was notified that her appointment as receptionist already had expired and that it would not be renewed.

On 17 September 1956 the Philippine Land-Air-Sea Labor Union (PLASLU) filed an incidental motion alleging that in the main case No. 241-V the Court of Industrial Relations had rendered a judgment which declared—

x x x that all employees and laborers who have worked with the company for a period of Three (3) Months be made permanent x x x on condition that said employees and laborers were hired intentionally for permanent position. x x x;

that Marieta Tapia's dismissal from the service was without cause and contrary to the aforequoted* judgment; and praying that she be reinstated with back salary to her former position as receptionist (case No. 241-V[17], Annex A).

On 9 January 1957 the Cebu Portland Cement Company filed an answer alleging that Marieta Tapia's appointment as clerk on 26 June 1951, as laborer on 1 July 1951, as clerk-receptionist on 9 November 1953 and as receptionist on 1 December 1954, was temporary, the last appointment having been made under section 682 of the Revised Administrative Code because she was not a civil service eligible. The answer also set up the affirmative defenses that the Court of Industrial Relations had no jurisdiction over the incidental motion, because the judgment rendered in the main case No. 241-V already had terminated it, and that Marieta Tapia's appointment being for a fixed period of time the Court could not extend it nor compel the Company to appoint her anew if her services were no longer necessary. It prayed that the incidental motion be dismissed (Annex B).

The company filed a memorandum dated 7 June 1957 (Annex C) and the labor union, on 19 June 1957 (Annex D). After hearing, on 21 January 1958 the Court of Industrial Relations entered an order dismissing the incidental motion for lack of merit (Annex E).

On 3 March 1958 the labor union moved for reconsideration of the order of dismissal (Annex F). On 10 April 1958 the Court denied it.

Hence, this petition for review.

Section 2 of Republic Act No. 422, effective 6 January 1950, authorizes the President of the Philippines "to effect by executive order from time to time, for a period not exceeding one year from the date of the approval of this Act", x x x "such reforms and changes in the different executive departments, bureaus, offices, agencies and other instrumentalities of the Government including the corporations owned or controlled by the government as he may deem necessary," x x x "and do whatever is necessary and / desirable to effect economy and promote efficiency in the government service." In pursuance thereof, the President issued Executive Order No. 399, series of 1951, known as the Uniform Government Corporate Charter, providing that—

All officers and employees of the corporation shall be subject to the Civil Service Law, rules and regulations, except those whose positions may, upon recommendation of the Board of Directors and the Administrator of Economic Coordination, be declared by the President of the Philippines as policy-determining, primarily confidential or technical in nature. (Section 14.)

Section 4 of Republic Act No. 422 expressly provides that "any action taken by the President pursuant to the provisions of this Act" x x x "shall be valid and subsisting until Congress shall provide otherwise." As Congress has not invalidated Executive Order No. 399, its legality and validity may no longer be doubted. Hence, the legality of placing the respondent Cebu Portland Cement Company under the provisions of Civil Service Law, rules and regulations cannot be assailed. And as if to remove all doubt on the subject Congress passed Republic Act No. 2260, approved 19 June 1959, expressly providing that "The Philippine Civil Service shall embrace" x x x "government owned or controlled corporations."

The application of the Civil Service Law, rules and regulations does not infringe upon the Magna Charta of Labor or the Termination of Employment Act.² The Civil Service Law and the two labor laws can stand together. The philosophy behind the Civil Service Law is to engage the service of only those who are fit and meritorious. The aim is to curb out or minimize the evils of favoritism, patronage or spoils system. And the whole, scheme rests on the postulate that public welfare and interest is best served when only the fit and meritorious are chosen and appointed.

As in the judgment rendered in the, main case No. 241-V, herein above quoted, the Court of Industrial Relations made permanent those employees who had worked in the Cebu Portland Cement Company for three months, provided they were hired intentionally for permanent positions, the labor union contends that Marieta Tapia's appointment was permanent, she having been employed by the Company for more than four years. The judgment

invoked expressly excludes "Employees and laborers hired for x x x a specified period of time." Her employment as receptionist was for a fixed period of three months.

The labor union urges that Marieta Tapia be retained to afford her a chance to qualify for automatic civil service eligibility, as provided for by Republic Act No. 186, which took effect on 21 June 1947. Section 2 thereof provides that—

Officials or employees holding civil service positions in any branch of the Government service other than that provided for in the preceding section, continuously for at least ten successive years, shall be considered civil service eligibles with permanent status under the following classification:

x x x

Third-Grade—Those possessing any education at the time of appointment.

x x x

The provision just quoted cannot be invoked by Marieta Tapia, for the reason that she had been in the service not for ten years but more than four years only.

The orders under review are affirmed, with costs against the petitioner.

Bengzon, C.J., Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Dizon, and De Leon, JJ., concur.
Reyes, J.B.L., J., took no part.

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