

ANTONIA A. YEE, PETITIONER AND APPELLEE, VS. THE DIRECTOR OF PUBLIC SCHOOLS, THE DIVISION SUPERINTENDENT OF SCHOOLS OF ANTIQUE, HON. SECRETARY OF EDUCATION, AND HON. COMMISSIONER...

G. R. No. 16924. April 29, 1963

Ponente: PADILLA, J.

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PADILLA, J.:

This is an appeal from a judgment rendered by the Court of First Instance of Antique—

* * * declaring illegal and contrary to law the removal of the petitioner from her position as school teacher in the Division of Antique on October 28, 1957, and ordering the respondents to reinstate the petitioner forthwith to her former position, with all the privileges appurtenant thereto, and to cause to be paid her salary of P140.00 a month from November 1, 1957 until the date of her reinstatement, without pronouncement as to costs (civil case No. 12) ilpon a stipulation of facts submitted by the parties which is, as follows:

- That the petitioner was a public school teacher and had been appointed as, such teacher in the Division of Antique in 1951;
- That the petitioner was a civil service eligible as a regular national teacher having passed the Junior Teachers' (Regular) Examination that was given on or about December 29, 1955;
- That the petitioner was receiving a monthly salary of P140.00 as such teacher;
- That in the school year 1957-1958 the petitioner was actually teaching in the Buhang Elementary School, Buhang, Hamtic, Antique;
- That petitioner having married Mr. Ng Foo alias Pio Chet Yee a Chinese citizen, on August 10, 1957, is presently a Chinese citizen;
- That effective sometime on October 28, 1957 the petitioner was removed from her teaching service by virtue of Special Order No. 296, series of 1957, dated October 25, 1957, issued by the Division Superintendent of Schools of Antique hereto attached as "Annex A", and this was pursuant to the 2nd indorsement of the Director of Public Schools dated October 14, 1957, hereto attached (as) "Annex B", disauthoriznig the continuance in the service of the petitioner on account of Circular No. 40, series of 1947, hereto attached as "Annex C";
- That prior to the effectivity of the order of removal, the petitioner wrote a letter to the Commissioner of Civil Service dated October 25, 1957 hereto attached as "Annex D";
- That petitioner wrote another letter dated September 26, 1958 addressed to the Division Superintendent of Schools of Antique asking for reinstatement which is hereto attached as "Annex E";
- That Special Order No. 296 of the Division Superintendent of Schools of Antique (Annex A), the ruling of the Director of Public Schools in his 2nd indorsement dated October 14, 1957 (Annex B), and circular No. 40, series of 1947 (Annex C) had never been appealed by the petitioner to the Secretary of Education;

- That when this case was filed sometime on October 11, 1958, the original respondents were only the Director of Public Schools and the Division Superintendent of Schools of Antique;
- That the petitioner came to know for the first time of the actions taken on her letter of October 25, 1957. (Annex D) herein, sometime on January 9, 1959 when the respondents Division Superintendent of Schools and the Director of Public Schools submitted their evidence in support of their motion to dismiss and which documents are hereto attached as Annexes F, F-1, F-2, F-3, F-4, F-5, and F-6 wherein it appears that the Secretary of Education in its 3rd indorsement dated March 17, 1958 (Annex F-3) concurs with the recommendation of the Director of Public Schools for denial of the reinstatement of the petitioner to the service (Annex F-4) and that on August 26, 1958, in its 4th indorsement the Commissioner of Civil Service likewise concurs in the action separating Mrs. Antonia A. Yee from the teaching service (Annex F-2);
- That petitioner learned of the actions taken by the respondents on her letter dated September 26, 1958 (Annex E) sometime in May, 1959 and which actions are embodied in the indorsements hereto attached as Annexes G, G-1, G-2, G-3, G-4, G-5, G-6 and G-7 indicating that in the 3rd indorsement dated February 2, 1959 (Annex G-4) the Secretary of Education ruled that Mrs. Antonia A. Yee is still disqualified from holding any position in the teaching service reiterating its position previously stated in the 3rd indorsement dated March 17, 1958 relative to the same matter (Annex F-3), and that this reiterated ruling of the Secretary of Education was duly noted by the Commissioner of Civil Service on March 24, 1959 (Annex G-3);
- That the original petition for mandamus was filed on October 11, 1958 against the Director of Public Schools and the Division Superintendent of Schools as the stated respondents; that by virtue of the order of the Court, dated February 16, 1959, deferring the determination of said motion to dismiss, respondents' answer to the original petition was submitted to the Court on February 16, 1959; that on February 18, 1959 petitioner filed a motion for leave to include the Secretary of Education and the Commissioner of Civil Service as co-respondents; that to this motion, an opposition to the same was filed on February 20, 1959 by the original respondents; that in its order of February 23, 1959 the Court ordered the joining of the Secretary of Education and the Commissioner of Civil Service as additional respondents,
- That on February 23, 1959, petitioner submitted her amended petition for mandamus wherein the additional respondents have been included, to which a motion to dismiss dated April 7, 1959 was filed by the respondents and said motion to dismiss was denied by the Court in its order of July 24, 1959, but in that same order, petitioner was directed to amend its petition to include averments of the cause of action against the Secretary of Education and the Commissioner of Civil Service; that on July 30, 1959, an amended petition for mandamus was filed by the petitioner against all the herein respondents and the corresponding answer to the amended petition was submitted in behalf of the same respondents on July 31, 1959. * * * "

The questions to determine are whether the appellee's removal as public school teacher from the Euhang Elementary School, Hamtic, Antique, is illegal; whether she has a cause of action against the appellants and by mandamus proceedings may secure reinstatement to her former position; and whether she has exhausted all administrative remedies.

A cause of action exists if upon the facts alleged in a complaint admitted by the adverse party or proved by admissible and credible evidence a valid judgment may be rendered by a competent court. In her petition for mandamus the appellee alleges that she was illegally removed from her teaching position. If that allegation be established or proved, a valid judgment may be rendered reinstating her to her position. Hence, a cause of action exists against those responsible for her removal from her position and the remedy of mandamus is available to secure her reinstatement thereto.

There is, however, no doubt that her removal as a public school teacher because of loss of Filipino citizenship is legal. Not being included in section 671 of the Revised Administrative Code which enumerates the officers and

employees constituting the unclassified service, teaching in a public school is in the classified service—a public function which may be performed, by Filipino citizens only. An applicant for admission to examination for entrance into the civil service must be a citizen of the Philippines (section 675 of the Revised Administrative Code). And after he had qualified himself to be eligible for appointment to a civil service position and had been appointed to such position, he must continue to be such citizen. A voluntary change of citizenship or a change thereof by operation of law disqualifies him to continue holding the civil service position to which he had qualified and had been appointed. Such being the case, upon the appellee's marriage on 10 August 1957 to Ng Foo alias Pio Chet Yee, a Chinese citizen, the appellee ceased to be a citizen of the Philippines, and for that reason she is no longer qualified to continue holding the civil service position to which she had qualified and had been appointed.

Section 681 of the Revised Administrative Code provides that—

In making selection from lists of certified eligibles furnished by the Commissioner, appointing officer shall, when other qualifications are equal, prefer:.

First. Citizen of the Philippines.

Second. Honorably discharged soldiers, sailors, and mariners of the United States,

is no argument against the limitation of holding public offices to citizens of the Philippines. The preference provided for in the section quoted above was operative during the period before 4 July 1946 or before the Philippines became an independent nation.

In view of the conclusion arrived at, the point of exhaustion of administrative remedy need not be passed upon.

The judgment appealed from is reversed and petition denied, without pronouncement as to costs in both instances.

Bengzon, C. J., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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