

ISIDRO C. ANG-ANGCO, PETITIONER, VS. NATALIO P. CASTILLO, ET AL., RESPONDENTS.*G.R. No. 17169. November 30, 1963*

Ponente: BAUTISTA ANGELO, J.

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On October 8, 1956, the Pepsi-Cola Far East Trade Development Co., Inc. wrote a letter to the Secretary of Commerce and Industry requesting for special permit to withdraw certain commodities from the customhouse which were imported without any dollar allocation or remittance of foreign exchange. Said commodities consisted of 1,183 units of pepsi-cola concentrates which were not covered by any Central Bank release certificate. On the same date, the company addressed an identical request to the Secretary of Finance who was also the Chairman of the Monetary Board of the Central Bank. Senator Pedro Sabido, in behalf of the company, likewise wrote said official urging that authority be given to withdraw the abovementioned concentrates. Not content with this step, he also wrote to Dr. Andres Castillo, Acting Governor of the Central Bank, urging the same matter. Then Secretary Hernandez wrote another letter to Dr. Castillo stating, "Senator Sabido is taking this to you personally. Unless we have legal objection, I would like to authorize the withdrawal of the concentrates upon payment of all charges. Please expedite action."

Almost at the same time, the Import-Export Committee of the Central Bank, thru Mr. Gregorio Licaros, submitted to the Monetary Board a memorandum on the joint petition of the company and Sabido Law Office for authority to withdraw the concentrates from the customhouse stating therein that it sees no objection to the proposal. The Monetary Board, however, failed to take up the matter in its meeting of October 12, 1956 for the reason that the transaction did not involve any dollar allocation of foreign exchange, and of this decision Mr. Licaros was informed.

Having failed to secure the necessary authority from the Central Bank, on October 13, 1956, the counsel of the Pepsi-Cola Far East Trade Development Co., Inc. approached Collector of Customs Isidro Ang-Angco in an attempt to secure from him the immediate release of the concentrates, but this official seeing perhaps that the importation did not carry any release certificate from the Central Bank advised the counsel to try to secure the necessary release certificate from the No-Dollar Import Office that had jurisdiction over the case. In the morning of the same day, Mr. Aquiles J. Lopez, of said Office, wrote a letter addressed to the Collector of Customs stating, among other things, that his office had no objection to the release of the 1,188 units of concentrates but that it could not take action on the request as "the same is not within the jurisdiction of the No-Dollar Import Office within the contemplation of R. A. No. 1410." The counsel already referred to above showed the letter to Collector of Customs Ang-Angco who upon perusing it still hesitated to grant the release. Instead he suggested that the letter be amended in order to remove the ambiguity appearing therein, but Mr. Lopez refused to amend the letter stating that the same was neither a permit nor a release. Secretary of Finance Hernandez having been contacted by telephone, Collector of Customs Ang-Angco read to him the letter after which the Secretary verbally expressed his approval of the release on the basis of said certificate. Collector Ang-Angco, while still in doubt as to the

propriety of the action suggested, finally authorized the release of the concentrates upon payment of the corresponding duties, customs charges, fees and taxes.

When Commissioner of Customs Manuel P. Manahan learned of the release of the concentrates in question he immediately ordered their seizure but only a negligible portion thereof remained in the warehouse. Whereupon, he filed an administrative complaint against Collector of Customs Ang-Angco charging him with having committed a grave neglect of duty and observed a conduct prejudicial to the best interest of the customs service. On the strength of this complaint President Ramon Magsaysay constituted an investigating committee to investigate Ang-Angco composed of former Solicitor General Ambrosio Padilla, as Chairman, and Atty. Arturo A. Alafriz and Lt. Col. Angel A. Salcedo, as members. Together with Collector Ang-Angco, Mr. Aquiles J. Lopez was also investigated by the same Committee, who was also charged in a separate complaint with serious misconduct in office or conduct prejudicial to the best interest of the State. As a result, Collector Ang-Angco was suspended from office in the latter part of December, 1956.

After the investigation, the committee submitted to President Magsaysay its report recommending that a suspension of 15 days, without pay, be imposed upon Ang-Angco chargeable against the period of his suspension. On April 1, 1957, Collector Ang-Angco was reinstated to his office by Secretary Hernandez, but the decision on the administrative case against him remained pending until the death of President Magsaysay. After around three years from the termination of the investigation during which period Ang-Angco had been discharging the duties of his office, Executive Secretary Natalio P. Castillo, by authority of the President, rendered a decision on the case on February 12, 1960 finding Ang-Angco "guilty of conduct prejudicial to the best interest of the service", and considering him resigned effective from the date of notice, with prejudice to reinstatement in the Bureau of Customs.

Upon learning said decision from the newspapers, Collector Ang-Angco wrote a letter to President Carlos P. Garcia calling attention to the fact that the action taken by Secretary Castillo in removing him from office had the effect of depriving him of his statutory right to have his case originally decided by the Commissioner of Civil Service, as well as of his right of appeal to the Civil Service Board of Appeals, whose decision under Republic Act No. 2260 is final, besides the fact that such decision is in violation of the guaranty vouchsafed by the Constitution to officers or employees in the civil service against removal or suspension except for cause in the manner provided by law.

In a letter dated February 16, 1960, Secretary Castillo, also by authority of the President, denied the request for reconsideration. Not satisfied with this resolution, Collector Ang-Angco sent a memorandum to President Garcia reiterating once more the same grounds on which he predicated his request for reconsideration. Again Secretary Castillo, also by authority of the President, in a letter dated July 1, 1960, denied the appeal. In this instance, Secretary Castillo asserted that the President by virtue of his power of control over all executive departments, bureaus and offices, can take direct action and dispose of the administrative case in question inasmuch as the provisions of law that would seem to vest final authority in subordinate officers of the executive branch of the government over administrative matters falling under their jurisdiction cannot divest the President of his power of control nor diminish the same.

Hence, after exhausting all the administrative remedies available to him to secure his reinstatement to the office from which he was removed without any valid cause or in violation of his right to due process of law, Collector Ang-Angco filed before this Court the present petition for certiorari, prohibition and mandamus with a petition for the issuance of a preliminary mandatory injunction. The Court gave due course to the petition, but denied the request for injunction.

The main theme of petitioner is that respondent Executive Secretary Natalio P. Castillo in acting on his case by authority of the President in the sense of considering him as resigned from notice thereof, violated the guaranty vouchsafed by the Constitution to officers and employees in the classified service in that he acted in violation of Section 16 (i) of the Civil Service Act of 1959 which vests in the Commissioner of Civil Service the original and exclusive jurisdiction to decide administrative cases against officers and employees in the classified service, deprived him of his right of appeal under Section 18 (b) of the same Act to the Civil Service Board of Appeals whose decision on the matter is final, and removed him from the service without due process in violation of Section 32 of the same Act which expressly provides that the removal or suspension of any officer or employee from the civil service shall be accomplished only after due process, and of Section, 4, Article XII of our Constitution which provides that "no officer or employee in the civil service shall be removed except for cause as provided for by law." Since petitioner is an officer who belongs to the classified civil service and is not a presidential appointee, but one appointed by the Secretary of Finance under the Revised Administrative Code, he cannot be removed from the service by the President in utter disregard of the provision of the Civil Service Act of 1959.

Respondents, on their part, do not agree with this theory entertained by petitioner. They admit that if the theory is to be considered in the light of the provisions of the Civil Service Act of 1959, the same may be correct, for indeed the Civil Service Law as it now stands provides that all officers and employees who belong to the classified service come under the exclusive jurisdiction of the Commissioner of Civil Service and as such all administrative cases against them shall be indorsed to said official whose decision may be appealed to the Civil Service Board of Appeals from whose decision no further appeal can be taken. They also admit that petitioner belongs to the classified civil service. But it is their theory that that pertinent provisions of the Civil Service Law applicable to employees in the classified service do not apply to the particular case of petitioner since to hold otherwise would be to deprive the President of his power of control over the officers and employees of the executive branch of the government. In other words, respondents contend that, whether the officer or employees concerned are presidential appointees or belong to the classified service, if they are all officers and employees in the executive department, they all come under the control of the President and, therefore, his power of removal may be exercised over them directly without distinction. Indeed, respondents contend that, if, as held in the case of *Negado vs. Castro*, 55 Off. Gaz. 10534, the President may modify or set aside a decision of the Civil Service Board of Appeals at the instance of the office concerned, or the respondent employee, or may even do so *motu proprio*, there would be in the final analysis no logical difference between removing petitioner by direct action of the President and separating him from the service by ultimate action by the President should an appeal be taken from the decision of the Civil Service Board of Appeals to him, or if in his discretion he may *motu proprio* consider it necessary to review the Board's decision. It is contended that this ruling still holds true in spite of the new provision wrought into the law by Republic Act 2260 which eliminated the power of review given to the President because the power of control given by the Constitution to the President over officers and employees in the executive department can only be limited by the Constitution and not by Congress, for to permit Congress to do so would be to diminish the authority conferred on the President by the Constitution which is tantamount to amending the Constitution itself (*Hebron vs. Reyes*, L-9124, July 28, 1958). Indeed this is the argument invoked by respondent Castillo in taking direct action against petitioner instead of following the procedure outlined in the Civil Service Act of 1959 as may be seen from the following portion of his decision:

"In connection with the second ground advanced in support of your petition, it is contended that in deciding the case directly, instead of transmitting it to the Commissioner of Civil Service for original decision, this Office deprived the respondent of his right to appeal to the Civil Service Board of Appeals. This contention overlooks the principle that the President may modify or set aside a decision of the Civil Service Board of Appeals at the instance of either the office concerned or the respondent employee, or may even do so *motu proprio* (*Negado*

vs. Castro, 55 Off. Gaz., No. 51, p. 10534, Dec. 21, 1959). There would therefore be no difference in effect between direct action by the President and ultimate action by him should an appeal be taken from the decision of the Commissioner of Civil Service or the Civil Service Board of Appeals. The result is that the President's direct action would be the final decision that would be reached in case an appeal takes its due course."

Thus, we see that the main issue involved herein is whether the President has the power to take direct action on the case of petitioner even if he belongs to the classified service in spite of the provisions now in force in the Civil Service Act of 1959. Petitioner sustains the negative contending that the contrary view would deprive him of his office without due process of law while respondents sustain the affirmative invoking the power of control given to the President by the Constitution over all officers and employees belonging to the executive department.

To begin with, we may state that under Section 16 (i) of the Civil Service Act of 1959 it is the Commissioner of Civil Service who has original and exclusive jurisdiction to decide administrative cases of all officers and employees in the classified service for in said section the following is provided: "Except as otherwise provided by law, (the Commissioner shall) 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 employees." The only limitation to this power is that the decision of the Commissioner may be appealed to the Civil Service Board of Appeals, in which case said Board shall decide the appeal within a period of 90 days after the same has been submitted for decision, whose decision in such case shall be final (Section 18, Republic Act 2260). It should be noted that the law as it now stands does not provide for any appeal to the President, nor is he given the power to review the decision *motu proprio*, unlike the provision of the previous law, Commonwealth Act No. 598, which was expressly repealed by the Civil Service of 1959 (Rep. Act 2260), which provides that the decision of the Civil Service Board of Appeals may be reversed or modified *motu proprio* by the President. It is, therefore, clear that under the present provision of the Civil Service Act of 1959, the case of petitioner comes under the exclusive jurisdiction of the Commissioner of Civil Service, and having been deprived of the procedure laid down therein in connection with the investigation and disposition of his case, it may be said that he has been deprived of due process as guaranteed by said law.

It must, however, be noted that the removal, separation and suspension of the officers and employees of the classified service are subject to the saving clause "except as otherwise provided by law" (Section 16 (i), Republic Act No. 2260). The question then may be asked: Is the President empowered by any other law to remove officers and employees in the classified civil service?

The only law that we can recall on the point is Section 64(b) of the Revised Administrative Code, the pertinent portion of which we quote:

"(b) To remove officials from office conformably to law and to declare vacant the offices held by such removed officials. For disloyalty to the (United States) Republic of the Philippines, the (Governor-General) President of the Philippines may at any time remove a person from any position of trust or authority under the Government of the (Philippine Islands) Philippines."

The phrase "conformably to law" is significant. It shows that the President does not have blanket authority to remove any officer or employee of the government but that his power must still be subject to the law that may be passed by the legislative body particularly with regard to the procedure, cause and finality of the removal of the persons who may be the subject of disciplinary action. Here, as abovestated, we have such law which governs the action to be taken against officers and employees in the classified civil service. This law is binding upon the President.

Another provision that may be mentioned is Section 79 (D) of the Revised Administrative Code, which provides:

"Power to appoint and remove.—The Department Head, upon the recommendation of the chief of the Bureau or office concerned, shall appoint all subordinate officers and employees whose appointment is not expressly vested by law in the (Governor-General) President of the Philippines, and may remove or punish them, except as especially provided otherwise, in accordance with the Civil Service Law."

The phrase "in accordance with the Civil Service Law" is also significant. So we may say that even granting that, for administrative purposes, the President of the Philippines is considered as the Department Head of the Civil Service Commission, his power to remove is still subject to the Civil Service Act of 1959, and we already know that with regard to officers and employees who belong to the classified service the finality of the action is given either to the Commissioner of Civil Service or the Civil Service Board of Appeals.

Let us now take up the power of control given to the President by the Constitution over all officers and employees in the executive department which is now invoked by respondents as justification to override the specific provisions of the Civil Service Act. This power of control is couched in general terms for it does not set in specific manner its extent and scope. Yes, this Court in the case of *Hebron vs. Reyes*, *supra*, had already occasion to interpret the extent of such power to mean "the power of an officer to alter or modify or nullify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the former for that of the latter" [1], to distinguish it from the power of general supervision over municipal government, but the decision does not go to the extent of including the power to remove an officer or employee in the executive department. Apparently, the power merely applies to the exercise of control over the acts of the subordinate and not over the actor or agent himself of the act. It only means that the President may set aside the judgment or action taken by a subordinate in the performance of his duties.

That meaning is also the meaning given to the word "control" as used in administrative law. Thus, the Department Head pursuant to Section 79 (C) is given direct control of all bureaus and offices under his department by virtue of which he may "repeal or modify decisions of the chiefs of said bureaus or offices", and under Section 74 of the same Code, the President's control over the executive department only refers to matters of general policy. The term "policy" means a settled or definite course or method adopted and followed by a government, body, or individual [2], and it cannot be said that the removal of an inferior officer comes within the meaning of control over a specific policy of government.

But the strongest argument against the theory of respondents is that it would entirely nullify and set at naught the beneficent purpose of the whole civil service system implanted in this jurisdiction which is to give stability to the tenure of office of those who belong to the classified service in derogation of the provision of our Constitution which provides that "No officer or employee in the civil service shall be removed or suspended except for cause as provided by law" (Section 4, Article XII, Constitution). Here, we have two provisions of our Constitution which are apparently in conflict, the power of control by the President embodied in Section 10 (1), Article VII, and the protection extended to those who are in the civil service of our government embodied in Section 4, Article XII. It is our duty to reconcile and harmonize these conflicting provisions in a manner that may be given to both full force and effect and the only logical, practical and rational way is to interpret them in the manner we do it in this decision. As this Court has aptly said in the case of *Lacson vs. Romero*:

"* * * To hold that civil service officials hold their office at the will of the appointing power subject to removal or forced transfer at any time, would demoralize and undermine and eventually destroy the whole Civil Service System and structure. The country would then go back to the days of the old Jacksonian Spoils System under which a victorious Chief Executive, after the elections could if so minded, sweep out of office, civil service employees differing in political color or affiliation from him, and sweep in his political followers and adherents, especially those who have given him help, political or otherwise." (*Lacson vs. Romero*, 84 Phil., 740, 754)

There is some point in the argument that the power of control of the President may extend to the power to investigate, suspend or remove officers and employees who belong to the executive department if they are presidential appointees or do not belong to the classified service for such can be justified under the principle that the power to remove is inherent in the power to appoint (*Lacson vs. Romero*, supra), but not with regard to those officers and employees who belong to the classified service for as to them that inherent power cannot be exercised. This is in line with the provision of our Constitution which says that "the Congress may by law vest the appointment of the inferior officers, in the President alone, in the courts, or in heads of department" (Article VII, Section 10 (3), Constitution). With regard to these officers whose appointments are vested on heads of departments, Congress has provided by law for a procedure for their removal precisely in view of this constitutional authority. One such law is the Civil Service Act of 1959.

"We have no doubt that when Congress, by law, vests the appointment of inferior officers in the heads of departments it may limit and restrict power of removal as it seems best for the public interest. The constitutional authority in Congress to thus vest the appointment implies authority to limit, restrict, and regulate the removal by such laws as Congress may enact in relation to the officers so appointed. The head of a department has no constitutional prerogative of appointment to officers independently of legislation of Congress, and by such legislation he must be governed, not only in making appointments but in all that is incident thereto." (*U. S. vs. Perkins*, 116 U. S. 483)

In resumé we may conclude that the step taken by respondent Executive Secretary, even with the authority of the President, in taking direct action on the administrative case of petitioner, without submitting the same to the Commissioner of Civil Service, is contrary to law and should be set aside.

Wherefore, it is hereby ordered that petitioner be immediately reinstated to his office as Collector of Customs for the Port of Manila, without prejudice of submitting his case to the Commissioner of Civil Service to be dealt with in accordance with law. No costs.

Bengzon, C.J., Padilla, Labrador, Concepción, Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

[1] *Mondano vs. Silvosa*, 97 Phil., 143; 41 Off. Gaz., 2884.

[2] *Lockhead Aircraft Corp. vs. Superior Court of Los Angeles County*, 171 P. 2d 21, 24, 28 Cal. 2d 481, 166 A. L. R. 701.

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