

ARSENIO N. SALCEDO, PETITIONER AND APPELLANT, VS. THE MUNICIPAL COUNCIL OF CANDELARIA, QUEZON, ET AL., RESPONDENTS AND APPELLEES.

G. R. No. 18714. October 31, 1963

Ponente: PAREDES, J.

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PAREDES, J.:

Petitioner Arsenio N. Salcedo, a Civil Service eligible, had been, at the inception of the case at bar, for five (5) years, a Chief of Police of Candelaria, Quezon. On July 10, 1960, Venancio N. Dia, Municipal Mayor of same town, preferred against petitioner, an Administrative Complaint with the Municipal Council, of same town, for—

- Violation of Rides and Regulations 17 & 18 of Police Officer's Manual and Handbooks, 1954;
- Misconduct, punishable under Sec. 1 of Rep, Act No. 557;
- Serious irregularities in the performance of his duties, punishable under Sec. 1 of Rep. Act No. 557.

Petitioner objected to the admission of the complaint, because same was not duly sworn to. The council overruled the objection. Before the presentation of the administrative complaint, however, petitioner herein was suspended by the Mayor, and on September 8, 1960, by Resolution, Annex B, the Council extended the period of suspension. September 8, 1960, was the expiration of the 60 day period for suspension. The Resolution, among others, reads as follows—

"The Municipal Mayor presented a letter from Atty. Silvestre L. Tagarao inquiring from the Municipal Council as to whether the Respondent Chief of Police, Arsenio N. Salcedo in Administrative Case No. 5 can resume his official duties as Chief of Police on September 9, 1960.

After a careful study of the matter on premise and upon motion of Councilor Artemio de Luna, duly seconded by Councilor Ramon Reyes;

RESOLVED, as it is hereby resolved, that the suspension of the Chief of Police be extended indefinitely until the investigation (trial on the merits) is resumed by the Municipal Council, Candelaria, Quezon.

* * * * *

(Res. No. 291—Approved by the Majority).

Under date of March 9, 1961, petitioner presented to the Council petitions to disqualify the councilors-respondents, on the ground of bias and interest, alleging that he had filed against them, with the Provincial Board, administrative charges for oppression, corruption and other forms of maladministration in office, so that said respondents could not be expected to act, hear and decide the case of petitioner with impartiality and fairness. All the said moves to disqualify were overruled by the respondents councilors.

Claiming that respondents' acts (accepting the administrative complaint which was not duly sworn to; extending

the period of suspension beyond the 60 day period; denying his petitions to disqualify the majority members of the council), were performed without or in excess of the council's jurisdiction, or with grave abuse of discretion, and that there was no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law, Salcedo presented with the CFI of Quezon, a petition for "Prohibition & Mandamus with Preliminary Induction", being special Civil action No. 6006.

Petitioner also alleged that the Municipal Council of Candelaria, was then composed of nine (9) members, including the Vice-Mayor; one was elected under the Liberal Party banner; two (2) from the Grand Alliance Party and the rest, including the Vice-Mayor, under the Nacionalista Party banner; and that even before the presentation of the administrative case, the Nacionalista Party council men, had already been agitating for his resignation and replacement. Listed in the petition were five (5) issues, which the petitioner wanted the lower court to pass upon, viz—

- "1. May a complaint against a civil service official that is not subscribed and sworn to by the complainant be given due course?
2. Has the Municipal Council, acting through its majority members, the power to extend the period of suspension originally imposed upon a Chief of Police by the Mayor even before the administrative case against said Chief of Police is heard?
3. When the Vice-Mayor presides over the deliberations of the Municipal Council, does he have the right to vote?
4. Should the members, or any members, of the Municipal Council disqualify themselves when it has been shown that through bias and interest they cannot act with impartiality and fairness?
5. Is it proper and lawful, for justifiable reason, to require the Municipal Council not to act as a body, entire and whole, when trying an administrative case filed before it, but instead re-organize and reduce the council members to a mere majority on the basis' of party representation?"

The lower court set the hearing for the issuance of preliminary injunction and on the merits, on the same day. On May 2, 1961, before the date set for the said hearing, the Provincial Fiscal filed a Motion to Dismiss, claiming that the petition does not state a cause of action against the respondents and that "the issues raised therein are not sanctioned by law and jurisprudence."

Over the petitioner's opposition, on June 6, 1961, the lower court promulgated an Order, dismissing the petition, not on the grounds interposed by the Fiscal but on some other ground. Thus, the Court held—

"The removal of a member of the municipal police falls under Republic Act No. 557 and Section 2 of said law provides that in all these cases the decision of the Provincial Board, the City or Municipal Council shall be appealable to the Commissioner of Civil Service. Nowhere in the petition does it appear that the petitioner has appealed to the Commissioner of Civil Service or that he has exhausted all administrative steps regarding his case.

Wherefore, the petition is hereby dismissed with costs against the petitioner."

The above Order is now the object of the instant appeal, petitioner, claiming that the lower court erred

- "1. In holding that the appellant should first appeal to the commissioner of civil service or exhaust all administrative remedies regarding his case before he could file the instant petition for prohibition and mandamus with preliminary injunction against the municipal council of Candelaria, Quezon;
2. In not taking cognizance of, and passing upon and deciding the issues raised in the petition for prohibition and mandamus."

The Court in dismissing the petition, relied on the following provisions of Republic Act No. 557:—

"Sec. 1. Members of the provincial guards, city police and municipal police shall not be removed, and except in cases of resignation shall not be discharged except for misconduct or incompetency, dishonesty, disloyalty to the Philippine Government, serious irregularities in the performance of their duties, and violation of law or duty, and in such cases, charges shall be preferred by the * * * municipal mayor in cases involving a member of the municipal police, and investigated by the * * * municipal council, as the case may be, in public hearing, and the accused shall be given the opportunity to make their defenses. * * *. The trial of the case shall be finished within reasonable time, and the investigating body shall decide the case within fifteen days from the time the case is submitted for decision.

Sec. 2. In all these cases, the decision of the provincial board, the city or municipal council shall be appealable to the Commissioner of Civil Service.

Manifestly, the trial judge in interpreting Sec. 2 of Act No. 557, had considered the rulings of the municipal council in accepting and giving due course to the complaint, in spite of the lack of oath, in not disqualifying themselves from hearing the administrative case and in extending the period of suspension beyond the 60 day period provided for by law, as decisions appealable to the Commissioner of Civil Service. The trial judge misconstrued the law. It is obvious that the decision appealable to the Commissioner, is the one having to do with the merits of the administrative charges, after the proper hearing. In presenting the petition before the lower court, Salcedo wanted the Court to Rule on five (5) legal issues contained therein. The trial court should have taken cognizance of the case and squarely vs. Coll. of Customs of Manila pass upon the legal issues laid before it, instead of dismissing the complaint on the ground of failure to exhaust administrative remedies, which was not even invoked by the Provincial Fiscal in his motion to dismiss. As there was no decision rendered by the Municipal Council on the merits of the administrative charges preferred, for the investigation had not even commenced, there was no decision to be appealed to the Commissioner of Civil Service. At least, on one important issue, (the right to extend the 60-day period of suspension by the council), evidence should have been received and the case decided.

In view of the foregoing, the Writ is granted, the Order of the lower Court dismissing the petition, is hereby set aside, and another entered, remanding the case to the Court of origin, for further appropriate proceedings. No costs.

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

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