

[WITH RESOLUTION OF JANUARY 12, 1963]

G.R. No. 19823. August 31, 1962

Ponente: BARRERA, J.

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BARRERA, J.:

This is a petition for mandamus with prayer for preliminary injunction, filed by Ruperto Advincula and Braulio Avelmo, ad-interim appointees to the positions of Justice of the Peace of Dao and Ivisan, Capiz, respectively, to compel the Secretary of the Commission on Appointments to issue the corresponding certification of the confirmation by said body of their appointments, to declare the reconsideration, by the Commission on Appointments, of their confirmation on April 30, 1962, null and void: and to restrain the Department of Justice authorities from carrying out the order (to them) to vacate their aforementioned positions.

There is no controversy as to the facts of this case:

Petitioners Ruperto Advincula and Braulio Avelino, extended ad-interim appointments by former President Garcia on October 27, 1961, as Justices of the Peace of Dao and Ivisan, Capiz, respectively, duly qualified therefor, the first, on November 2, 1961, and the second on October 31, 1961 and immediately thereafter entered and discharged the functions of said offices. On April 27, 1962, said ad-interim appointments were favorably considered and confirmed by the Commission on Appointments.

On April 30, 1962, however, a member of the Commission on Appointments, invoking the provisions of Section 21 of the Revised Rules of said body, asked for a reconsideration of the aforementioned confirmation, as a result of which the approval or confirmation of petitioners appointments was withdrawn and the appointments remained unacted upon until the adjournment of the session of Congress on May 17, 1962.

Having been advised by the Department of Justice to vacate their positions in view of the by-passing or non-confirmation by the Commission on Appointments of their ad-interim appointments, Advincula and Avelino filed the instant petition, claiming that the reconsideration by the Commission on Appointments of the April 27-confirmation of their appointments, on April 30, 1962 or 3 days thereafter, was made in violation of Section 21 of the Revised Rules of said body and, therefore, null and void.

Section 21 of the aforementioned Revised Rules of the Commission on Appointments, reads:

"SECTION 21. Resolution of the Commission on any appointment may be reconsidered on motion by a member presented not more than one (1) day after their approval. If a majority of the members present concur to grant a reconsideration, the appointment shall be reopened and submitted anew to the Commission. Any motion to reconsider to vote on any appointment may be laid on the table, and this shall be a final disposition of such a motion."

The discussion by the Commission on Appointments of the motion to reconsider the April 27-confirmation of petitioners' appointments appeared in the minutes of its meeting of April 30, 1962, thus:

"CONGRESSMAN GANZON. Mr. Chairman, in the case of these two gentlemen, your humble servant found

out later on, after they were confirmed, that there are pending sworn complaints against these two gentlemen. And so in the interest of justice and fairness to all parties and to all considered, I filed this motion for reconsideration to give the proper committee the chance to reconsider.

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"SENATOR PUYAT. According to our Rules, Mr. Chairman, any Member of the Commission can present a motion for reconsideration within 24 hours. Now, if that motion is favorably reconsidered, then the Committee which originally reported out the confirmation will investigate that particular case and then that Committee will report to the Commission the result of its investigation.

* * * * *

"SENATOR PRIMICIAS. As humble Chairman of the Committee on Justice, I was the one who proposed the confirmation of these two appointees. Now before making the proposal for their confirmation, I was not informed of any charges against the two. As a matter of fact, no papers were indorsed to me. And so without any charges filed against these appointees, I recommended to the Commission their confirmation. Now they were confirmed on April 27. It would seem that these motion has been filed on April 30, and under our Rules, that is beyond the period, and probably this was caused by the schism that happened here when there were two commissions—I mean there was one legitimate and one not legitimate. So no motion for reconsideration was filed in this Commission because, our action in confirming these appointments were considered illegal, and this Commission did not deserve to receive any action for reconsideration. So under our Rules we cannot now, even if we would want to, we cannot act on this motion for reconsideration. It is with regret that I say this, considering the high regard I have for the congressman from Iloilo. But we must enforce the laws.

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"CONGRESSMAN LAGUMBAY. Precisely, gentleman from Pangasinan. But under the rules of procedure of courts, there is such a chance to reopen the case under the doctrine of fraud, accident, mistake, and exhausable neglect. Under that doctrine, could it not be possible in the Commission to reopen a case for reconsideration?

"SENATOR PRIMICIAS. That is under the Rules of Court. The Rules of Court are not applicable here.

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"CONGRESSMAN GANZON. With due respect to the opinion of the gentleman from Pangasinan, may I state the following basis upon which the motion was filed. The two gentlemen here subject of our confirmation were confirmed on April 27, Friday. I filed the motion for reconsideration, also April 30. Obviously, more than 24 hours have elapsed. But I would like to state the following matters: April 27 was Friday, the day they were confirmed. But the next day, April 28, was Saturday, which is not a working day. The next day, April 29, was Sunday, which is not also working day. I feel personally—and this is my honest opinion, I do not know the Rules here—that filing on Monday as the next working day would come within the 24-hour reglementary period. At any rate, Mr. Chairman, I submit this to the Commission for its reconsideration.

"SENATOR PRIMICIAS. I think the point is well taken, Mr. Chairman. When the Rules require 24 hours, it contemplates that the next day is working day. If it is not a working day, it should not be taken into account.

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"SENATOR PRIMICIAS. Although in the Congress, all the days are counted except Sundays. But this the Commission on Appointments. We don't meet everyday. We meet only at stated days or on special sessions. I think that in this case the point is well taken.

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"SENATOR PUYAT. Mr. Chairman, we are now ready to vote on the motion of the Congressman from Iloilo.

"THE CHAIRMAN. If there is no objection, the motion is approved."

It is clear from the foregoing that the Commission on Appointments, confronted with the question of how the 1-day period prescribed in their Rules would be computed, in connection with its proceedings, construed the same to mean the "next working day" which is not a Saturday or Sunday. This, on the theory that unlike in the computation of the 100-session days of Congress from which only Sunday was specifically excluded, (Sec. 9, Art. VI, Const.) the Commission on Appointments is authorized to hold sessions only on specified days. Petitioners now assail this conclusion on the ground that Republic Act 1880, providing for Monday-to-Friday working days—which apparently influenced the conclusion thus reached by the Commission—could not have the effect of amending the aforementioned constitutional provision. And, the confirmation of petitioners appointments, having been made on Friday, April 27, 1962, the same became final and irrevocable after April 28, 1962.

Clearly, the petition would want this Court to pass upon and determine the correctness of the interpretation placed by a co-equal, coordinate department, through one of its duly constituted committees, or commissions, a constitutional body, no less, on its own rules. This, we can not do without violating the fundamental principle of separation of powers. Note that the case does not involve an alleged infringement of the Constitution or any lawfully enacted law or measure, but of a supposed misconstruction, by the legislature, of its own regulation. Certainly, the matter concerns the internal business of such branch of the Government which can not be made the subject of judicial inquiry.

Wherefore, the petition is hereby dismissed, without costs. So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

RESOLUTION

January 12, 1963

BARRERA, J.:

Petitioners pray, upon the grounds urged in their motion, for reconsideration of the decision rendered herein dismissing their petition for mandamus.

The issue in this case, as stated in our decision, is the interpretation of Section 21 of the Revised Rules of the Commission on Appointments which in its pertinent part, reads:

"Section 21. Resolution of the Commission on any appointment may be reconsidered on motion by a member presented not more than one (1) day after their approval.* * *"

Petitioners contends that since their appointments were confirmed on April 27 (a Friday) and the motion for reconsideration was filed on April 30 (the following Monday), the confirmation had become final and irrevocable, and its subsequent reconsideration was null and void.

On the other hand, we found that the Commission on Appointments itself has, in effect, ruled that the one-day provision in question refers to a working day, and Saturday not being one, the filing of the motion made the following Monday fulfills the requirement of the rule.

We upheld the interpretation given by the Commission itself of its own rules and refused to issue the writ of

mandamus prayed for. We now reaffirm our decision on the following grounds:

(1) Section 9, Article VI of the Constitution providing:

"The Congress shall convene in regular session once every year on the fourth Monday of January, unless a different date is fixed by law. It may be called in special session at any time by the President to consider general legislation or only such subjects as he may designate. No special session shall continue longer than thirty days and no regular session longer than one hundred days, exclusive of Sunday.

is not applicable to the Commission on Appointments. The constitutional provision expressly limits the duration of the sessions of the Congress itself to thirty days, for special sessions, and one hundred days, for regular sessions, exclusive of Sundays. To hold that this provision equally applies to the Commission, as contended by petitioners, would be to declare that the sessions of this body are coetaneous with those of the Congress itself. But this is not true because at least in the first session of the Congress when it will have to organize itself first by electing the President of the Senate and the Speaker of the House of Representatives, the Commission does not come into existence until it is constituted within thirty days after the organization of both houses of Congress.[1]In other words, while Congress is already in session and the 100-day period is already running as to it, the Commission is yet to be constituted. Consequently by necessity the number of days of session of the Commission falls short of those of the Congress. Therefore, the sessions of the two bodies are not coetaneous; therefore Section 9, Article VI of the Constitution is not applicable to the Commission on Appointments.

(2) The only provision that governs the sessions of the Commission on Appointments is Section 13, Article VI of the Constitution which says:

"* * * The Commission on Appointments shall meet only while the Congress is in session, at the call of its chairman or a majority of its members, to discharge such powers and functions as are herein conferred upon it."

Note that the sole mandatory injunction that is obligatory on the Commission is that it shall meet only while the Congress is in session. How often and how long it shall meet is left entirely to the discretion of the Commission, as long as it is during the session of the Congress, and it shall meet at the call of its chairman or a majority of its members. Therefore, if the Commission itself decides that its working days should be from Monday through Friday of the week, excluding Saturday and Sunday, it would be exercising its lawful authority and would not be infringing any constitutional provision.

(3) The interpretation of its own rules adopted by the Commission in this case, is in accordance with Republic Act 1880, which fixed the minimum requirements of legal hours of labor to 40 hours a week or 8 hours a day for five days per week, resulting in the closing from public transaction of all government offices on Saturdays, save those excepted by law. And the Commission on Appointments is not one of those excepted by law.

In view of the foregoing, if not for the considerations stated in the last paragraph of the original opinion, which, for the purposes of this decision, may be laid aside, the motion for reconsideration filed by the petitioners is hereby denied. So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

[1] Section 13, Art. VI of the Constitution.

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