

**PEDRO D. GENATO, FOR HIMSELF AND IN BEHALF OF ALL OTHER  
EMPLOYEES OF THE COURT OF FIRST INSTANCE OF MANILA  
SIMILARLY SITUATED AS HIMSELF, PETITIONER, VS. FAUSTINO  
SY-CHANGCO IN ...**

*G.R. No. 23095. May 12, 1967*

Ponente: CONCEPCION, C.J.

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**CONCEPCION, C.J.:**

This is an original action for mandamus, to compel the Budget Commissioner to release the sum of P292,188 for salary differentials of petitioner Pedro D. Genato and other employees of the Court of First Instance of Manila - on whose behalf, apart from his own, he has filed this case - for the period from July 1, 1963 to June 30, 1964, as well as "the corresponding appropriation for the 1964-65 fiscal year." In the petition herein it was, likewise, prayed that a writ of preliminary mandatory injunction be issued restraining the Budget Commissioner and the Auditor General from reporting said sum of P292,188 "as reverted to the unappropriated general fund of the National Treasury at the close of office hours of June 30, 1964, and ordering said respondents instead to report and/or record that said amount remain(s), pending further orders of this Honorable Court, as an outstanding obligation, payable under the current appropriation, for the Court of First Instance of Manila under Republic Act No. 3845."

Upon the filing of said petition, on July 1, 1964, a restraining order was issued, "effective immediately up to July 7, 1964," on which date the petition for preliminary injunction prayed for was issued, without bond.

It is not disputed that, on October 5, 1963, herein petitioner and many other employees of the Court of First Instance of Manila wrote a letter-petition, addressed to the President of the Philippines, through proper channels, for the implementation of their salary increases, as authorized in said Republic Act No. 3845, the general appropriation act for the fiscal year 1963-1964. Favorable action thereon was recommended in the 1st indorsement of the Executive Judge of the Court of First Instance of Manila,[1] forwarding said letter-petition to the President, through the Secretary of Justice, as well as in the latter's indorsement,[2] forwarding the basic communication to the Executive Secretary. Inasmuch as, this notwithstanding, the release prayed for was not made, petitioner instituted the present action for mandamus with a writ of preliminary injunction, on his behalf and that of his co-employees in the aforementioned court of first instance, against the Budget Commissioner and the Auditor General.

The petition is predicated upon the theory that upon approval of Republic Act No. 3845, the full amount therein appropriated for the judicial department had become automatically "alloted and immediately available to said department for the use of our courts and the court personnel x x x."

In their answer to the petition, respondents alleged that the budget submitted by the President to Congress appropriated the amount necessary to grant to herein petitioner and those represented by him a one grade increase, this being the only increase that the condition of our national treasury could bear; that Congress, however,

increased by as much as three grades the salaries of a number of court personnel, "without taking into consideration the income in the government as estimated in the budget and the likelihood that said income might not be realized and fall much below expectations, as it happened;" that shortly after the approval of Republic Act No. 3845, and upon the request of the Executive Judge of the Court of First Instance of Manila, made on August 12, 1963, and its favorable indorsement by the Secretary of Justice, the Budget Commissioner released the amounts necessary to effect the one grade increase provided in the budget submitted by the President to Congress; that the Commissioner's failure to release the amount necessary to cover the salary differentials involved in the petition herein was due to lack of funds, as envisioned in the budget submitted by the President; that there has been a failure to exhaust the administrative remedy available to petitioner herein, who had a plain, speedy and adequate remedy in the ordinary course of law against the action taken by the respondents, which was to appeal therefrom - which petitioner has not done - to the President, who exercises executive control and supervision over the Budget Commissioner; that an appropriation "is per se nothing more than the legislative authorization prescribed by the Constitution, that money be paid out of the treasury;" that, being merely such authorization, Republic Act No. 3845 does not impose upon the respondents the ministerial duty to order the release of the funds appropriated in said Act; that, moreover, the said authorization requires implementation, which must necessarily be in the nature of a budgetary system of allocation of funds, so that the income realized by the government from time to time, may be effectively apportioned and utilized to the fullest extent to serve the vital needs of the nation; and that such allocation entails the exercise of judgment and discretion which cannot be controlled by mandamus.

Upon a review of the records, we are satisfied that the petition herein should be dismissed. Regardless of whether or not the Budget Commissioner has a ministerial duty to release any of the funds appropriated in Republic Act No. 3845, it appears that petitioner and those whom he claims to represent, as a class, have no cause of action against respondents herein. The reason is that petitioner and those represented by him hold their respective office in pursuance of appointments stating that they shall receive the compensation they are now getting, not the increased pay authorized by Republic Act No. 3845. To be entitled to such increased pay, they need another appointment therefor, which has not been extended in their favor. Thus, in the letter to the Secretary of Justice, dated October 12, 1963, the Executive Judge of the Court of First Instance of Manila, urged that the amounts needed to cover the salary increases sought by the court employees be released in order that "promotional appointments effective July 1, 1963" could "be issued" in their favor.

No such promotional appointments for the amounts involved in the petition herein having made, it follows that petitioner and his aforementioned co-employees are not as yet legally entitled to said amounts, and, hence, have no cause of action for mandamus to compel the release thereof.

WHEREFORE, the petition herein should be, as it is hereby dismissed, and the writ of preliminary injunction issued by this Court on July 7, 1964, accordingly, dissolved, without special pronouncement as to costs.

**SO ORDERED.**

Reyes, J.B.L., Dizon, Regala, Makalintal, and Zaldivar, JJ., concur.  
Bengzon, J.P., Sanchez, and Castro, JJ., in the result.

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[1] dated October 7, 1963.

[2] dated October 11, 1963.

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