

JUAN E. SEVILLA, PETITIONER, VS. LEONCIO PARINA, ADAN ROSETE, HONORABLE ABELARDO SUBIDO (ACTING COMMISSIONER OF CIVIL SERVICE), HONORABLE JOSE B. LINGAD (ACTING COMMISSIONER OF ...

G.R. No. 23797. October 30, 1967

Ponente: CONCEPCION, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-23797/>

CONCEPCION, C.J.:

The Government seeks a review of the decision of the Court of First Instance of Manila, the dispositive part of which reads:

"Wherefore, judgment is hereby rendered in favor of the petitioner and against the respond-ents, declaring that respondent Leoncio Parina is not entitled to the position of Customs Examiner I-R-23 in the Appraiser's Division of the Bureau of Customs and that petitioner Juan E. Sevilla is the person legally entitled to hold and exercise the same, and ordering the Personnel Officer of the Bureau of Customs, Acting Commissioner of Civil Service, Acting Commissioner of Customs and Acting Secretary of Finance to restore said petitioner immediately to that position with a salary corresponding to the position next lower in rank. Without special pronouncement as to costs."

Petitioner Juan E. Sevilla was, on February 15, 1954, appointed clerk in the Bureau of Customs. On January 1, 1956, he received a permanent appointment as Customs Liquidator. Promoted, on November 1, 1956, to the position of Customs Examiner I, Item No. 123-16, page 246, of Republic Act No. 1600, he was subsequently extended promotional appointments in salary, the last of which was for P2,808.00 per annum. Sometime in 1960, an administrative charge, Case No. R-21540, was filed against him, for alleged grave misconduct, upon the ground that a carton and a pack of untaxed Chesterfield cigarettes, three (3) packs of untaxed Camel cigarettes and two (2) cakes of face soap were found in his possession, as he sought to take them with him from the Manila Air Station, after examining the baggages of passengers who had arrived from Guam on board the transport "SS DAVID SHUNK." After appropriate proceedings, the Civil Service Commission rendered a decision, dated November 9, 1960, finding him guilty as charged and suspending him for six (6) months, without pay, and reprimanding him, as well as giving him a warning. This decision was, on appeal to the Civil Service Board of Appeals, affirmed by the latter, except as to the penalty, with respect to which the Board had decreed: "his salary is hereby reduced to that corresponding to the position next lower in rank, in lieu of the six (6) months suspension imposed by the Commissioner of Civil Service," apart from the afore mentioned reprimand and warning. A reconsideration sought by Sevilla was denied by said Board, on September 26, 1962.

Subsequently, or on December 2, 1963, the then Secre-tary of Finance, upon the recommendation of the Acting Com-missioner of Customs, and with the approval of the then Acting Deputy Commissioner of Civil Service, appointed Sevilla as Clerk II, R-25, at P2,196.00 per annum — which, admittedly, is the salary corresponding to the position next lower in rank to that held by him - effective upon assumption of duty, and promoted Leoncio Parina — who had, theretofore, held said position of Clerk II at P2,196.00 per annum -- to Sevilla's position as

Customs Examiner I, R-32, with a salary of P2,808.00 per annum. Thereupon, Sevilla instituted, in the Court of First Instance of Manila, the present quo warranto proceedings against Parina, The Acting Secretary of Finance, the Acting Commissioner of Customs, the Personnel Officer of the Bureau of Customs and the Acting Commissioner of Civil Service; to oust Parina from said office of Sevilla and secure the latter's reinstatement thereto. In due course, said court rendered the aforementioned decision, from which the Government has appealed directly to the Supreme Court, on questions purely of law.

The issue in this appeal, as in the lower court, boils down to whether or not the decision of the Civil Service Board of Appeals, sentencing Sevilla to a reduction of his salary 'to that corresponding to the position next lower in rank,' meant to divest him of his position as Customs Examiner I — with an item and an annual compensation of P2,808.00 — and to require that he be given another position, with the reduced salary aforementioned, or merely reduced his salary to that corresponding to the position next lower in rank, without a change of item and/or position.

The Government maintains that the first alternative was intended by the Civil Service Board of Appeals, although the latter did not say so specifically, because "it would be absurd to consider that a single position can be lower in rank to itself," and because Sevilla's salary can not be reduced "without the accompanying appointment to the position to which the reduced salary corresponds."

We are unable to share this view. To begin with, the decision of the Board did not direct that Sevilla be given a "position" other than that he was holding. It merely ordain-ed that his "salary" - not position — be "reduced to that" — meaning salary --- "corresponding to the position next lower in rank." Indeed, a person may hold an office or position at a salary lower than the amount of the budgetary item therefor, which is but the maximum he can be given, under said item. Secondly, despite Sevilla's appointment — immediately preceding the contested one — for an item and position carrying a compensation of P2,808.00 per annum, it is not contested that the Board could have rendered a valid decision either suspending his right to discharge the duties of said position and to collect the emoluments attached thereto, or divesting him completely of said position and of the aforesaid emoluments, by decreeing his removal from office or dismissal from the service, without any further action on the part of the appointing authority. Obviously, the Board has the lesser power to reduce said emoluments, without such action on the part of the appointment authority, or without requiring another appointment.

Otherwise, the effectivity of the decision of the Board, even if valid and final, as well as executory, would be depend-ent upon the willingness of the appointing authority to imple-ment it. Upon the other hand, the power of appointment necessarily entails the exercise of judgment and discretion. Hence, the officer clothed with such power cannot be compelled to exercise it in favor of a given person.[1] As a consequence, the theory of the Government in this case tends, either to im-pair the efficacy of decisions of the Civil Service Board of Appeals, or to undermine the basic assumptions of the power of appointment. We do not believe that either alternative is consistent with the letter and spirit of our laws.

WHEREFORE, the decision appealed from is hereby affirmed, without special pronouncement as to costs.

SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

[1] "Congress can not, either appoint the Commissioner of the National Employment Service, or impose upon the President at the duty to appoint any particular person to said office. The a pointing power is the exclusive prerogative of the President, upon which no limitations may be imposed by Congress, except those resulting from

the need of securing the concurrence of the Commission on Appointments and from the exercise of the limited legislative power to prescribe the qualifications to a given appointive office." (Manalang vs. Quitoriano, L-6898, April 30, 1954.)

"Appointment of a public officer involves the exercise of discretion which, unless abused, the courts will not attempt to control. Without that power, in no just sense can it be said that the right exists. While the appointing officer or body may listen to the recommendation or advice of others, yet the selection must finally be his or its act. And so this power of selection of an appointee is and should be vested alone in the officers of boards authorized to appoint, although it is limited to persons possessing the qualifications required by the civil service statutes and rules." (42 Am. Jur. 951)

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.