

ANTONIO J. VILLEGAS, IN HIS OFFICIAL CAPACITY AS MAYOR OF THE CITY OF MANILA, PETITIONER, VS. ABELARDO SUBIDO, IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF CIVIL SERVICE; HERMINI...

G.R. Nos. 24012 & 24040. August 09, 1965

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

The Commissioner of Civil Service issued on January 4, 1965 Memorandum Circular No. 1, series of 1965, stating that Republic Act 2260 (Civil Service Act of 1959) impliedly repealed Republic Act 557 providing for the procedure of removal and suspension of policemen. All provincial boards, city and municipal councils were ordered (1) to cease from investigating administrative charges against provincial guards, city and municipal policemen; (2) to submit in 30 days to the Commissioner of Civil Service a list of police cases pending; and (3) to thereafter investigate police cases only in accordance with Republic Act 2260.

On January 13, 1965 the Commissioner of Civil Service issued Memorandum Circular No. 3, series of 1965, stating that Republic Act 2260 repealed by implication Section 22 of Republic Act 409 (Revised Charter of the City of Manila) on suspension and removal of appointive city officers or employees not appointed by the President of the Philippines. The City Mayor of Manila was ordered (1) to cease from deciding administrative cases of officers and employees in Manila in the competitive service; (2) to submit to the Commissioner of Civil Service in 30 days a list of pending disciplinary cases against said officers and employees; (3) to thereafter proceed to investigate said officers and employees in accordance with Republic Act 2260.

Since the Vice-Mayor of Manila, as Presiding Officer of the Municipal Board of Manila, would comply with the aforesaid Memorandum Circulars, the City Mayor of Manila filed with this Court two separate actions for prohibition and injunction with preliminary injunction: L-24012 filed on January 7, 1965, relating to cases involving policemen under Republic Act 557; L-24040 filed on January 15, 1965, with reference to cases of competitive employees in the City of Manila under Section 22 of Republic Act 409.

Preliminary injunction was issued by this Court in both cases on January 18, 1965.

Said cases were jointly heard and submitted on March 12, 1965. Hence a single decision is herein rendered on them.

The sole issue presented is: Did Republic Act 2260 impliedly repeal Republic Act 557 and Section 22 of Republic Act 409 so as to vest in the Commissioner of Civil Service exclusive and original jurisdiction to remove, suspend and separate policemen and employees of the City of Manila in the competitive service?

Republic Act 409, effective June 18, 1949, provides in Section 22:

"* * * Appointive City officers or employees not appointed by the President of the Philippines shall be

suspended and removed by the Mayor, subject to appeal to the (Secretary of Interior) Office of the President, whose decision shall be final."

Republic Act 557, effective June 17, 1950, provides: (1) that charges against policemen shall be preferred by the Mayor and investigated by the city or municipal council and "the investigating body shall decide the case within 15 days from the time the case is submitted for decision." (Sec. 1) It also provides that "in all these cases, the decision of city or municipal council shall be appealable to the Commissioner of Civil Service." (Section 2)

Republic Act 2260, effective June 19, 1959, provides in Section 16 (i) that the Commissioner has among other powers the following:

* * * * *

"Except as otherwise provided by law, to 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 conduct, discipline, and efficiency of such officers and employees; and to prescribe standards, guidelines and regulations governing the administration of discipline;"

Parenthetically, Republic Act 557 has since enactment been time and again severely criticized as an unwise legislation that rendered our policemen captives of politics or politicians. It is therefore not surprising but quite understandable that respondent Commissioner sought to curtail the evils of the present system under Republic Act 557. Still, it must be conceded, even as it is regretted, that Republic Act 557 has not been expressly repealed.

Repeal by implication is not favored and if two laws can be reasonably reconciled the construction will be against such repeal (Valera, vs. Tuason, 80 Phil. 823, 827).

Republic Act 2260, particularly Section 16 (i) thereof, is not inconsistent with the power of the City Council under Republic Act 557 to decide cases against police men and the power of the City Mayor of Manila under Section 22 of Republic Act 409 to remove city employees in the classified service.

Section 16 (i) of Republic Act 2260 leaves no doubt that the removal, suspension or separation effected by said City Council or City Mayor, can be passed upon or reviewed by the Commissioner of Civil Service. Nonetheless, the Commissioner's "final authority to pass upon the removal, separation and suspension" of classified service employees presupposes, rather than negates, the power vested in another official to originally or initially decide the removal, separation or suspension which the Commissioner is thereunder empowered to pass upon.

Such power, furthermore, is subject to an express limitation contained in Section 16 (i), namely, the saving clause "Except as otherwise provided by law." Accordingly, it does not obtain at all in those instances where the power of removal is by law conferred on another body alone, with no appeal therefrom, as in the case provided for in Section 14 of Republic Act 296.

Respondents rely on the case of *Ang-angco vs. Castillo*, L-17169, November 30, 1963, allegedly ruling that under Section 16(i) of Republic Act 2260 the Commissioner has original and exclusive jurisdiction to remove, suspend or separate. A close reading of the decision, however, will show that said statement was qualified by considering the saving clause: "Except as otherwise provided by law" contained in Section 16 (i). It was asked therein if in that case there was special law empowering the President to remove officers and employees in the classified civil service, and it was found that there was none. In the present case there is no question that the power of the City Council or the City Mayor to remove and suspend is clearly granted by special laws.[*]

It follows, therefore, that the special laws covering specific situations of policemen and employees of the City of Manila, Republic Acts 557 and 409, subsist side-by-side with Republic Act 2260, and are not impliedly repealed

by the latter which is a general law.

Since Section 16 (i) of Republic Act 2260 confers reviewing or appellate powers on the Commissioner of Civil Service, its effect on Section 22 of Republic Act 409 is only to bring the appeal from the decisions of the City Mayor to the Commissioner of Civil Service, instead of to the Office of the President (successor of Department of Interior). Republic Act 557, as stated, expressly provides for appeal from the decision of the City Council to the Commissioner, of Civil Service (Section 2).

As this Court in *Castillo vs. Bayona*, 106 Phil., 1121, January 30, 1960, stated, Section 16 (i) of Republic Act 2260 means that officials vested by law with power to remove employees can still exercise said power, "subject to the final authority of the Commissioner of Civil Service on appeal to him by the aggrieved party."

And in *Pangilinan vs. RCA*, L-22010, 121 Phil. 351, We ruled that appeal to the Civil Service Commissioner under Section 16 (i) aforementioned is an administrative remedy to be exhausted before suing in court against disciplinary action taken by an administrative body or official.

It is well to note, however, that the present system of securing disciplinary action against policemen from the city or municipal council suffers from so many unnecessary delays put in the way of terminating the investigation. Republic Act 557 leaves no doubt that Congress intended prompt and speedy disposition of the cases thereunder. Section 1 expressly provides: "The trial of the case shall be finished within a reasonable time, and the investigating body shall decide the case within fifteen days from the time the case is submitted for decision." Furthermore, Section 3 ordains reinstatement if after sixty days of preventive suspension the case against a policeman shall not have been finally decided: Accordingly, a remedy against refusal or failure of the investigating body to perform its task within the reasonable time allowed, may lie in a proper case. For Congress in requiring speedy action by the investigating body, has clearly shown its intention to insure an expeditious manner of purging undesirables in our police forces.

Wherefore, the petitions for prohibition in L-24012 and L-24040 are hereby granted and the preliminary injunction heretofore issued in both cases are hereby made permanent. No costs. It is so ordered.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, Dizon, Regala, Makalintal, and Zaldivar, JJ., concur.

[*] Sec. 22, E.A. 409; R.A. 557.

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