

Republic of the Philippines  
Supreme Court  
Manila

CERTIFIED TRUE COPY  
*Wilfredo V. Letican*  
WILFREDO V. LETICAN  
Division Clerk of Court  
Third Division  
DEC 13 2016

**THIRD DIVISION**

**JULIUS B. CAMPOL,**

Petitioner,

**G.R. No. 197634**

Present:

-versus-

VELASCO, JR., *J.*, Chairperson,  
DEL CASTILLO,\*  
PEREZ,  
REYES, and  
JARDELEZA, *JJ.*

**MAYOR RONALD S. BALAO-AS  
and VICE-MAYOR DOMINADOR  
I. SIANEN,**

Respondents.

Promulgated:

**November 28, 2016**

x ----- *Wilfredo V. Letican* ----- x

**DECISION**

**JARDELEZA, J.:**

The Constitution mandates that no employee of the civil service shall be removed from office except for cause provided by law. Corollary to this, any employee illegally dismissed from office is entitled to reinstatement. Any other employment he or she obtains while the case challenging his or her dismissal is pending does not bar his or her right to be reinstated. Similarly, he or she is entitled to the payment of his or her backwages from the time of his or her dismissal until his or her actual reinstatement. The Constitutional requirement of valid cause before an employee of the civil service may be dismissed and the twin remedies of reinstatement and payment of full backwages encapsulate the essence of security of tenure.

**Case**

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court (Petition).<sup>1</sup> The Petition seeks the partial reversal of the ruling of the Court of Appeals (CA) dated December 15, 2010 (Decision)<sup>2</sup> and its

\* Designated as Additional Member in lieu of Hon. Diosdado M. Peralta, per Raffle dated August 8, 2011.

<sup>1</sup> *Rollo*, pp. 3-19.

<sup>2</sup> *Id.* at 21-36. Penned by Associate Justice Priscilla J. Baltazar-Padilla, with Associate Justices Fernanda Lampas Peralta and Elihu A. Ybañez, concurring.

resolution dated June 27, 2011 (Assailed Resolution)<sup>3</sup> which denied Petitioner Julius B. Campol's (Campol) motion for reconsideration of the Decision. The Decision reversed the Civil Service Commission (CSC) which found that Campol was validly dismissed from the service. While the CA found that Campol was illegally dismissed, it nevertheless refused to order his reinstatement. Campol challenges this ruling before us.

### Facts

Campol served the Municipality of Boliney, Abra since 1999 as Secretary to the *Sangguniang Bayan* (SB).<sup>4</sup> He held the position in a permanent capacity with salary grade 24.<sup>5</sup>

During the 2004 elections, Ronald S. Balao-as (Balao-as) and Dominador J. Sianen (Sianen), respondents in this case, won as mayor and vice-mayor, respectively (collectively, Respondents). They assumed office in July 2004. Shortly after this, the SB passed a resolution terminating Campol as SB Secretary on the ground that he was absent without approved leave from August 1, 2004 to September 30, 2004.<sup>6</sup> However, when the resolution was transmitted to the *Sangguniang Panlalawigan* (SP), it referred the matter to CSC-Abra.<sup>7</sup> CSC-Abra then wrote Sianen informing him that Campol cannot be removed from his position because he is protected by the Administrative Code. The SP followed this advice.<sup>8</sup> The Department of Interior and Local Government (DILG)-Abra also took the same position.<sup>9</sup> Despite the unanimous position of these three agencies, Sianen issued Memorandum Order No. 001, Series of 2004, which dropped Campol from the rolls.<sup>10</sup>

Campol challenged this memorandum before the CSC-CAR, which ruled in his favor.<sup>11</sup> Sianen, in turn, elevated the matter before the CSC. The CSC granted his appeal and ruled that Campol was properly dropped from the rolls.<sup>12</sup>

Campol filed a petition for review under Rule 43 of the Rules of Court before the CA.<sup>13</sup> Campol contested the allegation that he committed absences without any approved leave. To substantiate his claim, Campol stated that he in fact received his salary for September 2004. He also sought to prove, through the logbook of meetings that he kept as Secretary of the SB, that he was present on August 2, 9, 16, 23, 30 and September 6, 13 and

<sup>3</sup> *Id.* at 51-52.

<sup>4</sup> *Id.* at 22.

<sup>5</sup> *Id.* at 4.

<sup>6</sup> *Id.* at 4-5, 22.

<sup>7</sup> *Id.* at 5.

<sup>8</sup> *Id.*

<sup>9</sup> *Rollo*, p. 6.

<sup>10</sup> *Id.* at 23.

<sup>11</sup> *Id.*

<sup>12</sup> *Rollo*, p. 24.

<sup>13</sup> *Id.*

20, 2004. He also claimed that Sianen denied his application for sick leave from September 16 to 24, 2004 so as to make it appear that he was absent for more than 30 days. Further, even assuming that his absences without leave were true, Campol challenged the propriety of his summary dismissal arguing that he was deprived of his right to due process.<sup>14</sup>

The CA, in its Decision, reversed the CSC. The CA ruled that no ground exists to justify Campol's dismissal.<sup>15</sup> However, while the CA ruled that Campol was illegally dropped from the rolls, it refused to order his reinstatement. The CA reasoned that since Campol was already gainfully employed with the Public Attorney's Office (PAO) since October 2005, reinstatement was no longer possible. It also held that Campol is entitled to backwages only from the time of his dismissal until October 2005, prior to his employment with another government agency.<sup>16</sup> According to the CA –

In the case at bar, Campol's dropping from the rolls is found to be invalid. His reinstatement as SB Secretary though is no longer viable considering that since October, 2005, he was gainfully employed at PAO. Thus, payment of his backwages and benefits covering the period effective from the time he was dropped from the rolls up to October, 2005 is in order.<sup>17</sup>

Campol filed this Petition for Review on *Certiorari*<sup>18</sup> challenging the CA's refusal to order his reinstatement. He also asserts that the CA erred in ordering the payment of his backwages only up to October 2005.

Campol admits that indeed, he has been employed as administrative aide IV by the PAO since October 2005. He adds, however, that he was forced to find another job in order to provide for his two young daughters. He relates that during the pendency of this case, his wife, a PAO lawyer, was gunned down on September 5, 2005. Thus, in the face of the loss of his wife and his continuing unemployment, Campol had no choice but to accept a job from the agency that formerly employed his wife. He highlights that his position as SB Secretary falls under salary grade 24 while his employment with PAO as administrative aide IV is only salary grade 4. He was, nevertheless, compelled to take the job for the sake of his two daughters.<sup>19</sup>

Campol argues that the Decision, in refusing his reinstatement and limiting the grant of backwages to October 2005, contradicted prevailing jurisprudence.

The Respondents did not file any comment despite the order of this Court.

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<sup>14</sup> *Rollo*, p. 26.

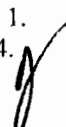
<sup>15</sup> *Id.* at 33.

<sup>16</sup> *Id.* at 35.

<sup>17</sup> *Id.*

<sup>18</sup> *Supra* note 1.

<sup>19</sup> *Rollo*, p. 14.



### Issue

The only issue before us is whether Campol is entitled to reinstatement and to the payment of his backwages from the time of his dismissal until he is reinstated.

### Ruling

We note that Campol's unlawful dismissal happened in 2004. The Decision which ruled that he was illegally dropped from the rolls was promulgated in 2010. Had it not been for the improper appreciation of the applicable laws and jurisprudence, Campol should have been reinstated to his rightful position as SB Secretary five years ago. We commiserate with Campol for the years he spent waiting for justice to finally and rightfully be given to him. We grant the prayers in his petition.

We rule that Campol should be reinstated. He must also be paid his backwages from the time he was illegally dismissed until his reinstatement.

#### *The Law on Reinstatement*

Section 2, paragraph 3 of Article IX-B of the Constitution states –

No officer or employee of the civil service shall be removed or suspended except for cause provided by law.

This constitutional provision captures the essence of security of tenure. An employee of the civil service has the right to be protected in the possession and exercise of his or her office. He or she cannot be removed from his or her employment save for causes allowed by law. A necessary consequence of the importance given to security of tenure is the rule that an employee invalidly dismissed from service is entitled to reinstatement.

The CA, however, in its Decision, posits that there is an exception to this general rule. In refusing to order Campol's reinstatement, the CA reasoned that he had already found another employment. Thus, following the CA's logic, once an employee illegally dismissed has found a new employment, reinstatement is no longer the rule.

The CA did not cite any law, rule or jurisprudence to support its ruling. A proper adjudication of the issue presented before this Court requires an examination of the relevant legal principles as applied in jurisprudence. Thus, we shall revisit applicable jurisprudence in order to ascertain the correct doctrine in this case and to guide the bench and the bar in future cases involving the same question.



We note that the ruling of the CA was also the tenor of our decision in the 1988 case *Ginson v. Municipality of Murcia*.<sup>20</sup> In this case, we held that while Ginson was illegally dismissed from her position in the Municipality of Murcia and thus, entitled to reinstatement, this is subject to the condition that she has not obtained any other employment. The ruling in *Ginson* was repeated in the 1991 case *Regis, Jr. v. Osmeña, Jr.*<sup>21</sup> None of these cases, however, fully explains the rationale for making reinstatement subject to a condition. We have reviewed our relevant pronouncements on this matter and we found that as early as 1960, in *Tan v. Gimenez, etc. and Aguilar, etc.*,<sup>22</sup> we have pursued the doctrine that an employee of the civil service illegally dismissed from office has the right to reinstatement. Any other employment he or she obtains while waiting for the court to rule on the propriety of his or her dismissal should not be construed as an abandonment of his or her position. This was echoed in *Gonzales v. Hernandez*,<sup>23</sup> a 1961 case. In this case, Gonzales was initially dismissed from service in the Department of Finance. During the pendency of his appeal, he accepted employment in the Government Service Insurance System (GSIS). His dismissal was eventually reversed and the penalty lowered to suspension. We held in this case that his employment in the GSIS is no hindrance to his reinstatement. We categorically stated that Gonzales had the right to live during his appeal which necessarily means that he can accept any form of employment.

This was also our pronouncement in *Tañala v. Legaspi*.<sup>24</sup> In the latter case, we even held that the reinstatement of an illegally dismissed employee is proper even when another person is already occupying the position. This is not a legal impediment to reinstatement. Citing *Batungbakal v. National Development Company*,<sup>25</sup> we explained in *Tañala* that –

x x x [W]hen a regular government employee was illegally suspended or dismissed, legally speaking, his position never become vacant, hence there was no vacancy to which a new incumbent could be permanently appointed it being considered that the incumbency of the person appointed to the position is temporary and he has to give way to the employee whose right to the office has been recognized by the competent authorities. x x x<sup>26</sup>

We also highlight that more recent cases have moved away from the ruling in *Ginson* and *Regis* in favor of the earlier cases of *Tan* and *Tañala*. In the 2000 case *Salvador v. Court of Appeals (Special Sixth Division)*,<sup>27</sup> we stated –

<sup>20</sup> G.R. No. L-46585, February 8, 1988, 158 SCRA 1.

<sup>21</sup> G.R. No. 26785, May 23, 1991, 197 SCRA 308.

<sup>22</sup> *Tan v. Gimenez*, 107 Phil. 17 (1960).

<sup>23</sup> G.R. No. L-15482, May 30, 1961, 2 SCRA 228.

<sup>24</sup> G.R. No. L-22537, March 31, 1965, 13 SCRA 566.

<sup>25</sup> 93 Phil. 182 (1953).

<sup>26</sup> *Supra* note 24 at 575.

<sup>27</sup> G.R. No. 127501, May 5, 2000, 331 SCRA 438.

The anxiety and fear of losing one's job after more than twenty-seven continuous years of service with the DENR, experienced by petitioner during the time of the reorganization of DENR, must have compelled him to accept a position which was not only lower but of a coterminous status. Any man in such an uncertain and economically threatening condition would be expected to take whatever measures are available to ensure a means of sustenance for himself and his family. This would include finding employment as soon as possible in order to meet the daily financial demands of his family. **Petitioner's application for and acceptance of a lower position in the DENR, under the circumstances, was the practical and responsible thing to do, and cannot be construed against him such as to foreclose his right to question the legality of his termination and to claim the position he held previous to the reorganization. Succinctly put, applying for new employment was not a choice for petitioner but a necessity.**<sup>28</sup>

In the 2001 case *Canonizado v. Aguirre*,<sup>29</sup> we repeated our ruling in *Tan* and *Gonzales*. Canonizado was removed from his office as commissioner of the National Police Commission by virtue of a law which this Court eventually declared as unconstitutional. During the pendency of the case before us, Canonizado accepted another government appointment as Inspector General of the Internal Affairs Service of the Philippine National Police. We ruled that Canonizado is entitled to reinstatement to his prior position, although he must first resign from his second employment. We explained –

**A contrary ruling would deprive petitioner of his right to live, which contemplates not only a right to earn a living, as held in previous cases, but also a right to lead a useful and productive life.** Furthermore, prohibiting Canonizado from accepting a second position during the pendency of his petition would be to unjustly compel him to bear the consequences of an unconstitutional act which under no circumstance can be attributed to him. However, before Canonizado can re-assume his post as Commissioner, he should first resign as Inspector General of the IAS-PNP.<sup>30</sup>

The doctrine in *Tan*, *Tañala*, *Gonzales*, *Salvador* and *Canonizado* is the proper rule. It is more in keeping with the constitutional value placed on security of tenure. To follow the ruling in *Ginson* and *Regis* is to rule in favor of penalizing an illegally dismissed employee. It will render pointless the right of employees of the civil service to security of tenure. It is a doctrine that values technicalities more than justice. It forces an illegally dismissed employee to choose between pursuing his or her case and to fight

<sup>28</sup> *Id.* at 444-445. Emphasis supplied.

<sup>29</sup> G.R. No. 133132, February 15, 2001, 351 SCRA 659.

<sup>30</sup> *Id.* at 672. Emphasis supplied.

for his or her rights or to simply accept his or her dismissal and find employment elsewhere. This is not the kind of doctrine that rightfully embodies our aspiration to uphold the Constitution and to render justice.

Thus, in accordance with the doctrine in the aforementioned cases, Campol should be reinstated to his position as SB Secretary. In the event that another person has already been appointed to his post, our ruling in *Tañala* should apply. In the eyes of the law, the position never became vacant since Campol was illegally dropped from the rolls. Hence, the incumbency of the person who assumed the position is only temporary and must give way to Campol whose right to the office has been recognized by the proper authorities.

### *The Law on Backwages*

Campol is entitled to the payment of backwages from the time of his illegal dismissal until he is reinstated to his position. The CA erred in ruling that the backwages should only cover the period of his illegal dismissal until his new employment with the PAO.

An employee of the civil service who is invalidly dismissed is entitled to the payment of backwages. While this right is not disputed, there have been variations in our jurisprudence as to the proper fixing of the amount of backwages that should be awarded in these cases. We take this opportunity to clarify the doctrine on this matter.

*Ginson* and *Regis* also involved the question of the proper fixing of backwages. Both cases awarded backwages but limited it to a period of five years. *Ginson* does not provide for an exhaustive explanation for this five-year cap. *Regis*, on the other hand, cites *Cristobal v. Melchor*,<sup>31</sup> *Balquidra v. CFI of Capiz, Branch II*,<sup>32</sup> *Laganapan v. Asedillo*,<sup>33</sup> *Antiporda v. Ticao*,<sup>34</sup> and *San Luis v. Court of Appeals*,<sup>35</sup> in support of its ruling. We note that these cases also do not clearly explain why there must be a cap for the award of backwages, with the exception of *Cristobal*. In *Cristobal*, a 1977 case, we held that the award of backwages should be for a fixed period of five years, applying by analogy the then prevailing doctrine in labor law involving employees who suffered unfair labor practice.<sup>36</sup> We highlight that this rule has been rendered obsolete by virtue of Republic Act No. 6175<sup>37</sup> which

<sup>31</sup> G.R. No. L-43203, July 29, 1977, 78 SCRA 175.

<sup>32</sup> G.R. No. L-40490, October 28, 1977, 80 SCRA 123.

<sup>33</sup> G.R. No. L-28353, September 30, 1987, 154 SCRA 377.

<sup>34</sup> G.R. No. L-30796, April 15, 1988, 160 SCRA 40.

<sup>35</sup> G.R. No. 80160, June 26, 1989, 174 SCRA 258.

<sup>36</sup> *Supra* note 31 at 187.

<sup>37</sup> An Act to Extend Protection to Labor, Strengthen the Constitutional Rights of Workers to Self-Organization, Collective Bargaining and Peaceful Concerted Activities, Foster Industrial Peace and Harmony, Promote the Preferential Use of Voluntary Modes of Settling Labor Disputes, and Reorganize the National Labor Relations Commission, Amending for These Purposes Certain Provisions of Presidential Decree No. 442, as Amended, Otherwise Known as the Labor Code of the Philippines, Appropriating Funds Therefore and for Other Purposes (1989).

amended the Labor Code. Under the Labor Code, employees illegally dismissed are entitled to the payment of backwages from the time his or her compensation was withheld up to the time of his or her actual reinstatement.<sup>38</sup>

In 2005, our jurisprudence on backwages for illegally dismissed employees of the civil service veered away from the ruling in *Cristobal*.

Thus, in *Civil Service Commission v. Gentallan*,<sup>39</sup> we categorically declared –

An illegally dismissed government employee who is later ordered reinstated is entitled to backwages and other monetary benefits from the time of her illegal dismissal up to her reinstatement. This is only fair and just because an employee who is reinstated after having been illegally dismissed is considered as not having left her office and should be given the corresponding compensation at the time of her reinstatement.<sup>40</sup>

We repeated this ruling in the 2005 case *Batangas State University v. Bonifacio*,<sup>41</sup> in the 2007 case *Romagos v. Metro Cebu Water District*,<sup>42</sup> and in the 2010 case *Civil Service Commission v. Magnaye, Jr.*<sup>43</sup>

Thus, the Decision, in refusing to award backwages from Campol's dismissal until his actual reinstatement, must be reversed. There is no legal nor jurisprudential basis for this ruling. An employee of the civil service who is ordered reinstated is also entitled to the full payment of his or her backwages during the entire period of time that he or she was wrongfully prevented from performing the duties of his or her position and from enjoying its benefits. This is necessarily so because, in the eyes of the law, the employee never truly left the office. Fixing the backwages to five years or to the period of time until the employee found a new employment is not a full recompense for the damage done by the illegal dismissal of an employee. Worse, it effectively punishes an employee for being dismissed without his or her fault. In cases like this, the twin award of reinstatement and payment of full backwages are dictated by the constitutional mandate to protect civil service employees' right to security of tenure. Anything less than this falls short of the justice due to government employees unfairly removed from office. This is the prevailing doctrine and should be applied in Campol's case.

This entitlement to full backwages also means that there is no need to deduct Campol's earnings from his employment with PAO from the award.

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<sup>38</sup> LABOR CODE, Art. 294.

<sup>39</sup> G.R. No. 152833, May 9, 2005, 458 SCRA 278.

<sup>40</sup> *Id.* at 286.

<sup>41</sup> G.R. No. 167762, December 15, 2005, 478 SCRA 142.

<sup>42</sup> G.R. No. 156100, September 12, 2007, 533 SCRA 50.

<sup>43</sup> G.R. No. 183337, April 23, 2010, 619 SCRA 347.



The right to receive full backwages means exactly this—that it corresponds to Campol’s salary at the time of his dismissal until his reinstatement. Any income he may have obtained during the litigation of the case shall not be deducted from this amount. This is consistent with our ruling that an employee illegally dismissed has the right to live and to find employment elsewhere during the pendency of the case. At the same time, an employer who illegally dismisses an employee has the obligation to pay him or her what he or she should have received had the illegal act not be done. It is an employer’s price or penalty for illegally dismissing an employee.<sup>44</sup>

We note that even in labor law, this is now the prevailing rule. In *Bustamante v. National Labor Relations Commission*,<sup>45</sup> we reversed the prior doctrine that an employee illegally dismissed is entitled to backwages less the salary he or she received from his or her employment during the pendency of the case. In cases prior to *Bustamante*, we limited the right of an illegally dismissed employee to backwages less earnings from employment elsewhere on the premise that this doctrine will avoid unjust enrichment on the part of the employee at the expense of the employer. We reversed this, however, in *Bustamante* and grounded our ruling first, on an employee’s right to earn a living and second, on the duty of an employer to pay backwages as a penalty for the illegal dismissal. In the later case *Equitable Banking Corporation v. Sadac*,<sup>46</sup> we added that in arriving at the doctrine in *Bustamante*, this Court ceased to consider equity as the determining factor in ascertaining the amount of backwages that should be awarded in cases where the illegally dismissed employee obtains employment during the pendency of his or her case. What is determinative is the employer’s obligation to pay full backwages. We said, “[i]t is an obligation of the employer because it is ‘the price or penalty the employer has to pay for illegally dismissing his employee.’”<sup>47</sup>

We rule that employees in the civil service should be accorded this same right. It is only by imposing this rule that we will be able to uphold the constitutional right to security of tenure with full force and effect. Through this, those who possess the power to dismiss employees in the civil service will be reminded to be more circumspect in exercising their authority as a breach of an employee’s right to security of tenure will lead to the full application of law and jurisprudence to ensure that the employee is reinstated and paid complete backwages.

**WHEREFORE**, the Petition is **GRANTED**. The Court of Appeals’ Decision dated December 15, 2010 is **REVERSED** insofar as it did not order Campol’s reinstatement and limited the award of backwages to cover

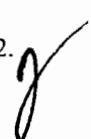
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<sup>44</sup> *Equitable Banking Corporation v. Sadac*, G.R. No. 164772, June 8, 2006, 490 SCRA 380, 399, citing *Bustamante v. National Labor Relations Commission*, G.R. No. 111651, November 28, 1996, 265 SCRA 61, 70-71.

<sup>45</sup> *Supra*.

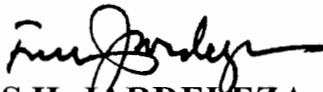
<sup>46</sup> *Supra*.

<sup>47</sup> *Id.* at 402.



only the period from his dismissal until his new employment. This Court **ORDERS** Campol's reinstatement to the position of *Sangguniang Bayan* Secretary of the Municipality of Boliney, Abra, provided that he first resigns from his current employment. This Court also **AWARDS** Campol backwages to be computed from the time that he was illegally dropped from the rolls until he is reinstated to his position.

**SO ORDERED.**

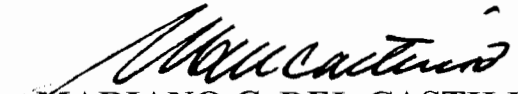


**FRANCIS H. JARDELEZA**  
*Associate Justice*

WE CONCUR:



**PRESBITERO J. VELASCO, JR.**  
*Associate Justice*  
*Chairperson*



**MARIANO C. DEL CASTILLO**  
*Associate Justice*



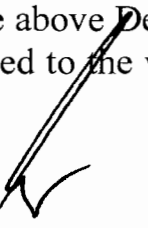
**JOSE PORTUGAL PEREZ**  
*Associate Justice*



**BIENVENIDO L. REYES**  
*Associate Justice*

**ATTESTATION**


I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**PRESBITERO J. VELASCO, JR.**  
*Associate Justice*  
*Chairperson, Third Division*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
*Chief Justice*

CELESTINO M. DE CO  


**WILFREDO V. LICITAN**  
Division Clerk of Court  
Third Division  
DEC 19 2016