



Republic of the Philippines
CIVIL SERVICE COMMISSION

LARAGAN, Salvador
Re: Complaint; Illegal Termination
x-----x

RESOLUTION NO. 991402

Salvador Laragan, former Driver I, Municipal Government of Tuguegarao, Cagayan, files a complaint for his alleged illegal dismissal against then Mayor Delfin Ting, of said municipality. Said complaint was forwarded by the Office of the Ombudsman to the Commission for appropriate action.

The material portions of the complaint read, as follows:

x x x

"7. That on August 1, 1989, the appointment of herein complainant was renewed and change (sic) of status from Temporary to Permanent by then Mayor Delfin Ting effective August 16, 1989;

x x x

"14. That January 9, 1997 complainant receive (sic) a Memorandum Order No. 03-97 from then Mayor Delfin Ting for the conduct of medical examination for work re-assignment;

"15. And in compliance therewith, complainant submitted himself for a medical examination at no less than the People's Emergency Hospital and was found and certified thereto as physically and medically fit for employment;

"16. That consequently, complainant submitted said medical report to then Mayor Delfin Ting who was not satisfied with the same for no apparent reason;

"17. And on February 18, 1997, complainant was detailed at the General Services Office to drive the Compactor Truck;

"18. Complainant was surprised to receive a Memo from then Mayor Delfin Ting dated February 20, 1997 terminating his services effective February 21, 1997 in blatant violation of his Constitutional Right to Due Process of Law."

When requested to comment, Mayor Randolph S. Ting of Tuguegarao, Cagayan, argued, as follows:

"In response to the Order from the Commission for the undersigned to submit his comment on the complaint of Salvador Laragan against the Municipality of Tuguegarao for Illegal Dismissal and after going carefully over the complaint, the undersigned respectfully recommends that the complaint be dismissed for lack of merit considering that the ground for his dismissal is anchored on a just cause per CSC Memorandum Circular No. 17, s. 1989.

"Per medical certificate accomplished by Dr. Marjorie Saludez of the People's Emergency Hospital, Tuguegarao Cagayan, the complainant is physically UNFIT to drive any form of vehicle due to eye defect. Salvador Laragan has been employed in the Municipal Government of Tuguegarao as Driver. The afore-quoted memo circular provides that were (sic) the person's continuance in the service may further jeopardize his health and the service itself, he maybe separated."

As borne by the records, Laragan was issued a permanent appointment on July 1, 1989 as Driver I, Office of the Municipal Treasurer, Tuguegarao Cagayan by then Mayor Delfin Ting.

On February 20, 1997, Mayor Delfin Ting issued the assailed termination order, pertinent portion of which reads, as follows:

"In view of the medical report received by this office declaring you physically unfit to drive any form of vehicle due to eye defect, and in the exigency of service, you are hereby informed that your employment in this municipal government will terminate at the close of office hours on February 21, 1997."

After a scrutiny of the records of the case, the Commission finds Mayor Ting's order terminating Laragan from the service null and void.

It bears emphasis that Laragan is holding a permanent appointment. This being so, he enjoys security of tenure and cannot be removed therefrom except for cause. (**Article IX-B, Section 2, paragraph 3 of the 1987 Constitution**)

It is noted that Laragan's separation from the service sprung from a medical certificate dated February 14, 1997 issued by Dr. Marjorie Saludez of the People's Emergency Hospital in Tuguegarao, Cagayan. In the said medical certificate, Dr. Saludez wrote, as follows:

"Physically unfit to drive any form of vehicle due to eye defect."

Apparently, Mayor Ting relied heavily on the medical certificate and eventually used the same as the basis in terminating Laragan from the service. However, Mayor Ting failed to take into account the general impression of Dr. Saludez in the same medical certificate that Laragan is physically and medically fit for employment except that he is physically unfit to drive any vehicle due to eye defect.

Memorandum Circular No. 12, s. 1994, as amended by Memorandum Circular No. 40, s. 1998 reads, as follows:

"2.3 Physically and Mentally Unfit

- a. *An officer or employee who is continuously absent for more than one (1) year by reason of illness may be declared physically unfit to perform his duties and the head of office in the exercise of his sound judgment may consequently drop him from the rolls.*
- b. *An officer or employee who is intermittently absent by reason of illness for at least 260 working days during a 24-month period may also be declared physically unfit by the head of office.*
- c. *An officer or employee who is behaving abnormally for an extended period which manifests continuing mental disorder and incapacity to work as reported by his co-workers or immediate supervisor and confirmed by the head of office, may likewise be dropped from the rolls."*

A reading of the aforementioned provisions reveal that an officer or employee can only be declared as physically unfit if he is:

- "a. Continuously absent for more than one (1) year by reason of illness; or
- "b. Intermittently absent by reason of illness for at least 260 working days during a 24-month period."

In the instant case, there is no evidence to prove that Laragan has been continuously absent for more than one (1) year or intermittently absent for at least 260 working days during a 24-month period, because of illness, to declare him physically unfit to perform his official duties and functions.

Viewed in this light, Laragan can not be considered to be physically unfit which would warrant his dropping from the rolls or termination from the service. Thus, Mayor Ting's order of termination is undoubtedly erroneous and was issued in utter disregard of Laragan's right to security of tenure.

However and inasmuch as Laragan has already been found to be unfit to drive any form of vehicle due to eye defect, he may be reinstated to a comparable position where he can work effectively and perform tasks other than driving

WHEREFORE, the assailed termination order is hereby set aside. Mayor Randolph Ting of Tuguegarao, Cagayan, is hereby directed to reinstate Salvador Laragan to a comparable position with payment of backwages from the date of his illegal termination until his reinstatement.

The Regional Director of Civil Service Regional Office (CSRO) No. II is hereby directed to monitor the implementation of this resolution.

Quezon City, **JUL 01 1999**


CORAZON ALMA G. DE LEON
 Chairman


THELMA P. GAMINDE
 Commissioner

DID NOT PARTICIPATE
JOSE F. ERESTAIN, JR.
 Commissioner

Attested by:


ARIEL G. RONQUILLO
 Director III