

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**MAGDALENA RAMO, NARCISO
ALBARRACIN, ANTONIO DURLAO and
NORMA RICAFORT,**
Petitioners,

-versus-

**G.R. No. L-55629
July 30, 1981**

**INOCENCIA ELEFAÑO and HON.
AUXENCIO C. DACUYCUI, in his
capacity as Presiding Judge of Branch
IV, Court of First Instance of Leyte,**
Respondents.

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DECISION

ABAD SANTOS, J.:

On August 30, 1978, the Court of First Instance of Leyte rendered a Decision in Civil Case No. 5643, with the following judgment:

- “1. Declaring Resolution Nos. 18 and 19 (Series of 1976) of the Board of Trustees of the Leyte State College, passed on November 16, 1976 as null and void;

- “2. Ordering respondents Magdalena Ramo, Narciso Albarracin, and Antonio Dumlao acting as a duly constituted Board of Trustees of the Leyte State College, to revoke and nullify the appointment of their co-respondent Norma Ricafort as Dean of Graduate Studies of the Leyte State College and to appoint petitioner herein to the said position pursuant to the provision of Section 15 of P.D. 944;
- “3. Ordering respondent Norma Ricafort to immediately vacate the position of Dean of Graduate Studies of the Leyte State College and to relinquish the said office to petitioner herein;
- “4. Ordering respondents Magdalena Ramo, Narciso Albarracin, and Antonio Dumlao acting as themselves as the Board of Trustees of the Leyte State College to convene in session for the purpose of appropriating funds for the payment of salaries due petitioner as Dean of Graduate Studies of the Leyte State College from December 27, 1976 until she is reappointed to her lawful office as Dean;
- “5. Ordering the respondents to pay the costs.”

The respondents appealed the decision to the Court of Appeals but that court, upon motion of the appellee and with the concurrence of the appellants, transferred the case to Us on the ground that only questions of law are raised and that the facts of the case are not in question.

We accepted the transfer and since appeal briefs had not yet been filed, the appellants were required to file a petition for review on *certiorari* pursuant to R.A. No. 5440, which they did.

The second amended petition filed in the trial court on December 7, 1977, is for mandamus and quo warranto with damages. The petitioner is Inocencia Elefaño and the respondents are Magdalena Ramo of the Leyte State College; Narciso Albarracin and Antonio Dumlao both officers of the then Department of Education and Culture; and Norma Ricafort whose title to an office is questioned.

The facts as stated by the trial court are:

“Dr. Inocencia Elefaño, 53, single and a resident of 32 Arellano Street, Tacloban City, the petitioner in the above-entitled case, has been with the Leyte Normal School for 29 years. She obtained her Elementary Teacher’s Certificate (E.T.C.) at the Leyte Normal School (now Leyte State College) in 1946. After graduating as elementary school teacher she taught at the Leyte Normal School from 1948 to 1950. She continued her studies at the Saint Paul College (now Divine Word University) and obtained from that school her Bachelor of Science in Education (B.S.E.) in 1950. In that year until 1955 when she went abroad she was a critic teacher at the Leyte Normal School. In 1955 she won a Fulbright Scholarship which enabled her to go abroad and worked for her Master’s Degree in Education. She studied at Miami University, Oxford, Ohio. After completing her master’s degree in education in 1956, she returned to the Philippines and served as instructor in the college department of the Leyte Normal School. In 1963 she was promoted as curriculum coordinator of the school. In 1967 she again won a university fellowship from Rutgers State University in New Brunswick, New Jersey, which enabled her to complete her doctorate degree in education (Ed. D.). On August 1, 1970, she was promoted and was appointed Dean of the Graduate Studies of the Leyte Normal School.

“On October 23, 1974, in recognition of her knowledge and expertise in the area of curriculum development, Director Bernardo F. Ople of the National Manpower and Youth Council (NMYC) wrote a letter to Director Liceria B. Soriano of the Bureau of Public Schools requesting for detail of the petitioner to the NMYC for two years. The letter of Director Ople was referred to then Superintendent Obdulia R. Cinco of the Leyte Normal School for comment and the latter approved the request provided that petitioner would agree to go on leave for one year without pay from the school. The petitioner agreed to the condition imposed by Superintendent Cinco and was accordingly granted a leave of absence without pay for one year effective February 1, 1975. She was assigned and worked as NMYC consultant on curriculum development.

“On January 5, 1976, or 27 days before the expiration of her one-year leave of absence, Dr. Inocencia Elefaño wrote the Regional Director of the Department of Education and Culture for Eastern Visayas (Region 8), thru Superintendent Obdulia R. Cinco of the Leyte Normal School, requesting for extension of her leave of absence without pay for another year, such extension having been necessitated by the need to complete the task which she was requested to perform for the NMYC, a non-formal vocational preparation for out-of-school youth. Mrs. Cinco (now City Mayor of Tacloban) forwarded this letter-request of extension of leave to Regional Director Pedro Esperat on January 30, 1976, recommending approval (Exh. 1). On February 23, 1976, by indorsement, Director Esperat returned the letter-request to Superintendent Obdulia R. Cinco without action. The indorsement reads —

‘Respectfully returned to the Normal School Superintendent, Leyte Normal School, Tacloban City, without action.

“MISS INOCENCIA ELEFAÑO, Dean, Graduate Studies, of that school should have been advised to return to duty on or before February 1, 1976. Attention is invited to Section 33, Rule XVI of the Civil Service Law and Rules, which contain, among others, ‘No employee should go on leave for more than one (1) year without pay.’”

“On March 15, 1976, Superintendent Cinco returned to Dr. Inocencia Elefaño her letter-request for extension of leave. The indorsement of Mrs. Cinco reads —

‘Respectfully returned to Miss INOCENCIA ELEFAÑO, Dean, Graduate Studies, Leyte Normal School, Tacloban City, inviting attention to the preceding 2nd Indorsement dated February 23, 1976 of the Regional Director, DEC, Regional Office No. VIII, Tacloban City, for her information and compliance.’

“On April 1, 1976, Regional Director Pedro B. Esperat of the DEC, Region 8, Tacloban City, wrote this indorsement (Exh. E):

‘Respectfully forwarded to the Honorable, the Secretary of Education and Culture, Manila, recommending approval on the request of Dr. Inocencia Elefaño, Dean of Graduate Studies, Leyte Normal School, Tacloban City, for another year extension of her leave without pay effective January 31, 1976, in view of the representations made concerning the unfinished two-year project of the National Manpower Skills Center, Fort Bonifacio, Taguig, Rizal, in which she is the consultant. Dr. Elefaño has been advised to return to duty on or before February 1, 1976, in an indorsement of this office to the Superintendent of Leyte Normal School, dated February 23, 1976.’

“On April 26, 1976, Vedasto G. Suarez, Assistant Secretary of the Department of Education and Culture, indorsed said request for extension of leave with his corresponding recommendation for approval thereof to the Presidential Assistant in Malacañang, Manila, Exh. ‘F’, which request was in turn indorsed to the Chairman of the Civil Service Commission for comment by Presidential Staff Director Fernando C. Santico, Exh. ‘G’.

“In the meantime, on June 14, 1976, the President of the Philippines issued Presidential Decree No. 944 converting the Leyte Normal School into the Leyte State College. Some of the pertinent provisions thereof are as follows:

‘SEC. 6. The Board of Trustees shall exercise for each College all the powers of a corporation as provided in Section thirteen of Act Numbered Fourteen Hundred and Fifty-Nine, as amended. In addition to its general powers of administration, it shall also have the following powers and duties:

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d) To appoint a college secretary, deans, and heads of departments, lecturers and employees of each College;

‘SEC. 15. In order not to interrupt the smooth functioning of said normal schools and teachers College, the present faculty members as well as all the other personnel thereof that are recommended by the President of the College, shall be reappointed to their respective State Colleges. Salaries of these personnel shall be adjusted at the discretion of the Board of Trustees within the amount available for appropriation.’

“On August 2, 1976, Administrative Assistant Salvador Efren of the Leyte State College wrote Dr. Inocencia Elefaño informing her that her leave of absence expired on January 31, 1976 and requested her ‘to return to duty immediately in accordance with Civil Service Rules.’(Exh. 4)

“Desiring to avail of the right to reappointment to her position in the Leyte State College as provided for in Sec. 15 of PD 944, the petitioner, on October 21, 1976, wrote Mrs. Magdalena Ramo, then Officer-in-Charge of the Leyte State College, one of the respondents in this case, requesting said respondent to include her in the academic ranking of the faculty of the newly chartered college (Exh. I). The letter reads —

‘This is to request that I be included in the academic ranking of the faculty in the newly chartered Leyte State College. Attached is my Curriculum Vitae with supporting papers.

In response to verbal inquiries on your part about the extension of my leave, apparently the communication about it has not yet been returned by the Civil Service Commission. Based, however, on the indorsements of the Superintendent of the Leyte Normal School, the Director of the Regional Office, and the Secretary of the Department of Education and Culture, xeroxed copies of which has been furnished your Office, my leave is

approved up to January 31, 1977. I expect to return to nevertheless earlier than that date.’

“Respondent Magdalena S. Ramo did not act on this request of the petitioner for academic ranking in the newly created Leyte State College.

“On November 10, 1976, Mrs. Ramo wrote the Regional Director of the Civil Service Commission in Tacloban City requesting for legal opinion and action on the case of petitioner Inocencia Elefaño who had exceeded the limit of her leave of absence (Exh. 12). The letter reads —

‘I have the honor to request comment, decision, and action on the case of Dr. Inocencia Elefaño who has exceeded the limit of her leave of absence as provided in the Civil Service Law and Rules, Section 33, Rule XVI.

Dr. Inocencia Elefaño was granted a leave of absence without pay from February 1, 1975 to January 31, 1976. In spite of a communication to her by way of a 2nd Indorsement dated March 15, 1976 made by Mrs. Obdulia R. Cinco, then Superintendent of the Leyte Normal School, and again by a letter of our Administrative Assistant dated August 2, 1976, no compliance to these mentioned communications has been done by subject employee.

She has not submitted nor have we received any formal document showing final approval to extend her leave of absence. Dr. Elefaño has far exceeded the limit of the leave of absence granted with authority, and in the interim she worked at the Office of Vocational Preparation, NMYC, National Manpower and Skills Center, Fort Bonifacio, Taguig, Rizal.

Certified true copies of all communications in our possession relevant to this matter are herewith attached for ready reference.’

“On November 15, 1976, Regional Director Teodoro D. Cañete of the Civil Service Commission rendered the following legal opinion on the Elefaño case:

‘Respectfully returned to Mrs. Magdalena Ramo, Officer-in-Charge, Leyte State College, Tacloban City, the within basic communication, inviting attention to Section 33, Rule XVI of the Civil Service Rules, which provision we quote as follows:

‘Sec. 33. Under no circumstances shall leave without pay be granted for more than one year. If an employee who is on leave without pay for any reason fails to return to duty at the expiration of one year from the effective date of such leave, he shall be considered automatically separated from the service; Provided, That he shall, within a reasonable time before the expiration of his one year leave of absence without pay, be notified in writing of the expiration thereof with a warning that if he fails to report for duty on said date he will be dropped from the service.’

Dr. Inocencia Elefaño claims that her request for extension of leave of absence without pay has been approved by proper authorities. However, a perusal of the attached series of correspondence does not show any official communication approving such leave.

In view thereof, this Office is of the opinion that the aforementioned provision shall govern the case of Dr. Elefaño.’

“On November 16, 1976, the Board of Trustees of the Leyte State College convened in Manila. Among the matters taken up in the meeting were the case of Dr. Elefaño who had exceeded the limit of her leave of absence and the filing up of the position of Dean of Graduate Studies deemed vacated by Dr. Elefaño’s ‘abandonment’ of the position by Norma Ricafort. Relying on Sec. 33, Rule XVI of the Civil Service Rules, and the opinion of

the Regional Director of Civil Service Commission for Eastern Visayas, the Board of Trustees on the same date passed Resolution No. 18, Series of 1976, 'dropping Dr. Inocencia Elefaño from the service of the Leyte State College for having failed to return to duty after the expiration of her one year leave of absence.' (Exh. J for the Petitioner and Exh. 14 for the respondents). At the same meeting, the Board of Trustees passed Resolution No. 19 (1976) appointing Norma Ricafort as Dean of Graduate Studies of the Leyte State College.

"On December 27, 1976, unaware of the action of the Board of Trustees of the Leyte State College dropping her from the faculty, the petitioner wrote OIC Magdalena Ramo seeking reinstatement to her position as Dean of Graduate Studies of the Leyte State College (Exh. K and 16).

"On December 29, 1976, the petitioner went to see respondent Magdalena Ramo on her request for reinstatement. In that meeting Ramo told her that she had already been dropped from the service of the college by the Board of Trustees and that she will receive a letter to that effect. At 3 o'clock in the afternoon of December 29 the petitioner received from Mrs. Ramo a letter quoting Resolution No. 18 of the Board of Trustees dropping her from the service of the college.

"On January 3, 1977, the petitioner wrote the Board of Trustees of the Leyte State College praying for reconsideration of its Resolution No. 18 dropping her from the faculty list of the college (Exh. M and 17).

"On January 20, 1977, Commissioner Jose A.R. Melo of the Civil Service Commission, by indorsement, wrote the Secretary of Education and Culture on the Elefaño case. The endorsement (Exch. H) reads —

'Respectfully returned thru the Presidential Staff Director, Malacañang, Manila to the Honorable the Secretary of the Education and Culture, Manila, the within request of Dr. Inocencia Elefaño, Dean of Graduate Studies, Leyte

Normal School, for another year extension of her leave of absence without pay effective January 31, 1976.

Considering Section 33 of the Civil Service Rule XVI that 'Under no circumstances shall leave without pay be granted for more than one year,' she may not be allowed to extend her leave beyond one (1) year. In view, however, of the representations made that the services of Dr. Elefaño as Consultant were urgently needed to finish the two year project at the National Manpower and Youth Council aside from the fact that the original request was really for the detail of Dr. Elefaño and considering further that she actually rendered service continuously as Consultant at the said office after the expiration of her one-year leave without pay, such period of her stay at the National Manpower and Youth Council is hereby considered a detail.'

"On February 10, 1977, Mr. Ricardo Elefaño brother of the petitioner, appeared at the 4th board meeting of the Board of Trustees of the Leyte State College and argued for reinstatement of his sister to her position as Dean of Graduate Studies of the college. The minutes of the board meeting on that date (Exh. N-1) reads —

'Upon proper representation with the Board of Trustees of Leyte State College, the brother of Dr. Elefaño was allowed to sit during the meeting to clarify points on the side of his sister, Dr. Inocencia Elefaño, who was dropped from the service by virtue of Board Resolution No. 4, s. 1976 and who appealed for reconsideration of the decision of the Board of Trustees.

Making use of the series of communications and other pertinent papers he had with him, Mr. Elefaño presented point by point why his sister should not have been dropped from the service as Dean of Graduate Studies of the Leyte State College.

The Chairman answered Mr. Elefaño point by point and after the lengthy discussion on all sides of the case the Chairman suggested to bring back to the attention of the Civil Service Commission the matter inasmuch as it is distinctly governed by its rules which in character are self-acting. He further stated that if on the other hand the decision made earlier by the Board in Resolution No. 18, s. 1976 is illegal then there is no recourse but for it to be a court case. But it is certain, the Chairman explained, that the Board acted on the basis of the records provided. If it is alleged that there is any record that shows there was an approval of such extension of leave or detail, it is rather too late. It may be pointed out that a recommendation for approval cannot be construed as synonymous with approval.

The Chairman asked the Officer-in-Charge of the Leyte State College about the present status of the position of Dean of Graduate Studies, and the Officer in Charge reported that by virtue of Board Resolution No. 19, s. 1976, Dr. Norma Ricafort was appointed to the position vice Dr. Inocencia Elefaño. The Chairman thereafter emphasized that the Board cannot rescind its Resolution and that it sustains its position. Otherwise, the party concerned will rise to protest since her appointment has already been effected.

Finally, the Chairman promised Mr. Elefaño that he will see Chairman Clave and Commissioner Melo about the matter and advised Mr. Elefaño that he may pursue his legal thought. Mr. Elefaño thanked the Board of Trustees for allowing him the privilege to explain the side of his sister.'

“On March 16, 1977, in reply to the letter for reconsideration of Dr. Elefaño, Undersecretary Narciso Albarracin wrote Dr. Elefaño denying her plea for reconsideration of Resolution No. 18 (Exh. N) which reads —

'This has reference to your letter dated January 3, 1977 appealing for a consideration of the resolution of the Board of Trustees dropping you from the service of the Leyte State College for failure to return to duty after the expiration of your one year leave of absence without pay.

In reply please be informed that in its meeting held on February 10, 1977 where your brother Mr. Ricardo Elefaño was present, the Board deliberated on the matter lengthily. However, in the absence of additional evidences that would warrant a review of such action, the Board of Trustees of the College could not alter its decision embodied under Resolution No. 18, s. 1976, copy attached. Also attached for your information is the excerpts of the Minutes of the meeting of the Board when your appeal was discussed.

It may be mentioned in this connection that the position of Dean of Graduate School in the Leyte State College is already occupied by a certain Dr. Norma Ricafort.'

"On March 21, 1977 and March 25, 1977, the petitioner wrote letters to the Secretary of Education and Culture and President Ferdinand E. Marcos respectively, appealing the decision of the Chairman of the Board of Trustees (Exhs. O and P).

"On May 18, 1977, Presidential Assistant Ronaldo B. Zamora, by indorsement, referred Dr. Elefaño's letter of appeal to the Secretary of Education and Culture for comment, (Exh. Q). This communication was in turn indorsed to the Coordinator of State Colleges and Universities of the DEC, the Hon. Antonio G. Dumlao (Exh. Q-1). On June 17, 1977, Director Dumlao referred the said communication to respondent Magdalena Ramo for comment and/or answer (Exh. Q-2). Mrs. Ramo filed her answer but there has been no resolution on the appeal.

"On August 23, 1977, by reason of the failure of the Board of Trustees or Secretary of Education and Culture to act on her appeal, the petitioner wrote Presidential Assistant Ronaldo B. Zamora requesting for the early or speedy resolution of her case

(Exh. R). This was referred to the Secretary of Education and Culture on September 9, 1977 (Exh. R-1). DEC Secretary Juan L. Manuel in turn indorsed the letter of Dr. Elefaño to the Chairman of the Board of Trustees on September 20, 1977 (Exh. R-2).

“Until now there has been no resolution on the appeal of the petitioner for reinstatement. Finding no other plain, speedy and adequate remedy in the ordinary course of law to protect her rights, the petitioner filed this case on November 15, 1977, as above stated.”

The petitioners assert that —

“1. THE TRIAL COURT ERRED IN:

- ‘1. Declaring Resolution Nos. 18 and 19 (series of 1976) of the Board of Trustees of the Leyte State College, passed on November 16, 1976 as null and void;
- ‘2. Ordering respondents Magdalena Ramo, Narciso Albarracin, and Antonio Dumlao acting as a duly constituted Board of Trustees of the Leyte State College, to revoke and nullify the appointment of their co-respondent Norma Ricafort as Dean of Graduate Studies of the Leyte State College and to appoint petitioner herein to the said position pursuant to the provision of Section 15 of P.D. 944;
- ‘3. Ordering respondent Norma Ricafort to immediately vacate the position of Dean of Graduate Studies of the Leyte State College and to relinquish the said office to petitioner herein;
- ‘4. Ordering respondents Magdalena Ramo, Narciso Albarracin and Antonio Dumlao constituting themselves as the Board of Trustees of the Leyte State College to convene in session for the purpose of appropriating funds for the payment of salaries due petitioner as Dean of Graduate Studies of the Leyte

State College from December 27, 1976 until she is reappointed to her lawful office as Dean; because —

- ‘(a) There was no position to which respondent Elefaño could be reappointed to as the same had ceased to exist upon the effectivity of Presidential Decree 944, June 14, 1976, creating the new corporate entity, the LEYTE STATE COLLEGE and thereby, abolishing the Leyte Normal School;
- ‘(b) The deanship of the Graduate Studies of the LEYTE STATE COLLEGE is a new position, and the respondent Elefaño does not have any existing appointment thereto;
- ‘(c) P.D. No. 944 vested discretion of appointment on the Board of Trustees of the LEYTE STATE COLLEGE, limiting the same, however, only to old faculty members of the LEYTE NORMAL SCHOOL who were ‘recommended by the President of the College, ‘and the respondent Elefaño does not even pretend that she was so recommended.’

BECAUSE PD 944, June 14, 1976, HAD ABOLISHED THE LEYTE NORMAL SCHOOL, AS WELL AS ALL POSITIONS THEREIN, INCLUDING THAT OF DEAN OF GRADUATE STUDIES AND CONSEQUENTLY, THERE WAS NO POSITION TO WHICH RESPONDENT INOCENCIA ELEFAÑO COULD BE REAPPOINTED OR RETURNED TO.

- “2. ASSUMING THAT RESPONDENT ELEFAÑO’S OLD POSITION SUBSISTS, THE TRIAL COURT ERRED IN NOT FINDING THAT SAID RESPONDENT ABANDONED THE SAME.
- “3. THE TRIAL COURT ERRED IN NOT FINDING THAT THE RESPONDENT ELEFAÑO HAD NOT EXHAUSTED

AVAILABLE ADMINISTRATIVE REMEDIES BEFORE
COMING TO COURT.”

The trial court has observed: “Actually, the case hinges on the single issue of whether or not the petitioner is deemed to have abandoned her position by continuing to work for the National Manpower and Youth Council after February 1, 1976, when her one-year leave of absence expired.” We agree on this issue alone we have to reverse the decision of the court a quo.

Section 33, Rule XVI of the Civil Service Rules provides:

“Sec. 33. Under no circumstances shall leave without pay be granted for more than one year. If an employee who is on leave without pay for any reason fails to return to duty at the expiration of one year from the effective date of such leave, he shall be considered automatically separated from the service; Provided, that he shall, within a reasonable time before the expiration of his one year leave of absence without pay, be notified in writing of the expiration thereof and with a warning that if he fails to report for duty on said date, he will be dropped from the service.”

The one-year leave of absence without pay of Inocencia Elefaño expired on January 31, 1976, and there is no question that she did not return to her position within a reasonable time thereafter.

It is true that on January 5, 1976 (or 27 days before her one-year leave expired) she requested an extension of her leave of absence without pay for another year, but Regional Director Pedro Esperat took no action thereon and instead said: “Miss INOCENCIA ELEFAÑO, Dean, Graduate Studies, of that school should have been advised to return to duty on or before February 1, 1976. Attention is invited to Section 33, Rule XVI of the Civil Service Law and Rules, which contain, among others, ‘No employee should go on leave for more than one (1) year without pay.’ “This was communicated by Superintendent Cinco to Inocencia Elefaño on March 15, 1976, “for her information and compliance.” Still Elefaño failed to return to her position. True she continued to exert efforts for the extension of her leave of absence without pay but they were of no avail.

On August 2, 1976, after the Leyte Normal School had been converted into the Leyte State College, Elefaño was asked by the Administrative Assistant of the College “to return to duty immediately in accordance with the Civil Service Law and Rules” but Elefaño still failed to return claiming that her leave was approved up to January 31, 1977, but there is no proof of such approval. What appears on record is Exhibit E, supra, wherein Regional Director Esperat early in April, 1976, merely recommended approval of Elefaño’s leave without pay for another year while stating that, “Dr. Elefaño has been advised to return to duty on or before February 1, 1976, in an indorsement of this office to the Superintendent of Leyte Normal School, dated February 23, 1976.” In point of fact the recommendation could not have been approved because of the unqualified prohibition contained in Sec. 33, Rule XVI of the Civil Service Rules, namely: “Under no circumstances shall leave without pay be granted for more than one year.”

In the light of the foregoing, We are not prepared to state that the Board of Trustees of Leyte State College acted unreasonably and illegally in adopting Resolution No. 18, series of 1976, “dropping Dr. Inocencia Elefaño from the service of the Leyte State College for having failed to return to duty after the expiration of her one year leave of absence.” Much less can We sustain the judgment of the lower court ordering the Board of Trustees of the Leyte State College to nullify the appointment of Norma Ricafort and appoint instead Inocencia Elefaño; ordering Norma Ricafort to vacate her position and relinquish it to Inocencia Elefaño; and ordering the Board of Trustees to appropriate the back salaries of Inocencia Elefaño because Elefaño has not shown a clear legal right so as to entitle her to such orders. Even if we assume for the sake of argument that Elefaño had not abandoned her position she is not entitled to such orders because she has neither been recommended by the President of the College nor reappointed to the position of Dean of Graduate Studies by the Board of Trustees. Sec. 15 of P.D. No. 944 states:

“Sec. 15. In order not to interrupt the smooth functioning of said normal schools and teachers college, the present faculty members as well as all the other personnel thereof that are recommended by the President of the College, shall be

reappointed to their respective State Colleges. Salaries of these personnel shall be adjusted at the discretion of the Board of Trustees within the amount available for appropriation.”

The letter of Civil Service Commissioner Melo, Exhibit H quoted above, is of no avail to Elefaño. It was written on January 20, 1977, or more than two months from November 16, 1976, when Elefaño was no longer in the service. It had become functus officio and moreover was not congruent with the factual situation because contrary to the concept of detail Elefaño was receiving salary not from her parent office but from the National Manpower and Youth Council.

WHEREFORE, finding the Petition to be well taken, the Decision of the court a quo is reversed and the petition filed therein is dismissed. No pronouncement as to costs.

SO ORDERED.

Barredo, J., (Chairman), Aquino, Concepcion Jr., and Fernandez, JJ.,^[*] concur.

[*] Justice Ramon C. Fernandez has been designated to sit in the Second Division in lieu of Justice Pacifico P. de Castro who did not take part.