Opinions Secretary of Justice—

BACK PAY OF TEMPORARY EMPLOYEES AND LABORERS

"SIR: This is in reply to your letter of July 31, 1948, wherein you request my opinion as to whether laborers who actually began to render services on December 8, 1941, but had not rendered six months of continuous service prior to said date may be entitled to file claims for the recognition of their rights to back pay covering the period from January 1, 1942 to February 26, 1945, pursuant to the provisions of Republic Act No. 304.

"You state that six months' continuous service prior to December 8, 1941, was required of those laborers who were granted three months' advance salary and two months' gratuity under Administrative Order No. 167 of December 18, 1941 and Executive Order No. 83 of December 24, 1945, respectively.

"Republic Act No. 304 provides in section 1 as follows:

> 'Except as herein provided, the right of all officers, employees and persons under contract with the Government of the Commonwealth of the Philippines who, on the eighth day of December, nineteen hundred and forty-one, were serving in the classified or unclassified service of national, provincial, city or municipal governments, including the University of the Philippines and the corporations owned or controlled by the Government, to such of their respective salaries, emoluments, fees, *per diems*, compensations or wages as have not been received by them by reason of the war, and those of the free local civil governments, provincial, and municipal, duly organized for purposes of resistance against the enemy, corresponding to the period from January first, nineteen hundred and forty-two, up to and including February twenty-six, nineteen hundred and forty-five, or any portion of such period or before and subsequent thereto when they were in operation, as hereinbelow provided is, under the conditions provided in this Act, hereby recognized.'

"That laborers come within the purview of this provision appears unquestionable. Section 671 of the Revised Administrative Code provides that laborers whose rate of compensation is not more than two pesos per day are embraced in the unclassified civil service while section 670 provides that the classified service embraces all not expressly declared to be in the unclassified service. Under Republic Act No. 114, however, which amends section 671 of the Revised Administrative Code and took effect on June 7, 1947, all laborers whether emergency, seasonal, or permanent irrespective of salaries, are declared to be in the unclassified service.

"The only doubt then is whether all laborers, regardless of their length of service, are to be recognized as entitled to file their claims for back pay under the act.

"Nowhere in section 2, quoted above, or in any other section of the law is it required that to entitle an employee to back pay he must have rendered six months of continuous service before December 8, 1941. No such requirement having been prescribed, it is not permissible to engraft it by construction upon the law. 'In the construction of a statute,' it has been said, 'the general rule is that the court may write no limitations therein. As variously expressed, the statute may not be restricted, constricted, qualified, narrowed, or abridged. Hence, general words are to have a general operation where the manifest intention of the legislature affords no ground for qualifying or restraining them" (50 Am. Jur., pp. 217-218.)

"That six months' service was prescribed as a prerequisite to the payment of the gratuity provided in Executive Order No. 83 to employees who were paid on a daily basis is no argument

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that the same requirement is imposed by Republic Act No. 304. The absence of that requirement implies an intended change in the application of the statute. 'Where the meaning of the prior law is intended to be continued, its terminology is also usually continued, so that an omission of words implies an intended change in the meaning of the statute. *Under these rules, the courts may not add a restriction found in a prior statute, but omitted from a later one.*' (50 Am. Jur., p. 263.)

"The conclusion that service for six months is not necessary to entitle one to recognition of his right to back pay is further strengthened by another consideration. Republic Act No. 304, compared with the orders giving the three months' advance pay and two months' gratuity, is much more detailed and comprehensive. Administrative Order No. 27 uses the word 'salary', while Republic Act No. 304 employs the more inclusive expression, 'salaries, emoluments, fees, per diems, compensations, or wages.' The former makes mention of the officers and employees of the national, provincial, city or municipal governments, including their agencies and instrumentalities, and corporations and companies owned or controlled by the government; the latter expresses itself with greater precision by referring to those 'who were serving in the *classified* or *unclassified service* of the national, provincial, city or municipal governments, *including the University of the Philippines* and corporations owned or controlled by the Government,' and by adding the clause 'persons under contract with the Government of the Commonwealth of the Philippines.' It appears evident that the law-making body intended to make Republic Act No. 304 complete in itself, and that it did not intend to leave anything to implication. The omission of the provision requiring six months' service evinces the intention of Congress to do away with that requirement for the purposes of Republic Act No. 304.

"I believe, therefore, that laborers who were in the service on December 8, 1941, are entitled to file claims for the recognition of their right to back pay regardless of the period of service rendered prior to that date.

"In this connection two of the queries submitted by the Manager of the National Power Corporation to the Corporate Counsel and the latter's reply which bears my approval, are quoted hereunder for your guidance in similar or pertinent cases:

> '1. Are temporary construction employees who would have been laid off before June 30, 1942, by virtue of the completion of construction work entitled to back pay?
>
> '2. Is an employee whether temporary or permanent who was in the service on December 8, 1941, but who resigned between December 9 and December 31, 1941, still entitled to back pay?'

"1. If a person was in your service on December 8, 1941, but would have been laid off before June 30, 1942, by virtue of the completion of his work, I am of the opinion that he is entitled only to back pay from January 1, 1942, up to the time he would have been laid off minus, of course, the three months advance salary and two months' gratuity which he may have received and any back pay received or to be received from the U. S. Government (Sec. 7, R.A. No. 304). It should be noted that Section 1 of Republic Act No. 304 expressly stipulates that the back pay it recognizes is that which has 'not been received by reason of the war.' The only pay which the employees under the present question have not received by reason of the war is their pay from January 1, 1942, up to the time they should have been laid off. Any payment corresponding to the time after they should have been laid off would not have been received by them irrespective of whether the war had broken out or not and, therefore, is not contemplated by the law."

"2. For the same reason that an employee is entitled to back pay only up to the time he would have continued in his work if the war had not broken out, an employee who was in the service on December 8, 1941, but who re-

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signed between December 9 and December 31, 1941, is not entitled to the benefits of the Back Pay Law. Such employee did not receive his pay starting from January 1, 1942, not 'by reason of the War' but because he had already resigned and was, therefore, no longer entitled thereto. It will be noted that Republic Act No. 304 expressly recognizes back pay only from January 1, 1942, and since these employees were no longer entitled to pay as of that date, they have no right to any of the benefits of said Act."—*Letter dated August* 12, 1948, *of Sec. of Justice to Dir. of Public Works, being Opinion No.* 231, *Series* 1948.

Classification.....

(a) *First Class–A: The provinces that have obtained an average total revenue of five hundred thousand pesos or more per annum for five consecutive years;*

(b) *First Class–B: The provinces that have obtained an average total revenue of four hundred thousand pesos or more per annum, but less than five hundred thousand pesos, for five consecutive years;*

(c) *First class: The provinces that have obtained an average total revenue of three hundred thousand pesos or more per annum, but less than four hundred thousand pesos, for five consecutive years;*

(d) *Second class: The provinces that have obtained an average total revenue of two hundred thousand pesos or more per annum, but less than three hundred thousand pesos for five consecutive years;*

(e) *Third class: The provinces that have obtained an average total revenue of one hundred thousand pesos or more per annum, but less than two hundred thousand pesos, for five consecutive years:*

(f) *Fourth class: The provinces that have obtained an average total revenue of fifty thousand pesos or more per annum, but less than one hundred thousand pesos, for five consecutive years;*

(g) *Fifth class: The provinces that have obtained an average total revenue of less than fifty thousand pesos per annum for five consecutive years;*

Provided, *That in computing the average total revenue, all receipts in the form of aid or allotments from the (Insular) National Treasury, except the internal-revenue allotment under the provisions of section four hundred ninety-one of Act Numbered Twenty-seven hundred and eleven shall be excluded.* —Sec. 1, Act No. 3798 as amended by Act No. 4216.

Autonomy.....

rice mill. He has installed that mill beyond the prohibited zone where other equally offensive businesses are located. There is more than a suspicion that politics have intervened to the great prejudice of a legitimate business. Mr. Gabriel has no other recourse except in the courts and should there find his remedy.

It is time to deal a blow against higher usurpation of local autonomy. The situation calls for a judicial pronouncement which will at once protect local officers acting within the scope of their legal powers and which will protect a citizen from arbitrary molestation.

Based on the facts and the law, it results that the judgment appealed from shall be reversed, and that in the lower court another judgment shall issue, making permanent the preliminary injunction previously granted, and requiring the defendants to respect resolutions Nos. 136 and 137 of the municipal council of Angeles, series 1925. Without express pronouncement as to costs in either instance, it is so ordered.

Avanceña, C. J., Johnson, Street, Villamor, Johns, Romualdez, and *Villa-Real, JJ.,* concur.

Judgment reversed.

For the law is naught but words, save as the law is administered. — Chief Justice Charles Evan Hughes.