ADMINISTRATIVE LAW—1958

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In response to the increasing complexity of industrial and social problems and the widespread recognition of the role of the government in promoting social and economic rights of the people, administrative agencies and tribunals have made their appearance in this country, as in others.[1] These agencies are increasingly relied upon for the exercise of functions pertaining to labor relations, transportation policy, registration of securities and exchanges, patents, review of disputed tax assessments, workmen's compensation claims, and the like

Whether we feel that the creation of these bodies represents a progressive development in government, or, on the other hand, that it represents an unfortunate trend toward bureaucracy, we must, with Stason,[2] recognize that they are in any event and to a large extent inevitable.

With the increasing number of Supreme Court decisions on administrative law, it may perhaps be claimed that administrative law in this country, like American administrative law, now "rests on a firm juristic foundation, stemming from the prevailing statutes expounded and interpreted by some unusually high-grade, judge-made law, enlarging upon the statutes and correlating ad ministrative practices to constitutional principles."[3]

In the year under review, the Supreme Court had occasion to pass upon questions of jurisdiction and powers of administrative agencies and tribunals, the regularity of their proceedings, and the scope and extent of judicial review. The numerous decisions rendered by the highest tribunal in the land, while indicating that there has been an ever increasing resort to the administrative process, point to the fact that the parties affected still look to the Court as the final arbiter of disputes.

While in many cases the Court inhibited itself from disturbing the rulings and decisions of administrative bodies, yet it did not hesitate to interfere when such bodies went beyond the scope of their powers and functions. There were no 'precendent-setting' decisions, and, on the whole, the Court merely reiterated previous rules on administrative law. If there was any discernible trend at all, it was a tendency to uphold the decisions and actuations of administrative bodies.

I. POWER

Administrative agencies and tribunals have been vested by statutes with broad powers in order to be able to carry out successfully and effectively their assigned tasks and achieve the purposes for which they were created. Not all of them, however, exercise or have the same powers. Several cases decided

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[1] The need for these administrative agencies has been identified by Justice Laurel with "the growing complexity of modern life, the multiplication of subjects of governmental regulation and the increased difficulty of administering the laws." Pangasinan Transportation Co. v. PSC. 70 Phil. 221 (1940).

[2] STASON, THE LAW OF ADMINISTRATIVE TRIBUNALS 4-7 (1947).

[3] STASON, "Foreword", to COOPER, F. E., ADMINISTRATIVE AGENCIES AND THE COURTS, (1951).

during the past year made more definite the scope of the powers of some of these bodies.

1. *Court of Industrial Relations.*

In *Acoje Mines Employees and Acoje United Workers Union v. Acoje Labor Union,*[4] the power of the Court of Industrial Relations to order the suspension of a certification election was upheld. The petitioning union contended that once a petition for certification election is submitted and signed by at least 10 per cent of all the workers in the bargaining unit, it is mandatory upon the court to order a certification election—with no exceptions, following sec. 12 (c)[5] of R.A. 875. While said sub-section appears at first glance to be an absolute command, the Court noted that R.A. 875 itself expressly recognizes one exception: when a certification election has occurred within one year.[6] And the judicial and administrative agencies have found two exceptions: where there is an unexpired bargaining agreement not exceeding two years;[7] and when there is a pending charge of company domination of one of the labor unions intending to participate in the election.[8] As the suspension in the instant case was decreed precisely for the purpose of insuring that the wishes of the majority of the workers freely exercising the right to vote shall be expressed, without interference by the employer and without the hindrances affecting a company dominated association, it cannot be doubted that the CIR has the power to suspend the election.

The Court of Industrial Relations, being empowered to order the reinstatement of an employee with or without backpay,[9] must be deemed to have also the lesser power of mitigating the backpay where backpay is allowed.[10] There are circumstances calling for mitigation, as where the financial condition of the company was not very sound due to losses.

2. *The Public Service Commission.*

The Public Service Commission exercises jurisdiction, supervision, and control over practically all public services in the country, together with their franchises, equipment and other properties.[11]

It has the power and authority to approve a sale or transfer of a certificate of public convenience if (1) there are just and reasonable grounds for making the transfer; and (2) the sale or transfer is not detrimental to the public interest. The fact that the question of the validity of the transfer, or the title on ownership over the franchise, is pending determination in the courts, does not deprive the Commission of the power to approve a transfer provisionally where the conditions set by the law are satisfied, in order to protect public interest.[12]

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[4] G.R. No. L-11273, November 21, 1958.

[5] "Sec. 12(c). In an instance where a petition is filed by at least 10 per cent of the employees in the appropriate unit requesting an election, it shall be mandatory on the Court to order an election for the purpose of determining the respresntative of the employees for the appropriate bargaining unit."

[6] Sec. 12(b), R.A. no. 875.

[7] PLDT Employees Union v. Phil. Long Distance Co., G.R. No. L-8138, 51 O.G. 4519.

[8] Manila Paper Mills Employees v. CIR, G.R. No. L-11963, June 20, 1958; Standard Cigarette Workers Union v. CIR, 53 O.G. 5216.

[9] See s. 5(c), R.A. 875.

[10] United Employees Welfare Assoc. v. Isaac Peral Bowling Alleys, G.R. No. L-10327, September 30, 1958.

[11] Sec. 13(2), C.A. no. 287

[12] Laglag and United Northern Transit v. PSC; Phil. Rabbit Bus Line, G.R. No. L-11940, July 25, 1958.

3. *The Deportation Board*

The order of the Deportation Board to hold an alien in custody, for the purpose of determining whether he is an undesirable alien, pending determination of the deportation proceedings instituted against him, is legal.[13] For the Deportation Board has been legally constituted by the President of the Republic and vested with the power to issue warrants of arrest to apprehend undesirable aliens, and after investigation conducted in the manner prescribed by sec. 69 of the Revised Administrative Code, to recommend their deportation if found undesirable.

The power of the Chairman of the Deportation Board over the bond filed by an alien for his temporary release was examined in *Republic v. Court of Appeals.*[14] One Chung Kiat Kang was ordered deported as an undesirable alien by the President, and, pending action on his motion for reconsideration, he was allowed to be at liberty upon filing a surety bond with the Deportation Board. He failed to report to the Commissioner of Immigration as stipulated in the surety bond. When the alien's motion fo reconsideration was denied, the Commissioner required him to appear and report at the Commission. The alien having failed to do so, the Commission declared the bond forteited and duly notified the surety thereof. Upon failure of the surety to pay, a complaint was filed in the court of first instance which, after trial, rendered judgment forteiting the bond. It appears, however, that after the judgment of forfeiture, the Chairman of the Deportation Board authorized the release and/or cancellation of the bail, pursuant to an order of the President. The Supreme Court, speaking through Justice Padilla, held:

> "The revocation of the order of deportation does not have the effect of setting aside or annulling the forfeiture of the bond ordered by the Commissioner of Immigration and by the Court of First Instance, because the terms of the surety bond had already been breached. . . . A contrary view would encourage aliens and their sureties to take lightly, if not flout, their undertakings."

While the Chairman of the Deportation Board may prescribe and approve the amount and terms of the bond, therefore, he has no authority to release the principal and the surety from a bond especially after the terms thereof had been breached.

4. *The Court of Tax Appeals*

May the Court of Tax Appeals issue an injunction to suspend the collection of tax without requiring the taxpayer to make a deposit or file a bond? An affirmative answer was given in *Collector v. Aznar.*[15] The requirement of a bond before a writ of injunction could be issued by the Tax Court applies only to those cases where the means sought to be employed for the enforcement of the collection of the tax are by themselves legal and not where same were declared null and void, as where the summary methods of distrant and levy would be utilized in the collection of deficiency income taxes, after the three year prescriptive period as provided in sec. 51 (d) of the Internal Revenue Code has already elapsed.[16] In the instant case, what the Court suspended was the use of the method employed to verify the collection which was evidently illegal after the lapse of the 3-year limitation period.

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[13] Tan Sin v. Deportation Board, G.R. No. L-11511, November 28, 1958.
[14] G.R. No. L-9928, January 31, 1958.
[15] G.R. No. L-10370, January 31, 1958.
[16] Sambrano v. CTA, G.R. No. L-8652, March 30, 1957; Collector v. A.P. Reyes, G.R. No. L-8785, January 31, 1957

II. JURISDICTION

1. *The Court of Industrial Relations*

The enactment of the Industrial Peace Act, according to several decisions of the Supreme Court,[17] has curtailed the powers of the Court of Industrial Relations to take cognizance of controversies to the following: "(1) when the labor dispute affects an industry which is indispensable to the national interest and is so certified by the President to the Industrial Court; (2) when the controversy refers to minimum wages under the Minimum Wage Law; (3) when it involves hours of employment under the Eight-Hour Labor Law; and (4) when it involves an unfair labor practice under sec. 5(a) of Republic Act 875."

In all other cases, even if they grow out of a labor dispute, the Court does not have jurisdiction..[18]

In *Cebu Portland Cement Co. v. CIR,*[19] it was held that inasmuch as the Court of Industrial Relations, with the passage of the Industrial Peace Act, ceased to have jurisdiction over conditions of employment, except in certain cases, it had no jurisdiction to consider a petition for Christmas bonus.

And although it is alleged that the employer has failed to keep its promise to give the employee an annual bonus, the Court of Industrial Relations has no jurisdiction when there is no allegation that a labor dispute causing or likely to cause a strike, or a possibility thereof is imminent or expected from the violation or failure of the employer to comply with its promise.[20]

That the jurisdiction of the CIR extends to disputes involving the Eight-Hour Labor Law was reaffirmed in *Nassco v. Almin, et al.*[21] In another case,[22] the Supreme Court dismissed a complaint filed in the Manila court of first instance to recover supposedly unpaid overtime wages, even as the tribunal directed its submission to the CIR as the proper forum. Where a complaint involves claim for overtime pay and a claim for separation pay, it is more in consonance with the ends of justice that both causes of action be cognizable and heard by the Industrial Court.

2. *The Public Service Commission*

While it has been previously held[23] that where a ferry service lies entirely within the territorial jurisdiction of a municipality, previous approval of that municipality is necessary before the Public Service Commission can grant a private operator a certificate of public convenience for its operation, a different rule applies where the ferry service proposed is between two municipalities and serves as a continuation of watercraft of a national highway. Thus, in *Cababa v. PSC, et al,*[24] the right of the Public Service Commission to consider applications for a proposed ferry service between two municipalities to bridge a gap in the national highway where it is interrupted by a body of water, without need of previous approval by the municipalities, was upheld.

That the Public Service Commission has no authority to require operators of steamboats, motor boats, motor vessels used in ferry or coastwise trade,

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[17] Cebu Port Labor Union v. States Marine Corp., G.R. No. L-9350, May 20, 1957; PAFLU v. Tan, G.R. No. L-9115, August 31, 1956; Reyes v. Tan, G.R. No. L-9137, August 31, 1956.
[18] Administrator of Hacienda Lusita Estate v. Alberto, G.R. No. L-12133, October 31, 1958.
[19] G.R. No. L-11428, December 26, 1958.
[20] H. E. Heacock v. NLU, G.R. No. L-1135, April 30, 1958.
[21] G.R. No. L-9055, November 28, 1958.
[22] Gomez v. North Camarines Lumber Co., G.R. No. L-11945, August 18, 1958.
[23] Municipality of Gattaran v. Eligag, G.R. No. L-4378, May 8, 1952.
[24] G.R. No. L-11186, January 31, 1958.

to secure a certificate of public convenience as to precribe their definite rule or line[25] was reiterated in *Brown v. Luezo*.[26] The office or body having jurisdiction over the same is the Bureau of Customs, pursuant to the Revised Administrative Code.[27]

3. *Workmen's Compensation Commission.*

Republic Act No. 772 is clear that on or after June 30, 1952, all claims for compensation shall be decided exclusively by the WCC, subject to appeal to the Supreme Court. Although it is true that the right for leave of absence, sick and vacation damages, medical aid, etc., rises from the moment of the accident, such right must be declared or confirmed by the government agency empowered by law to make the declaration.

Where the claim for compensation was based on the death of the employee on May 7, 1952, but the action was brought after June 30, 1952, the Workmen's Compensation Commission has exclusive jurisdiction of the case.[28] As previously stated by the Court:

> "No initial objection may be interposed to the application of the law conferring jurisdiction upon the WCC because the statute does not thereby operate retroactively; it is made to operate upon claims formulated after the law's approval."[29]

4. *Court of Tax Appeals.*

In *Blaquera v. Rodriguez*,[30] the Cebu Olympian Co. filed an action against the Collector of Internal Revenue before the Cebu court of first instance to enjoin the latter from collecting deficiency prcenteage taxes. The Supreme Court upheld the Collector's contention that the case comes within the exclusive appellate jurisdiction of the CTA for its subject matter comes within the purview of the words "disputed assessments" or of "other matters arising under the National Internal Revenue Code". The case is really an indirect appeal from the decision of the Collector on the assessment made by him with regard to certain deficiency percentage taxes, as well as from his decision to collect the sums by coercive summary measures prescribed by law, matters which come within the exclusive jurisdiction of the Tax Court. As stated by the Court in another case,[31] involving the same parties:

> "The determination of correctness or incorrectness of a tax assessment to which the taxpayer is not agreeable falls within the jurisdiction of the CTA and not of the CFI for under sec. 7 of R.A. no. 1125, the CTA has exclusive appellate jurisdiction to review on appeal any decisions by the Collector of Internal Revenue in cases involving disputed assessments and other matters arising under the NIRC or other law or part of law administered by the Bureau of Internal Revenue."

The Supreme Court, in *Ledesma v. CTA*[32] noted that after the creation of the Tax Court there is no reason for the Collector to enforce his assessments before the court of first instance. There is no need for such action because his ruling or decision is enforceable against the taxpayer unless the latter appeals therefrom and even when appealed, there is an assurance that the Tax Court without loss of time would decide the appeal. The main pur-

[25] Javellana v. PSC and Barron, G.R. No. L-9088, June 25, 1956.
[26] G.R. No. L-12544, August 25, 1958.
[27] See sec. 1139, Revised Administrative Code.
[28] Dolores Vda. de Pelaez v. Luzon Lumber Co., G.R. No. L-5564, April 28, 1958.
[29] Castra v. Sagales, G.R. No. L-6359, December 29, 1953.
[30] G.R. No. L-1192, April 16, 1958.
[31] G.R. No. L-10935, April 28, 1958
[32] G.R. No. L-11843, January 29, 1958.

pose of R.A. No. 1125 creating the Court of Tax Appeals was not only to give said court exclusive appellate jurisdiction over disputed tax assessments, but "also to transfer to its juridiction all cases involving said assessments, previously cognizable by the CFI and even those already pending in said courts."

5. *The Court of Agrarian Relations.*

In *Maristela, et al v. Hon. Pastor Reyes,*[33] one Valerio filed a complaint in 1954 in the Court of Industrial Relations (altho jurisdiction over tenancy cases were subsequently vested in the CAR) to dispossess Rivera of his agricultural landholding. Rivera moved to dismiss on the ground that the CIR had no jurisdiction over the subject matter of the action, there being pending a case between the heirs of Maristela and Valerio for annulment of a deed of sale of a parcel of land on the ground of fraud, part of which is involved in the complaint for ejectment. The CAR ordered the heirs of Maristela and other petitioners to deliver after harvest possession of the land to Valerio. On appeal, the Supreme Court held that it was error on the part of the Agrarian Court to have taken for granted the tenancy relationship between Valerio and Rivera without considering the fact that before the filing of this ejectment suit, the herein petitioners had brought an action against Valerio to annul the sale of the land of a part of which Valerio sought to dispossess Rivera. The CAR should have held in abeyance the adjudication of the ejectment-case until after the question of title had been decided by the court of first instance.

III. PROCEDURE

A. STANDING OF THE PARTIES BEFORE ADMINISTRATIVE AGENCIES

1. *Court of Industrial Relations.*

An employer-employee relationship as defined in the Industrial Peace Act[34] must exist before the parties can gain any standing before the Industrial Court. In *Boy Scouts of the Philippines v. Araos.*[35] the respondent Araos worked with petitioner as scout executive from 1948 up to June 1, 1954, when she was dismissed. Respondent filed charges against the Boy Scouts of the Philippines for unfair labor practice, alleging that her dismissal was in violation of the Industrial Peace Act, in that she had been dismissed due to her union activities. The CIR took cognizance of the case, and, after trial, ordered the reinstatement of the respondent.. On appeal, in reversing the decision of the Industrial Court, the Supreme Court found and held that R.A. 875 does not apply to the Boy Scouts of the Philippines, and, consequently, the CIR had no jurisdiction to entertain and decide the petition filed by Araos. According to Justice Montemayor:

> ". . . there is every reason to believe that our labor legislation from Commonwealth Act No. 103, creating the Court of Industrial Relations, down through the Eight-Hour Labor Law, to the Industrial Peace Act, was intended by the Legislature to apply only to industrial employment and to govern the relations between employers engaged in industry and occupations for purposes of profit and gain, and their industrial employees, but not to organizations and entities which are organized, operated, and maintained not for profit or gain, but for elevated and lofty purposes such as, charity, social service, education and instruction, hospital and medical service, the encouragement and promotion of character, patriotism and kindred virtues in the youth of the nation. . . ."

[33] G.R. No. L-11537, October 31, 1958.
[34] S. 2(c) (d), R.A. 875.
[35] G.R. No. L-10091, January 29, 1958.

In a case decided later during the year,[36] the Supreme Court applied *in toto* the ruling in the Boys Scouts case. When the Philippine Association of College and University Professors filed an unfair labor practice complaint against the University of San Agustin, the Supreme Court, on appeal, upheld the contention of the University denying the jurisdiction of the Industrial Court. It appears that the University is an educational institution conducted by a religious non-stock corporation, organized not for profit or gain or division of the dividends among its stockholders, but solely for religious and educational purposes. The Association, on its part, was composed of professors and teachers in different colleges and universities. In view of its earlier ruling, the Court held that the parties had no standing before the CIR.

The previous ruling[37] of the Court to the effect that a case for violation of internal labor organization procedures affecting only one or very few employees need not be filed by ten per cent of the union was reaffirmed in *PLASLU v. Ortiz.*[38]

2. *The Court of Agrarian Relations*

The Court of Agrarian Relations has jurisdiction over cases arising from tenant-landlord relationships; when such relationship is not proved, as when the parties are merely lessor and lessee, it cannot exercise any jurisdiction.[39]

The fact that the landlord dies does not mean that the relation of landlord and tenant ends, because the estate continues to be the landlord.[40]

B. FREEDOM FROM TECHNICAL RULES OF EVIDENCE

A development in administrative law has been the tendency not to apply strictly in administrative proceedings the rules of procedure which are applicable in judicial tribunals. This is consonance with the philosophy behind the creation of administrative bodies—to provide organs of government with speedy and equitable methods and devises for getting the job done,[41] and thus do away with the judicial procedure which is usually awkward, slow and expensive.[42]

Accordingly, in *Tiu Chun Hai and Go Tam v. Commissioner of Immigration,*[43] it was held that it was error for the trial court to hold that the arrest of the petitioners ordered by the Commission was illegal because no court proceedings had been instituted. The Supreme Court observed:

> "Proceedings for the deportation of aliens are not criminal proceedings, and neither do they follow the rules established in criminal procedure. Deportation proceedings are summary in nature and the proceedings in criminal cases for the protection of the accused are not present or followed in deportation proceedings."

C. POWER TO REOPEN A CASE

It has been observed[44] that the striking characteristic of the modern movement for governmental supervision "has been the investiture of adminis-

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[36] University of San Agustin v. CIR, G.R. No. L-12222, May 28, 1958.
[37] Kapisanan ng Mga Manggagewa sa MRR v. Bugay and CIR, G.R. No. L-9327, March 30, 1957
[38] G.R. No. L-11185, April 28, 1958.
[39] Agustin v. Pastor de Guzman, G.R. No. L-11020, July 31, 1958.
[40] Ferreria v. Ibarra Vda. de Gonzeles, et al., G.R. No. L-11567.
[41] DAVIS, ADMINISTRATIVE LAW (1951), note 2, at p. 12.
[42] *Ibid.*, note 2, at p. 16
[43] G.R. No. L-10009, Dec. 22, 1958.
[44] Justice Frankfurter in Federal Commissioners Comm. v. Pottsville Broadcasting Co. 309 U.S. (1940) 134.

trative agencies with power far exceeding and different from the conventional judicial modes for adjusting conflicting claims."

The *Sy Chuan v. Hon. Emilio Galang*[45] case is illustrative of the difference between proceedings in ordinary courts and administrative bodies. Here, the petitioners were the subject of deportation proceedings before the Board of Special Inquiry, Bureau of Immigration, acting by and under the authority of the Commissioner of Immigration. After several hearings, the investigation was declared terminated. Later, the Board issued an order reopening the probe for the purpose of allowing the complaining witness to testify further. The lower court held that it was of the opinion that there existed no reason for the reopening of the hearings in the proceedings in question, and that such a reopening would be arbitrary and capricious. The Solicitor General appealed and the Supreme Court held that the Board had the power to reopen the case. Justice Bengzon, speaking for the Court, observed:

> "Probably had the incident occurred before a judicial tribunal, the court would not reopen in the exercise of its own discretion, because the witness seemed to be unreliable. But we are dealing here with an administrative body engaged in proceedings and administrative in nature that do not need to be conducted strictly in accordance with court processes."

Administrative bodies have broad authority and discretion, which should not be interfered with in the absence of abuse of power. In determining whether their act amounted to abuse, the fact that respondents constituted a committee of inquiry actively to seek after truth and evidence, as distinguished from a court ordinarily to adjudge only from the proofs submitted to it wherein or whereto the line of truth extends, should be borne in mind.

3. *Courts of Tax Appeals*

The Collector of Internal Revenue, after the appeal from his decision has been perfected and after the CTA has acquired jurisdiction over the same, but before said Collector has filed his answer with that court, may still modify his assessment subject of the appeal by increasing the same, on the ground that he has committed error in good faith in making said appealed assessment.[46] The hearing before the CTA partakes of a trial de novo and the Tax Court is authorized to receive evidence, summon witnesses and give both parties, the Government and the taxpayer, opportunity to present and argue their sides, so that the true and correct amount of the tax to be collected may be determined and decided, whether resulting in the increase or production of the assessment appealed to it.

D. APPEAL

1. *Court of Tax Appeals*

Although the filing of a claim with the Collector of Internal Revenue is intended as a notice to said official that unless the tax alleged to have been erroneously collected is refunded court action will follow, this does not imply that the taxpayer must wait for the action of the Collector before bringing the matter to the Court of Tax Apeals. The taxpayer's failure to comply with the requirement regarding the institution of the action or proceeding in court within two years after the payment of taxes bars him from the recovery

[45] G.R. No. L-9793, December 29, 1958.
[46] Collector v. Batangas Trans. Co. & Laguna-Tayabas Bus Co., G.R. No. L-9692, January 6, 1958.

of the same, irrespective of whether a claim for the refund of such taxes filed with the collector is still pending action by the latter.[47] Considering that the taxes involved herein were paid in 1951 and 1952, the provisions of sec. 11 of R.A. no. 1125 cannot be invoked as such law took effect only on June 16, 1954.

2. *Commissioner of Customs*

Sections 1370 and 1380 of the Revised Administrative Code apparently refer to a ruling or decision of a collector of customs wherein liability for customs duties, fees or other money charges is determined, in which case, the party adversely affected by such ruling, after paying the amount of the assessment, may make a protest and the Collector shall reexamine the matter and should he overrule the protest and sustain his previous ruling, the party aggrieved is required to appeal said ruling to the Commission of Customs within 15 days after notification, otherwise the ruling of the Collector becomes final and conclusive. Said sections, referring as they do to assessments made by a Collector of Customs of custom duties, fees or other money charges, cannot refer to a case of refund. Consequently, in *Stonehill Steel Corporation v. Commissioner of Customs*,[48] it was not necessary for the petitioner to appeal from the denial by the Collector of its petition for refund, to the Commissioner of Customs within 15 days.

E. DUE PROCESS

In *Lim Hoat Ting v. Central Bank*[49] it appears that resolution 756 of the Monetary Board as well as the revised classification under which monosodium glutamate was no longer considered a flavor and so not exempted from the exchange tax, was not published in the Official Gazette. Consequently, according to the Court, it could not bind the plaintiff. As stated by the Court in an earlier case,[50] with respect to the noneffectivity of circular no. 20 of the Central Bank for lack of publication in the Official Gazette:

> ". . . Moreover, as a rule, circulars and regulations especially like the Circular No. 20 of the Central Bank in question which prescribes a penalty for its violation should be published before becoming effective, this, on the principle and theory that before the public is bound by its contents, especially its penal provisions, a law, regulation or circular must first be published and the people officially and specifically informed of said contents and penalties.

In a case[51] involving the Workmen's Compensation Commission, one of the contentions was that there was no hearing where the representatives of the employer was present. The Supreme Court held the contention untenable inasmuch as the question of formal hearing was never raised before the Commission, and, therefore "cannot be raised now in this instance." Moreover, the record showed that petitioner never asked for a formal hearing.

In *People v. Que Po Lay*,[52] a claim was made that lack of notice of hearing was not satisfactory of due process. The Court, however, found that there was proper notification.

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[47] College of Oral & Dental Surgery v. CTA, G.R. No. L-10446, January 28, 1958.
[48] G.R. No. L-1084, March 24, 1958.
[49] G.R. No. L-10666, September 24, 1958.
[50] People v. Que Po Lay, G.R. No. L-6791, March 29, 1958.
[51] Bureau of Public Works v. WCC, G.R. No. L-8994, November 28, 1958.
[52] G.R. No. L-11019, November 28, 1958.

IV. JUDICIAL REVIEW

Despite the principle obtaining in our constitutional system that separates the executive from the judiciary branch, the courts have exercised a power of review over administrative agencies. Yet it is said to be less than an appellate jurisdiction that the courts have exercised, for judicial review at times is entirely barred.[53]

The cases decided last year gain significance as determinative of the extent and manner of judicial review over administrative acts.

A. WHEN PREMATURE

When it appears that in addition to labor disputes involved in a case there were other labor cases pending between the same parties before the Court of Industrial Relations, which had been instituted prior to the filing of the present case, the Supreme Court, in several cases, declared that the court of first instance has no jurisdiction to try the case. The same is already involved in those cases which had been submitted to the Industrial Court for adjudication. Multiplicity of suits should be avoided.

Accordingly, if the purpose of the action is to obtain some injunctive relief against certain acts of violence of the laborers, the same can be obtained from the Industrial Court which is given ample power to act thereon by the Industrial Peace Act.[54]

In *Benguet Consolidated Mining Co. v. Coto Labor Union*,[55] the Supreme Court ruled that the court of first instance has no jurisdiction to issue an injunction in matters connected with an unfair labor practice case pending in the industrial court.

B. EXHAUSTION OF ADMINISTRATIVE REMEDIES

The doctrines of ripeness for review and exhaustion of administrative remedies both imply that the primary condition under which court review may be sought is that the agency act be final, that is, not subject to any administrative remedies.[56] The reason for the continued adherence to this rule may be found in the fact that it provides for a policy of orderly procedure which favors a preliminary administrative sifting process and serves to prevent attempts to swamp the courts by a resort to them in the first instance.[57]

1. *Court of Appeals*

Thus, in *Sampaguita Shoe and Slipper Factory v. Collector of Customs* [58] the Supreme Court, in consonance with the doctrine of exhaustion of administrative remedies, held that the decisions of the Collector of Customs are not appealable directly to the Court of Tax Appeals but to the Commissioner of Customs. The Court cited the case of *Lopez & Sons, Inc. v. CTA*,[59] wherein the Court, in resolving the conflict between sections 7 and 11 of R.A. 1125 held that the Legislature must have meant and intended to say *Commissioner* of Customs instead of *Collector* of Customs in the framing of section 11. As petitioners herein did not interpose an appeal to the Commissioner of Customs from

[53] PARKER, ADMINISTRATIVE LAW (1952) 269.
[54] Lakas ng Pagkakaisa sa Peter Paul v. Victoriano, et al., G.R. No. L-9290, January 14, 1958.
[55] G.R. No. L-12000, August 30, 1958.
[56] PARKER, *supra* at note 53, 260
[57] U.S. v. Sing Tuck, 194 U.S. 161.
[58] G.R. No. L-10285, Jan. 14, 1958.
[59] 53 O.G., No. 10, 7065.

the decision of the Collector within 15 days as required by law, said decision of the latter became final and executory; he cannot take its case on appeal to the CTA.

In *Muller & Phipps v. Collector*,[60] it appears that sometime in 1951 and 1952 petitioner imported certain raw materials and paid the advance sales tax thereon. As petitioner was unable to use all of them it shipped back to its suppliers the unused amount. On August 4, 1953, or 10 days after its return, petitioner filed with the Collector a claim for the refund of the advance sales tax. When this was denied, petitioner filed a request for reconsideration which was denied on November 3, 1955, a copy of which was received on November 10, 1955. On November 23, 1955, petitioner filed a petition for review with the CTA. The question was whether the CTA was deprived of its jurisdiction on the ground that the petition was filed beyond the 2-year prescriptive period provided for in sec. 306 of the Tax Code. The Supreme Court ruled that the CTA had jurisdiction over the case, stating:

> "Since pursuant to our ruling in Tibuet v. Auditor General (G.R. No. L-10160, June 28, 1957,), the practice of permitting motions for reconsideration and deducting the time used in considering it, applies to administrative cases, being in consonance with the principle of exhaustion of administrative remedies, the appeal of the taxpayer in the case before us must be regarded as taken only 28 days after the Collector's denial of the refund sought."

2. *Wage Administration Service*

Under the Code of Rules and Regulations approved by the Secretary of Labor pursuant to the authorization of the Minimum Wage Law, there are three steps that a claimant may pursue in the enforcement of his claim: mediation, which is purely administrative in character, whereby the investigator has the function to mediate and endeavor to induce the parties to settle the claim by amicable settlement. If an agreement is arrived at, then the same becomes binding and must be complied with. The *second* is arbitration, a quasi-judicial function, which is resorted to if no amicable agreement is reached. The investigator asks the parties whether they are willing to submit the case to arbitration, and if they do, then they should subscribe in writing which shall be signed by them before the investigator, in which case, the decision of the arbitrator is binding, final and conclusive. *Finally*, in the event that mediation fails and the parties are unwilling, then the case shall be assigned to a claims attorney to prepare the corresponding complaint if he finds the claim meritorious and the employee indigent. This is a mere auxiliary remedy extended to an employer who may not be financially able to get legal assistance.

In *Winch v. P.J. Keiner, Co., Ltd.*,[61] neither of the above steps were pursued except probably the first. Apparently, the efforts towards an amicable settlement proved futile. Instead of recommending the claim to be assigned to a claims attorney, the investigator dismissed the case with prejudice, a function which he does not possess. Obviously, the parties never agreed to arbitration, since there was no uch agreement in writing. Therefore, the lower court erred in upholding defendant's motion dismiss based on the investigator's ruling.

When the investigator, without the parties having arrived at an amicable settlement or submitted the case for arbitration, investigated the case and then rendered a "judgment" for a sum of money, he went beyond what the Code of Rules authorizes. So that the so-called judgment was no judgment at all that

[60] G.R. No. L-10694, March 20, 1958.
[61] G.R. No. L-11884, October 27, 1958.

could be enforced by a writ of execution, as demanded by the petitioner in *Abrero v. Talaman*[62]. Inasmuch as it is only a finding that the claim is meritorious and justifies the filing of a complaint in court, the lower court acted correctly in dismissing the petition.

The petitioner in *Central Azucarera Don Pedro v. Central Bank*[63] imported bales of Hessian cloth from India made into bags, which, when filled with sugar, were exported to the United States. Subsequently, the Central again imported the same cloth used to manufacture bags. The Central Bank assessed a special excise tax on the foreign exchange used in the purchases. In view of the fact that the request for the refund of the tax paid on the first importation was denied, the Central did not file a formal petition for refund as to the special excise tax assessed on the second importation but instead brought suit in the court of first instance to refund the sums paid on the two importation. The Supreme Court ruled:

> "On the failure of the appellees to exhaust administrative remedies to secure the refund of the special excise tax on the second importation sought to be recovered, we are of the same opinion as the trial court that it would have been an idle ceremony to make a demand on the administrative officer and after denial thereof to appeal to the Monetary Board of the Central Bank after refund of the first excise tax has been denied."

C. FINDINGS OF FACT

Before an administrative agency can exercise its powers, it is usually vested with the right and or/duty to determine questions of law and of fact in order that its rules and decisions may have some basis. Several decisions of the Court reiterated the well established rule that findings of fact, when supported by sufficient evidence, are not subject to review and will not be disturbed.

1. *The Public Service Commission*

It is well settled that where after a full hearing the Public Service Commissioner makes findings of fact, and there is a material conflict in the evidence, such findings will not be disturbed where they are reasonably supported by testimony.[64] Following such rule, the Supreme Court, in *Batangas Trans. Co. et al. v Laguna Transportation Co.*,[65] upheld the Commission's finding that applicant had presented enough evidence to show the need for the additional trips applied for by it. Whether public necessity and convenience warrant the putting up of additional services on the part of the applicant, is a question of fact.[66]

The attitude of the Court on findings of fact is evident in this statement in *Ammen Transportation Co. v. Desuyo:*[67] "In line with our policy of non-interference with the findings of the Commission where some evidence reasonably supports its findings as to necessity and convenience of the authorized public utility, we must decline in this appeal to overrule the Commission's determination."

a. Abuse of Discretion

In *Batangas Transportation Co. v. Reyes*,[68] however, the Supreme Court, in passing upon the decision of the Public Service Commission granting Reyes

[62] G.R. No. L-11924, May 16, 1958.
[63] G.R. No. L-7781, September 29, 1958.
[64] Inchausti Steamship Co. v. Public Utility Commissioner, 44 Phil. 868 (1923).
[65] G.R. No. L-9185, December 27, 1958
[66] Raymundo Trans. Co. v. Cervo, G.R. No. L-3899, May 21, 1952.
[67] G.R. No. L-10872, May 14, 1958. See Batangas Trans. Co. & Laguna-Tayabas Bus Co. v. Souza, Silva & PSC, G.R. Nos. L-8854 and 8846, January 7, 1958; Sambrano v. PSC, G.R. Nos. L-11439-11542-11546, July 31, 1958.
[68] G.R. No. L-10629, October 31, 1958.

his application for certificates of public convenience, reviewed the facts upon which the certificate was granted. Section 2 of Rule 43, Rules of Court and section 35 of Commonwealth Act No. 146 does not prohibit the Supreme Court from reviewing questions of fact. As observed by the Court: "The review of questions of fact is denied only in cases of appeals from decisions of the Securitie and Exchange Commission and under the rule of *inclusio unius est exclusio alterius*, the privilege or right to review the evidence cannot be considered denied to us in cases appealed from the Public Service Commission." Accordingly, the refusal of the Commission to consider the reports of the inspectors of the oppositor company, on the ground that they are not originals and at the same time self-serving, is an error of law. This authorizes the Court to review the effect of the error, which has eliminated from the mass of evidence considered by the Commission something very important.

2. *Workmen's Compensation Commission*

In one case,[69] on an appeal from an award of the Workmen's Compensation Commission the petitioner disputed the findings of the Commission on the dates of the verbal notices. The Court stated: ". . . we do not feel justified to interfere on such factual question. This, notwithstanding the assertion that the referee's finding had been overruled."

In *Collector v. Aznar*,[70] the Court observed that as R.A. 1125, creating the Court of Tax Appeals "keeps silent as to matters left open to us for review or the issues that we make take cognizance of" and as courts have to construe statutes as they are found, the Court, in passing upon petition to review by certiorari ruling of the Tax Court may review, revise, reverse, amend or modify not only the legal issues involved therein but "also the fidings of fact upon which said decision or ruling is based."

D. SUFFICIENCY OF EVIDENCE

Courts will not disturb rulings of administrative bodies when supported by sufficient evidence.

In *Kaur v. Commissioner of Immigration*,[71] the petitioner was excluded from admission by a Board of Special Inquiry on the ground that she was afflicted with "amoebiasis," classified as a loathsome or dangerous contagious disease. The Board denied appeal for lack of merit. Kaur filed with CFI instant action for habeas corpus with preliminary injunction, which was granted by the lower court. The Supreme Court upheld the Commissioner's contention that the lower court should not have reviewed and interfered with the findings of the Board of Immigration and in holding that appellee is entitled to remain in this country. The mere fact that the Board, after careful study, did not believe appellee's evidence is not by itself an abuse of discretion or authority. It would be otherwise, said the Court, if the decision of the Board is not supported by any evidence.

In a case[72] involving the Court of Industrial Relations, the Supreme Court noted that, considering that certification proceedings are investigatory in nature and taking into account that the conduct of such proceedings has been entrusted specifically to the CIR and that they should be expedited as soon as possible, there should be no interference with the discretion and judgment of that special-

[69] Saulog v. Del Rosario, G.R. No. L-11504, May 23, 1958.
[70] *Supra*, note 15
[71] G.R. No. L-9864, November 21, 1958.
[72] Benguet Consolidated Inc. & Balatoc Mining Co. v. Baboc Lumber Jack Assoc., G.R. No. L-11029, May 28, 1958.

ized tribunal in connection with such proceedings, at least in the absence of clear and patent abuse.

The Commissioner may, with respect to claims under the Workmen's Compensation Law, in the exercise of his discretion allow the employer to controvert or resist the claim even after failure of employer to comply with the requirements of sec. 44 of Act 3428. As such power involves the use of discretion, the Supreme Court is prone not to disturb the same unless the exercise of thereof is gravely abused. In *Tan Lim Te v. WCC*,[73] it was found that the Commissioner committed no grave abuse of discretion in awarding compensation to the claimants and in denying petitioner's motions to reconsider the same; hence, said the Court, there exists no reason why said award should be altered or disturbed.

E. FINALITY OF ADMINISTRATIVE DECISIONS

In *Guisado v. Sec. of Public Works and Communications, et al.*,[74] the appellee was charged with immorality. After investigation, the Commissioner of Civil Service found him guilty as charged and ordered him to resign with prejudice to reinstatement. Upon motion for reconsideration, the Commissioner reiterated his findings and order but without prejudice to reinstatement. From this decision and resolution denying his motion for reconsideration, the appellee did not appeal to the Civil Service Board of Appeals. The Supreme Court held that the decision of the Commissioner of Civil Service became final and executory after the lapse of thirty days from receipt of notice. Petition for mandamus was therefore denied.

When the decision of the Collector of Customs, as affirmed by the Commissioner of Customs, has long become final and conclusive, the same is a bar to an action for recovery.[75]

Under sec. 51 of the Workmen's Compensation Law, as amended, when a party in interest files in the proper court a certified copy of the decision of a referee or commissioner which has become final, "the court shall render a decree or judgment in accordance therewith and notify the parties thereof." The decree or judgment shall have the same effect as though it had been rendered in a suit duly heard or tried by the court, "except that there shall be no appeal therefrom." In other words, according to the Court in *Salabaria Vda. de Suataron v. Hawaiian-Phil. Co.*,[76] the function of the court in such a case is merely to render judgment in accordance with the award of the referee or commissioner, and not to modify or alter it as a party may desire, for if the same is allowed over the objection of the opposing party, it may become controversial which would be a proper subject of appeal. Yet, as pointed out by the Court, the law expressly provides that from such judgment *no appeal* may be taken, which shows that the function of the court is to enforce the award as certified by the Commissioner. Thus, in the instant case, the Supreme Court upheld the action of the lower court when it declined to entertain the claim of deduction invoked by the respondent in view of alleged payments made by it during the pendency of the proceedings.

In *Tan Te v. WCC*,[77] the petitioner contested the power of the WCC to issue a writ of execution directing the Provincial Sheriff to execute the dis-

[73] G.R. No. L-12324, August 30, 1958.
[74] G.R. No. L- 11010, November 28, 1958.
[75] Que Po Lay v. Central Bank, G.R. No. L-111019, November 28, 1958.
[76] G.R. No. L-11219, May 7, 1958.
[77] *Supra*, note 73.

puted award, asserting that such award may only be enforced by filing in any court of record of the place where the accident occurred, a certified copy of the decision from which no petition for review or appeal has been taken within the time allowed therefor. The Supreme Court held that when the award has become final, it becomes merely the court's (or Commission's) ministerial duty to issue a writ of execution and certainly an erroneous or voided writ cannot work to divest said final order or judgment of its character of finality. However, the Court ordered the WCC to issue another writ of execution to substitute the one issued before the Rules of that Commission became effective.