

G.R. No. L-10668

[ G.R. No. L-10668. September 26, 1957 ]

**AVECILLA BUILDING CORPORATION, PETITIONER, VS. HON. CESAREO DE LEON, WORKMEN'S COMPENSATION COMMISSIONER, AND BENJAMIN CARPESO, RESPONDENTS.**

## **D E C I S I O N**

### **MONTEMAYOR, J.:**

This is a petition for *certiorari* filed by Avecilla Building Corporation, engaged in business as a building contractor, to annul the order of respondent Workman's Compensation Commissioner, dated January 4, 1956, for allegedly having been issued "without jurisdiction or in excess of jurisdiction and with grave abuse of discretion". The petition was given due course respondent Commissioner filed his answer, and by a previous manifestation of his corespondent Benjamin Carpeso, the latter informed this Court that instead of filing an answer, he be allowed to adopt whatever answer the other respondent (Workmen's Compensation Commissioner) may submit in this case.

The basic facts involved are not seriously disputed. According to the pleadings and their annexes, said facts are, as follows; Benjamin Carpeso was employed by petitioner corporation as a warehouseman (bodeguero) in its warehouse at 420 Lamayan, Sta. Ana, Manila. Sometime in September 1952, during his employment and while lifting a heavy object during the construction of a warehouse, Carpeso felt a snap in his back. He claims that he spat blood. However, he kept on working up to February 28, 1953, when the weakness of his left lower limb made it impossible to continue. He was taken to the University of Santo Tomas Hospital where he was examined and treated by Dr. Virgillo Ramos, who diagnosed his case as Pott's disease (Tuberculosis of the Spine), and who was of the opinion that although it may not have been caused by his employment, nevertheless, "it might have been aggravated by his work". On February 28, 1953, about three days after his admission, according to petitioner, he escaped from the hospital, although according to the respondent, he was discharged therefrom but against the advice of the doctor, because

he was afraid of the operation, which the doctors presumably proposed to perform. The petitioner looked for and found him and took him back to the hospital where he was readmitted on March 12, 1953, and a body cast was applied. According to petitioner, he again escaped from the hospital on April 12, although according to Dr. Ramos, he was discharged on said date and then after some time, he (Carpeso) himself removed the cast.

On October 1, 1954 Carpeso filed his claim for compensation. On the basis thereof, the Commissioner on December 28, 1951, signed Annex "A", which he claims to be a mere letter computation, addressed to the manager of petitioner-corporation, requesting payment of compensation as follows:

"Under Section 14 of said Act, he is entitled to 60% of his (weekly wages) exclusive of the first 3 days. In this case, he was disabled for work from February 25, 1953 to November 14, 1954 or 627 days. Deducting therefrom the 3-day waiting period leaves 624 days or 89-1/7 weeks. Sixty per centum of his average weekly wage which was P30.00 equals P18.00 and for 89-1/7 weeks, he is entitled to P1,604.57.

"Under Section 18 of the Act, he is entitled for his 60% permanent partial disability, non-schedule (estimate of our medical officer, copy enclosed) to 50% of 60 percent of his average weekly wages for 118-6/7 weeks (208 weeks less 89-1/7 weeks. Sec. II), Fifty per centum of 60% of his average weekly wage which was P30.00 equals P9.00 and for 118-6/7 weeks, he is entitled to P1,069.71.

"Under Sections 14 and 18, he should, therefore, receive the total compensation of TWO THOUSAND SIX HUNDRED SEVENTY-FOUR PESOS & 28/100 (P2,674.28) less any amount already paid him as compensation.

"In this connection, we would request that the amount of P27.00 representing payment of fee required by Section 55 of the Act be remitted to this Commission as soon as possible."

The last paragraph of this decision reads as follows:

"If after fifteen (15) days from your receipt hereof we do not hear from you, we shall presume that you are in full accord with this letter computation and the

same will be entered as our final decision on the case.”

It would appear that petitioner had previously been making payments, and following the terms of the letter computation, it paid the balance, and considering said Annex A as a final decision, believed the case to have been finally closed.

However, according to the Commissioner, on February 11, 1955, a representative of Carpeso informed him that Carpeso’s physical condition had deteriorated considerably and he was totally disabled for work. To verify the claim, he instructed the Chief of the Evaluation and Rehabilitation Division, presumably of the Department of Labor or of the same Commission, to have one of his medical officers visit Carpeso and later to submit his findings. On February 24, 1955, Dr. Alfredo A. Gorospe, with the approval of his chief, Dr. Jose S. Santillan of the Evaluation and Rehabilitation Division, filed his memorandum for the Commissioner, saying that he found Carpeso In his house seated on a chair,

“... complaining of backache, pain at the region of the dorse-lumbar vertebrae and inability to walk. According to him his sleep is disturbed because of backache, appetite fair and GM and urination free. He was able to conduct conversation. There was no facial paralysis. Pupils were slightly dilated. The prominent curvature of the spinal column at the level of the 10th dorsal vertebrae was still present. Heart and lungs apparently normal. There was inability to stand up; inability to squat on the floor? inability to raise the legs and inability to walk even with the aid of a helper to support him while standing. Knee jerk was exaggerated on both sides. He was able to move the arms freely”,

and expressing the belief that Carpeso was totally disabled for work. Acting upon said memorandum, the Commissioner wrote to the manager of the petitioner-corporation on March 11, 1955 (Annex 7), asking said corporation to continue payment of compensation as follows:

“In view thereof, payment of compensation under Section 14 of the Workmen’s Compensation Act, as amended, at the rate of P18.00 a week should be continued until his physical condition improves, subject to the limitations of law. Accordingly, the amount of P306.00, compensation due him from November 15, 1954 to March 33, 1555 is now due and demandable.

“We are, therefore, paying him this amount, out of the P799.74 which you deposited with this Office and the balance will be paid to him weekly at the rate of P18.00.

“Attached hereto is an itemized statement of the medical expenses incurred by the claimant, in the total amount of P1,316.00, for corresponding reimbursement.”

The amount of P1,316.00 referred to in the last paragraph is supposed to represent medical expenses incurred by Carpeso after his discharge from the hospital — P410.80 for medicine and P906.00 for doctor’s fees. Petitioner-corporation declined to pay the additional compensation, including the medical expenses, and on January 4, 1956, the Commissioner issued the order now sought to be annulled (Annex D), ordering the petitioner to make payment as indicated in his previous letter of March 11, 1955, said payment not to exceed P4,000.00 less any amount already paid, as follows:

“In view of the foregoing circumstances and pursuant to the provisions of Sections 13, 14, 18 (last paragraph) and 55 of the Act, the respondent is hereby ordered to pay the followings: “

1. To the claimant, thru this Commission, the amount of P1,316.80 as reimbursement of medical expenses incurred in connection with his injury;
2. To the claimant, thru this Commission, the additional compensation of P77.26 (P2,682.00 due him from February 25, 1953 to January 8, 1956 at the rate of P18.00 a week, less P2,604.74 already paid) and a weekly compensation of P18.00 thereafter until his total disability for labor ceases, but not exceeding P4,000.00; and
3. To this Commission, the partial fee of P27.00 for payment into the Workmen’s Compensation Fund.”

A motion for reconsideration filed by petitioner (Annex E) was by resolution of May 2, 1956 denied by the Commissioner (Annex F).

While the Commissioner claims that the petitioner was given an opportunity to discuss, even to refute the claim of Carpeso for additional compensation, petitioner equally insists that he

was never given an opportunity to controvert the same and to refute the claim of Carpeso and the medical report based on it about his total disability. Petitioner says that assuming that there were such disability, which it does not admit, the same was brought upon himself by his notorious negligence in escaping twice from the Santo Tomas University Hospital, thereby aggravating his ailment.

Respondent Commissioner Invokes the provisions of Section 18 of the Workmen's Compensation Act as amended by Section 13 of Republic Act 772, which in part reads as follows ?

“Sec. 18. \*\*\* Provided, however, that after the payment has been made for the period specified by the act in each case, the Workmen's Compensation Commissioner may from time to time cause the examination of the condition of the disabled laborer, with a view to extending if necessary, the period of compensation which shall not, however, exceed the said amount of four thousand pesos.”

Citing the case of Bachrach Motor Company, Inc., vs. Workmen's Compensation Commission, G. R. No, L-8589, respondent Commissioner maintains that inasmuch as Instead of controverting the right of Carpeso to receive compensation, petitioner paid said compensation from February, 1953, to September 24 1954, the compensability of the case is no longer open to question and there is no necessity for formal trial, and that, as a matter of fact, said petitioner offered to buy off its liability for additional compensation by offering the sum of P1,000.00 to Carpeso, which amount Carpeso refused to accept.

Petitioner corporation counters with the contention that If it made any payment at all, under the letter computation or decision of the Commissioner, dated December 28, 1954, it was with the understanding that the same was a final decision, thereby closing the case, and that thereafter, the Commissioner had no authority and acted without jurisdiction in reopening the case and ordering payment of additional compensation. It cites American authorities to support its contention.

Speaking of this right of the Workmen's Compensation Commissioner to reopen a case already decided by him, it is an innovation Introduced by Republic Act 772, particularly, Section 13 thereof, amending Section 18 (last paragraph) of the original Workmen's Compensation Law, namely, Act No. 3428. Before amendment, the last paragraph of Section

18 read thus;

“The total compensation prescribed in this and the next preceding section and the total compensation prescribed in sections fourteen and fifteen of this Act shall, together, not exceed the sum of three thousand pesos.”

As amended, the said last paragraph now reads as follows :

“The total compensation prescribed in this and the next preceding section and the total compensation prescribed in sections fourteen and fifteen of this Act shall, together, not exceed the sum of four thousand pesos? *Provided, however,* That after the payment has been made the period specified by the Act in each case, the Workmen’s Compensation Commissioner may from time to time cause the examination of the condition of the disabled laborer, with a view to extending, if necessary, the period of compensation which shall not, however, exceed the said amount of four thousand pesos.”

One change introduced is the increase from P3,000.00 to 4,000.00 of the total compensation provided in the original provision. The more important change, however, is that contained in the proviso, which is the last part of the paragraph. This legal provision empowering Workmen’s Compensation Boards or Commissioners to reopen a case is contained in the Workmen’s Compensation acts of many of the States of the American union, including the Territory of Hawaii. The reason for this legal provision is explained by Arthur Larson in his authoritative work entitled the Law of Workmen’s Compensation, Volume 2, page 330, as follows:

“In almost all states, some kind of provision is made for reopening and modifying awards. This provision is a recognition of the obvious fact that, no matter how competent a commission’s diagnosis of claimant’s condition and earning prospects at the time of hearing may be, that condition may later change markedly for the worse, or may improve, or may even clear up altogether. Under the typical award in the form of periodic payments during a specified maximum period or during disability, the objectives of the legislation are best accomplished if the commission can increase, decrease, revive or terminate payments to

correspond to claimant's changed condition. Theoretically, then, commissions ought to exercise perpetual and unlimited jurisdiction to reopen cases as often as necessary to make benefits meet current conditions. But the administrative and practical difficulties of such a course have led to several limitations on the power to reopen and alter awards. The most serious administrative problem lies in the necessity of preserving the full case records of all claimants that have ever received any kind of award, against the possibility of a future reopening. Moreover, any attempt to reopen a case based on an injury ten or fifteen years old must necessarily encounter awkward problems of proof, because of the long delay and the difficulty of determining the relationship between some ancient injury and a present aggravated disability. Another argument is that insurance carriers would never know what kind of future liabilities they might incur, and would have difficulty in computing appropriate reserves."

It will be noticed, however, that while in the several states of the Union, the reopening is intended for the benefit of both employer and employee in the sense that, in case of aggravation or deterioration of the disability of the employee, the period of compensation should be extended up to a certain limit, or in case the condition of the employee improves or the disability disappears altogether, the period of compensation is shortened or compensation is stopped, our law, under Section 18, is a little one-sided and is all for the benefit of the employee, for the reason that as may be gathered from the proviso, the Commissioner may from time to time cause examination of the condition of the disabled laborer, with a view of extending, if necessary, the period of compensation. In this respect, there is room for improvement of the law so as to make it more equitable to both parties, labor and management. Furthermore, while in the several states of the American union, a case is limited anywhere from one year to several years, our law contained in the proviso in question, sets no time limit. The disadvantage of making this period within which the case may be reopened, too long, or as in our law, with no limit at all is touched upon by Larson to the latter part of his commentary, as above-reproduced, namely, that in case such a period is too long, there may be difficulty in completing and preserving the record of the injury, or determining the relationship, if any, between the aggravation or deterioration of the employee's disability and some ancient injury, to say nothing of the fact that insurance companies which are interested in similar cases, by having insured employees of companies against injuries, may find difficulty in adjusting their finances, such as putting up reserve funds to take care of future liabilities.

But there is no question that under Section 18 of the Workmen's Compensation Act as amended, the Commissioner was authorized to reopen the case of Carpeso and to direct that the compensation to him by petitioner be increased or continued. The claim of petitioner that it had not been given an opportunity to traverse the claim that Carpeso's condition had deteriorated, is not supported by the record. We are satisfied that petitioner had been given ample opportunity to do so. As early as March 11, 1955, petitioner was advised of the result of the examination of Carpeso's physical condition. Then petitioner's representative was called twice to a conference, but instead of introducing evidence to refute the claim that Carpeso's condition had changed for the worse, or instead of asking for a medical reexamination of Carpeso, it offered to settle and close the case by the payment of P1,000.00, which was declined by Carpeso. And as to the liability of petitioner for the original injury of Carpeso, it was practically admitted by petitioner not only by its compliance with the terms of the letter computation made by the Commissioner but also by its failure to appeal from the original award.

In view of the foregoing, the petition for *certiorari* is denied, and the order of respondent Commissioners dated January 4, 1956, is affirmed, with the exception of that portion referring to the payment of P27.00 supposed to be for the Workmen's Compensation Fund, which would appear to be based on an error, for the reason that it has already been paid by petitioner, and therefore, should be eliminated from the order. No costs.

*Bengzon, Padilla, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.*