

LOURDES L. FETALVERO, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (PHILIPPINE CONSTABULARY), RESPONDENTS.

G.R. No. L-46151. April 30, 1980

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition for review on certiorari of the decision of the Employees' Compensation Commission which dismissed the Income Benefits Claim filed by Lourdes Laviña Vda. de Fetalvero, on account of the death of her husband F/Sgt. Marcelino Q. Fetalvero.

The deceased soldier entered the service of the Armed Forces of the Philippines on March 19, 1951 and served continuously up to the time of his death on March 17, 1975, from private to first sergeant with a basic monthly salary of P418.72 and monthly allowance of P280.00. His attending physician, Capt. Raymundo A. Duque, diagnosed his illness and cause of death as cardio-pulmonary arrest.

On the basis of the attending physician's certification that the illness of the deceased was directly caused by the employee's duties, petitioner filed the present claim for employee's compensation with the GSIS under the New Labor Code. On June 9, 1976 the GSIS denied the claim on the ground that the deceased's ailment is not an occupational disease or ailment caused by the nature of his employment. This decision was appealed to the Employees' Compensation Commission, which affirmed the decision of the GSIS and dismissed the petitioner's claim.

The facts as found by the Employees' Compensation Commission show that Marcelino Fetalvero was a First Sergeant of the Philippine Constabulary connected with the 2nd Direct Support Company II PCZ, stationed at Camp Vicente Lim, Laguna. He was then in charge of supplies and maintenance of company vehicles. In the early morning of March 17, 1975 he suffered a stroke rendering him unconscious. He was rushed to the camp clinic for emergency treatment and was later transferred to the Army Station Hospital at Camp Eldridge, Los Baños, Laguna, where he died as a result of cardio-pulmonary arrest, CVA, probably cerebral hemorrhage, hypertension.

There is no question that the illness of the deceased Marcelino Fetalvero supervened during his employment, he was then a First Sergeant of the Philippine Constabulary. The cause of his death is admittedly cardio-pulmonary arrest, CVA, or hypertension. The nature of the work of the late Marcelino Fetalvero as in-charge of supplies and maintenance of company vehicles requires that he should report "day and night as per military order". His illness therefore must have been directly caused by the nature of his work.

In the case of G.R. No. L-45846, *Mitra vs. ECC, et al.*, promulgated February 21, 1980, this Court, speaking through Justice Fernandez, held:

"The argument that cardio-respiratory arrest due to hemorrhagic pancreatitis is not one of those listed by the Employees' Compensation Commission or the Ministry of Labor as an occupational disease is of no moment.

Time and again the Commission or the Ministry of Labor includes in the list more occupational diseases. Such an arbitrary exercise of authority cannot militate against the fact that cardio-vascular arrest may be caused by tension arising from the performance of the duty of Remigio D. Mitra as administrative supervisor. He was performing his duty when at about 10:00 o'clock in the morning of February 26, 1976, he perspired profusely becoming pallid and went to the comfort room where he collapsed and was found later by his co-employees. Within the hour he was rushed to the Nichols Air Base Hospital where he died at about 10:15 o'clock in the morning on the said date."

In another case, G.R. No. L-43127, *Macatol vs. WCC, et al.*, February 28, 1980, this Court ruled that:

"Inasmuch as the petitioner had been totally disabled by his illness of CVA Cerebral Hemorrhage which supervened during his employment with the Bureau of Public Schools, he is entitled to the maximum compensation x x x x allowed by the Workmen's Compensation Act."

WHEREFORE, THE DECISION OF THE EMPLOYEES' COMPENSATION COMMISSION APPEALED FROM IS HEREBY SET ASIDE AND THE GOVERNMENT SERVICE INSURANCE SYSTEM IS ORDERED TO PAY THE PETITIONER

- THE AMOUNT OF TWELVE THOUSAND (P12,000.00) PESOS AS DEATH COMPENSATION;
- THE SUM OF ONE THOUSAND (P1,000.00) PESOS AS BURIAL EXPENSES; AND
- THE AMOUNT OF ONE THOUSAND TWO HUNDRED (P1,200.00) PESOS AS ATTORNEY'S FEES.

SO ORDERED.

Fernandez, Guerrero, and De Castro, JJ., concur.

Teehankee, J., (Chairman), concurs in the result.

Melencio-Herrera, J., see dissents.

DISSENTING OPINIONMELENCIO-HERRERA, J.:

Consistent with my dissent in the case of *Estrella Mitra vs. The Employees' Compensation Commission, et al.* (G.R. No. L--45846, February 21, 1980), it is my view that the present claim is not compensable.

The cause of death of petitioner's husband was cardiac arrest. Under Annex "A" of the Amended Rules on Employees' Compensation, it is not an occupational disease. Neither has petitioner presented proof that the risk of "contracting" cardiac arrest (assuming it could be "contracted") was increased by the working conditions incident to her husband's employment as First Sergeant of the Philip-pine Constabulary, in charge of supplies and maintenance of vehicles of the 2nd Direct Support Company II PCZ. Petitioner's mere allegation that the nature of the deceased's work, which required him to report "day and night per military order", does not palpably show a direct causal link between the illness and his employment.

Decisions of the Employees' Compensation Commission, the administrative agency handling compensation cases, are entitled to great respect, and should be final absent a palpable abuse of discretion. As a regulatory agency, it is expected to have acquired expertise in the ascertainment of the decisive facts, its jurisdiction being confined to specific matters (*Begosa vs. Chairman, PVA*, 32 SCRA 466 [1970]). Until cardiac arrest is included in the list of occupational diseases, I believe that we should not substitute our judgment for that of respondent Commission which acted within the purview of its jurisdiction. The scope of judicial review over administrative decisions is confined to instances where there has been proof of grave abuse of discretion, fraud, or error of law.

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