

ESPERANZA VALENCIA, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND THE CITY OF MANILA, RESPONDENTS.

G.R. No. L-41554. July 30, 1976

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

Petitioner Esperanza Valencia seeks a review of the decision of respondent Workmen's Compensation Commission dated September 11, 1975 in R04-WC Case No. 137823-144-III which dismissed her claim for disability compensation arising from pulmonary tuberculosis incurred during her employment with respondent City of Manila.[1]

The pertinent facts of this case are poignantly simple, to wit:

Petitioner was employed in the City of Manila as a casual laborer, more particularly as a street sweeper or "caminero", having performed that work since 1966 (the record does not show the particular month when she commenced working) until July 31, 1971, when her services were terminated pursuant to a memorandum issued by Mr. Rafael Dungo, Assistant Secretary to the Mayor, the first paragraph of which read:

"In the interest of the public service and upon the advice of the examining physician that you would take a rest in order that you may avoid ill-health, you are hereby notified that your temporary appointment in the Department of Public Services which terminates at the close of office hours on 31 July 1971 will not be re-newed." (p. 18, rollo, *Italics Ours*)

Having been exposed for a period of almost five years to dust, dirt, the heat of the sun, and inclement weather, petitioner's work took its toll when she developed tuberculosis in the course of her employment by reason of which she received the above-quoted memorandum advising her of the termination of her service. Uninformed or ignorant as petitioner was of her rights under the law, it was not until after the lapse of a year and a half from her separation from the service, more particularly on January 26, 1973, that she filed with the Regional Office No. IV, Department of Labor, her notice of sickness and claim for compensation against respondent City of Manila.[2]

Petitioner's claim was contested and after a hearing on the merits the acting referee, Mr. Benjamin R. Perez, rendered a decision finding the claim meritorious and awarding to petitioner the following amounts: P4,455.56 for disability benefits, P222.76, attorney's fee, and P45.00 as Commission's fee.[3]

The City of Manila elevated the case to the Workmen's Compensation Commission and the latter in its decision of September 11, 1975, reversed the award of the referee and dismissed the claim "for failure of the claimant to substantiate her claim as to warrant an award of disability compensation." [4]

The Commission held that there was

"no evidence to show that prior to and at the time claimant was terminated of her services, she was suffering

from a disabling ailment of PTB, while claimant was treated by Dr. Evangelina Gonzales since August 3, 1971 up to February 15, 1972 (medical certificate dated January 17, 1972 and physician's report dated January 17, 1973 issued by said doctor), it was clearly shown that her sickness was only 'PTB Minimal Probably Inactive (January 10, 1972). 'indicating that if claimant was actually afflicted with PTB it was after her termination from employment and that as of the medical findings on January 10, 1972, her PTB was merely minimal and inactive.' (pp. 18-19, rollo)

The above-quoted conclusion of respondent commission from the evidence adduced is patently erroneous.

Petitioner showed or established that after she stopped working on July 31, 1971, she was treated by Dr. Evangelina Gonzales from August 3, 1971 up to February 15, 1972 as per the medical certificate issued to her dated January 17, 1972, and according to the physician's report it was clearly shown that she was sick of 'minimal pulmonary tuberculosis.' It is clear therefore that when Dr. Gonzales examined petitioner herein on August 3, 1971, just three days after she stopped working, she was already found suffering from tuberculosis although in its minimal stage. Obviously, petitioner's ailment could not just have appeared simply on the third day of her separation.

Tuberculosis is a chronic infection caused in humans' by bacteria and initiated almost always by inhalation of infectious bacteria.[5] Medical authorities are agreed that the incubation period of tuberculosis is from two (2) to ten (10) weeks from the time of infection.[6] Tuberculosis in its minimal stage indicates a slight lesion without demonstrable cavitation, confined to a small area of one or both lungs, the total extent of which does not exceed the equivalent of the volume of lung tissue which lies above the 2nd chon-drosternal junctions and the spine of the 4th or body of the 5th thoracic vertebra on one side.[7] As stated in *Batangas Transportation Co. vs. Perez & WCC*, L-19522, August 31, 1964, tuberculosis is not an instantaneous disease; it is an imperceptible germ disease that feeds on the lungs whose presence in the body cannot be easily discerned and its incipient stage may not be readily dis-covered.[8]

The nature of the employment of petitioner which exposed her to dirt in the streets, "excessive dust", and "sudden changes of temperature" — contributed to her contracting the disease, the eventual weakening of her physical condition, and lowering of her resistance to tuber-culosis infection. Manual labor done for long periods in dustladen atmosphere tends to produce fibrosis of the lungs which in turn weakens resistance to any latent tuberculosis infection and reactivates that infection, and this justifies compensation.[9]

More than anything else, the memorandum issued by the Office of the City Mayor informing petitioner herein that upon advice of the examining physician she should take a rest to avoid ill-health is the best corroborative evidence on the state of health of petitioner at the time she was separated from the service on July 31, 1971. There is no truth to the allegation of respondent City of Manila that petitioner was separated from the service because the office wherein she was assigned was abolished. That statement is belied by the aforementioned memorandum. If it was the intention of respondent City of Manila to terminate peti-tioner's employment in order to comply with the retrench-ment policy of the City, it could have merely issued the paper of separation stating in plain and clear language that such was the cause of the termination of the employment which after all was a valid and legal ground considering that petitioner was a casual laborer. Respondent's failure to do so strongly militates against its assertion.

The contention of respondent that claimant's petition should not be allowed to prosper on the ground that she has not proven by substantial and convincing evidence that her illness took place while in the service of respondent is without merit.

Under Section 44 of the Workmen's Compensation Act (Act No. 3428, as amended), it shall be presumed in the

absence of substantial evidence to the contrary, that the claim comes within the provisions or the Act.[10] This presumption places on the employer the burden of proving that the employee's injury or sickness was not, and could not be, caused or aggravated by the nature of his work.[11]

In *Justiniano vs. Workmen's Compensation Commission, et al.*, the Court[12] stated that "once the claimant has established that the illness, upon which the claim is premised, supervened during the time of his employment, there is a rebuttable presumption that the illness arose out of, or at least was aggravated by, his employment. Thus, the claimant is relieved from the burden of proving causation once the illness or injury is shown to have arisen in the course of the employment." (Italics supplied)

The Workmen's Compensation Act which was the law in force at the time petitioner's illness occurred is a piece of social legislation conceived under the "doctrine of man's humanity to man,"[13] its principal intent being to secure the working man and his dependents against becoming objects of charity by reason of an accident caused by or incidental to the employment. Under the law's protective mantle comes the situation of petitioner herein who, notwithstanding her frail nature by reason of her sex, under-went manual labor, swept the streets of the City of Manila and in the process inhaled infectious bacteria from the City's dirt and garbage, to the detriment of her health. A denial of compensation for petitioner's resulting disability would be in gross violation of the spirit and the text of the law which says:

"When an employee suffers personal injury from any accident arising out of and in the course of his employment, or contracts tuberculosis or other illness directly caused by such employment, or either aggravated by or the result of the nature of such employment, his employer shall pay compensation in the sums and to the persons hereinafter specified. * * *" (Sec. 2, Act 3428 as amended by Act No. 3812 and Rep. Act No. 772. (Italics supplied)

WHEREFORE , the decision under review is set aside and the decision rendered by the Acting Referee on August 13, 1974, is hereby affirmed. With costs against respondent City of Manila. SO ORDERED.

Teehankee, (Chairman), Makasiar, Aquino, and Martin, JJ., concur.

[1] In the Court's Resolution of Nov. 3, 1975, respondents were required to comment on the Petition (p. 22, rollo) and upon receipt thereof, the Court in its Resolution of November 24, 1975 resolved to treat the Petition for Review as a special civil action, to consider the comment as Answer, and to require the parties to submit simultaneous memoranda (p. 26, rollo).

[2] A claim for compensation under the Workmen's Compensation Act as amended is a liability created by statute which prescribes in ten years pursuant to Article 1144 (2) of the Civil Code. See *Manila Railroad Company vs. Perez and WCC*, L-20171 June 29, 1965, 14 SCRA 504; *National Development Company vs. Rongavilla and WCC*, L-21963, Aug. 30, 1967, 20 SCRA 1172; *Central Azucarera Don Pedro vs. WCC and P. Villanueva*, L.24987 July 31, 1968, 24 SCRA 484.

[3] pp. 16-17, rollo.

[4] pp. 18-20, *ibid*.

[5] Cecil-Loeb Textbook of Medicine, 1971 Asian Edition, p. 609.

[6] Handbook of Infectious Diseases, 1971, Philippine Pediatric Society, edited by Felix A. Estrada, M. D., p. 69.

[7] Medical Handbook on Workmen's Compensation and Principles of Disability Evaluation by Fidel M. Guilatco, M.D., D.I.H., 1967 edition, p. 234.

[8] 11 SCRA 793, 797.

[9] Grain Handling Co., Inc. vs. Sweeney 102 F. (2d) 464, Jour. A.M.A., Vol. 115, No. 23, Dec. 7, 1940, p. 2022 cited in Medical Handbook, supra; Blue Bar Coconut Co. vs. Boo, 95 Phil. 867; Blue Bar Coconut Co. vs. Reyes, 95 Phil. 959; Koppel (Phil.), Inc. vs. Javellana, L-19926, April 30, 1965, 13 SCRA 673; Batangas Transportation Company vs. Perez, L-19522, August 31, 1964, 11 SCRA 793; Manila Railroad Company vs. Vda. de Chavez, L-20103, Sept. 30, 1964, 12 SCRA 142; National Development Company vs. Workmen's Compensation Commission, et al., L-21724, April 27, 1967, 19 SCRA 861; Caltex Inc. vs. Derpo and WCC, L-19698, January 31, 1966, 16 SCRA 77; Manila Railroad Company vs. Perez, and WCC, L-20171, June 29, 1965, 14 SCRA 504.

[10] Sec. 44. Presumption. — In any proceeding for the enforcement of the claim for compensation under the Act, it shall be presumed in the absence of substantial evidence to the contrary —

1. That the claim comes within the provisions of this Act;
2. That sufficient notice thereof was given;
3. That the injury was not occasioned by the wilful intention of the injured employee to bring about the injury or death of himself or of another;
4. That the injury did not result solely from the intoxication of the injured employee while on duty; and
5. That the contents of verified medical and surgical reports introduced in evidence by claimants for compensation are correct. (RA No. 772)

[11] A. D. Santos, Inc. vs. De Sapon, et al., 16 SCRA 792, citing Naira vs. W.C.C., G.R. No. L-18066, Oct. 30, 1962, 6 SCRA 361

[12] G.R. No. L-22774, November 21, 1966, 18 SCRA 677; see also Agustin vs. W.C.C., 12 SCRA 55; Central Azucarera Don Pedro vs. Ago & W.C.C., 12 SCRA 178; Vda. de Acosta vs. W.C.C. 12 SCRA 168; National Development Co. vs. Ayson & W.C.C., 20 SCRA 192.

[13] Mobile & O.R. Co. vs. Industrial Commission of Illinois, 28 F. (2d) 228, 229.

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