

CONSOLACION DIMAANO, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND THE REPUBLIC OF THE PHILIPPINES (BUREAU OF PUBLIC SCHOOLS), RESPONDENTS.

G.R. No. L-43553. August 31, 1977

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition for review of the decision dated January 7, 1976 of the Workmen's Compensation Commission in RO6-WCC Case No. 129464, affirming the order dated November 10, 1975 of the Acting Referee, Estratonico S. Añano of the Workmen's Compensation Unit, Naga City, dismissing the claim of claimant Consolacion Dimaano for lack of merit.

Petitioner Consolacion Dimaano was a former classroom teacher of the Bureau of Public Schools assigned to barrios in Calabanga, Camarines Sur, with a monthly salary of three hundred forty nine (P349.00) pesos. She alleged that while employed as such public school teacher, she contracted an ailment diagnosed as chronic rheumatic arthritis with sub-acute exacerbation, hypertension, supposedly caused by metabolic mental stress due to the nature of her employment or aggravated thereby, and on account of which, she was allegedly forced to retire from the government service in 1974 at the age of 64 (Notice of Injury or Sickness and Claim for Compensation dated March 20, 1975, p. 78, rollo). Dr. Pablo B. Tordilla of Calabanga, Camarines Sur, testified on petitioner's aforesaid alleged illness.

On March 20, 1975, petitioner filed a notice of injury or sickness and claim for compensation with Regional Office No. 6 (later changed to Regional Office No. 5) of the Workmen's Compensation Unit, Department of Labor, Naga City, docketed as R06-WC Case No. 129464.

On November 10, 1975, Acting Referee Estratonico S. Añano of the Compensation Task Force at said Regional Office issued an order dismissing petitioner's claim for lack of merit. Petitioner filed a motion for reconsideration of said order, which motion was denied by the said acting referee on December 10, 1975. Thereupon, the case was elevated to the Workmen's Compensation Commission, Quezon City, which affirmed the order of dismissal earlier issued by Regional Office No. 5.

From the affirmation of the order of dismissal by the Workmen's Compensation Commission, petitioner filed with this Court the instant petition for review. The grounds relied upon by the petitioner are as follows:

"FIRST, THE WORKMEN'S COMPENSATION COMMISSION EN BANC ERRED IN FAILING TO CONSIDER THE ACCIDENT THAT RESULTED IN THE AMPUTATION OF CLAIMANT'S LEFT MIDDLE FINGER DURING EMPLOYMENT WITH RESPONDENT.

SECOND, THE WORKMEN'S COMPENSATION COMMISSION EN BANC ERRED IN DISMISSING THE CASE SOLELY FOR THE REASON THAT CHRONIC RHEUMATIC ARTHRITIS WITH SUB-ACUTE EXACERBATION, HYPERTENSION, ARE NOT CAUSED BY THE NATURE OF CLAIMANT'S EMPLOYMENT"(p. 2, Petition).

Apropos the first assigned error, the Workmen's Compensation Commission did not err in not taking into account the supposed accident which allegedly resulted in the amputation of petitioner's left middle finger, since the supposed accident, which allegedly took place in 1969 was not even mentioned by the petitioner in her notice of injury or sickness and claim for compensation filed with the Workmen's Compensation Unit, Regional Office No. 5, Naga City on March 20, 1975.

To be sure, WE are quoting the following entry in petitioner's aforesaid notice of injury or sickness and claim for compensation:

"13. Nature and cause of injury/illness: Chronic Rheumatic Arthritis with Sub-Acute exacerbations, hypertension caused by metabolic mental stress.

"x x x x x.

(sgd.) [Mrs.] Consolacion S. Dimaano

Calabanga, Cam. Sur"

As aptly observed by the Solicitor General, "considering, then, that petitioner herself did not mention the alleged accident in her Notice of Injury or Sickness as one of the basis for her claim for disability compensation against the government, the Workmen's Compensation Commission rightly refused to consider said accident in its decision of January 7, 1976. 'It is a well-known principle in procedure that courts have no jurisdiction or power to decide a question not in issue' (Lim Toco vs. Go Fay, 80 Phil. 166; Cebu Portland Cement Co. vs. Tereso Dumon, L-26738, Nov. 29, 1974, 61 SCRA 218, 219). In a Workmen's Compensation case, "the notice of injury or sickness and claim for compensation and the employer's report are the two main pleadings x x x, which correspond to the complaint and answer in an ordinary civil case" (Marcela Dionisio vs. Rosario Jimenez, et al., L-7764, July 1, 1954, 95 Phil. 595).

It is also clear in the records that even the order of November 10, 1975 of the Acting Referee of the Workmen's Compensation Unit, who originally tried this case, did not at all mention the alleged incident which caused the amputation of petitioner's left middle finger. The fact that the aforesaid order did not make mention of the supposed accident shows that petitioner really failed to raise the same in her claim. Having thus failed to raise the issue in Regional Office No. 5 where her claim was originally heard, she cannot raise the same now for the first time on appeal to the Workmen's Compensation Commission.

With respect, however, to the aforementioned second assigned error, We disagree with the Workmen's Compensation Commission in dismissing the petition by merely stating that "chronic rheumatic arthritis with sub-acute exacerbation, hypertension, is not caused by the nature of claimant's employment." It has been shown with great preponderance of evidence that during her tenure of employment as a classroom public school teacher at several barrio schools in Calabanga, Camarines Sur, she was afflicted with chronic rheumatic arthritis with sub-acute exacerbation, hypertension, caused by metabolic mental stress, suffering the disease since 1969 (p. 4 of Affidavit, p. 23, rec.). These findings are amply supported with the physician's medical report of sickness or accident issued by her physician, Dr. Pablo B. Tordilla of Calabanga, Camarines Sur (pp. 79 & 80, rec.) as well as the verified medical certificate issued by the same physician dated 23 September 1975 (Annex "1", p. 72, rec.). Indeed, herein claimant, by the nature and location of her employment had to exert extreme efforts in hiking on long, hilly and rough trails, crossing streams and/or rivers, exposed to the rain and sun in going to and from her barrio stations. She had to prepare her lesson plans, teach her pupils, attend to extra-curricular school activities, supervise gardening, serve as election inspector or poll clerk, meet her social obligations and engage in other strenuous activities, which aggravated her physical suffering. Rheumatic arthritis with sub-acute exacerbation and hypertension is among the diseases which were held to be "service-connected". Even assuming, without

admitting, that such an illness was not the immediate and direct result of the nature of her employment as grade school teacher, it is very evident that such sickness supervened or was at least aggravated by the very nature of her work, hence, must be presumed to be compensable under the law. It is so clearly and sufficiently established in this case that petitioner's sickness was acquired and aggravated during and in the course of her employment in the Bureau of Public Schools with station in the various barrio schools at Calabanga, Camarines Sur.

In the recent case of Valeriana A. Morales, petitioner, vs. Workmen's Compensation Commission (Bureau of Public Schools), respondent [G.R. No. L-43856, March 31, 1977], this Court ruled:

"Aside from actual proof of disability arising from her employment, the presumption of compensability as long as the ailment supervenes during employment, remains un rebutted. x x x."

Likewise, in Bihag, et al. vs. WCC and Republic of the Philippines (Bureau of Public Schools) [G.R. No. L-43162, February 28, 1977], it was held:

"x x x x At the very least, therefore, the nature and condition of her work contributed to and aggravated in a large measure her ailment and entitled her to compensation under the Workmen's Compensation Act. Thus, Lilia D. Simon versus Republic of the Philippines (G.R. No. L-42510, June 30, 1916), citing a very recent case penned by Mr. Justice Ruperto G. Martin, held:

'x x x assuming the employee's illness may be ruled out as an occupational disease or that the causal link between the nature of his employment and his ailment, has been insufficiently shown, nevertheless, it is to be presumed as mandated by Section 44 of the Workmen's Compensation Act that the employee's illness which supervened during his employment either arose out of, or at least aggravated by said employment and with this presumption, the burden of proof shifts to the employer and the employee is relieved of the burden to show causation. In the case before us, the respondent has failed to discharge that burden. The mere opinion of the doctor who treated the petitioner that 'dermoid cyst' is congenital, although he admitted that it may also be aggravated by her employment, cannot prevail over the presumption of compensability.'"

Claimant retired in 1974 at the age of 64. The compulsory age of retirement is 65. Hence, she voluntarily retired by reason of her physical disability; because under Memorandum Circular No. 133 issued by the Office of the President, all applications for optional retirement shall be recommended for approval only when "the employee applicant is below 65 years of age and is physically incapacitated to render further efficient service." It is thus patent that she retired by reason of her ailment.

WHEREFORE, THE DECISION APPEALED FROM IS HEREBY REVERSED AND THE RESPONDENT BUREAU OF PUBLIC SCHOOLS IS HEREBY DIRECTED TO PAY

A. THE CLAIMANT CONSOLACION DIMAANO

1. THE SUM OF SIX THOUSAND (P6,000.00) PESOS AS DISABILITY COMPENSATION; AND
2. THE AMOUNT OF ONE THOUSAND SEVENTY-NINE (P1,079.00) PESOS AS REIMBURSEMENT OF CLAIMANT'S MEDICAL FEE, PER MEDICAL CERTIFICATE (ANNEX "I", REC.);

B. ATTY. HAIDE B. VISTA-GUMBA, ATTORNEY'S FEES EQUIVALENT TO TEN PERCENT (10%) OF THE AMOUNT RECOVERABLE; AND

C. THE SUM OF SIXTY-ONE (P61.00) PESOS TO THE WORKMEN'S COMPENSATION COMMISSION AS ADMINISTRATIVE FEE.

NO COSTS.

SO ORDERED.

Teehankee, (Chairman), Muñoz Palma, Martin, Fernandez, and Guerrero, JJ., concur.

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