

ILUMINADO G. SOLITE, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND REPUBLIC OF THE PHILIPPINES (BUREAU OF TELECOMMUNICATIONS), RESPONDENTS.

G.R. No. L-43404. February 28, 1977

Ponente: MARTIN, J.

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MARTIN, J.:

Petition for review[1] of the decision of the Workmen's Compensation Commission denying the petitioner's claim for compensation benefits under the provisions of the Workmen's Compensation Act.

Petitioner was employed as a Radio Operator of the Bureau of Telecommunications. In 1969, he was found sick by Dr. Juan F. Pastor, his examining physician, of "rheumatoid arthritis with accompanying Neuritis, Anemia, secondary." [2] From October 15, 1974 to December 15, 1974, he applied for sick leave, as shown by a medical certificate issued by the Philippine Civil Service signed by Dr. Juan F. Pastor. [3] On December 31, 1974 he finally retired from the service at the age of 57, after almost 22 years of employment.

On January 29, 1975, petitioner filed a claim for disability compensation with Regional Office No. 4, Workmen's Compensation, Manila. Respondent Republic failed to controvert. On September 29, 1975, the Acting Referee awarded disability benefits to petitioner in the sum of P3,598.82 as authorized by Sections 14 and 18 of Act 3428, as amended; P179.79 as attorney's fees as authorized by Section 31 and the sum of P36.00 as administrative fees required by Section 55 of the Act. A copy of the decision was received by the Office of the Solicitor General on October 17, 1975. On November 19, 1975, the latter filed with the Workmen's Compensation Commission a petition to elevate records of the case for relief from judgment alleging that "due to the volume and pressure of work" in the preparation of government briefs to be filed before the Supreme Court and the Court of Appeals and because he had to attend to hearing of cases, "the decision in question was not acted upon immediately or within the period required for filing a Motion for Reconsideration." On January 6, 1976, respondent Commission ordered the elevation of the records and on January 28, 1976 rendered a decision disallowing the claim of petitioner for lack of merit. Hence, the present petition.

Petitioner argues that respondent Commission erred in granting respondent Republic's petition to elevate records despite the absence of any justifiable ground and further compounded its error by deciding the case on the merits notwithstanding the finality of the Acting Referee's decision dated September 29, 1975.

We sustain petitioner's argument. Although the Office of the Solicitor General was not served with a notice of the injury or illness and/or claim for compensation, as required by Circular No. 69 of the General Auditing Office [4] yet the records show that there was notice of the injury or illness of the petitioner on respondent Republic. While it is true that General Auditing Office Circular No. 69, dated October 6, 1959, requires that claims against the Government should be transmitted to the Solicitor General in his capacity as counsel for the National Government, there is, however, Memorandum Circular No. 210, issued by the Office of the President, which provides, among others:

"In order to properly safeguard the interests and preserve the rights of the Government as an employer under the Workmen's Compensation Act, the following rules governing controversion are, therefore, hereby promulgated:

x x x x x

(2) The duty to submit the notice of controversion devolves upon the head of the office or agency concerned. In cases where there are regional offices or branches, notice of controversion shall be made by the head of office thereof, who shall at the same time furnish a copy of the same to the central office. Such notice of controversion shall be accomplished in the "Employees Report of Accident or Sickness," form prescribed by the Bureau of Workmen's Compensation which may xxxx".

If under the foregoing rule regarding the filing of the notice of controversion to the claim of petitioner, the duty to submit the notice of controversion devolves upon the heads of department, bureaus or offices concerned, then by the force of logic, the notice and claim of illness or injury should be served upon him also. It is when the bureau or office decides to controvert the claim that the report or answer with controversion must go through the Office of the Solicitor General so that the latter can properly represent it in the case. Where, however, the employing office decides not to controvert the claim, there will be no need to course the claim to the Solicitor General. The standing practice would seem to be that the Solicitor General upon receipt of the notice and claim for compensation, merely transmits the same for comment to the bureau or office concerned, at the same time registering with the Labor Regional Office concerned its general controversion without any actual knowledge of the facts and circumstances surrounding the case. This kind of controversion is not based on the facts of which the Solicitor General, has knowledge and therefore void or invalid for being hearsay.[5] It is to be noted that the Workmen's Compensation Commission issued a circular on January 22, 1973 which provides that "In all claims for compensation against the Republic of the Philippines, the Chief of the Workmen's Compensation Section or Unit shall see to it that a copy of the notice and claim for compensation is transmitted to the Office of the Solicitor General in its capacity as counsel for the National Government even if the claim is uncontroverted. Violation of this mandatory requirement may subject the officer to administrative action as hinted in the case of Republic of the Philippines (Department of Justice vs. WCC & Cleofe R. Azaña, G.R. No. 29019, May 18, 1972). It can be readily seen that said circular merely requires that a copy be sent to the Solicitor General. It is doubted whether the failure on the part of the Chief of the Regional Office to comply with said requirement will render the decision of the Regional Office invalid. At most it will expose the head of the office to administrative action but cannot nullify the decision of the Regional Office. To hold that failure to send a copy of the notice of the claim of illness or injury to the Solicitor General will render the decision of the Regional Office null and void, will place the laborer at a disadvantage contrary to the avowed objectives of Act 3428, as amended. As held in Republic (Department of Justice) vs. WCC & Azaña, disregard by the Officer concerned of the provisions of law govern-ing the transmittal of claims against the Government should not prejudice the claimant worker or employee, who has no control over the said official, and whom the Workmen's Compensation Act so clearly aims to protect. The Republic's remedy is to proceed administratively against the officer concerned for violation of the regulations involved.

Respondent Republic anchors its petition for relief from judgment on excusable negligence. As can be seen from the Rules of the Workmen's Compensation Commission[6] and the Rules of Court[7] relief from judgment is a remedy available only in exceptional cases and only in case there is no available remedy. Where there is another remedy at law, it should not be allowed to be used. The relief is not regarded with favor and judgment should not be avoided where the complaining party has, or by exercising proper diligence would have had, an adequate remedy at law, or by proceeding in the original action, by motion, petition, or the like, to open vacate, modify, or otherwise obtain relief against the judgment. Respondent Republic's alleged "volume and pressure of work" does

not appear to Us as an excusable negligence. It could well have asked for the extension of time to file a motion for reconsideration or a petition for review by filing a proper motion to that effect, instead of letting the reglementary period lapse within its own good time. We cannot now sanction such a procedural lapse, even if the party involved is the Government itself. Respondent Republic must have to pay the price for its non-vigilance. Not having controverted the claim within the prescribed period, it has waived all non-jurisdictional defenses[8] and the presumption of compensability remains in petitioner's favor, his illness having arisen in the course of the employment.[9] Besides, it is because of petitioner's weakened bodily condition and not because of his old age or of his having served the required number of years of service that he was forced to retire. This Court had occasion to rule[10] that when an employee is forced to retire by reason of his ailments which he contracted during his employment, disabling him from pursuing his job, he is entitled to compensation benefits for said illness.

IN VIEW OF THE FOREGOING, the decision of respondent Commission is hereby reversed and set aside and another one rendered ordering respondent Republic (Bureau of Telecommunications) to pay the petitioner:

- (1) The sum of P3,598.82 under Sections 14 and 18 of the Act;
- (2) The sum of P359.88 as attorney's fees under Section 31;
- (3) The sum of P61.00 as administrative decision fees under Section 55 of the Act.

Respondent Republic (Bureau of Telecommunications) is further required to reimburse the petitioner of his medical expenses supported by receipts of payment.

Without pronouncement as to costs.

SO ORDERED.

Teehankee, Makasiar, Muñoz Palma, and Concepcion, Jr., JJ., concur.

[1] Treated as a Special Civil Action by Court Resolution dated August 9, 1976.

[2] Annex "A".

[3] See Annex "B" (Decision of the Acting Referee.)

[4] Transmittal of Claims against the Government. Claims against the Republic of the Philippines should be transmitted to the Solicitor General in his capacity as counsel for the National Government and a copy thereof to the Bureau or Office where the laborer was working.

[5] Republic vs. Bautista, et al., L-22650, April 28, 1967.

[6] Section 1. Petition to Elevate Records for Relief from Judgment. - When a decision, award, or order on the merit has been rendered or issued by the Chief of the Unit or Hearing Officer or Referee in a case, and the aggrieved party thereto by fraud, accident, mistake or excusable negligence has been unjustly de-prived of a hearing therein or has been prevented from taking an appeal, he may file a petition with the Commission praying that the records be elevated to said Commission for review and the questioned decision, award, or order be set aside". (Rule 22, Rules of the Workmen's Commission)

[7] Section 1. So far as is consistent with these rules and with the promotion of substantial justice and equity, all the general rules of procedure and evidence in the Rules of Court shall be supplementary to these rules. (Rule 28, Rules of the Workmen's Compensation Commission, as amended by R.A. No. 4119).

[8] Manila Railroad Co. vs. WCC, L-21902, August 10, 1967; Blanco vs. WCC, L-21385-86, Aug. 22, 1969; Camotes Shipping Corp. vs. Otadoy, L-27699, Oct. 24, 1970.

[9] Talip vs. WCC, L-42575, May 31, 1976; Simon vs. Rep. (Supreme Court), L-42510, June 30, 1976.

[10] Hernandez vs. WCC, L-20202, May 31, 1965, 14 SCRA 219.

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