

**GENEROSA S. HERNANDEZ, DECEASED, REPRESENTED BY
CONSUELO S. HERNANDEZ, PETITIONER, VS. HONORABLE DEPUTY
MINISTER OF LABOR AMADO G. INCIONG, REPUBLIC OF THE
PHILIPPINES**

G.R. No. L-49093. November 27, 1987

Ponente: FERNAN, J.

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FERNAN, J.:

This is a petition for review of the decision of the Workmen's Compensation Commission dated October 9, 1975 in R04-WC Case No. 14840 entitled, "Generosa S. Hernandez, Claimant, versus Republic of the Philippines and City of Manila [Bureau of Public Schools, Division of City Schools, Manila]"; as well as the Order dated February 6, 1978 of then Secretary of Labor Blas I. Ople and the Orders of then Acting Secretary of Labor Amado G. Inciong dated June 9 and September 13, 1978, denying petitioner's motion for reconsideration.

The facts are undisputed:

Petitioner Generosa S. Hernandez was employed as a classroom teacher since 1946 until 1958 when she was designated head of the Pilipino Department of the Mapa High School, Division of the City Schools, Bureau of Public Schools, Manila, with a total monthly income of P530.00 or P6,600.00 per annum. In January, 1968, she began feeling chest pains, dizziness, easy fatigability and body weakness, diagnosed by her physician as resulting from hypertension and diabetes mellitus. She was advised to undergo medication, which she did.

On March 8, 1970, she suffered a stroke as a consequence of which she was hospitalized at the GSIS General Hospital from March 9 to 20, 1970, under the care of Dr. Joven Cuanang, who diagnosed her illness as cerebro-vascular accident, cerebral thrombosis secondary to essential hypertension and diabetes mellitus. After her discharge from the hospital, she continued physical therapy at the National Orthopedic Hospital from May to November 1970. In the meantime, she resumed work on July 6, 1970. Shortly thereafter, however, she applied for retirement at age 61 for reasons of deteriorating health. She was accordingly paid her retirement benefits.

On August 9, 1971, petitioner filed a claim for disability compensation and medical benefits against the City of Manila. The claim was amended on May 28, 1972 to include the Bureau of Public Schools as respondent.

After hearing on the merits, a decision was rendered on November 19, 1974 by the Hearing Officer Pedro Pelaez granting disability compensation to petitioner in the amount of P6,000.00 under Sections 14 and 18 of the Workmen's Compensation Act based on the rating given her sickness by the Compensation Rating Medical Officer and the sum of P940.07 as reimbursement of medical expenses incurred. The decision was based on a finding that the illness of petitioner "was precipitated or aggravated by the strains, stress and tensions attendant to her multi-ferious [sic] arduous duties and functions", which her employer failed to rebut.[1]

The decision of November 19, 1974 further stated:

"Moreover, the respondents are now estopped from contesting the claim or setting up non-jurisdictional defenses for failure to submit its report and notice of controversion within the time limit provided for in Sections 37 and 45 of the Act, despite actual knowledge and notice of her disabling illness thereby constructively admitted that the claim is compensable." [2]

Ironically, on the same day, November 19, 1974, petitioner died of the ailment complained of.

On appeal by therein respondents Bureau of Public Schools and City of Manila, the Workmen's Compensation Commission reversed on October 9, 1975 the decision of the Hearing Officer and dismissed the case for lack of merit. It stated:

"While it is true that claimant suffered hypertension and diabetes mellitus while still in the employ of respondent, it was shown that except for a brief period of medical treatment from March 9 to 20, 1970 and afterwards she continued to receive medical treatment as an out patient, this did not actually impair her earning capacity as in fact she was able to resume her work on July 6, 1970. When she applied for retirement at the age of 61 years old, she was paid her retirement benefits. As pointed out by respondent, hypertension is only a symptom and in the absence of any complications, it cannot be medically considered as a disabling ailment. It appears that claimant's ailments were brought about by reason of her old age or as part of her aging process and to the extent that this did not actually cause the loss or impairment of her earning capacity as an employee of the respondent until the time she retired from the service, no compensation is due the claimant as a retired employee. What is compensated under the law is the disability for labor by reason of a work-connected injury or illness which causes the employee impairment or loss of earning capacity. In the case at bar, the claimant continued to be employed and entitled to her salary, even while afflicted with the disease aforementioned, until her retirement which accordingly resulted in the severance of employer?employee relationship by operation of law." [3]

Petitioner, substituted by her sister Consuelo S. Hernandez, moved for a reconsideration of the decision of the Commission but was denied the relief sought in the Order of February 6, 1978 of then Secretary of Labor Blas I. Ople on the ground that said decision had long become final.[4] Petitioner's motion for reconsideration of the Order of February 6, 1987 was likewise denied by then Acting Secretary Amado G. Inciong in an order dated June 9, 1978 and in another Order dated September 13, 1978. Hence, this petition.

Proceeding from the established facts that the illness suffered by petitioner was contracted during the course of her employment and that respondents City of Manila and Bureau of Public Schools failed to rebut the presumption of its compensability,[5] the only issues confronting Us are:

1. Whether or not petitioner, having been paid her salary during the period of disability as well as her retirement benefits, was still entitled to disability compensation and reimbursement of medical expenses incurred; and,
2. Whether or not the decision of the Workmen's Compensation Commission dated October 9, 1975 has become final and executory.

The first issue is hardly a novel one. In the case of *Hernandez vs. Workmen's Compensation Commission*, 14 SCRA 219, this Court resolved this question in the affirmative. We ruled therein that an employee forced to ask for retirement ahead of schedule not because of old age but principally because of his weakened bodily condition due to illness contracted in the course of his employment should be given compensation for his inability to work during the remaining days before his scheduled compulsory retirement, aside from the retirement benefits received by him. Likewise, in the case of *Afable vs. Workmen's Compensation Commission, et al.*, 135 SCRA 336, the same conclusion was reached on the basis of the law it-self, thus:

"An affirmative answer is called for. Section 3 of the Workmen's Compensation Act provides:

‘This Act shall also be applicable to all officials, employees and laborers in the service of the National Government and its political subdivisions and instrumentalities; Provided, however, That officials, laborers, and employees insured with the Government Service Insurance System, and their dependents when entitled to the benefits of said insurance system shall, in addition to the same, be entitled to the benefits granted by this Act.’”

In the case at bar, petitioner applied for retirement at age 61, not for reason of old age but because of the stroke she suffered in the course of her employment that left her right arm and hand paralyzed and her right leg and foot with a limp despite physical therapy. Were it not for this disability, she could have continued her employment until she reached the age of compulsory retirement at 65 on June 16, 1974. As her disability caused her loss of earning capacity from July, 1970 until June 16, 1974, she should be compensated therefor in accordance with the schedule provided by law. No disability compensation was due her during the period of hospitalization and recuperation as there was no loss of earning capacity, petitioner having been paid her usual salary during said period.

With respect to the reimbursement of medical expenses, there can be no question of petitioner's entitlement thereto, the provision of law in this regard being explicit and categorical:

"Sec. 13. Services, appliances and supplies.- Immediately after an employee has suffered an injury or contracted sickness and during the subsequent period of disability, the employer or the insurance carrier shall provide the employee with such services, appliances and supplies as the nature of his disability and the process of his recovery may require; and that which will promote his early restoration to the maximum level of his physical capacity.

"The word 'service' used herein shall include medical, surgical, dental, hospital and nursing attendance and treatment as well as the proper fitting and training in the use of appliances and the necessary training for purposes of rehabilitation xxx".

Anent the second issue, the records disclose that a copy of the decision of the Workmen's Compensation Commission dated October 9, 1975 was received by counsel for petitioner Atty. Vicente Manzano only on October 16, 1977. The undated motion for re-consideration filed on October 7, 1977 by counsel for Consuelo Hernandez in substitution of deceased petitioner was therefore seasonable and the conclusion of Secretary of Labor Ople that the decision of October 9, 1975 has long become final and executory, is evidently erroneous.

WHEREFORE, the petition is hereby granted. The decision of the Workmen's Compensation Commission dated October 9, 1975 is reversed and the Orders dated February 6, June 9 and September 13, 1978 are set aside. Respondent Republic of the Philippines is hereby ordered to pay petitioner: [1] disability compensation computed from petitioner's actual retirement date up to her 65th birth anniversary on June 16, 1974 when she should have compulsorily retired, but not exceeding P6,000.00; and, [2] medical expenses of P940.07. Respondent is further ordered to pay the administrative costs.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

[1] p. 13, Rollo

[2] Ibid

[3] p. 19, Rollo

[4] p. 23, Rollo

[5] Decision of the Hearing Officer, p. 13, Rollo

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