

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

G.R. No. L-43617. 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 claim for compensation benefits of petitioner Trinidad Gomez against respondent Bureau of Public Schools.

Petitioner Trinidad Gomez was formerly employed by respondent Bureau of Public Schools as a classroom teacher. She was later promoted to the position of head teacher and then as Principal I, with an annual salary of P5,112.00. On May 23, 1973, petitioner stopped working due to physical disability on account of her illness which was diagnosed by her physician, Dr. Modesto Villarin, Jr. as coronary insufficiency, error of refraction and hypertension. According to her, she felt the first sign of said ailments in 1971 when she started suffering from chest pains, backpains, dizziness and difficulty of breathing. She was advised by her physician to stop working and to have a complete mental and physical rest. Because of her illness, she was constrained to apply for optional retirement which was duly approved by the Government Service Insurance System.

On October 30, 1975 after the hearing of her claim before the Acting Referee of the Workmen's Compensation Section, Regional Office No. 4, a decision was rendered ordering the respondent Bureau of Public Schools to pay petitioner through said office the sum of P6,000.00 as disability compensation benefits and to pay the sum of P61.00 as decision fees pursuant to Section 55 of the Act.

On February 27, 1976, the Office of the Solicitor General filed a Petition for Relief from Judgment on the ground that due to the usual volume and pressure of work in the Office of the Solicitor General and the preparation of several pleadings in other cases, it was not able to file a Motion for Reconsideration of the decision of the Acting Referee in the instant case. In its petition the Office of the Solicitor General prays that an order be issued to elevate in due time to the respondent Commission the records of the case for review and that the decision of October 30, 1975 of the Acting Referee be set aside. The Petition for Relief from Judgment was opposed by the petitioner.

On March 4, 1976, the respondent Commission after review of the records reversed the decision of the Acting Referee and denied the claim of petitioner. In reversing the decision of the Acting Referee, the respondent Commission ruled that according to its findings the alleged illness of the petitioner was not compensable; that petitioner had not been disabled by any illness during her employment but that she voluntarily stopped working on May 23, 1974 because she wanted to avail of the optional retirement from the government service at the age of 63 years old; that her alleged coronary insufficiency, error of refraction and hypertension were not disabling in nature because there is nothing in her service record to show that she applied for sick leaves of absence before her retirement.

In her Petition for Review before this Honorable Court, petitioner raises two (2) important issues:

- (1) That the respondent Commission committed a reversible error in reopening RO-4 WC Case No. 153795 amounting to grave abuse of discretion, and
- (2) That the respondent Commission committed a reversible error amounting to an excess of jurisdiction in not upholding the compensability of petitioner's claim.

From the records it is evident that the respondent received the decision of the Acting Referee on December 8, 1975 but the Office of the Solicitor General filed the Petition for Relief from Judgment of the Acting Referee only on February 27, 1976 or a period of two (2) months and eleven (11) days which undoubtedly is beyond the reglementary period. According to the Office of the Solicitor General it was not able to file the Motion for Reconsideration or Petition for Review of the decision of the Acting Referee dated October 30, 1975 due to volume and pressure of work of the trial attorneys assigned to the case. This is not a valid excuse for not having filed the Petition for Relief from Judgment within the reglementary period. It could have at least filed a motion for postponement to file the corresponding petition. Besides after the Office of the Solicitor General failed to file the Petition for Relief from Judgment within the reglementary period, the decision of the Acting Referee has already become final and executory and the respondent Commission is already divested of its appellate jurisdiction to review the decision of the Acting Referee.

But, even granting for the sake of argument that the respondent Commission has still the power to review the decision of the Acting Referee still we find no merit in the petition. It has been sufficiently established that petitioner was suffering from coronary insufficiency, error of refraction and hypertension which constrained her to apply for optional retirement from the government service as she felt at the time that because of her illness she was no longer fit to render further efficient service with the respondent Bureau of Public Schools and that her illness supervened in the course of her employment. The rule is well settled that once the illness supervened during the course of employment, there exists a rebuttable presumption that the same arose out of or was at least aggravated by such employment and the burden to overthrow said presumption shifts to the employer and the employee is relieved of the burden to show causation.[2] As a matter of fact there is no evidence on record on the part of the respondent to overcome the presumption of compensability of the claim of petitioner. Besides respondent has failed to file an answer or notice of controversion of the claim of petitioner and therefore it is deemed to have forfeited its right to controvert the claim barring all defenses available to it under the Workmen's Compensation Act including the defenses of non-compensability of the illness or of the fact that the claim was not filed within the statutory period.[3] Failure to controvert the claim is fatal to any defense that the employer could interpose and constructively such failure is equivalent to an admission that the claim is compensable.[4]

Much doubt is laid on the state of health of petitioner at the time of her retirement at the age of 63. It is contended by respondent that she has not been disabled by any illness from her employment but that she voluntarily retired from the government service at the age of 63. Pursuant to Memorandum Circular No. 133 issued by the Office of the President "All optional applications for optional retirement under Commonwealth Act No. 180, as amended by Rep. Act No. 1616 and No. 4968, shall not be recommended for approval unless funds are available in the bureau or office concerned for the payment of applicant's retirement gratuity over and above the fund requirements of its programmed project and activities and provided any of the following circumstances or condition are present: (1) xxxx x; (2) The employee-applicant is below 65 years of age and is physically incapacitated to render further efficient service." The fact that the application of petitioner for retirement at the age of 63 was duly approved by the Government Service Insurance System is a clear indication that at the time her application was approved she was below 65 years of age and she was physically incapacitated to render further efficient service.

IN VIEW OF THE FOREGOING, the judgment of the respondent Commission is hereby reversed and set aside

and a new one rendered ordering respondent Republic (Bureau of Public Schools) -

- (1) To pay petitioner the sum of P6,000.00 as disability compensation benefits;
- (2) To reimburse petitioner of her medical and hospital expenses which are supported by receipts of payment;
- (3) To pay petitioner's lawyer the amount of P600.00 as attorney's fees; and
- (4) To pay the amount of P61.00 as administrative fees.

Without pronouncement as to costs.

SO ORDERED.

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

[1] Treated as Special Civil Action by Resolution of this Court dated June 18, 1976.

[2] Talip vs. Workmen's Compensation Commission 71 SCRA 218.

[3] A. D. Santos Inc., vs. Vda. de Sacon L-2222, April 29, 1966).

[4] Pros. vs. WCC, L-43348, Sept. 29, 1976; Camarillo vs. WCC, L-42831, Oct. 21, 1976.

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