

MARCELINO CALUZA, PETITIONER, VS. THE WORKMEN'S COMPENSATION COMMISSION AND PAMA SECURITY AGENCY, INC., RESPONDENTS.

G.R. No. L-41961. July 21, 1978

Ponente: GUERRERO, J.

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GUERRERO, J.:

Petition for review^[1] of the decision of the Workmen's Compensation Commission in RO4-WC Case No. 159068 which reversed the award made by Acting Referee Benjamin R. Perez of Regional Office No. 4 in favor of petitioner.

From the records, it appears that Marcelino Caluza, petitioner herein, was employed by the respondent Pama Security Agency, Inc. as security guard earning P8.00 a day and working for seven (7) days a week; that on July 5, 1974 he submitted to a physical examination at the Quezon Institute and in the Physician's Report duly accomplished by Dr. Manuel Legaspi of the Quezon Institute, he was found to be suffering from an ailment diagnosed as Bronchiectasis, right; pneumonitis, right; that in the same report, the attending physician stated that he (Caluza) can no longer work "as he bleeds profusely"; and that on July 29, 1974, claimant stopped working and has not returned to work since then. Aside from the Physician's Report, claimant did not submit during the hearing of his claim for disability benefits any X-ray findings to show that he was really afflicted with PTB. On the basis of these facts, and pursuant to Sections 13, 14 and 15 of the Workmen's Compensation Act, the Acting Referee awarded compensation benefits, to wit:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of claimant and against respondent, ordering the latter:

1. To pay claimant, thru this Office the sum of SIX THOUSAND PESOS (P6,000.00) as disability benefits; and
2. To pay direct to this Office the sum of SIXTY-ONE PESOS (P61.00) pursuant to Section 55 of the Act, as amended.

"SO ORDERED.

"Manila, February 19, 1975."

Acting on respondent's petition for review or reconsideration with the Workmen's Compensation Commission, the latter in its decision of October 24, 1975 set aside the referee's award and absolved respondent employer from liability, principally on the ground that the Physician's Report was not supported by X-ray findings or results showing that claimant was really afflicted with PTB beginning on July 29, 1974. From this reversal, Marcelino Caluza filed the instant petition for review alleging that he was in fact subjected to X-ray examinations but the regional office did not previously require him to submit the X-ray film. The X-ray film is now attached to the petition as Annex "F" thereof.

The petition is meritorious. Except for the objection of respondents that the absence of the X-ray results failed to satisfy the requirement of substantial proof to support the claim, there appears no other contravention of the findings that petitioner was afflicted with pulmonary tuberculosis as shown in the Physician's Report of the attending physician from Quezon Institute where claimant was confined and examined.

We have already ruled and settled that in compensation cases such as this, X-ray report is not an indispensable proof to attest the existence of pulmonary tuberculosis. Categorically, this Court held in *Landayan v. WCC and Atlantic Gulf & Pacific Co. of Manila*[2] that "(t)he Physician's Report does not require that an X-ray examination or laboratory findings be attached thereto. Their absence in the Physician's Report will not invalidate the diagnosis appearing therein. Moreover, from the attending Physician's Report, it can be logically inferred that a previous X-ray examination was made, otherwise the physician could not have arrived at his diagnosis of the petitioner's illness x x x."

In *Ybañez vs. WCC*, 77 SCRA 501, this Court, speaking thru Justice Makasiar, held that "(a)n X-ray or some other laboratory report is not an indispensable prerequisite to compensation." In the case at bar, the X-ray film, duly certified, has been submitted as Annex "F" to the petition, which clearly show claimant's affliction. It is immaterial that the X-ray film is presented with the instant petition, the herein proceedings not being strictly bound by the technical rules of evidence which must be liberalized in view of the nature and purpose of the Workmen's Compensation Act which is a social legislation.

Under Section 49 of the Workmen's Compensation Act, a report of the attending examining physician may be received as evidence and used as proof of the fact in dispute.[3]

In *Ybañez v. Workmen's Compensation Commission*,[4] where the claimant was suffering from "bronchiectasis", We ruled that pulmonary tuberculosis is a kind of disease which has been regarded as "service-connected" and more so if the same has been complicated with "bronchiectasis" which has for its symptoms severe chest pains and coughing.

In the case at bar, respondents' technical objection has not overcome the presumption of compensability which remains un rebutted. Respondents failed to dispute the fact that claimant in the course of his employment as security guard contracted an ailment diagnosed as "Bronchiectasis, right; pneumonitis, right", and that said illness was aggravated by the nature of his employment, rendering him incapable of performing his regular duties, and that by reason of such illness, he was confined at the Quezon Institute and his attending physician reported that claimant can no longer work "as he is prone to bleed." Clearly, petitioner's claim for disability benefits has been fully established, not merely by presumption of compensability but by clear and convincing evidence which respondent Agency has failed to overcome by substantial evidence to the contrary.

WHEREFORE, the decision of the Commission is hereby reversed and the decision of the Acting Referee reinstated and modified. Respondent employer is, therefore, ordered -

(1) To pay the claimant the sum of Six Thousand (P6,000.00) pesos as disability benefit;

- (2) To reimburse claimant's medical and hospital expenses duly confirmed by proper receipts;
 - (3) To pay Six Hundred (P600.00) Pesos as attorney's fees; and
 - (4) To pay the Commission an administrative fee of Sixty-One (P61.00) Pesos pursuant to Section 55 of the Act.
- Decision set aside.

SO ORDERED.

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

Makasiar, J., in the result.

[1] Treated as Special Civil Action in the resolution of March 19, 1976.

[2] G.R. No. L-43202, May 31, 1977, 77 SCRA 305; see also: Mercado v. WCC, G.R. No. L-45834, Feb. 28, 1978; Jacob v. WCC, G.R. No. L-43302, August 31, 1976, 72 SCRA 575; Vallo v. WCC and Republic of the Philippines, G.R. No. L-41816, October 29, 1976, 73 SCRA 623.

[3] Vallo, supra; National Development Company v. Raymundo and WCC, G.R. No. L-21724, April 27, 1967, 19 SCRA 864.

[4] G.R. No. L-44123, June 30, 1977, 77 SCRA 501.

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