

NORTHERN LINES, INC., PETITIONER, VS. BENJAMIN SEBASTIAN, IN HIS CAPACITY AS ACTING HEARING OFFICER, ATANACIO A. MARDO, IN HIS CAPACITY AS CHIEF HEARING OFFICER AND ACTING CHIEF...

G.R. No. L-33411. June 29, 1982

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

In this Petition for Certiorari, Prohibition and Mandamus with Preliminary Injunction, the petitioner, Northern Lines, Inc., prays, among others, that judgment be rendered — (1) declaring null and void: (a) the decision of respondent Acting Referee Benjamin Sebastian in R04 Case No. 9552 dated January 12, 1971, which ordered the petitioner to pay compensation benefits to private respondent Eusebia Vda. de Portallo; (b) his order dated February 26, 1971, which denied petitioner's motion for reconsideration; and (c) his order dated March 17, 1971, which denied petitioner's petition for review; (2) prohibiting respondents Chief Hearing Officer Atanacio A. Mardo and the Sheriff of Manila from enforcing the said decision of respondent Sebastian; and (3) compelling respondent Sebastian to elevate the records of the claim to the Workmen's Compensation Commission for review.

Florencio Portallo, a seaman employed by Northern Lines, Inc., died of coronary thrombosis on December 18, 1968. On the next day his wife Eusebia, was informed of Florencio's death thru a telegram sent by Captain Juan B. Lopez of the M/V Don Hernan II where Florencio worked.

On April 28, 1969, Eusebia Vda. de Portallo, for herself and in behalf of her four minor children, filed with Regional Office No. 4 of the Department of Labor a claim for compensation benefits against the Northern Lines, Inc., alleging, among others, that she was married to the late Florencio Portallo; that said Florencio Portallo was employed by Northern Lines, Inc., a shipping company, as a seaman since August 20, 1963, with a monthly salary of P225.00; that said employment lasted up to December 18, 1968, when Florencio Portallo died while in the performance of his duties on board the vessel M/V Don Hernan II; that on December 19, 1968, she was informed of the death of her husband thru a telegram sent by Capt Juan B. Lopez; and, that she and her husband have four minor children.

On May 15, 1969, Northern Lines, Inc. filed its answer admitting that Florencio Portallo was its employee up to the time of his death on December 18, 1968, but denying that he died in the performance of his duties and alleging that his death was not caused by the nature of his employment and/or aggravated by reason of such employment. It likewise admitted that the claimant was informed of her husband's death thru a telegram sent by Capt. Juan B. Lopez.

Issues having been joined, Acting Referee Benjamin C. Sebastian conducted a hearing where claimant was allowed to present testimonial and documentary evidence in support of her claim. When Northern Lines, Inc. was about to present its evidence, the claimant, thru her counsel, manifested before the Acting Referee that said

company had failed to controvert the claim within fourteen days from the death of the employee or within ten days from knowledge thereof as required by Section 45 of the Workmen's Compensation Act and had, therefore, lost the right to present evidence or to put up any defense. Northern Lines countered that the claim for compensation was barred by Section 24 of the Workmen's Compensation Act because of the claimant's failure to give notice of the employee's death and to make the claim for compensation with the employer within three months after death as required by said provision of the Act.

Resolving the issues raised by the parties, the Acting Referee issued an order dated January 6, 1971, holding: (1) that the claimant's failure to give the notice of the employee's death and to make the claim for compensation with the employer did not constitute a bar to the claim for compensation since the employer had knowledge of the death of the employee as evidenced by the fact that it was its own ship captain, Captain Juan B. Lopez, who informed the claimant of her husband's death; and (2) that because of the employer's failure to controvert the claim within the period prescribed by Section 45 of the Workmen's Compensation Act and to seek the reinstatement of its right to controvert the claim, it had lost as right to prove non-jurisdictional defenses such as that the cause of death was not work-connected or service-aggravated. Accordingly, the Acting Referee did not allow the employer company to present its evidence and ruled that the case would be decided on the basis of the evidence presented by the claimant. And on January 12, 1971, he rendered a decision the dispositive portion of which reads as follows:

"WHEREFORE, premises duly considered, judgment is hereby rendered, ordering the respondent, NORTHERN LINES, INC.:

- 1) To pay claimants, thru this office the sum of SIX THOUSAND PESOS (P6 ,000.00), in lump sum as death compensation benefits;
- 2) To pay claimant the sum of TWO HUNDRED PESOS (P200.00) as burial expense reimbursement; and
- 3) To pay this office the sum of SIXTY ONE PESOS (P61.00) (P60.00 for the award and P1.00 for this Decision) as fees pursuant to Section 55 of the Act, as amended.

"SO ORDERED."

On February 15, 1971, the employer company filed a motion for reconsideration of the decision reiterating its contention that the claimant lost her right to recover compensation benefits for the death of her husband because of her failure to file a notice of death and a claim for compensation within the period prescribed by Section 24 of the Workmen's Compensation Act. In an order dated February 26, 1971, Acting Referee Benjamin Sebastian denied the motion for reconsideration "for lack of merit and for being pro-forma".

Still unsatisfied with such denial, the employer company filed with the Workmen's Compensation Commission a petition for review. In her First Indorsement dated March 16, 1971, the Secretary of the Workmen's Compensation Commission, Atty. Lydia Navarro, re-ferred the petition for review to the Acting Referee who subsequently issued an order dated March 17, 1971, denying the same for lack of merit.

Hence, the present Petition for Certiorari, Prohibition and Mandamus with Preliminary Injunction on April 13, 1971 . We issued a writ of preliminary injunction on May 6, 1971.

The petitioner submits the following grievances to the procedures taken and which prompted it to file the petition, namely:

"I. THAT RESPONDENT SEBASTIAN ABUSED HIS DISCRETION, AMOUNTING TO A WANT OF JURISDICTION, WHEN HE DENIED PETITIONER'S MOTION FOR RECONSIDERATION AND DEEMED IT TO BE PRO-FORMA, THEREBY DEPRIVING PETITIONER OF ITS RIGHT TO

PROCEDURAL DUE PROCESS. SUCH ACTUATION ALSO PALPABLY GOES AGAINST THE ELEMENTARY RULES OF FAIR PLAY, THEREBY LIKEWISE DEPRIVING PETITIONER OF ITS RIGHT TO SUBSTANTIVE DUE PROCESS.

"II. THAT RESPONDENT SEBASTIAN ABUSED HIS DISCRETION, TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION, WHEN HE REVIEWED HIS OWN ACTUATIONS, AS EMBODIED IN PETITIONER'S PETITION FOR REVIEW WHEREIN HE WAS IMPEADED AS CO-RESPONDENT, INTENDED FOR, AND FILED BEFORE, THE WORKMEN'S COMPENSATION COMMISSION, AND BY SO DENYING AND RE-SOLVING SAID PETITION IN VIOLATION OF SUBSTANTIVE DUE PROCESS.

"III. THAT THE ACTION OF RESPONDENT WORK-MEN'S COMPENSATION COMMISSION AND/OR ITS SECRETARY DEPRIVED PETITIONER OF PROCEDURAL DUE PROCESS WHEN IT REFERRED, NEGLECTED AND/OR REFUSED TO ACT ON, THE SAID PETITION FOR REVIEW."

We find that the petitioner had not been treated fairly. When it filed a petition for review with the Workmen's Compensation Commission, that body should have been the one in acting on the petition. Instead, the Secretary of the Commission merely referred the petition to the very person whose decision had been questioned and as could be expected, he denied it for lack of merit since he had previously denied a motion for reconsideration of his decision "for lack of merit and for being pro-forma."

The Workmen's Compensation Commission created by Act No. 3428 has been abolished. (Art. 297, par. 1, Labor Code, P.D. No. 442, as amended.) Hence, the petitioner's petition for review of the decision of Acting Referee Benjamin Sebastian, dated January 12, 1971, should be adjudicated by the Ministry of Labor pursuant to the provisions of Art. 300, par. 2, of the Labor Code and in accordance with the law, rules and procedure in force at the time of the filing of the petition.

WHEREFORE, the petition is granted; the petition for review of the Acting Referee's decision dated January 12, 1971, shall be elevated to the Ministry of Labor for resolution as above stated. No costs.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., Guerrero, De Castro, and Escolin, JJ., concur.

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