

**LOURDES S. BELLO, ASSISTED BY HER HUSBAND, FRED N. BELLO,
PETITIONER, VS. WORKMEN'S COMPENSATION
COM-MISSION AND REPUBLIC OF THE PHILIPPINES (BUREAU OF
PUBLIC SCHOOLS), RESPONDE...**

G.R. No. L-43018. October 28, 1977

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

This Petition for Review seeks a modification of a decision of the defunct Workmen's Compensation Commission which granted a limited award to claimant Lourdes S. Bello.

The facts are stated in the decision dated October 9, 1974, of the Acting Chief, Workmen's Compensation Unit, Regional Office No. 10, Zamboanga City from which We quote:

"This is a claim for illness compensation filed by Lourdes S. Bello against the Republic of the Philippines under Act 3428, as amended, otherwise known as the Workmen's Compensation Law.

"During the hearing, the claimant was represented by Atty. Felix Bello, Jr. and the following salient points were taken: that the claimant was a public school teacher who entered her employment with the respondent in the year 1965; her salary was P3,432.00 per annum, as shown in her service record, Exhibit 'E'; nature of her duties was as classroom teacher and at the same time she had to perform civic action works for the community; in the performance of her duties claimant was exposed to the weather elements; on September 11, 1973 claimant became sick of Pulmonary Tuberculosis, Minimal, with fibrosis, as shown in the Physician's Report of Dr. Rodolfo P. Alano dated November 2, 1973, Exhibit 'C'; item No. 9 of Exhibit 'C', Dr. Alano stated that the illness of the claimant was the result of the nature of his employment; on October 1, 1973 claimant had stopped working due to her illness and at the same time her services were terminated by the respondent as shown in the Service Record, Exhibit 'E'; the claimant had received her salaries during the period of her ailment up to the time of her separation from the service.

"Records in this case show that respondent did not file a controversion of the claim; also the claimant was evaluated by Dr. Romulo P. Montecillo, to be suffering of permanent partial disability to the extent of 12% N.S.D.

"Based on the foregoing facts and evidence, it is our conceded view, so we hold, that since the illness of the claimant had supervened during the period of his employment, it is presumed it arose out of it. Therefore, the herein claim falls within the purview of Section 2 of the Act, as amended, otherwise known as the Workmen's Compensation Law.

"Computation of disability compensation benefits is as follows:

"12% N.S.D. is equivalent to 24.96 weeks.

"50% of the average weekly wage of the claimant which was P66.00 equals P33.00 times 24.96 weeks claimant is entitled to P823.16.

"DECISION, is hereby rendered in favor of the claimant. Respondent is hereby ordered:

"1. To pay to the claimant, thru this Office, disability compensation benefits in the amount of P823.16 pursuant to Section 17 of the Act;

"2. To pay to Atty. Felix Bello, counsel for the claimant, attorney's fee in the amount of P41.00 pursuant to Section 31 of the Act;

"3. To pay to the Workmen's Compensation Fund, thru this Office, administration fee in the amount of P9.00 pursuant to Section 55 of the Act.

SO ORDERED."[1]

Petitioner filed a Motion for Reconsideration claiming that the aforesaid decision "inadvertently perhaps, did not contain judgment on claimant's main claim for illness compensation under Section 14 or 16, as the case may be, and for medical care under Section 13 of the Act." This motion was denied and the records of the case were accordingly elevated to the Workmen's Compensation Commission for review.

In a Decision of January 19, 1976 respondent Commission affirmed the above-quoted award.[2]

Petitioner-claimant now submits that:

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". . . after respondent employer forced petitioner to resign because of her sickness (pulmonary tuberculosis), certainly, a measure taken to safeguard pupils from being infected with the disease, and after resignation and termination from service (1 October 1973) she became jobless - which she is up to the present - and did not receive any salary anymore from respondent employer, or from any other person, under the law, she is entitled to and should receive compensation for disability for labor under Section 14 of the Act, said compensation to be equivalent to 60% of the average weekly wage of the claimant (petitioner) for a period of 4 years (maximum) covering the period from the time she resigned due to disability until she should have retired compulsorily at 65 or a period of 32 years more, considering that petitioner is 33 years old at present, before reaching such retirement age at 65 (Ciriaco Hernandez vs. MERALCO and WCC, G.R. No. L-20202, May 1965)."[3]

We find petitioner's claim meritorious.

Disability occurs when an employee is disabled from rendering further service due to his physical inability to perform work in the usual and customary way. For purposes of the Workmen's Compensation Act there is disability when there is a loss or diminution of earning power which is due to an injury arising out of and in the course of the employment.[4] It is not the injury which is compensated but rather it is the incapacity to work resulting in the impairment of one's earning capacity.[5]

In the case of claimant Lourdes Bello, the record shows that she was in good health when she commenced to work for respondent Bureau of Public Schools as a classroom teacher in 1965. She was on her job continuously until September of 1973 when she contracted pulmonary tuberculosis which compelled her to use up her sick leave benefits. Her ailment was not cured notwithstanding rest and medications so that she had to resign from her teaching position on October 1, 1973, and since then she had been unable to work and earn for her livelihood. When she resigned, petitioner was only 31 years old, and had it not been for that illness incurred and aggravated in the course of her employment, she would be serving the government until her age of retirement at 65. Petitioner's case undoubtedly is one of total disability which entitles her to the compensation provided for in Section 14 of the Workmen's Compensation Act which gives a maximum of six thousand pesos. There is total disability not only because claimant is physically unable to perform the kind of work she knows how to do and is

capable of doing - that of teaching - but also because no employer would accept her services with the nature of her illness considering that a physical and medical examination is as a rule a pre-requisite to any employment be it in the government or private sector. Whether petitioner's disability be temporary or permanent depending on the possibility of her being cured of the disease, the law grants her compensation which as stated is not to exceed six thousand pesos under Section 14, Workmen's Compensation Act. In addition, petitioner is entitled to be provided with such services and supplies as the nature of her disability and process of recovery may require under Section 13 of the same Act.

Petitioner herein is similarly situated as the claimant in the recent case of *Castro vs. Workmen's Compensation Commission, et al.* where the Court awarded a compensation of six thousand pesos to the claimant teacher, who had to leave his teaching job with the Bureau of Public Schools due to minimal pulmonary tuberculosis.[6]

PREMISES CONSIDERED, We modify the appealed decision of respondent Commission and order respondents Bureau of Public Schools and/or Re-public of the Philippines:

1. To pay petitioner Lourdes S. Bello

- a. Six Thousand Pesos (P6,000.00) as compensation benefits;
- b. Expenses, if any, incurred for medical and hospital bills duly supported by receipts in connection with her illness;
- c. Attorney's fees of six hundred pesos (P600.00);

2. To provide petitioner continuous medical and hospital services and supplies as the nature of the ailment requires if the illness still subsists; and

3. To pay the Workmen's Compensation Commission Sixty-one pesos (P61.00) as administrative fees.

So Ordered.

Teehankee, (Chairman), Makasiar, Martin, Fernandez, and Guerrero, JJ., concur.

[1] pp. 10-12, rollo

[2] pp. 14-15, *ibid.*

[3] pp. 6-7, *ibid.*

[4] "Labor Standard and Welfare Legislation" by Fernandez and Quiazon, cited in *Marcelino vs. Seven-Up Bottling Co. et al.*, 1972, 47 SCRA 343

[5] Vicente Francisco, *Labor Laws of the Philippines*, 4th Ed., Vol. II, p. 492.

[6] Per Makasiar, J., 1977, 75 SCRA 173; see also *Despe vs. Workmen's Compensation Commission, et al.*, 1977, 75 SCRA 350.

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