

RAFAEL JALOTJOT, PETITIONER, VS. MARINDUQUE IRON MINES AGENTS, INC., ELIZALDE ROPE COMPANY AND THE SOCIAL SECURITY SYSTEM, RESPONDENTS.

G. R. No. L-19587. May 31, 1965

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal from a resolution of the Social Security Commission ordering the respondent-appellant, Marinduque Iron Mines Agents, Inc., to pay sickness benefits to the petitioner-appellee, Rafael Jalotjot.

On 1 September 1957, the said Rafael Jalotjot, then an employee of the appellant, became an employee-member of v the Social Security System. Within a short time thereafter, he contracted pulmonary tuberculosis and was confined at the mines hospital of his employer in the Province of Marinduque in October, 1957. Later on, he was transferred to Quezon Institute in Quezon City, where he was still confined at the time he filed his petition for sickness benefits on 12 July 1961.

On 6 November 1958, the employer company separated Jalotjot from its employ. It remitted to the System premium contributions corresponding to the month of September 1957 only, and refused Jalotjot's demand for sickness benefits up to his separation in November 1958. Because of such refusal, the said employee filed a petition with the Social Security Commission impleading as alternative respondents, the Marinduque Iron Mines Agents, Inc. Elizalde Rope Company, and the Social Security System. The Commission held Marinduque liable for Jalotjot's sickness benefits, and Marinduque resorted to the Court.

The appellant's first assignment of error contests the authority of the Commission in motu proprio ordering the appellant to remit to the System its 31/2 share in the premium contributions on account of Jalotjot's membership therein. Such order, according to the appellant, created a cause of action between it and the System, despite the lack of any cross-claim by the System against the alternative respondent Marinduque.

The foregoing position of the appellant is untenable, because the hearings before the Commission are administrative and are not strictly governed by the technical rules of procedure that are applied to judicial trials (Oromega Lumber Co. vs. SSC, L-14833, 28 April 1962); and since the Commission had discovered, in the case before it, that the appellant had not complied with its statutory duty of remitting to the System its share in the premium contributions, the Commission acted well within its authority in ordering the remittance since it has been vested with the direction and control of the System (Sec. 3, Social Security Act, as amended). At any rate, respondent has interposed its defense that it did not remit the premium due from Jalotjot because the latter was not receiving any compensation after he became sick; and it is not shown that respondent could offer any other excuses if the System had filed a cross-claim against it. Hence, it was in no way prejudiced.

In its second assignment of error, the appellant holds that the claimant-employee is not entitled to sickness benefits because at the time of his confinement he has not been a member of the System for at least one (1) and that he has not paid premiums for at least six months, conformably with the rules and regulations of the

Commission and Section 14 of the Act.

This argument has no merit.

From 1 September 1957, until his employment terminated in early November 1958, Jalotjot was a member of the System. His membership was not ended by his sickness. Hence, appellant Marinduque Iron Mines Agents, Inc., was responsible for remitting the employee's share of the premiums throughout that period of more than one year (Social Security Act, sec. 22). The proffered excuse that appellant-employer had no obligation to remit the premium contributions because the employee earned no compensation is not entirely true; for the employee was entitled to receive, and was concededly paid, under the Workmen's Compensation Act, and his contribution could have been deducted from such payments.

However, even without the compensation payments, the appellant's argument must be rejected in view of our rulings in the analogous cases of *Franklin Baker Company of the Philippines vs. Social Security System*, L-17361, 29 April 1963, and the cases cited therein, the rationale being that as long as the employment is not terminated the payment of contributions by the employer is compulsory.

* * * * *

"payment of contributions by an employer is compulsory during its coverage, and in accordance with the provisions of Section 9 of the Social Security Act, coverage is determined solely by the Existence of an employer-employee relationship. While an employee is on leave, even without pay, he is still an employee of his employer, their contract of employment has not yet terminated. So much so that the employee may still return to work and the employer is still bound to accept him. His responsibility as an employee still exists. He is still entitled to the benefits of the System when he returns. Consequently, his employer is still liable to pay his contributions to the Commission on account of its employee who is on leave without pay."

And in the same case, this Court specifically ruled that "the time when an employee may not be actually receiving compensation, as when he is on sick leave without pay, is not excepted" (*Franklin Baker Co. vs. SSS*, supra.).

The last assignment of error disputes the authority of Commission to order the deduction from the employee's sickness benefits of his 21/2% share in the premium. The premises laid by the appellant in this assignment of error are the same as those which it stated in the second assignment of error. Perforce, this assignment must similarly fail.

IN VIEW OF THE FOREGOING, the appealed resolution is hereby affirmed, with costs against the appellant Marinduque Iron Mines Agents, Inc.

Bengzon, C. J., Bautista Angelo, Barrera, Paredes, Dizon, Regala, Makalintal, Bengzon, J. P. and Zaldivar, JJ., concur.

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