

JUSTINO PASCUA, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND SANZ STEEL R.B.M., RESPONDENTS.

G.R. No. L-42767. July 25, 1978

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

This is one of those cases wherein respondent Workmen's Compensation Commission denied a legitimate disability compensation benefit in the rush of anticipation of its abolition scheduled for December 31, 1975 under Art. 286 of the 1974 Labor Code of the Philippines.[1]

On November 8, 1974, Justino Pascua filed a claim for disability compensation against his employer Sanz Steel R.B.M., wherein he alleged that in the course of his employment as a "painter" in the factory premises of his employer he contracted pulmonary tuberculosis and fistula en anu which incapacitated him from work since October 18, 1973. Copy of the notice of claim was received by Sanz Steel R.B.M. on November 27, 1974.[2] Notwithstanding receipt of said notice, Sanz Steel did not answer or controvert the claimant's right to compensation.

As a result of the non-controversion of the claim, an outright award, based on the documentary evidence submitted by claimant, was issued by Acting Chief of Section E. M. Cayapas on January 28, 1975, the dispositive portion of which provides:

"AWARD, therefore, of the aforementioned benefits in favor of the claimant is hereby entered and respondent ordered to pay:

"1. The claimant, thru this Office, the amount of THREE THOUSAND ONE HUNDRED TWENTY EIGHT PESOS AND 91/100 (P3,128.91) and a weekly compensation of P46.80 beginning January 29, 1975 until his disability for labor ceases or his illness is cured or arrested, provided, that the lump sum payment and the subsequent weekly payments do not exceed six thousand pesos; and

"2. The Workmen's Compensation Fund, the amount of P32.00 as partial payment of fee, pursuant to Section 55 of the Act. Bill No. IV-1721-74 is hereto attached." (p. 54, WCC records)

Copy of the foregoing award was received by the employer on March 11, 1975, and on March 17, 1975, it filed a Motion for Reconsideration.[3] On July 30, 1975, Acting Chief of Section Danilo L. Reynante set the aforesaid motion for reconsideration for hearing before Acting Referee Lapu-Lapu Osoteo.[4] Mr. Osoteo scheduled the hearing on the motion for reconsideration for August 18, 1975, on which date both parties agreed to postpone for

August 26 the formal presentation of evidence. On August 26, 1975, however, only the claimant appeared, for which reason, Acting Referee Lapu-Lapu Osoteo issued an order on August 29, 1975 denying the motion for reconsideration and elevating the records of the case to the Commission for review.[5]

On December 13, 1975, respondent Commission rendered judgment setting aside the Referee's award, thus:

"xxx xxx xxx

"The claim was decided by the Referee below on the basis of the respondent's failure to file an Employer's Report, pursuant to Section 45, in relation to Section 37 of the Act, as amended. The evidence for the claimant consisted only of the Notice and Claim and Physician's Report which are not supported with substantial evidence to establish the fact of disability suffered by the claimant on or before he stopped working on October 18, 1973.

"Based on the foregoing facts, this Commission is constrained to reverse the award in the instant claim for lack of merit. While it is true that claimant's chest x-ray dated December 31, 1973, revealed that he was suffering from pulmonary tuberculosis, the same could not serve the purpose, since the claim is for an illness of fistula en anu and not of PTB. Besides, there is no showing in the records that claimant's illness of PTB disabled him for work, on the ground that for the month of March, 1974, he was able to work and collect wages from the respondent in the amount of P259.70. (Annex 'C')

"WHEREFORE, the award sought to be reconsidered should be, as it is hereby REVERSED, and the case dismissed for lack of merit." (pp. 24-25, *ibid.*)

In rendering the foregoing decision respondent Commission simply ignored Section 45 of the Workmen's Compensation Act which expressly provides that the employer shall controvert the right to compensation either on or before the fourteenth day of disability or within ten days after notice and "(F)ailure on the part of the employer x x x to comply with this requirement shall constitute a renunciation of his right to controvert the claim unless he submits reasonable grounds for the failure to make the necessary reports, on the basis of which grounds the Commissioner may reinstate his right to controvert the claim."

The records of respondent Commission undoubtedly show, and in fact it is so expressly admitted in the decision under review, that the respondent employer was served with a copy of the notice of claim for compensation on November 27, 1974 and that the latter did not file any employer's report or answer to the claim as required in the aforementioned Section 45 of the Workmen's Compensation Act.[6]

In the early case of *Tan Lim Te vs. Workmen's Compensation Commissioner, et al.*, decided on August 30, 1958 by this Court, a similar situation prevailed, that is: on March 3, 1953, a claim for compensation for the death of Juan Mendiola was filed by his heirs against Francisco Tan Lim Te, and notwithstanding receipt of a copy of the claim on September 18, 1953, Tan Lim Te submitted his report containing his opposition to the claim of the heirs of the deceased only on February 10, 1954. On September 7, 1955, the Workmen's Compensation Commissioner, finding that the injury sustained by the deceased which caused his death arose out of or in the course of his employment, awarded compensation benefits to the heirs. A motion for reconsideration of the award, which alleged *inter alia* that the employer's failure to controvert the claim at an earlier date was due to his unfamiliarity with the law, was denied and so was the employer's petition for review or new hearing. On appeal from the

foregoing award and from the writ of execution issued by the Commission, this Court dismissed the appeal and inter alia, cited Section 44 of the Workmen's Compensation Law, Act 3428, as amended by Republic Act No. 772[7] and stressed that when an employer fails to controvert or contest any claim for compensation within 14 days from the date of disability or within 10 days after he acquires knowledge thereof, he shall be considered as having waived the right to question the validity or reasonableness of the injured employee's claim for compensation, and an exception to the rule may be obtained where the employer's failure to comply with such requirement is justified or explained to the satisfaction of the Commissioner, who in the exercise of his discretion may allow the employer to controvert or resist the claim.[8]

In Reynaldo vs. Republic of the Philippines, et al., 1976, the Court went further and said that where the employer fails to controvert the claim, he cannot prove anything in relation to the claim; he cannot even prove that the illness is not work-connected or work-aggravated.[9]

Notably, in the case now before Us, respondent employer did not even seek to reinstate its right to controvert nor did it offer any explanation for its failure to file an employer's report in its pleading filed upon receipt of copy of the referee's award. (see p. 44, WCC records)

There being no controversion of the claim for compensation, the Hearing Officer correctly issued an award based on the documentary evidence of the claimant which consisted of: 1) the allegations in the notice of claim, and 2) medical reports issued by the Manila Central University Hospital showing that on December 29, 1973, Justino Pascua was examined and treated for fistula en anu;[10] on December 31, 1973, the same Justino Pascua was given a chest x-ray examination and was found to be suffering from "TB, moderately advanced, exudative upper lobe, bilateral";[11] on January 8, 1975, Pascua was again examined by Dr. Vicente Alfajora, Jr. and was found to be still suffering from his fistula en anu which medically means an abnormally formed canal due to ulceration in the area of the rectum;[12] on January 21, 1975, the National Tuberculosis Clinic of the Department of Health certified that Justino Pascua was afflicted with "PTB minimal probably active";[13] on the same date, January 21, 1975, another certification was issued by the Compensation Rating Medical Officer of Regional Office No. IV of the Department of Labor on the existence of the ailments of pulmonary tuberculosis and fistula en anu of Justino Pascua.[14]

In its decision, respondent Commission stated, however that although the medical reports showed that the claimant was sick of pulmonary tuberculosis "the same could not serve the purpose since the claim is for an illness of fistula en anu and not of PTB." This statement is belied of course by the "notice of claim where it was specified that the illness complained of was "fistula & t.b."

Respondent Commission also reasoned out that the claimant was not disabled from working starting October 18, 1973 as alleged, because there was evidence to show that Pascua worked on November 10, November 17, 1973, and from March 17-30, 1974, for which he was paid by his employer, as shown by the documents marked "annexes A, B & C" of the employer's motion for reconsideration. On this point, the Commission unfortunately overlooked the fact that the documents referred to were not offered in evidence by respondent employer inasmuch as the latter, notwithstanding notice of the hearing on its motion for reconsideration, chose not to appear on August 26, 1975, and, therefore, is deemed to have waived its right to present evidence in support of its motion for reconsideration of the referee's award.[15]

Finally, We restate once again the principle that when an illness supervenes during the course of employment the same is presumed to have arisen out of or at least was aggravated in the course of employment, and this legal presumption can be overthrown only by substantial evidence to the contrary.[16]

IN VIEW OF THE FOREGOING, the decision under review is set aside, and respondent Sanz Steel R. B. M. is

ordered to pay:

1. Justino Pascua, the maximum amount of Six Thousand (P6,000.00) Pesos, as disability compensation;
2. Atty. Juan Moreno, the sum of Three Hundred (P300.00) Pesos as attorney's fees for services rendered in this appeal; and
3. Sixty-one (P61.00) Pesos to the Workmen's Compensation Fund.

Without costs.

SO ORDERED.

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

[1] The date was extended to March 31, 1976, under Presidential Decree No. 865-A, dated December 31, 1975

[2] p. 60, WCC records.

[3] p. 44, WCC records

[4] p. 41, *ibid.*

[5] p. 34, *ibid.*

[6] See 3rd paragraph, p. 1 of decision, p. 31, *ibid.*

[7] Now Section 45, Workmen's Compensation Act, as amended.

[8] 104 Phil. 522, 527, per Felix, Alfonso, J.

[9] 71 SCRA 650, 654; see also Pillsbury Mindanao Flour Milling Co. & Moraza vs. Murillo, L-32300, January 31, 1978

[10] p. 63, WCC record

[11] p. 64, *ibid.*

[12] Schmidt's Dictionary of Medicine, p. 306

[13] p. 57, WCC record

[14] p. 56, *ibid.*

[15] See also Vda. de Flores vs. WCC, et al., July 21, 1977, 78 SCRA 17, 23, wherein documents attached to the employer's motion for reconsideration were held to be of no evidentiary value as they were not formally presented during the hearing of the case.

[16] Vallo vs. WCC, et al., 1976, 73 SCRA 623, citing Industrial Textile Mfg. Co of the Phil. vs. Florzon, et al., 1966, 17 SCRA 1104, and a host of cases. See also Cuyno, Jr. vs. WCC, et al., September 22, 1977, 79 SCRA 100; Soriano vs. WCC, et al., L-42824, and accompanying cases, January 31, 1978.

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