

DOMINGO D. TOGONON, PETITIONER, VS. GOVERNMENT SERVICE INSURANCE SYSTEM (NATIONAL ORTHOPEDIC HOSPITAL) AND REPUBLIC OF THE PHILIPPINES (EMPLOYEES COMPENSATION COMMISSION), RESPO...

G.R. No. L-48143. October 23, 1982

Ponente: GUERRERO, J.

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GUERRERO, J.:

This is a petition to review the decision of the Employees' Compensation Commission in ECC Case No. 0474 entitled "Domingo D. Togonon, Appellant, versus Government Service Insurance System (National Orthopedic Hospital), Respondent," affirming the decision of the Government Service Insurance System (GSIS) which denied the claim for disability benefits.

The claimant, herein petitioner Domingo D. Togonon, had been employed with the National Orthopedic Hospital in 1945 as Guard with a temporary appointment. In 1948, he became Hospital Guard with a permanent appointment, and in 1961, he was promoted to Senior Security Guard, the last position he held before his retirement.[1] His official duties at that time were as follows:

"Under general supervision, supervises and participates in the work of a small group of security or institutional guards, and conducts periodic inspection of men at posts; makes daily reports and entries in the blotter, and forms relief of detail and heads patrol; transmits to his men orders or directives of superior officers, and investigates petty offenses and violators reported by subordinates and decides minor matters; performs routinary guarding duties, and may supervise a small group of fire-fighting guards."[2]

Petitioner Togonon filed with the GSIS a claim for compensation under Presidential Decree No. 626. In support thereof, he presented a Certificate of Attending Physician dated July 15, 1975 stating, among others, the following findings and remarks:

1. Illness developed insidiously for many years, now characterized by nervousness, marked tremors, loss of weight, sweating, insomnia and speech difficulty.
2. Diagnosis: Hyperthyroidism, Hypertension, Parkinsonism.
3. Prognosis: Tendency to get worse and produce increasing disability.
4. First Treatment: June 8, 1973 . . . Last Treatment: Still under treatment.
5. Still engaged in present job but working with great difficulty.
6. The present condition of the patient calls for complete rest and full concentration on his medical and rehabili-tation regimen. Retirement is recommended.[3]

Petitioner retired on September 14, 1975 at the age of 60.[4]

In a letter dated November 28, 1975, the GSIS denied the claim for disability on the ground that petitioner's ailments "are not occupational diseases," and

"The nature of your duties as Senior Security Guard as well as the working conditions of your employment could not have directly caused your ailments. At most, they could have just aggravated your condition which under the present Employees' Compensation Program, is no longer compensable." [5]

Petitioner's motion for reconsideration [6] was denied in another letter dated March 15, 1977 to the effect that:

"x x x On the basis x x x (of) the papers and evidence on record which you have submitted, it appears that you have not established that your employment had any direct causal relationship with the contraction of the ailments. While it is admitted that the aforesaid ailments supervened in the course of your employment, there has not been any showing that the same directly arose therefrom or resulted from the nature thereof. If at all, we believe that the performance of the duties and responsibilities of your position as Senior Security Guard in the National Orthopedic Hospital, Quezon City, could have just aggravated your physical condition. Unfortunately, however, such aggravation is no longer compensable under the present law." [7]

On appeal, the Employees' Compensation Commission affirmed the decision of the GSIS on a finding that petitioner's ailments were "in no way traceable to his employment" and had "no causal relation whatsoever to the nature of (his duties) x x x, or to the working conditions attendant to his employment x x x." According to the ECC, "(w)hile it is true the Presidential Decree 626, as amended, is a social legislation aimed at protecting labor, the same cannot be so stretched as to cover situations beyond what it contemplates." [8]

It is clear, however, that petitioner's ailments were contracted before January 1, 1975. The attending physician's certificate dated July 15, 1975 [9] supporting petitioner's claim for disability benefits gave a brief clinical history of his diagnosed illnesses as having "developed insidiously for many years." This finding is reiterated by Artemio C. Rivera, Hospital Administrative Officer of the National Orthopedic Hospital, in petitioner's claim for income benefits, [10] and by the medical report of Dr. Abelardo M. Inocentes accompanying petitioner's claim for hospitalization expenses. [11] Moreover, it is mentioned in the aforementioned attending physician's certificate [12] that petitioner was first treated on June 8, 1973 and was still under treatment at the time the certificate was issued.

The recent decisions of this Court have laid down the settled rule that the governing law in the prosecution of a cause of action which has accrued prior to the effectivity of the Employees' Compensation Law shall be the Workmen's Compensation Act which was in force at the time of the accrual of said cause of action. This doctrine was first enunciated in the case of Corales vs. ECC and GSIS, [13] and was thereafter invoked and applied in a long line of decisions. [14] As aptly stated in Corales:

"x x x the provisions of the New Labor Code on Employees Compensation - Book IV, Title II - apply only to injury, sickness, disability or death accruing on or after January 1, 1975 (Art. 208). More precise is Section 1(c) of Rule III of the Amended Rules on Employees Compensation which declares that only injury or sickness that accrued on or after January 1, 1975 and the resulting disability or death shall be compensable under the Rules." [15]

Herein petitioner's claim having accrued prior to the effectivity of the New Labor Code, the presumption of compensability, work-connection and work-aggravation under the old Workmen's Compensation Act should be applied. [16] As to how much income benefits for disability petitioner is entitled, We have taken into consideration that he was compelled to retire five (5) years earlier at the age of 60 by reason of his disabling illnesses, and that his salary immediately preceding his last day of service was P3,973.20 per annum. [17] In this connection, We quote with approval from the case of Cayaba vs. WCC and Provincial Government of Isabela, [18] thus:

"This Court has held that an employee forced to ask for retirement ahead of schedule not because of old age but principally because of his weakened bodily condition due to illness contracted in the course of his employment should be given compensation for his inability to work during the remaining days before his scheduled compulsory retirement, aside from the retirement benefits received by him. (Citing *Hernandez vs. Work-men's Compensation Commission*, 14 SCRA 219).

"Had petitioner not been forced to retire because of his illnesses he could have continued to work for seven years more until he reached the age of 65 years. Under the circumstances he is entitled to disability compensation in the amount of P6,000.00 and to be reimbursed of the medical expenses incurred by him upon presentation of supporting receipts." [19]

In accordance with the pronouncements of this Court in the cases of *Corales* (L-44063), *Villones* (L-46200), *Cañeja* (L-46992) and *Barga* (L-49227) jointly resolved in an en banc Resolution dated March 15, 1982, herein respondent GSIS has the right of reimbursement from the former employer of herein claimant-petitioner Togonon, the National Orthopedic Hospital, after due hearing. [20] Furthermore, pursuant to the latest rulings of this Court in *De los Angeles vs. GSIS and ECC* (L-47099) and *Villones vs. ECC and GSIS* (L-44031), both rendered on August 26, 1982, it is hereby clarified that respondent GSIS is not ordered to pay administrative fees.

WHEREFORE, the Government Service Insurance System is hereby directed:

- (1). to pay to petitioner the amount of SIX THOUSAND PESOS (P6,000.00) as disability benefits;
- (2). to pay to petitioner the amount of SIX HUNDRED PESOS (P600.00) as attorney's fees;
- (3). to reimburse the petitioner expenses incurred for medical services, hospitalization and medicines, duly supported by receipts,

without prejudice to reimbursement from petitioner's former employer, the National Orthopedic Hospital, after due hearing.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Abad Santos, De Castro, and Escolin, JJ., concur.
Aquino, J., no part.

[1] Service Record of Domingo D. Togonon as certified to by Artemio C. Rivera, Administrative Officer, National Orthopedic Hospital; Original ECC Records, p. 13.

[2] Certification dated April 28, 1977 of Rufino E. Montesa, Officer-in-Charge, Administrative Service, National Orthopedic Hospital; Original ECC Records, p. 31.

[3] Original ECC Records, p. 30.

[4] Service Record, *supra*.

[5] Original ECC Records, p. 27.

[6] *Ibid.*, p. 26.

[7] *Ibid.*, p. 25.

[8] Decision of the Employees' Compensation Commission; Rollo, pp. 37-41.

[9] Original ECC Records, p. 30.

[10] Ibid., p. 13.

[11] Ibid., p. 12.

[12] Ibid., p. 30, *supra*.

[13] L-44063, February 27, 1979, 88 SCRA 547, 552-554.

[14] Villones vs. ECC and GSIS, L-46200, July 30, 1979, 92 SCRA 320, 327-328; De los Angeles vs. GSIS and ECC, L-47099, November 16, 1979, 94 SCRA 308, 312-313; Balatero vs. ECC and GSIS, L-46634, January 28, 1980, 95 SCRA 608, 612; Villones vs. ECC, et al., L-44031, February 14, 1980, 96 SCRA 111, 118; Cañeja vs. ECC and GSIS, L-46992, March 31, 1980, 96 SCRA 896, 899; Cenabre vs. ECC, L-46802, April 28, 1980, 97 SCRA 338, 341; Avendaño vs. ECC, L-48593, April 30, 1980, 97 SCRA 464, 467; La O vs. ECC, et al., No. 50918, May 17, 1980, 97 SCRA 780, 789; Cayco, et al. vs. ECC and GSIS, L-49755, August 21, 1980, 99 SCRA 268, 270; Cuenza vs. ECC and GSIS, L-45892, February 26, 1981, 103 SCRA 316, 319; Mandapat vs. ECC and GSIS, L-47492, March 24, 1981, 103 SCRA 450, 453; Manahan vs. ECC and GSIS, L-44899, April 22, 1981, 104 SCRA 198, 201-202; Barra-meda vs. ECC and GSIS, No. 50142, August 17, 1981, 106 SCRA 621, 625-626; Evangelista vs. ECC and GSIS, L-46661, January 18, 1982, 111 SCRA 64, 66; Jimenez vs. ECC and GSIS, No. 57341, January 18, 1982, 111 SCRA 94, 97.

[15] Corales vs. ECC and GSIS, *supra*, p. 553.

[16] See cases cited in Sierbo vs. WCC and Negros Navigation Co., Inc., L-42630, June 29, 1982.

[17] Service Record, *supra*.

[18] L-43649, January 21, 1981, 102 SCRA 346.

[19] Ibid., p. 350; also quoted in Barrameda vs. ECC and GSIS, *supra*, p. 628.

[20] 112 SCRA 501, 521-522.

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