

**PACIENCIO BAYOGBOG, PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION AND MARINDUQUE MINING &
INDUSTRIAL CORPORATION, SURIGAO NICKEL PROJECT,
RESPONDENTS.**

G.R. No. L-44232. September 11, 1980

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition to review the decision of the Workmen's Compensation Commission dated March 29, 1976 in Case No. RO9-WCC-14721 entitled "Pacencio Bayogbog, Claimant, versus, Marinduque Mining & Industrial Corp., (Talisay, Surigao City), Respondent" reversing the award granted to claimant by Regional Office No. 9, Department of Labor, Tacloban City, and dismissing the claim.[1]

Despite the resolution of this Court dated August 13, 1976 requiring the respondents to comment to the petition,[2] no comment was filed. In a resolution dated October 25, 1976, this Court resolved to treat the petition for review as a special civil action and to require both parties to submit simultaneous memoranda within thirty (30) days from notice thereof.[3]

Only the petitioner filed a memorandum.

The claimant, petitioner herein, Pacencio Bayogbog, filed a Notice of Injury or Sickness and Claim for Compensation on March 3, 1975 with the Regional Office No. 9, Department of Labor, Tacloban City, wherein he alleged that he contracted "pulmonary tuberculosis, moderately advanced infection" while in the course of his employment with the Marinduque Mining & Industrial Corporation, SNP.[4]

The private respondent, through the Assistant Vice-President, filed an Employer's Report stating that it is not controverting the claimant's right to compensation.

The Acting Referee and Chief, Workmen's Compensation Unit, Regional Office No. 9, Department of Labor, Tacloban City, issued on October 8, 1975 an award in favor of Pacencio Bayogbog in the amount of P4,505.34 as disability compensation.

It is alleged that the parties received a copy each of the award on November 5, 1975 at Nonoc Island, Talisay, Surigao City. Not having received a motion for reconsideration or petition for review of the private respondent, the petitioner filed a motion for execution and the Referee issued a writ of execution on February 17, 1976.

The private respondent filed a motion to set aside the award and writ of execution on March 22, 1976 on the ground that the award dated October 8, 1975 is null and void for lack of jurisdiction.

The Chairman of the Workmen's Compensation Commission rendered a decision dated March 29, 1976 reversing the Referee's award.[5]

The record shows that the petitioner was employed as a laborer with the private respondent from September 13, 1968 until February 1, 1975 when his employment was terminated on the ground that he was suffering from pulmonary tuberculosis, moderately advanced infection since November 18, 1974.

The Physician's Report of Dr. Jose P. Bayana, Jr. states that the illness of the petitioner supervened on November 18, 1974 and the same was the result of the nature of the petitioner's employment.[6]

The illness of the petitioner having supervened on November 18, 1974, the Workmen's Compensation Act applies.

The undisputed fact is that the petitioner contracted the illness of pulmonary tuberculosis during his employment with the private respondent, Marinduque Mining & Industrial Corporation, SNP. Hence, there is a disputable presumption that the claim is compensable.[7] The claimant is relieved of the duty to prove causation as it is then legally presumed that the illness arose out of the employment. To the employer is shifted the burden of proof to establish that the illness is not compensable.[8] The petitioner did not rely on the disputable presumption alone. He presented evidence that he acquired his illness as a result of the nature of his employment with the private respondent.[9]

The private respondent neither controverted the claim nor adduced evidence to rebut the presumption and the evidence adduced by the petitioner.

The Acting Referee awarded to the petitioner the amount of P4,505.34 as disability benefit. The record shows that the petitioner acquired his illness on November 18, 1974 and he was terminated on February 1, 1975 by reason thereof. The award granted by the Acting Referee of Regional Office No. 9 is reasonable.

The petitioner is also entitled to reimbursement of medical expenses.

WHEREFORE, the decision sought to be reviewed is hereby set aside and the Marinduque Mining & Industrial Corporation, SNP, is ordered:

- To pay the petitioner the amount of Four Thousand Five Hundred Five Pesos and 34/100 (P4,505.34) as disability compensation;
- To reimburse the petitioner of medical expenses supported by proper receipts;
- To pay the petitioner the amount of Four Hundred Fifty Pesos (P450.00) as attorney's fees; and
- To pay the successor of the Workmen's Compensation Commission the amount of Sixty-one Pesos (P61.00) as administrative fee.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.

[1] Rollo, pp. 1-3.

[2] Rollo, p. 19.

[3] Rollo, p. 21.

[4] Annex "A", Rollo, p. 4.

[5] Rollo, p. 34.

[6] Annex "B", Rollo, p. 5.

[7] Section 44, Workmen's Compensation Act; Justiniano vs. Workmen's Compensation Commission, 18 SCRA 677.

[8] Balanga vs. Workmen's Compensation Commission, et al., 83 SCRA 721.

[9] Physician's Report of Sickness or Accident, Annex "B", Rollo, p. 5.

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