

CHEF PRODUCTS, INC., PETITIONER, VS. THE WORKMEN'S COMPENSATION COMMISSION AND JUAN TORELLA, RESPONDENTS.

G.R. NO. L-30275. January 31, 1974

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

These two claims for compensation under the Workmen's Compensation Act, as amended, were separately filed by Juan Torella [G. R. No. L-30275] and Pedro Torella [G. R. No. L-30276] against the petitioner, Chef Products, Inc., due to tuberculosis allegedly contracted by them in the course of, and/or aggravated by, their employment as laborers of the petitioner.

On September 5, 1968, the Workmen's Compensation Commission awarded the two private respondents compensation as follows:

"(1) Under Section 14 of the Act, Juan Torella is entitled to sixty (60%) per centum of his average weekly wage for the period he was incapacitated for labor. In this case, he was physically disabled for work from January 7, 1967 up to July 31, 1968 or for 572 days or 81 5/7 weeks. Sixty per centum of his average weekly wage of P36.00 equals P21.60 and for 81 5/7 weeks, he is entitled to the amount of P1,765.02 as compensation for temporary total disability under Section 14 of the Act.

"Under Section 18, claimant is entitled to 12% of N. S. D. or compensation equivalent to 50% of his average weekly wage for 12% of 208 weeks. Fifty per centum of his average weekly wage of P36.00 equals P18.00 and for 24.96 (12% of 208 weeks) weeks, claimant is entitled to the amount of P449.28. Under Sections 14 and 18 of the Act, therefore, claimant is entitled to the total compensation of P2,214.30 minus P271.60 advanced compensation, or P1,942.70."

"(2) Under Section 14 of the Act, Pedro Torella is entitled to sixty per centum (60%) of his average weekly wage for the period he was incapacitated for labor. In this case, he was physically disabled for work from January 7, 1967 up to July 31, 1968 or for 572 days or 81 5/7 weeks. Sixty per centum of his average weekly wage of P36.00 equals P21.60 and for 81 5/7 weeks, he is entitled to the amount of P1,765.02 as compensation for temporary total disability under Section 14 of the Act.

"Under Section 18, claimant is entitled to 12% N. S. D. or compensation equivalent to 50% of his average weekly wage for 12% of 208 weeks. Fifty per centum of his average weekly wage of P36.00 equals P18.00 and for 24.95 (12% of 208 weeks) weeks, claimant is entitled to the amount of 449.28. Under Sections 14 and 18 of the Act, therefore, claimant is entitled to the total compensation of P2,214.30, minus P195.00 advanced compensation or P2,019.30."

Copy of the Order granting the above awards was received by the petitioner on September 10, 1968.

On September 25, 1968, petitioner filed identical motions for reconsideration of the award in both cases, admitting its liability under Section 14 of the Workmen's Compensation Act, as amended, but protesting against the compensation under Section 18 thereof for non-scheduled disability, as well as excepting to the

non-application of Section 22 thereof for the 8% discount on lump sum payment of the claim. The motion of September 25, 1968, reads as follows:

"[2] That the Respondent does not question the findings of facts and the award of compensation by this Honorable Commission to the herein Claimant under Section 14 of the Workmen's Compensation Act, as amended; however, Respondent vehemently protests the application of Section 18 concerning Non-Scheduled Disability in the above-entitled case and the non-application of Section 22 of the Workmen's Compensation Act, as amended, concerning the granting of the Respondent of the necessary discount for lump sum payment of the claim of the claimant."

The above-quoted awards were made by Associate Commissioner (Medical) Herminia Castelo-Sotto, M.D., member of the Workmen's Compensation Commission.

Acting on petitioner's motion for reconsideration, the Workmen's Compensation Commission, through Commissioner Herminia Castelo-Sotto denied the same in an Order dated November 7, 1968, the pertinent portion of which reads as follows:

"It appearing that Respondent's Motion for Reconsideration was filed only on September 25, 1968, despite the fact that he received a copy of the Order to be reconsidered on September 10, 1968, the same should be, as it is hereby denied for having been filed out of time, pursuant to Rule 17, section 1 of the Rules of the Workmen's Compensation Commission."

Upon receipt of the above order, petitioner on November 11, 1968, filed in each case with the Workmen's Compensation Commission en banc, a motion for reconsideration of the order of September 5, 1968, granting the x x x award and of the order of denial of November 7, 1968, both issued by Commissioner Herminia Castelo-Sotto, the latter partly holding that the appeal from the former was made beyond the reglementary period of 10 days provided by Rule 17, Section 1, of the Rules of the Workmen's Compensation Commission.

On February 26, 1969, the Workmen's Compensation Commission en banc denied the motion for reconsideration of November 11, 1968, claiming that it could no longer act thereon for having been filed beyond the reglementary period. Notice of the denial was received on March 5, 1969, and on the same date, a notice of appeal was filed by the petitioner with the respondent Commission for a review by this Court of the award granting compensation under Section 18 of the Workmen's Compensation Act, as well as the Commissioner's ruling that the appeal was filed beyond the reglementary period.

The petition for review having been given due course by this Court, petitioner assigned the following errors alleged to have been committed by the Workmen's Compensation Commission:

I. – THE RESPONDENT WORKMEN'S COMPENSATION COMMISSION HAS DECIDED THE CASE SUBJECT OF THIS PETITION/APPEAL IN A WAY NOT IN ACCORDANCE WITH LAW AND/OR APPLICABLE DECISIONS OF THIS HONORABLE SUPREME COURT BECAUSE THE AWARD OF NON-SCHEDULED DISABILITY BENEFIT IS ERRONEOUS AND ILLEGAL, AMOUNTING TO A GRAVE ABUSE OF DISCRETION AND IN EXCESS OF ITS JURISDICTION.

II. – THE RESPONDENT WORKMEN'S COMPENSATION COMMISSION ERRED IN HOLDING THAT THE MOTION FOR RECONSIDERATION FILED BY PETITIONER ON SEPTEMBER 25, 1968, WAS FILED OUT OF TIME, IN ACCORDANCE WITH SECTION 1, RULE 17 OF THE RULES OF WORKMEN'S COMPENSATION COMMISSION.

III. – THE RESPONDENT WORKMEN'S COMPENSATION COMMISSIONER ERRED IN NOT ALLOWING THE NECESSARY DISCOUNT FOR THE LUMP SUM PAYMENT OF THE CLAIM OF CLAIMANT RESPONDENTS TORELLAS UNDER SECTION 22 OF THE WORKMEN'S

COMPENSATION ACT, AS AMENDED.

The threshold question to determine is whether the petition for review is in order, considering the ruling of the respondent Commission sustaining that of Associate (Medical) Commissioner Herminia Castelo-Sotto, that the appeal from the order of September 5, 1968 to the Commission en banc was taken after the lapse of ten (10) days from receipt of notice thereof.

The petitioner maintains that the ruling of the Commission is violative of section 50 of the Workmen's Compensation Act, as amended, which reads as follows:

"SEC. 50. Decision. – After the hearing of a case by the Commissioner, his deputy or any of the referees, the same shall be decided according to its merits, and the decision be promulgated and signed by the Commissioner or his deputy. Fifteen days after the promulgation of the decision the same shall become final unless previously appealed." [Italics supplied]

If Commissioner Castelo-Sotto directly and originally made the award in favor of the respondents claimants in her Order dated September 5, 1968, the petitioner-appellant's arguments would be meritorious, for in that case she would have acted as a referee originally granting the award and whose decision is appealable within 15 days from notice thereof. But the original award in this case was made by referee Meliton C. Parducho, Chief of Section, Quezon City Subregional Office No.4 Department of Labor, on June 19, 1967. It is this award or decision of the referee that is appealable to the Commission within 15 days, as in fact it was appealed on time. The award made by referee Meliton C. Parducho was reviewed by the then Acting Chairman of the Workmen's Compensation Commission, Cesario Perez, on February 9, 1968, and the award was modified as regards the amount of the compensation, the duration of payment and commencement thereof. This decision of the Acting Chairman was the subject of a motion for reconsideration filed by petitioner-appellant, dated March 4, 1968, and the Commission en banc denied it by its Resolution of April 2, 1968, and, in effect, sustained the award made by the referee and the Acting Chairman of the Commission, with two associate commissioners, Paciano C. Villavieja and Herminia Castelo-Sotto, concurring. From this Order of the Commission en banc, petitioner-appellant filed a petition for review with this Court on April 16, 1968, but the petition for review was denied by the latter for being late and for lack of merit on June 4, 1968 (G. R. No. L-28960).

However, on June 26, 1968, by motion dated June 16, 1968, the petitioner, as respondent in RO4 WCC Case No. 1344 Quezon City, Regional Office, G. R. No. 28961, made a tender of payment and filed a petition for medical examination of both claimants, Juan Torella and Pedro Torella. It tendered the amount of P981.20 corresponding to the compensation fixed by the Commission in its decision of February 9, 1968, signed by Acting Chairman Cesario Perez, minus certain sums which it alleged were advanced to the claimants, amounting to P231.52. In an Order dated July 9, 1968, the Acting Chairman of the Commission set the tender of payment and claim for deductions for hearing on July 16, 1968, before Lina R. Manuel, legal officer of the Commission.

On September 5, 1968, the Commission through Associate (Medical) Commissioner Herminia Castelo--Sotto, acted on the tender of payment and petition for medical examination of the claimants and ordered the petitioner to pay the respondent Juan Torella a total compensation of P1,765.02 for temporary total disability for 81-5/7 weeks under Section 14 of the Act, and the amount of P449.28 as non-scheduled disability benefit equivalent to 50% of his weekly wage for 12% of 208 weeks. On the same date, Associate (Medical) Commissioner Herminia Castelo-Sotto also awarded to Pedro Torella P1,765.02 as compensation for temporary total disability for 81-5/7 weeks under Section 14 of the Act and non-scheduled disability benefit equivalent to 50% of his average weekly salary for 12% of 208 weeks, amounting to P449.28, minus the advances in both cases previously stated on page 2 of this Decision.

It is against this Order of Associate (Medical) Commissioner Castelo-Sotto, dated September 5, 1968, that the petitioner filed identical motions for reconsideration on September 25, 1968, admitting its liability under Section 14 of the Workmen's Compensation Act, as amended, but protesting against the grant of non-scheduled disability benefit under section 18 of the same Act (See page 3 of this Decision).

By Order of November 7, 1968, Associate (Medical) Commissioner Herminia Castelo-Sotto denied the motions for reconsideration on the ground that the Order of September 5, 1968, had become final as petitioner had only 10 days from notice thereof within which to file such motion for reconsideration for review by the Commission en banc. In said Order of November 7, 1968, said Commissioner also denied the petition for 8% discount for advances made to the claimants under Rule 5720 of the Department of Labor Manual which provides as follows:

"SEC. 5720. Lump Sum Payment. - Pursuant to the provisions of Section 22 of the Act, reduction in amount to be paid, in case of lump sum settlement, shall not exceed 8%. This legal discount is allowable only on amounts not yet due and demandable at the time of such lump sums payment. x x x."

This Order of November 7, 1968, was the object of the motion for reconsideration filed by petitioner-appellant on November 11, 1968, with the Workmen's Compensation Commission en banc.

By resolution of February 26, 1969, the Commission en banc upheld the Order of November 7, 1968, and denied respondents' motion for reconsideration of November 11, 1968, on the ground that the Order had become final as the motion for reconsideration was filed beyond the 10-day period prescribed by Section 1, Rule 17 of the Workmen's Compensation Commission. It is this Order of February 26, 1969, denying petitioner's motion for reconsideration in these two cases that precipitated the instant petition for review filed with this Court.

After considering all the incidents of these cases, the petition for review must be denied. This Court hereby sustains the ruling of the respondent Commission that the appeal from the Order of Associate (Medical) Commissioner Herminia Castelo-Sotto dated September 5, 1968, was late as it was filed beyond ten (10) days after receipt of notice thereof. The period of time within which an appeal to the Commission en banc by motion for reconsideration of a Decision or Order of an individual Commissioner is ten (10) days from official receipt of a copy thereof by the aggrieved party (*Manila Trading & Supply Co. vs. WCC, et al.*, G. R. No. L-31259, March 31, 1971, 38 SCRA 360, 368; Section 1, Rule 17 of the Rules of the Workmen's Compensation Commission). This ruling was reiterated by this Court in *Visitacion vs. WCC*, G. R. No. L-32076, May 30, 1972, 45 SCRA 265, 268, where it was ruled that the adverse ruling of an individual Commissioner should be appealed to the Workmen's Compensation Commission en banc within 10 days from notice thereof and that the 15-day period, invoked by the petitioner-appellant herein, is only applicable in cases of appeal from an award made by a Referee to the Commission.

The petition to review the decision of the respondent Workmen's Compensation Commission was filed out of time as the award made by the said respondent had become final when the petition was filed. The conclusion We have reached renders unnecessary the discussion of the alleged error of the Commission in awarding non--scheduled disability benefit under section 18 of the Workmen's Compensation Commission Act, as amended.

FOR ALL THE FOREGOING, the Orders of the respondent Workmen's Compensation Commission denying the motions for reconsideration of the Orders of September 5, 1968, and November 7, 1968, both issued by Associate (Medical) Commissioner Herminia Castelo-Sotto, are hereby affirmed and the instant petition denied.

Costs against petitioner-appellant.

SO ORDERED.

Makalintal, C.J., Ruiz Castro, Teehankee, Makasiar, and Muñoz Palma, JJ., concur.

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