

ROMEO SEBASTIAN, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND PHILIPPINE IRON MANUFACTURING CO., INC., RESPONDENTS.

G.R. No. L-42587. February 28, 1978

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition for review of the decision dated December 27, 1975 of the Workmen's Compensation Commission in R04-WCC Case No. 165131, reversing the decision dated October 8, 1975 of the Hearing Officer and Acting Referee, Workmen's Compensation Unit, Regional Office No. 4, Manila.

Petitioner Romeo Sebastian was employed by private respondent since 1964 as a grinder with a daily wage of P15.00, working six days a week, or an average weekly wage of P90.00. On December 21, 1974, he contracted illness (P.T.B.) disabling him for labor since that date. On March 24, 1975, he filed with the Regional Office No. 4, Manila, a notice and claim for disability compensation against the respondent. A notice relative to the claim was sent to private respondent on July 15, 1975.

For respondent's failure to controvert the claim of petitioner and/or answer the same within the period required of it to do so, the acting referee of Regional Office No. 4, Manila, rendered a decision dated October 8, 1975, the pertinent portions of which read:

"x x x Respondent having failed to dispute the allegations of the claim and to establish its right to controvert, the compensability of the claim is deemed admitted, respondent being considered to have waived or forfeited all its defenses as are available to it which go into the merit of the case.

"Under the Workmen's Compensation Act, as amended, the following benefits should therefore be extended to the claimant:

"Compensation for temporary total disability for labor equivalent to 60% of his average weekly wage for the period he was incapacitated for labor since December 31, 1974 to October 7, 1975 or 281 days which is equivalent to 40-1/7 weeks. Sixty per centum of his average weekly wage of P90.00 equals P54.00, and for 40-1/7 weeks, he is entitled to TWO THOUSAND ONE HUNDRED SIXTY SEVEN and 71/100 PESOS (P2,167.71).

"AWARD, therefore, is hereby rendered and the respondent is directed:

"1. To pay the claimant, thru this Office, the sum of TWO THOUSAND ONE HUNDRED SIXTY SEVEN and 71/100 PESOS (P2,167.71) as disability compensation pursuant to Section 14 of the Act.

"2. To pay the Workmen's Compensation Fund, likewise thru this Office the sum of TWENTY TWO PESOS (P22.00) as administrative fee, pursuant to Section 55 of the Act. Bill No. 3986-75 is hereto attached."

From the foregoing decision of the acting referee, private respondent filed a petition for reconsideration and/or appeal on November 19, 1975, alleging, among others, that private respondent was denied its day in Court as the said private respondent did not receive the notice of hearing of this case from the very start; and that the decision or award sought to be reconsidered was completely bereft of supporting evidence.

Acting upon the petition for reconsideration and/or appeal filed by private respondent, the Assistant Chief, Workmen's Compensation Section, Regional Office No. 4, in an order dated December 16, 1975, denied respondent's petition for reconsideration but elevated the entire records of the proceedings to the Workmen's Compensation Commission for review, pursuant to Section 4, Rule 19 of the Workmen's Compensation Act, as amended.

In a decision dated December 27, 1975, respondent Commission reversed the award made by the acting referee and absolved the private respondent of any liability under the Workmen's Compensation Act.

On February 13, 1976, petitioner instituted the present petition for review.

The records show that, indeed, on March 24, 1975, petitioner filed with the Workmen's Compensation Unit, Regional Office No. 4, Manila, a claim for disability compensation on the basis of his having contracted tuberculosis (P.T.B.). in the course of his employment with private respondent, per physician's report contained in CC Form No. 4 of Dr. Lorenzo Yuson, who stated therein that he treated claimant from December 21, 1974 to January 5, 1975 and that his temporary total disability is indefinite (p. 29, original rollo). It is likewise clear that the Workmen's Compensation Unit, Regional Office No. 4, Manila, acting upon the claim for disability compensation filed by petitioner, notified the private respondent of said claim and required it to accomplish CC Form No. 3 (Employer's Report of Accident or Sickness) [see proof of service, p. 26, original rollo]. The same proof of service indicates that as of August 28, 1975, no employer's report has been received by the Workmen's Compensation Unit, with which the claim for disability compensation was filed (see notation at right bottom corner, p. 26, original rollo).

Claimant likewise presented a medical certificate issued on August 26, 1975 by Dr. Bienvenuto T. Juatco stating that he treated claimant since May 1, 1975 for minimal PTB until August 26, 1975 when he issued the medical certificate (p. 13, rec.) and that he submitted to an X-ray examination on March 14, 1975 (obviously referring to the radiological report of Dr. Gerardo S. Perlas, Jr. dated March 14, 1975) [p. 30, original rollo].

On October 8, 1975, the acting referee, Manuel Asuncion, awarded the claim to the petitioner for failure of the private respondent to controvert the same.

It is now the contention of private respondent that inasmuch as it did not receive any notice of the hearing of the case, nor the notice for it to controvert the claim, the said private respondent was deprived of its day in court.

There is no dispute that the Workmen's Compensation Unit, Regional Office No. 4, sent the required notice enclosing therein WCC Form No. 3 for private respondent to accomplish and submit to the Workmen's Compensation Unit as early as July 15, 1975, so that the issues may be joined. However, private respondent did not accomplish said form nor tender an answer to the claim of petitioner. Settled is the rule that when a letter duly

directed and mailed to a known addressee has not been returned to the sender, it is presumed that the addressee received the letter (see Sec. 5[V], Rule 131, Rules of Court). Such being the case, it is incumbent upon the private respondent to show by indubitable evidence that indeed it did not receive the notice for controversion sent by the Workmen's Compensation Unit. Nothing in evidence has been shown by private respondent to this effect.

Moreover, the records of the Social Security System show that it issued a sickness benefit voucher dated August 26, 1975 to petitioner Romeo Sebastian for the payment of said sickness benefit in the amount of P1,501.50 for his hospital confinement from December 22, 1974 to April 30, 1975 on the basis of a daily rate of P16.50 (Exh. B, p. 12, rec.).

Since it cannot be seriously disputed that petitioner-employee was disabled for service since December 21, 1974 (see p. 29, original rollo, Physician's Report of December 21, 1974), his absence from work and the cause thereof, in the ordinary course of things, must have been brought to the attention of his foreman, whose knowledge of his ailment is knowledge of the employer. Private respondent must therefore controvert the claim from the time it had knowledge of the cause of petitioner's absence from work. From the knowledge of its foreman of the ailment of petitioner, private respondent had only 10 or 14 days, as the case may be, within which to controvert the claim (Sec. 45, Act No. 3428, as amended). This it failed to do, which failure generates a waiver of all non-jurisdictional defenses.

The pretended claim that the petitioner abandoned his work on December 21, 1974 without notifying respondent company, alleging that petitioner admitted that he went to the province for two months and reported back for work in February, 1975, is disputed by the respondent's own certification dated April 16, 1975 that petitioner has actually paid his monthly contribution to the Social Security System up to February 3, 1975 (pp. 14-15, rec.). This certification by private respondent is conclusive of the fact that until February, 1975, petitioner was its employee.

WHEREFORE, THE DECISION OF THE RESPONDENT WORKMEN'S COMPENSATION COMMISSION DATED DECEMBER 27, 1975 IS HEREBY REVERSED AND SET ASIDE, AND RESPONDENT PHILIPPINE IRON MANUFACTURING CO., INC. IS HEREBY ORDERED

1. TO PAY CLAIMANT-PETITIONER ROMEO SEBASTIAN

- THE SUM OF TWO THOUSAND ONE HUNDRED SIXTY SEVEN AND 71/100 (P2,167.71) PESOS AS DISABILITY COMPENSATION PURSUANT TO SECTION 14 OF THE WORKMEN'S COMPENSATION ACT, AS AMENDED; AND

- ATTORNEY'S FEES EQUIVALENT TO TEN PERCENT (10%) OF THE AMOUNT RECOVERABLE;

2. TO REIMBURSE CLAIMANT HIS EXPENSES FOR MEDICAL AND HOSPITAL SERVICES DULY SUPPORTED BY PROPER RECEIPTS;

3. TO PROVIDE CLAIMANT WITH SUCH MEDICAL, SURGICAL AND HOSPITAL SERVICES AS WELL AS APPLIANCES AS REQUIRED BY THE NATURE OF HIS AILMENT; AND

4. TO PAY THE SUM OF SIXTY ONE (P61.00) PESOS AS ADMINISTRATIVE FEE.

SO ORDERED.

Teehankee, (Chairman), Muñoz Palma, Fernandez, and Guerrero, JJ., concur.

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