

**RAYMUNDO I. CAMARILLO, PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION, HONORABLE EUGENIO I. SAGMIT,
JR., ASSOCIATE COMMISSIONER AND FIRESTONE TIRE &
RUBBER COMPANY OF THE PHI...**

G.R. No. L-42831. October 21, 1976

Ponente: MARTIN, J.

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MARTIN, J.:

Petition for review[1] of the decision of the Workmen's Compensation Commission which reversed the award made by the Acting Referee of Regional Office No. IV, Manila, granting petitioner compensation benefits under the Workmen's Compensation Act.

Petitioner has been employed by private resident for almost twenty-four (24) years occupying various positions in the Company, his latest being that of Traffic Manager, with a salary of P1,800.00 a month. Among his duties were: (1) clearing incoming shipments of raw materials, machineries and spare parts needed by the tire factory at South and North Harbors; (2) processing and filing of marine and inter island claims of the Company; (3) financing of all imports through various banks; (4) securing visas and extensions thereof at the Bureau of Immigration for all foreign employees of the Company; (5) handling travel arrangement of all members of the Management going abroad; and (6) facilitating clearances at the Manila International Airport of outgoing and incoming personnel.

Sometime in August of 1971, the employee's union of respondent Company staged a strike against the management which continued for almost a year until the right of employees to strike was suspended by General Order No. 5 on September 22, 1972. Meanwhile, respondent Company's shipment of machineries and spare parts had been delayed. While the strike was going on, petitioner could not avail himself of the assistance of other personnel of the company because they were members of the striking union. And so his problems over the stockpiling of jobs increased and had become difficult of solution because of the threat of bodily harm on him from strikers who wanted to totally paralyze the operation of respondent Company. As a consequence his health bogged down and on October 7, 1971 he was constrained to enter the St. Luke's Hospital where he was confined for two months. He then resumed his work with private respondent but since he had to bear all the responsibilities of his job, he had a relapse. On May 10, 1972, he consulted Dr. Feliciano Dy who diagnosed his illness as "Nervous depression leading to neurosis, Rosteria Psycho-Asthenia." Upon his physician's advice, he was confined at San Juan de Dios Hospital on two occasions, from July 2 to August 9, 1972 and from August 22, 1972 to September 4, 1972. After his discharge, he was advised to rest.

On April 24, 1973, petitioner filed a Notice of Injury or Sickness and Claim for Compensation[2] with Regional Office No. IV, Manila, together with a Physician's Report signed by Dr. Feliciano Dy.[3] Subsequently, he submitted to the Acting Referee an affidavit in support of his claim. Private respondent filed no controversion. Meanwhile, petitioner resumed his duty on July 1, 1973 upon request of his employer.

On July 15, 1975 the Acting Referee rendered a decision ordering private respondent to pay the amounts of P6,000.00 and P4,055.20 to petitioner as disability compensation and reimbursement of medical, professional and hospital expenses, respectively, and to pay the sum of P300.00 as attorney's fees and P61.00 as administrative fee. On review of the award made by the Acting Referee, the Workmen's Compensation Commission reversed the decision and dismissed the claim of petitioner on the ground that "claimant failed to satisfactorily establish condition to which he was subject in the performance of his function or to attach a hazard to his occupation to distinguish it from the usual run of occupation that could predispose him to the growth and/or aggravation of his illness." [4] The said decision of the Workmen's Compensation Commission is now the subject of this review.

From the records it is clear that the illness of the petitioner supervened in the course of his employment. In the Physician's Report, Dr. Feliciano Dy categorically stated that his illness arose as a consequence of the nature of the work and in pursuit thereof. In a long line of cases, too numerous to enumerate, the Court has consistently ruled that once the illness supervened in the course of employment, a rebuttable presumption [5] arises that such illness arose out of or was at least aggravated by such employment [6] and that the burden to overthrow said presumption shifts to the employer. [7] In the case before Us, respondent Company has failed to discharge such burden. It has not even controverted the claim of the petitioner. Indeed pursuant to the mandate of the law, the absence of controversion is fatal to any defense that the employer could interpose. [8] Constructively, such failure to controvert the claim is an admission that the claim is compensable. [9] Accordingly, petitioner's claim for compensation should be granted pursuant to Section 2 of the Workmen's Compensation Act. [10] He shall also be entitled to reimbursement of medical and hospital expenses plus attorney's fees and administrative fees as awarded by the Acting Referee in its decision.

IN VIEW OF THE FOREGOING, the decision of respondent Commission is hereby set aside and the award made by the Acting Referee in favor of the petitioner, reinstated, without pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, and Muñoz Palma, JJ., concur.

Concepcion, Jr., J., concur and designated to sit in the First Division.

[1] Treated as special civil action as per Resolution of the Court dated May 7, 1976.

[2] Annex "A".

[3] Annex "A-1".

[4] Annex "C".

[5] "SEC. 44. WCC Act. Presumption. - In any proceeding for the enforcement of the claim for compensation under this Act, it shall be presumed in the absence of substantial evidence to the contrary -

1. That the claim comes within the provisions of this Act;
2. That sufficient notice thereof was given;
3. That the injury was not occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another;
4. That the injury did not result solely from the intoxication of the injured employee while on duty; and
5. That the contents of verified medical and surgical reports introduced in evidence by claimants for

compensation are correct.

[6] Magalona vs. WCC, 21 SCRA 1199, citing Itemcop vs. Florzo, L-21969, Aug. 31, 1966; Vda. de Acosta vs. WCC, L-19772, Oct. 31, 1964; Maria Cristina Fertilizer Co. vs. WCC, 60 SCRA 228; Talip vs. WCC, L-42575, May 31, 1976; Reynaldo vs. Republic, L-43108, June 30, 1976; Mercado vs. WCC, L-42451, July 30, 1976; Simon vs. Republic, L-42510, June 30, 1976.

[7] Abana vs. Quisumbing, L-21849, March 27, 1968; Magalona vs. WCC, supra, citing Justiniano vs. WCC, L-22774, Nov. 21, 1966, citing Agustin vs. WCC, L-19957, Sept. 29, 1964; Cabinta vs. WCC, L-42639, July 30, 1976.

[8] Apolega vs. Hizon, 25 SCRA 336; National Mirror Factory vs. Vda. de Anure, 27 SCRA 719; Victorias Milling Co. vs. WCC, 28 SCRA 285; Northwest Airlines vs. WCC, 28 SCRA 877; La Mallorca vs. WCC & Zuñiga, 30 SCRA 613.

[9] A.D. Santos vs. Vasquez, 22 SCRA 1156, citing A.D. Santos vs. De Sapon, L-22220, April 29, 1966; Itemcop vs. Florzo, supra; Nadeco vs. Ronga-villa, L-21963, Aug. 30, 1967; Rio y Compania vs. WCC, L-21467, Aug. 30, 1967; Pampanga Sugar Mills vs. Es-peleta, L-24973, Jan. 30, 1968.

[10] "SEC. 2, WCC Act. Grounds for compensation. - When an employee suffers personal injury from any accident arising out of and in the course of his employment, or contracts tuberculosis or other illness directly caused by such employment, or either aggravated by or the result of the nature of such employment, his employer shall pay compensation in the sums and to the persons hereinafter specified. The right to compensation as provided in this Act shall not be defeated or impaired on the ground that the death, injury or disease was due to the negligence of a fellow servant or employee, without prejudice to the right of the employer to proceed against the negligent party."

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