

ELSIE C. ANTIPORDA, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION, BUREAU OF PUBLIC SCHOOLS AND THE SOLICITOR GENERAL, RESPONDENTS.

G.R. No. L-43031. February 28, 1985

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition to review the decision of respondent Workmen's Compensation Commission, dated December 27, 1975, dismissing petitioner's claim for disability benefits under the Workmen's Compensation Act, as amended, which was earlier granted to her by the Workmen's Compensation Unit, Department of Labor Regional Office No. VII, Bacolod City.

Petitioner Elsie C. Antiporda is an elementary classroom teacher of the then Bureau of Public Schools (now Ministry of Education, Culture and Sports) assigned at the Ester Araneta Elementary School, District No. 2 of Talisay, Negros Occidental, with a monthly salary of P349.00 at the time of her illness. Petitioner started her teaching career with the government in August, 1945.

In March, 1972, after 27 years of service, petitioner contracted an illness diagnosed as "fibroid uterus-cystic ovary" for which she needed an operation. Accordingly, she informed her immediate superior, Acting District Supervisor, Mr. Anastacio Cubos, about it and was granted the necessary leave of absence. She was admitted at the Negros Occidental Provincial Hospital and was operated on by Dr. Nenita O. Almaiz, a government physician. After her operation and a period of recuperation, she reported back to work in July, 1972.

On March 31, 1975, petitioner filed her claim for disability benefits under the Workmen's Compensation Act, as amended, with the Department of Labor Regional Office No. VII, Bacolod City, alleging, among others, that due to the nature of her work as a public school teacher she contracted her illness. Respondent Solicitor General, as counsel for respondent Bureau of Public Schools, received his notice of the claim on May 5, 1975, and it was only on May 30, 1975 that a controversion was registered by the respondent Solicitor General.

On October 2, 1975, the Workmen's Compensation Unit in Bacolod City, through Referee Pacifico V. Militante, promulgated a decision awarding disability benefits in favor of herein petitioner, the dispositive portion of which reads:

"Liability is hereby being assessed against the respondent BUREAU OF PUBLIC SCHOOLS and is ordered to:

"(1) Pay the claimant, under Section 14 of the Act, the sum of P835.24 as compensation for her period of temporary total disability, that is, from March 2, 1972 to June 30, 1972 (she returned back to work on July 1, 1972). 60% of her average weekly wage which was P80.54 (P349.00 x 12 + 52) equals P48.32 and for 121 days or 17-2/7 weeks equals P835.24;

"(2) Pay to claimant under Section 18 of the Act, the sum of P5,025.70 as compensation for her 60% NSD

(evaluation of Dr. Antonio M. Habana, Compensation Rating Medical Officer, this Office, dated October 2, 1975) computed as follows: 50% of claimant's average weekly wage which was P80.54 equals P40.27 multiplied by 104 weeks (50% of 208 weeks) equals P5,025.70;

"(3) Pay to this Office as administrative fee under Section 55 of the Act, the sum of P59.00" (p. 30, WCC rec.).

Respondent Bureau of Public Schools petitioned for reconsideration of the aforesaid decision, but the same was denied and the entire record of the case was elevated to the respondent Commission for review pursuant to its rules.

On December 27, 1975, respondent Commission rendered its decision dismissing petitioner's claim on the ground that she failed to show a causal connection between her illness of "fibroid uterus-cystic ovary" and the nature of her work as a classroom teacher.

Hence, this petition.

The sole issue in this case is whether or not petitioner's illness of "fibroid uterus-cystic ovary" is compensable under the Workmen's Compensation Act, as amended.

WE find the petitioner's claim meritorious. Respondent Workmen's Compensation Commission dismissed petitioner's claim on the ground that she failed to show a causal connection between her illness and the nature of her employment. The questioned decision of respondent Commission states:

"xx xx xx.

"x x x. It is a settled rule in the Workmen's Compensation cases that it is not sufficient for the claimant to show that the illness supervened during the employment. It is a primordial requirement for the claimant to show causal link of the ailment complained of to the nature of employment and failure to satisfy this requirement would necessarily cause denial of the claim. In this particular case there is no showing that the claimant's illness of "Fibroid Uterus-Cystic Ovary" has any relation at all to the nature of claimant's employment as a classroom teacher. The mere fact that a claim has not been timely controverted does not ipso facto make the non-compensable claim compensable. Hence, for lack of factual basis upon which to sustain the compensability of this case, this Commission is hereby constrained to deny this claim." (p. 8, rec.).

It is obvious that the respondent Commission failed to consider the legal presumption of compensability expressly provided for under Section 44 of the Workmen's Compensation Act, as amended. "(I)t should be recalled that Section 44 of the former compensation law clearly provided that in any proceeding for the enforcement of the claim for compensation, it shall be presumed, in the absence of substantial evidence to the contrary, that the claim comes within its provision. Said section unequivocally established a presumption of compensability although disputable by substantial evidence. It then becomes the duty of respondent employer to show that the claim does not come within the coverage" (Panague, et al. vs. ECC, et al., 121 SCRA 65, 74 [1983], underscoring supplied).

It is not disputed that the petitioner's illness supervened in the course of her employment. She joined the service way back in 1945. She was able to render 27 years of faithful and continuous service before she contracted her illness in 1972. In the early years of her teaching career, she was assigned to remote barrios where everyday she had to walk more than a kilometer by foot to reach her place of work. For 27 long years she was exposed to all the elements of nature -- e.g., cold, heat, typhoons, etc. She had to exert physical effort in teaching pupils by way of demonstration, more particularly in physical education classes (p. 9, WCC rec.).

Under these circumstances, the basic or jurisdictional facts in favor of the petitioner's claim are prima facie established. Consequently, the statutory presumption operates and works in favor of the petitioner. The respondent Bureau of Public Schools therefore, has the burden of disputing the petitioner's claim by substantial

evidence, which it failed to do. This being the case, the presumption of compensability of petitioner's illness becomes conclusive.

Furthermore, respondent Workmen's Compensation Commission did not only fail to consider the presumption of compensability under the law, but it also failed to take note of the principle of aggravation enunciated by Section 2 of the Workmen's Compensation Act, as amended.

Petitioner's ailment is an idiopathic one, the development of which is gradual and imperceptible. Its development is insidious since symptoms are typically absent. According to medical authorities, the "symptoms of ovarian tumors are characteristically absent. Crossen suggested the term 'Silent Ovary' because of this absence of subjective discomfort. Most ovarian tumors are discovered when they become large enough to be felt above the symphysis; they average 15 cm. in diameter. There are, however, some symptoms associated with or directly the result of ovarian tumors. Complications and secondary changes cause the remainder" (Corscaden's Gynecologic Cancer, 4th Ed., 1970, underscoring supplied).

Since the development of the petitioner's illness is insidious, she worked not knowing that she already has the illness in her, until her condition deteriorated to the extent that she needed an operation. These are the situations wherein the principle of aggravation comes into play. Under this principle, an employee is entitled to compensation for any personal injury he suffers when his illness, which supervened in the course of his employment, is aggravated by the nature thereof.

It is indubitable that petitioner's illness of "fibroid uterus-cystic ovary" was caused and aggravated by her work as a public elementary school teacher. In *Makabali vs. ECC*, 126 SCRA 174, November 29, 1983, this Court has recognized the strenuous job of public school teachers, thus:

"xx xx xx.

"WE are well aware of the fact that only a handful of public elementary school teachers are fortunate enough to be assigned in urban areas where the working conditions are comparatively much better than those in the rural areas. A large majority of public elementary school teachers, as in the case of the petitioner, work in remote places such as sitios and barrios under poor working conditions. Thus, the daily task of conducting classes (normally composed of 40 to 50 pupils in urban areas and up to 70 pupils in rural areas) in an atmosphere that is, by any standard, not conducive to learning becomes even more physically taxing to the teachers. Tremendous amount of paper work during and after office hours (from correcting examination papers, assignments, school projects and reports to writing lesson plans and the computation and recording of grades) can be very physically draining especially to the senior members of the teaching profession such as the petitioner. Such and other related school activities of a teacher, aggravated by substandard, if not adverse, working conditions, give rise to increased tension, if not emotional and psychological disturbance on the part of the teachers. This is especially true in the case of public elementary school teachers whose pupils, being of tender age and immature, need to be disciplined and to be taught good manners and right conduct, as well as to be assisted in their formal school lessons."

Furthermore, in the same case, this Court said:

"WE must not also neglect to mention the fact that public elementary school teachers are the lowest paid government workers considering the nature and importance of the services they render. They are the most reliable and dedicated public servants being constantly called upon by officials of the local and national government to assist in various extra-curricular and civic activities which contribute to the welfare of the community and the country. Their responsibility in molding the values and character of the young generation of the country, cannot be overestimated.

"Significantly, even Republic Act No. 4670, otherwise known as the Magna Charta for Public School

Teachers, mandates in one of its provisions that 'teachers shall be protected against the consequences of employment injury in accordance with existing laws. The effects of the physical and nervous strain on the teacher's health shall be recognized as compensable occupational diseases in accordance with existing laws' (Calvero vs. ECC, et al., 117 SCRA 462 [1972])" [Makabali vs. ECC, supra, pp. 183-185].

In his memorandum submitted to this Court, respondent Solicitor General maintains that the petitioner's illness is not compensable because it is evident that the same has not disabled her from working since she reported back to work in July, 1972. This conclusion is untenable. This Court had ruled that an employee who is able to continue working despite his illness is still entitled to disability compensation (Macawili vs. WCC, et al., G.R. No. L-42669, January 21, 1985; Vivencio Omison vs. WCC, et al., G.R. No. L-42942, August 22, 1984; Makabali vs. ECC, 126 SCRA 174, November 29, 1983; Corales vs. ECC, 88 SCRA 555, February 27, 1979).

Finally, the record shows that the respondent Solicitor General, as counsel for the respondent Bureau of Public Schools, failed to file a timely notice of controversion to the petitioner's right to compensation. Neither did the respondent Bureau of Public Schools submit the required employer's report under Section 37 of the Workmen's Compensation Act, as amended. Section 45 of the Act provides that:

"In case the employer decided to controvert the right to compensation, he shall, either on or before the fourteenth day of disability or within ten days after he has knowledge of the alleged accident, file a notice with the Commissioner, on a form prescribed by him, that compensation is not being paid, giving the name of the claimant, name of the employer, date of the accident and the reason why compensation is not being paid. Failure on the part of the employer or insurance carrier to comply with this requirement shall constitute a renunciation of his right to controvert the claim unless he submits reasonable grounds for the failure to make the necessary reports, on the basis of which grounds the Commission may reinstate his right to controvert the claim" (underscoring supplied).

Respondent Bureau of Public Schools, in the person of its representative, acting district supervisor Mr. Anastacio Cubos, had knowledge of the petitioner's illness way back in 1972. On the other hand, while the respondent Solicitor General received a notice of the claim on May 5, 1975, it was only on May 30, 1975 that a controversion to the petitioner's right to compensation was registered with the Workmen's Compensation Unit at Bacolod City.

In the case of Development Bank of the Philippines vs. WCC, 49 SCRA 375, February 7, 1973, this Court held, thus:

"xx xx xx.

"This Court has ruled uniformly in many cases that failure to controvert the claim within the prescribed period of fourteen (14) days from the date of the disability or illness or within ten (10) days after knowledge of such illness, and to submit the report required by Section 37 of the Workmen's Compensation Act, as amended, amounts to a waiver of the right to controvert and a renunciation of all defenses, like the defense that the claim is not compensable.

"xx xx."

WHEREFORE, the decision of the workmen's compensation commission is hereby set aside, and the decision rendered by the workmen's compensation unit at bacolod city is hereby reinstated but modified to read as follows:

RESPONDENT BUREAU OF PUBLIC SCHOOLS (MINISTRY OF EDUCATION, CULTURE AND SPORTS) IS HEREBY ORDERED

1. TO PAY THE PETITIONER UNDER SECTION 14 OF THE ACT, THE SUM OF EIGHT HUNDRED THIRTY FIVE PESOS AND 24/100 (P835.24) AS COMPENSATION FOR HER PERIOD OF TEMPORARY TOTAL DISABILITY, THAT IS, FROM MARCH 2, 1972 TO JUNE 30, 1972 COMPUTED

AS FOLLOWS: 60% OF HER AVERAGE WEEKLY WAGE WHICH WAS P80.54 ($P349.00 \times 12 + 52$) EQUALS P48.32 AND FOR 121 DAYS OR 17-2/7 WEEKS EQUALS P835.24;

2. TO PAY THE PETITIONER UNDER SECTION 18 OF THE ACT, THE SUM OF FIVE THOUSAND TWENTY-FIVE PESOS AND 70/100 (P5,025.70) AS COMPENSATION FOR HER 60% NSD (EVALUATION OF DR. ANTONIO M. HABANA, COMPENSATION RATING MEDICAL OFFICER, WCC UNIT, BACOLOD CITY, DATED OCTOBER 2, 1975) COMPUTED AS FOLLOWS: 50% OF PETITIONER'S AVERAGE WEEKLY WAGE WHICH WAS P80.54 EQUALS P40.27 MULTIPLIED BY 124.8 WEEKS (60% OF 208 WEEKS) EQUALS P5,025.70;

3. TO REIMBURSE PETITIONER HER MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY PROPER RECEIPTS; AND

4. TO PAY THE COSTS.

SO ORDERED.

Concepcion, Jr., Abad Santos, Escolin, and Cuevas, JJ., concur.

Aquino, J., dissents. The illness of the petitioner was not work connected.

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