

GENERAL TEXTILES, INC., PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND BIENVENIDO BERNARDO, RESPONDENTS.

G.R. No. L-43587. November 29, 1978

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition to review the decision of the Workmen's Compensation Commission in R04-WC Case No. 161886 entitled "Bienvenido Bernardo, Claimant, versus, General Textile Corporation, Respondent", the dispositive part of which reads:

"Viewed from all the foregoing, the order of dismissal should be as it is hereby, REVERSED. Respondent is ordered to pay claimant thru the Commission the amount of P3,400.18 as compensation benefits; to pay Czar Romero, thru the Commission the sum of P340.00, as attorney's fees pursuant to Section 31 of the Act, as amended; and to pay the administrative cost the sum of P40.00 including the P5.00 fees for this review.

SO ORDERED.

Quezon City, March 16, 1976.

(SGD) SEVERO M. PUCAN
Chairman of the Commission

I CONCUR:

(SGD) DIOSCORA C. ARELLANO
Associate Commissioner"[1]

The private respondent, Bienvenido Bernardo, filed a disability claim against the petitioner, General Textiles, Inc., on January 14, 1975 with the Regional Office No. 4 of the Department of Labor at Manila, alleging that he became sick of pulmonary tuberculosis during his employment with said petitioner. On March 14, 1975, the petitioner controverted the claim. The parties submitted the case for decision on the basis of affidavits and counter-affidavits.[2]

In an order dated October 14, 1975, the Acting Referee dismissed the case on the ground that there was no more employer-employee relationship existing between the claimant and the respondent.[3]

The claimant filed a motion for reconsideration which was denied by the Assistant Chief of the Regional Office No. 4 at Manila in the following order:

"Finding the grounds relied upon by claimant in his Motion for Reconsideration of our Order dated October 14, 1975 to be without merit, said motion is hereby denied.

It appearing, however, that claimant's motion was filed within the reglementary period of fifteen (15) days, let the entire records of this case consisting of ____ pages, be elevated to the Workmen's Compensation Commission for review, pursuant to Section 4, Rule 19 of the Rules of the aforesaid Commission.

Manila, Philippines, March 5, 1976.

DANILO L. REYNANTE
Assistant Chief"[4]

The claimant appealed to the Workmen's Compensation Commission which reversed the order of dismissal and ordered the respondent, General Textile Corporation, petitioner herein, to pay the claimant, private respondent herein, compensation benefits and to pay claimant's lawyer attorney's fees as well as to pay administrative costs.[5]

The petitioner, General Textiles, Inc., submits that the order of dismissal dated October 14, 1975 which was sought to be reconsidered had become final, it appearing that the private respondent, Bienvenido Bernardo, received a copy of said order on December 9, 1975 and the motion for reconsideration was filed only on March 5, 1976 or eighty-seven (87) days after the said private respondent had received the order of dismissal.[6]

The petitioner does not question the following findings of fact of the Workmen's Compensation Commission:

"Records of the case disclosed, that claimant was employed by the respondent for thirteen years as a factory worker, receiving a daily wage of P10.10 and working six days in a week; that claimant was performing carpentry work with the respondent exerting strenuous efforts; that he contracted PTB of which he attributed to have arose out of and was aggravated by the nature of his work; that because of his disabling sickness he was resigned by the company on October 25, 1974, and was given a separation pay in the amount of P1,785.14; that he was treated by one, Dr. Romeo Cruz, of St. Joseph Medical Specialist with business address at 989 Aurora Boulevard, Quezon City and the Chest X-ray taken on October 29, 1974 shows impression of PTB moderately advanced, bilateral; that this was corroborated by another physician, Dra. Violeta del Mundo of Quezon Institute and who accomplished and signed the physician's report; that Dra. del Mundo first treated claimant on November 14, 1974 and strongly opined that claimant's sickness of PTB was aggravated by the nature of his work (item 8 (a), Physician's Report).

We are reversing the order of dismissal. There is no doubt that claimant was afflicted with the illness of PTB at the time he was resigned by respondent. On October 6, 1975, claimant was X-rayed at the National Tuberculosis Center Clinic and the finding was PTB, minimal, probably active. The X-ray result, dated October 29, 1974 taken on claimant gave the impression of PTB, moderately advanced, bilateral, which tends

to show that he was already afflicted with the disease long before; he ceased working on October 25, 1974. It would be unfair to state that five days, after he stopped working he got sick of PTB. There having existed an employer-employee relationship at the time claimant was afflicted with the disease, the legal presumption that the sickness having arose out of and was aggravated by the nature of his work is applicable. Hence, we sustain and so hold that the work of claimant has a preliminary link to his PTB."[7]

The contention of the petitioner that the motion for reconsideration submitted by the claimant, Bien-venido Bernardo, on March 5, 1976 was filed Eighty-seven (87) days after said respondent had received a copy of the order of dismissal on December 9, 1975, is not established by the record.

There is no showing that Atty. Amado A. Caballero, counsel of the claimant, Bienvenido Bernardo, ever received a copy of the order of the Acting Referee dated October 14, 1975 dismissing the claim. Opposite the name of said counsel at the foot of the order, Annex "E", is an illegible scrawl. No evidence was adduced as to what the illegible scrawl is.

Atty. Amado A. Caballero avers that he did not receive any copy of the order dated October 14, 1975 dismissing the claim.[8] The order of the Assistant Chief of Regional Office No. 4, Manila, dated March 5, 1976 denying the motion for reconsideration expressly states "that claimant's motion was filed within the reglementary period of fifteen (15) days x x x." There is a presumption of regularity of this official act of the Assistant Chief which has not been rebutted by the petitioner.

The Workmen's Compensation Commission awarded the compensation benefits on the basis of the following data:

"From October 25, 1974 to March 16, 1976 is 72 5/7 weeks, multiplied by P36.35 (60% of P60.60) is P2,643.89, as compensation benefits pursuant to Section 14 of the Act, as amended. Claimant was referred to the Compensation Rating Medical Officer and was rated 12% NSD under Section 18, hence he is entitled to the amount of P756.28, computed as follows: 12% of 208 weeks is P24.96 multiplied by 24-96 weeks (P60.60 x 50%). The amount of P756.29 plus P2,643.89 gives the total aggregate sum of P3,400.18, as the total compensation benefits pursuant to Sections 14 and 18 of the Act, as amended.

This being an appealed case, claimant's counsel is entitled to 10% of the amount due the claimant or the sum of P340.00, as attorney's fees."[9]

We find the foregoing computation as correct.

WHEREFORE, the decision appealed from is hereby affirmed.

SO ORDERED.

Teehankee, (Chairman), Santos, and Guerrero, JJ., concur.

Makasiar, J., concurs in a separate opinion.

[1] Annex "H", Rollo, pp. 33-35.

[2] Rollo, p. 9.

[3] Annex "E", Rollo, p. 29.

[4] Annex "G", Rollo, p. 32.

[5] Rollo, p. 35.

[6] Petition, Rollo, p. 12.

[7] Annex "H", Rollo, pp. 33-34.

[8] Comment, Rollo, p. 48.

[9] Rollo, pp. 34-35.

SEPARATE CONCURRING OPINION

MAKASIAR, J.:

I concur with the additional opinion that the petitioner employer should likewise be directed to continuously provide the claimant with such medical, surgical and hospital services as well as appliances and supplies as the nature of his disability and the progress of his recovery may require and which will promote his early restoration to the maximum level of his physical capacity. It is my consistent view that the provisions of Section 13 of the Workmen's Compensation Act, as amended, and Article 185 of the New Labor Code confer such right on the disabled employee, whether his disability is temporary or permanent. This is in compliance with the social justice guarantee of both the 1935 and 1973 Constitutions and in obedience to the directive of Article 4 of the New Labor Code that "all doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor", which is a re-statement of existing jurisprudence as well as Article 1702 of the New Civil Code. To limit such right to a temporarily disabled employee would inflict gross injustice on those permanently disabled, who still need to be relieved from the pain, trauma, social ostracism or humiliation generated by such permanent disability.

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