

CESAR DOMETITA, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND UNIVERSAL TEXTILE MILLS, INC., RESPONDENTS.

G.R. No. L-43612. November 29, 1976

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petition for review on certiorari of the decision dated January 28, 1976 of the Workmen's Compensation Commission (WCC) in R04-WCC Case No. 7421, affirming an order dated October 30, 1975 issued by the Department of Labor, Regional Office No. 4, Manila, dismissing the claim for compensation filed by petitioner Cesar Dometita against the Universal Textile Mills, Inc., a duly registered corporation in the Philippines with address at Baranca, Marikina, Rizal, and engaged in the textile industry. This petition was treated by this Court as a special civil action and the parties were required to submit simultaneous memoranda.

On March 31, 1975, petitioner filed a notice of injury or sickness and claim for compensation before the Workmen's Compensation Unit, Rizal Provincial Office, Department of Labor, Mandaluyong, Rizal, against respondent (Annex "A"). Attached to the claim is the physician's report of petitioner's illness of optic neuritis, constant headaches (migraine) and dizziness.

On October 30, 1975, the hearing officer of Regional Office No. 4, Department of Labor, Manila, dismissed the claim on the ground that claimant's illness "has no causal relation with his employment as loom fixer of the respondent (Annex "B").

On December 27, 1975, petitioner filed a motion for reconsideration and/or petition for review (Annex "C"). Pertinent portion of this motion for reconsideration reads:

"x x x that the claimant is sick and failed to pay attention to this compensation claims; that claimant is 39 years on the filing of his claim and is married; that his works are as Janitor, Cleaner, Dofferman, Machine Operator, Beam Fixer, and as Loom Fixer, working with the respondent company for almost 14 years with a daily rate of P12.05, the salary he was receiving the last three years since he stopped working on February 13, 1974 due to his service-connected ailments, and that he is a time working and working 6 days a week; the respondent company is the Universal Textile Mills, Inc. (U-TEX) engaged in textile industry;

"That claimant's works are continuous, always standing, sometimes working night-time, tedious, working without letup tending noisy machines, he strained too much his eyes on his work, his work area is hot, and the atmosphere in his work area abound with cotton dusts that he inhaled and same covered his eyes, nose and ears during work time; that he began to have dizziness, headaches, vomiting, and loss of eyesights sometime in December, 1973, and requested from respondent's Medical Department for leave, but was denied, and was ordered to continue working and he has to work, otherwise, he will be dismissed from his work, and that 4 successive days of absence shall subject him to dismissal per company rules and regulations; that he continued working although he was sick of his ailments; that UTEX Medical Department issued him eyeglasses, but that his condition remained unchanged; and that his ailments became more serious and company doctors advised

him to take a leave and confinement in a hospital; and that on February 13, 1974, claimant stopped working without pay nor compensation, and all these facts are shown in Claimant's Notice of Injury or Sickness and Claim for Compensation with Physician's report, medical certificates submitted and in his sworn statement hereto attached as Annex "Z-2";

"2. That as shown, due to the seriousness of claimant's illness, respondent through its medical department advised him to take leave, and on February 13, 1974, he actually stopped working without pay nor (sic) compensation and was treated as out-patient; that he was later confined at the Government Service Insurance Hospital, Quezon City from April 3 to 16, 1974 where Dr. Rodolfo Chuanico, his attending physician found him suffering from Optic Neuritis and was treated thereof per his hereto attached Medical Certificate as Annex "A"; that because he could hardly see, he consulted the Mary Chiles Hospital, Manila, and his attending physicians Dr. Erlinda de Luna and Dr. Jose T. Oconor operated his eyes and was fitted anew with more thicker (sic) eyeglasses sometime in February, 1975, and where he was also found to be suffering from Migraines as shown in hereto attached Medical Certificates of Dr. Oconor as Annexes 'B', 'C' and 'D'; that because his eyesights and headaches are seriously bothering him, he had himself confined at the Santo Tomas University Hospital, Manila, where his attending physician thereat found him suffering from Migraine headaches and he was treated of this ailment as shown in hereto attached Medical Certificates as Annexes 'E' and 'F' issued by his attending physician Dr. Orlino A. Pacioles, who is still treating him of his ailments up to now; and that all these Medical Certificates were furnished the respondent who never controverted his (sic) upon its receipt thereof;

"3. That because of his service-connected ailments he failed to return to his former position at UTEX, nor was he able to do similar work, and based on fair and unbiased estimate and nature and condition of his illness, his temporary total disabilities will last for 3 years from December, 1975, and that even if he is cured of his illness, he will have a permanent partial disability of 35% and can work only on light jobs as he has a poor eyesight on both eyes and this condition shall last for 4 years, and he will have a relapse of his illness due to its nature after these periods; that he has not work (sic) with any other company since then and is always at home and on bed most of the time due to attacks of severe headaches which would last for days and that based on the foregoing circumstances, his illness were directly caused, or aggravated by, or the result of the nature of his work at UTEX; that his illness incapacitated him from immediately contacting his counsel to properly prosecute his claims whom he contracted for a fee as provided for under law, and his claims for compensation was unfairly dismissed without hearing his side of the case; and that for his ailments, he incurred necessary expenses for his medical, surgical, appliances hospital services and supplies in the amount of P1,355.18 as enumerated in hereto attached list as Annex 'G' and supported by receipts hereto attached as Annexes 'H' to 'Z' inclusive, and Annex 'Z-1', and since his illness is not yet cured, the above amount shall certainly increase; and that because the claimant is not satisfied with the order of dismissal of his claim, he is hereto moving for a reconsideration or a review of the same."

On January 28, 1976, respondent WCC, in an en banc decision, on the same ground relied upon by the Regional Office, affirmed the order of dismissal. Respondent Commission also found that since "effective February 13, 1974, he (claimant) ceased working" with the respondent firm, and that he was treated of his alleged illness only on April 3, 1974 till April 16, 1974, and that he was treated of migraine already sometime in May, 1974, then it is "very apparent that when he sustained the illness, there existed no more employer-employee relationship between the claimant and the respondent."

After a careful review of the records before this Court, the decision of the WCC should be reversed.

There is sufficient substantial proof that petitioner worked with the Universal Textile Mills, Inc. for almost 14 years starting as a janitor, then a cleaner, a dofferman, a machine operator, a beam fixer, and, finally, a loom fixer. This is the last position which he held when he stopped working on February 13, 1974. His daily rate was P12.05, the salary he was receiving during the last three years until he stopped working.

Petitioner's work assignment was continuous, working during the day, and at times during the night. His work requires him to stand, attending to noisy machines, in a hot working area, where abound cotton and synthetic dusts which he inhaled and covered his eyes, ears, nose, head and face. In December, 1973, he began to feel the symptoms of his ailment, suffer dizziness, headaches, vomiting and loss of eyesight. He consulted Dr. Florante Gener of respondent's medical clinic, and requested for leave. His request having been denied, he continued working. Though he was given eyeglasses by respondent, his condition became worse. Because of the advice of the company physician, petitioner took leave and stopped working on February 13, 1974. On the following April 3 to 16, 1974, his wife brought him to the GSIS Hospital. Four medical specialists, namely Drs. Rodolfo Chuanico of the GSIS Hospital, Jose T. Oconor and Erlinda de Luna of Mary Chiles Clinic, and Orlino A. Pacioles of Santo Tomas University Hospital, diagnosed him, and issued the corresponding medical certificates (Annexes "B", "C", "D", "E" and "F") confirming his ailments. In the process, petitioner incurred medical expenses amounting to P1,355.18, with the supporting receipts paid by him (Annex "H"). Re-spondent company was fully appraised and well-advised of all these relevant circumstances.

The foregoing facts, contrary to the findings and conclusion of respondent Commission, undisputably proved that petitioner's illness was work-connected and was aggravated by, if not the direct result of, his almost fourteen (14) years of employment with re-spondent company.

And, significantly, respondent failed to contro-vert petitioner's claim for compensation, which con-stitutes waiver of all its defenses not otherwise jurisdictional.

WHEREFORE , THE DECISION DATED JANUARY 28, 1976 OF THE RESPONDENT WORKMEN'S COMPENSATION COMMISSION IS HEREBY SET ASIDE AND THE RESPONDENT UNIVERSAL TEXTILE MILLS, INC., IS HEREBY ORDERED:

(1) TO PAY CLAIMANT:

(A) SIX THOUSAND PESOS (P6,000.00) FOR TEMPORARY PARTIAL DISABILITY;

(B) ONE THOUSAND THREE HUNDRED FIFTY-FIVE PESOS AND EIGHTEEN CENTAVOS (P1,355.18) AS REFUND FOR MEDICAL EXPENSES INCURRED;

(C) TEN PER CENT (10%) OF THE TOTAL COMPENSATION AS ATTORNEY'S FEES;

(2) TO PROVIDE THE CLAIMANT SUCH MEDICAL, SURGICAL AND HOSPITAL SERVICES AND SUPPLIES AS THE NATURE OF THE AILMENT MAY REQUIRE;

(3) TO PAY THE SUM OF SIXTY-ONE PESOS (P61.00) AS ADMINISTRATIVE FEE; AND

(4) TO PAY THE COSTS.

SO ORDERED.

Teehankee, (Chairman), Muñoz Palma, Concepcion, Jr., and Martin, JJ., concur.

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