

ERNESTO PANTI, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND NATION PROPERTY INVESTMENT CORPORATION, RESPONDENTS.

G.R. No. L-42189. May 27, 1991

Ponente: BIDIN, J.

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BIDIN, J.:

This is a petition for Review on Certiorari of the Decision of the defunct Workmen's Compensation Commission dated November 29, 1975 in RO4-WC Case No. 161126 which reversed the Award of Disability Compensation dated February 18, 1975 of Acting Chief of Section E. M. Cayapas of the Regional Office No. 4, Department of Labor, Manila on the ground that said Award is contrary to law and existing jurisprudence.

Records show that on December 10, 1974, the herein petitioner filed a Notice of Injury Sickness and Claim for Compensation with the Regional Office No. 4, Department of Labor, Manila, where attending physician, Dr. Gisbert diagnosed petitioner's ailment as Hernia Inguinal Scrotal (R) "Prognosis: Good if Surgery is performed."

Private respondent-employer Nation Property Investment Corporation failed to controvert the petitioner's right to compensation within 14 days from date of disability or within ten (10) days from knowledge thereof pursuant to Section 45 of Act 3428, as amended.

On February 18, 1975, petitioner was awarded the following:

"Award, therefore, of the aforementioned benefits in favor of the claimant is hereby entered and respondent ordered to pay:

1. The Claimant, thru this Office, in one lump sum the amount of SEVEN HUNDRED TWENTY-NINE PESOS and 60/100 (729.60) and to a weekly compensation of P38.40 beginning February 19, 1975 until his disability for labor ceases or his illness cured or arrested, provided, that the lump sum payment and the subsequent weekly payments do not exceed six thousand pesos; and

2. The Workmen's Compensation Fund, the amount of P8.00 as partial payment of administrative fee, pursuant to Section 55 of the Act. Bill No. IV-1904 is hereto attached."

Private respondent filed a Motion for Reconsideration of aforestated award which was denied in an Order dated September 22, 1975. However, considering that the Motion for Reconsideration was filed within the reglementary period of fifteen (15) days, the same was elevated to the Workmen's Compensation Commission.

On November 29, 1975, the Commission sitting en banc rendered a decision reversing and dismissing the claim for lack of merit. The dispositive portion of said decision reads:

"The claimant failed to establish conditions to which he was subject in the performance of his occupation as a "Bellboy" or to attach a hazard to such occupation which distinguishes it from the usual run of occupation that could predispose him to the growth or aggravation of the illness."

Hence, this petition.

In the resolution of February 20, 1976, the Court required respondents to comment, which was complied with by private respondent on March 11, 1976; while public respondent Workmen's Compensation Commission filed a manifestation dated April 24, 1976 adopting the comment of private respondent.

In the resolution of May 7, 1976, the Court resolved to treat the petition for review as a special civil action; and to require both parties to submit simultaneous memoranda within thirty (30) days from notice thereof. The parties complied by filing their respective memoranda.

The crucial issue is whether or not an employer or his representative may controvert a claim after the period prescribed by Section 45 of Act 3428, as amended, had elapsed.

The pertinent provision of Section 45 of the aforementioned Act reads as follows:

"In case the employer decided to controvert the right to compensation, he shall, either or on before the fourteenth day of disability or within ten (10) 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 complainant, 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 the insurance carrier to comply with the 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 commissioner may reinstate his right to controvert."

It is clear from the records that private respondent failed to controvert within fourteen (14) days from the date of disability or within ten (10) days from knowledge thereof pursuant to the above-quoted provision of law, the claim for compensation which petitioner filed with Regional Office No. 4, Department of Labor, Manila with the Physician's Report showing petitioner is suffering from Hernia Inguinal Scrotal aggravated by his employment as bellboy of private respondent.

Therefore, since the claim was uncontroverted and there is no showing of fraud or collusion in the non-controversion of the claim which is supported by documentary evidence, an award without further hearing was issued by the Acting Chief of Section, Regional Office No. 4, Department of Labor the dispositive portion of which reads:

"AWARD, therefore, of the aforementioned benefits in favor of the claimant is hereby entered and respondent ordered to pay:

1. That claimant, thru this Office, in one lump sum the amount of SEVEN HUNDRED TWENTY-NINE PESOS AND 60/100 (729.60) and to a weekly compensation of P38.40 beginning February 19, 1975 until his disability for labor ceases or his illness cured or arrested, provided, that the lump sum payment and the subsequent weekly payments do not exceed six thousand pesos; and
2. The Workmen's Compensation Fund, the amount of P8.00 as partial payment of administrative fee, pursuant to Section 55 of the Act. Bill No. IV-1904 is hereto attached. (Award, RO4 WCC Case No. 161126)

SO ORDERED."

It is significant to note the claim of private respondent in his Motion for Reconsideration is that there was lack of due notice of the claim and of hearing prior to rendition of the award. This contention is without merit, "since failure to controvert is a renunciation of the right to challenge the claim and a waiver of all non-jurisdictional defenses and there is nothing that employer can legally prove in relation thereto." (Dinarao vs. Workmen's Compensation Commission, et al., 70 SCRA 292; Gomez vs. WCC, 75 SCRA 395; Muling Tapang v. WCC, 80

SCRA 610; Canete vs. WCC, 136 SCRA 302).

In addition, there is no evidence on record which shows that the right of the private respondent to controvert the claim was reinstated by the Commission. At most, the Commission reversed the award granted by the Workmen's Compensation Unit for failure of the claimant to establish conditions to which he was subject in the performance of his occupation as bellboy (Decision, RO4 WCC Case No. 161126; Rollo, pp.30-31).

It has long been established that the employer in such cases is deemed to have waived his right to interpose any defense, and he cannot prove anything in relation thereto, or complaint that he was deprived of his right to a hearing (Fuentes vs. Binamira, 2 SCRA 1133; FAICOL v. WCC, 93 SCRA 811 [1979]). Conversely, the claimant is not required to substantiate his claim as in such case the compensability of the illness is presumed. (Buenaventura vs. WCC, 76 SCRA 485 [1977]); Canete vs. WCC, 136 SCRA 303 [1985]).

Moreover, respondent Commission's finding that claimant failed to establish conditions to which he was subject in the performance of his occupation as a bellboy deserves scant consideration as it is of common knowledge that bellboys in hotels have the usual work of lifting heavy objects/suitcases of their customers which constitutes sufficient evidence on the aggravation of his illness.

In addition, the legal presumption of compensability has not been traversed by the private respondent to whom the burden of proof is shifted (Parages vs. ECC, 134 SCRA 73; Sanchez vs. WCC, et al., 142 SCRA 338).

WHEREFORE, respondent Commission's dismissal of the claim is hereby SET ASIDE and the AWARD of the Department of Labor, dated February 18, 1975 is reinstated.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano and Davide, Jr., JJ., concur.

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