

CECILIA R. PARAISO, PETITIONER, VS. HERMINIA CASTELO-SOTTO AND EUGENIO I. SAGMIT IN THEIR CAPACITY AS ASSOCIATE COMMISSIONERS WORKMEN'S COMPENSATION COMMISSION, AND REPUBLIC OF ...

G.R. No. L-42896. September 30, 1978

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Review of the January 30, 1976 decision of the respondent Commission reversing the October 29, 1975 award of the Acting Hearing Officer in WC Case No. 164244.

Petitioner rendered government service for a period of forty (40) years, more or less; the first twelve (12) of which was as a classroom teacher with the Bureau of Public Schools and the last twenty-eight (28) with the Department of Labor where she initially held the position of clerk. At the time of her retirement on July 1, 1974 at the age of 61, she was holding the position of Supervising Apprenticeship Officer (Chief of Division) with a salary of P11,900.00 per annum.

On March 13, 1975, petitioner, because of her illnesses of PTB, essential hypertension, and rheumatoid arthritis, filed a claim for disability compensation benefits with the Workmen's Compensation Section of the Department of Labor.

At the initial hearing on October 13, 1975 of the compensation claim, only petitioner appeared. Whereupon, she submitted to the Acting Hearing Officer her affidavit dated October 13, 1975, together with other supporting documents.

Thereafter, claimant was referred for "PE and/or evaluation" to the WC Medical Officer who duly recommended the approval of claimant's compensation claim because her illnesses were the result of and were aggravated by the nature of her work (p. 29, WCC rec.).

On October 29, 1975, the Acting Hearing Officer rendered a decision awarding compensation benefits to petitioner in the amount of six thousand (P6,000.00) pesos. Despite his express finding that the compensation claim was uncontroverted, he nevertheless endeavored to inquire into the factual circumstances of claimant's ailments and its compensability, thus:

"Claimant started in the service of respondent on April 1, 1946 as accounting clerk and held other positions until she became Chief of Division, Bureau of Apprenticeship whose last rate of salary was P11,904.00 per annum as evidenced by the service record. As such employee her duties consisted in the handling and processing of all applications for apprenticeship which included medical certificates from the Bureau of Health Services at the San Lazaro compound where applicants were medically examined and the maintenance and safe-keeping of all other official communications and records of the Office of Apprenticeship. In 1961-1962

her job as Chief of the Registration and Certification Section exposed claimant to all kinds of people applying for apprenticeship, the final interview and counselling of whom were also her responsibilities before their acceptance and registration as apprentices.

"Sometime in 1962 claimant, having been promoted, also held several other positions of responsibility in concurrent capacity aside from her regular position, so much so that she began to suffer hypertension from severe to moderate, causing frequent dizzy spells, severe headaches and pains in almost all parts of her body.

"In 1962 claimant learned that she had PTB when for re-insurance purpose she was medically examined by the GSIS, findings of which were confirmed later by Dr. Ananias Lacsamana on April 12, 1962, October 17, 1962, September 7, 1965 and June 9, 1972 as evidenced by X-ray findings. One of the claimant's attending physician, Dr. Esteban Galang who accomplished the Physician's Report and who diagnosed the ailment of the claimant as PTB Minimal-essential hypertension attested therein that said illness is the result of the nature of employment and/or aggravated by the employment. For the treatment of her illness she had already spent P1,452.00 as evidenced by receipt issued by Dr. Esteban Galang.

"Due to her aforesaid illness claimant was frequently on sick leave practically every month in 1972 and 1973 till she was forced to retire on July 1, 1974 at the age of 60½. This is evidenced by her letter to the Secretary of Labor requesting that she be retired under Section 12(c) of C.A. 186 as amended by R.A. 1616 and further amended by R.A. 4968 to take effect at the close of Office hours on June 30, 1974. Said application for retirement was endorsed to the Office of the President, and the same was approved and given due course by the Office of the President.

"Viewed from the foregoing, notwithstanding the failure of respondent to controvert the claim, it is apparent that claimant's illness of PTB-Minimal, essential hypertension and rheumatoid arthritis supervened and aggravated by the nature of employment. Moreover, the law on the matter recognized PTB as an occupational disease. We therefore rule that the instant claim is meritorious and, therefore, compensable buttressed as it is by documentary evidence. Per evaluation conducted by the Compensation Rating Medical Officer of this Office and as computed, under Section 14 of the Act claimant is entitled to P9,398.00 and under Section 18 claimant is entitled to P2,856.92. However, since the totality of these amounts exceeds the maximum provided by law, the same should be reduced to P6,000.00."

Herein petitioner received a copy of the above decision on November 19, 1975; and thirty days thereafter, believing that the decision had become final and executory, commenced steps for its execution. It turned out, however, that although the respondent employer, through the Office of the Secretary of Labor, was duly furnished on November 19, 1975 a copy of the aforesaid decision, its counsel, the Solicitor General, was not; hence, petitioner took it upon herself to secure and deliver, upon authority of the office concerned, a copy thereof to the Solicitor General. That was January 9, 1976.

On January 21, 1976, the Solicitor General filed a motion for reconsideration; but the same was denied on January 22, 1976 by the Acting Hearing Officer, who thereafter directed the elevation of the entire records of the case to the respondent Commission for review.

On January 30, 1976, the respondent Commission reversed the October 29, 1975 decision and dismissed the compensation claim of petitioner for lack of merit. Although the respondent Commission adhered to the basic

factual findings of the Acting Hearing Officer, it however disagreed with the conclusion of the said officer and in justification stated that:

"x x x While claimant was found sick of PTB minimal for the first time on April 12, 1962, the records show that said ailment did not incapacitate her for work. As a matter of fact, she continued working until she applied for optional retirement upon reaching the age of 60 years. As for her hypertension, suffice it to say that this is not considered a disabling ailment as this is only a symptom of an illness due to arteriosclerosis brought about by the ageing process. Rheumatoid arthritis is, likewise, not a compensable illness for this due to the degenerative changes in the joints, caused also by the aging process, which is true in this particular case because claimant is already more than 60 years old. While claimant alleged to have been suffering from the ailments aforementioned, there is no showing that she was disabled for work by reason thereof. Moreover, having received the benefits under the optional retirement, claimant is no longer entitled to claim for the benefits under the Workmen's Compensation Act, as amended, as there is no loss or impairment of her earning power. Hence, the Acting Hearing Officer committed a reversible error in declaring this case as falling within the compensatory coverage of the Act."

Hence, this petition.

Respondent Commission's peremptory dismissal of the compensation claim was clearly an error and must therefore be set aside and the award of the Acting Hearing Officer, being in accordance with OUR numerous pronouncements on the matter, be reinstated.

I

The main conclusion of the respondent Commission, basis of its dismissal of the compensation claim, is totally unwarranted as it proceeds from the wrong premise that, under the obtaining facts, the petitioner has still the burden to show by substantial evidence that she was incapacitated from labor by reason of her illnesses. WE have ruled that that is a patent distortion of the burden of proof applicable to cases where, as in this case, the presumption of compensability had already set in. Because once an illness, subject matter of a compensation claim, is shown to have supervened in the course of employment, as is the situation here, there arises in favor of the claimant the rebuttable presumption that the said illness either arose out of, or at least was aggravated by, the nature of claimant's employment; and that consequently, the burden to show by substantial evidence the contrary lies with the employer. And the ultimate result of that principle is that the presumption rebuttable in its inception becomes conclusive upon the failure of the respondent employer to destroy the same (*Cañonero vs. WCC*, L-43880, February 28, 1978; *Santos vs. WCC*, 75 SCRA 365, 370 [1977]). In the instant case, the presumption of compensability was not destroyed by the respondent employer which did not present any rebutting evidence as it failed to appear in any of the scheduled hearings of the compensation claim despite due notice (pp. 9-12, 43, WCC rec.). To the contrary, sufficient evidence were presented by the petitioner, so that her compensation claim, even in the absence of the aforestated beneficial presumption of compensability, would still stand erectly. As follows: (1) results of x-rays conducted on petitioner on April 12, 1962 [Exh. I, id., at p. 18]; October 17, 1962 [Exh. J, id. at p. 20]; September 7, 1965 [Exh. K, id. at p. 19] and June 9, 1972 [Exh. L, id. at p. 2], all confirming petitioner's illness of PTB; (2) certificate of Dr. Augusto P. Sarmiento [Exh. D, id. at p. 17], one of petitioner's attending physicians, stating that petitioner "is at present suffering from moderate to severe hypertension which is very lebile x x x" and that her average blood pressure was "x x 240/120 x x" and recommending that "it would serve her best interests if she retires from work x x x," certificate of Dr. Jesus G. Bustos [Exh. E, id. at p. 18], another attending physician of petitioner, substantially of the same contents as that of Dr. Sarmiento's certificate; and (3) report of the Rating Medical Officer duly approved by the Chief of the Evaluating Division, WCC RO4

[id. at p. 29] recommending approval of petitioner's compensation claim on the ground that the illnesses of claimant were the results of her work.

II

Respondent Commission likewise failed to consider and correctly appreciate the effects of the approval of petitioner's retirement under C.A. 186, as amended by R.A. 1616 and R.A. 4968. By that approval, the question of petitioner's disability resulting from her illnesses is placed beyond dispute. For under Memorandum Circular No. 133, such optional retirement can only be ultimately allowed if the employee-applicant is below 65 years of age and is physically incapacitated to render further efficient service. Rather than weakening or barring petitioner's compensation claim as the tenor of the questioned decision of respondent Commission would tend to suggest, that approval invigorates said claim and lays to rest any doubt on petitioner's state of health at the time she stopped working (*Cañonero vs. WCC*, supra; *Romero vs. WCC*, 77 SCRA 490 [1977]; *Despe vs. WCC*, 75 SCRA 350, 354 [1977]).

III

Furthermore, petitioner's claim for compensation was not controverted. Hence, petitioner, by reason thereof, is entitled to an outright award as respondent employer is thereby deemed to have renounced all non-jurisdictional defenses, including the defense of non-compensability. Respondent employer's duty to controvert the claim is not excused by the fact, as it contends, that the claim for disability compensation was filed only after petitioner's retirement; hence, at a time when employer-employee relationship between respondent employer and petitioner no longer obtained. The Workmen's Compensation Act, as amended, is precise that in case the employer decides 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. The filing of the compensation claim only after petitioner's retirement does not render unnecessary compliance by employer of its duty to controvert nor does it prejudice petitioner's claim. What is fatal is the absence of employer-employee relationship at the time illness and/or disability was contracted; not absence thereof at the time of the filing of the claim.

IV

Finally, WE find no merit in the Solicitor General's contention that the failure to furnish his office of a copy of the Notice and Claim for Compensation as required by General Circular No. 68 of CAO (CA) dated October 6, 1959 -- providing that claims against the Republic of the Philippines should be transmitted to the Solicitor General in his capacity as counsel for the National Government -- resulted in a failure of jurisdiction of respondent Commission over respondent Republic. Verily, the failure of the government agency concerned (Workmen's Compensation Section or Unit) to comply with the strictures of the aforesaid circular cannot be taken against the petitioner who has no control over said agency or its officials. Certainly, that omission by the said agency "x x x cannot be the instrument of injustice against the claimant-employee nor override the statutory sanction for non-controversion in accordance with enshrined doctrinal jurisprudence" (*Dinaro vs. WCC*, 70 SCRA 292-293, 296-297 [1976]).

WHEREFORE, THE DECISION OF THE WORKMEN'S COMPENSATION COMMISSION IS HEREBY REVERSED AND SET ASIDE AND RESPONDENT DEPARTMENT OF LABOR IS HEREBY ORDERED

A. TO PAY CLAIMANT

(1) THE AMOUNT OF SIX THOUSAND (P6,000.00) PESOS AS DISABILITY BENEFITS;

(2) THE SUM OF ONE THOUSAND FOUR HUNDRED FIFTY-TWO (P1,452.00) PESOS AS REIMBURSEMENT FOR MEDICAL EXPENSES PROPERLY SUPPORTED BY RECEIPTS; AND

(3) ATTORNEY'S FEES EQUIVALENT TO 10% OF THE TOTAL AMOUNT AWARDED;

B. TO PROVIDE CLAIMANT WITH SUCH MEDICAL, SURGICAL AND HOSPITAL SERVICES, APPLIANCES AND SUPPLIES AS THE NATURE OF HER DISABILITY AND THE PROGRESS OF HER RECOVERY MAY REQUIRE AND THAT WHICH WILL PROMOTE HER EARLY RESTORATION TO THE MAXIMUM LEVEL OF HER PHYSICAL CAPACITY; AND

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

SO ORDERED.

Teehankee, (Chairman), Muñoz Palma, Fernandez, and Guerrero, JJ., concur.

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