

CENTRAL AZUCARERA DON PEDRO, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND VICTOR DE LAS ALAS, RESPONDENTS.

G.R. No. L-27870. October 23, 1974

Ponente: MAKALINTAL, C.J.

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MAKALINTAL, C.J.:

This is a petition for review of the decision dated May 15, 1967 of the Workmen's Compensation Commission in WC Case No. R05-2174 as well as of its resolution en banc dated June 30, 1967, denying the petitioner's motion for reconsideration.

The respondent claimant, Victor de las Alas, was employed as a laborer in the "via ferrea" department of the petitioner Central Azucarera Don Pedro in 1946. He worked in that capacity until 1960, when he was found to be afflicted with pulmonary tuberculosis. He stopped working on October 11, 1960.

On October 17, 1960 the petitioner filed with the Department of Labor, through the regional office, a letter of controversion. The respondent submitted the required notice of injury or sickness and claim for compensation, dated December 5, 1960, likewise through the aforementioned regional office. The latter transmitted the same to the petitioner, which received it on December 29, 1960.

The claim was heard and on November 22, 1965 Acting Referee Antonio S. Atienza dismissed the respondent's claim for disability benefit on the ground that it was presented beyond the two-month period fixed under Section 24 of the Workmen's Compensation Act.

The respondent moved to reconsider, but the motion was denied by the Acting Referee, who thereafter elevated the entire record of the case to the Commission for review. On May 15, 1967 the Commission, through Chairman N. Baens del Rosario, rendered its decision reversing that of the Acting Referee and ordering the petitioner to pay the respondent the sum of TWO THOUSAND NINE HUNDRED NINETY FIVE and 20/100 PESOS (P2,995.20) as disability benefits, and to provide him with medical, surgical and hospital services and supplies as may be required by the nature of his ailment until cured or arrested.

Acting on the petitioner's motion for reconsideration, the Commission, en banc, affirmed the above decision of its Chairman, hence this petition.

The principal argument of the petitioner is that the failure of the respondent to file his claim for compensation within two months from the date^[1] of his sickness as required by Section 24 of the Workmen's Compensation Act was fatal to said claim.

The argument is without merit. It is now settled in this jurisdiction that failure on the part of an employee to comply with the requirement of the aforecited section concerning the giving of notice and the filing of the claim within the prescribed period is non-jurisdictional in nature and does not constitute a bar to the proceeding if it is shown that the employer, his agent or representative had knowledge of the injury, sickness or death, or that the

employer did not suffer by such delay or failure.[2]

In a subsequent case[3] involving the same petitioner, this Court said:

"With regard to the claim that the delay in filing the claim for compensation should be considered fatal to its success, appellant corporation seems to have taken no notice of the fact that the original ruling to that effect has suffered a gradual evolution, and that the trend of the more recent decisions of this Court has been to consider the delay a non-jurisdictional defect, unless it is shown that the employer has been prejudiced thereby (See *Century Ins. Co. vs. Fuentes*, L-16039, August 31, 1961; *NDC vs. WCC*, L-14936, April 20, 1964; and *Manila Railroad vs. Manalang*, November 29, 1965). This trend conforms to the need of protecting the workman whose inferiority vis-a-vis the employer has always been marked by disadvantage (Civil Code of the Philippines, Article 24)."

The petitioner likewise assails the finding of the Commission that under Section 45 of the Compensation Act the petitioner forfeited its right to controvert the claim because it filed its letter of controversion on October 17, 1960, or more than 14 days from September 26, 1960, when, according to the Commission, the respondent's disability was discovered by the petitioner. We find it unnecessary to consider this argument, for irrespective of the question of forfeiture, the following findings of the Commission support the award on its merits:

"As a laborer of the respondent, Victor de las Alas worked with other laborers of the respondent, in eleven (11) gangs of about five (5) persons each, in the repair and cleaning of respondent's railroad lines or system comprising about 180 kilometers. Their duties were to clean the railroad tracks at the beginning of each milling season, after which they were assigned to different lines for the repair of the railroad tracks which run through the Municipalities of Lian, Tuy and Balayan, all in Batangas. In the repair of the railway tracks, rotten or broken railroad ties (traviezas) were replaced by new ones, each measuring 5 x 8 x 6 having a total of about 120 board feet and weighing from 34 to 40 kilos. Such replacements were accomplished by first digging the ground around the rotten or broken ties and new ones were put in place with the use of pick (piko), shovel and crowbar. x x x All these jobs were performed by de las Alas in open air exposed to the sun, rain and inclemencies of the weather.

x x x Considering the record of claimant's work as a railway laborer for many years, exposed to the inclemencies of the weather which finally overcame his power of resistance against the said disease, and considering further that the said sickness was acquired by him in the course of his employment, there being no evidence to show that he contracted it from other sources or causes, the presumption is that his said illness was caused by his employment, or either aggravated by or the result of the nature of his said employment with the respondent."

WHEREFORE, the decision appealed from is affirmed, with costs against the petitioner.

Teehankee, Makasiar, Esguerra, and Munoz Palma, JJ., concur.

Castro, J., took no part.

[1] There is dispute as to the date when the petitioner learned of the ailment of the respondent. The petitioner insists that it was on October 11, 1960 when the respondent was subjected to an X-ray examination at the petitioner's hospital, as found by the Acting Referee. The respondent, on the other hand, maintains that it was on September 26, 1960 when his ailment was discovered by the petitioner's physician, as found by the Commission. Resolution of this controversy is of no consequence since the respondent admits that his claim was filed out of time.

[2] *Manila Railroad Company vs. Mariano Rivera and the Workmen's Compensation Commission*, L-23021, May 29, 1968, 23 SCRA 922, 925; *Manila Railroad Co. vs. Workmen's Compensation Commission, et al.*, L-21902,

August 10, 1967; *Rio y Compania vs. Workmen's Compensation Commission, et al.*, L-21467, August 30, 1967; *National Development Co. vs. Workmen's Compensation Commission, et al.*, L-21963, August 30, 1967.

[3] *Central Azucarera Don Pedro vs. Workmen's Compensation Commission and Pedro Villanueva*, L-24987, July 31, 1968, 24 SCRA 486, 487.

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