

FRANCO C. ESPIRITU, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND THE DEPARTMENT OF HEALTH, RESPONDENTS.

G.R. No. L-42471. August 22, 1978

Ponente: GUERRERO, J.

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GUERRERO, J.:

Petition for review^[1] of the Decision of the respondent Commission dated December 27, 1975 affirming the Order of the Labor Hearing Officer dated October 13, 1975 which dismissed petitioner's claim for compensation for "lack of merit".

Petitioner Franco C. Espiritu was first employed by the public respondent (Department of Health) on May 14, 1949 as a Dental Helper at the Bureau of Hospitals, Manila. On May 11, 1961, he was transferred to Cebu as a Dental Aide and later assigned to Bohol as aide to Dr. Olalia H. Cahatol, the Provincial Dental Officer stationed in Tagbilaran City. As such dental aide, petitioner was in charge of cleaning and preparing the dental clinic, assisting the dentist while in actual work, acting as messenger, and generally doing all the manual work required in the clinic. Aside from these, when the office rendered rural services, it was petitioner's duty to transfer dental equipment like the foot machine, cuspidor, dental chair, from the clinic to the bus and from the bus to the other clinics of the several towns and barrios visited.

On January 10, 1967, petitioner noticed the appearance of a small, hard, painless and non-movable tumoral mass at the right anterior side of his neck. He complained of the tumoral mass to Dr. Cahatol on October 15, 1969 and on that day he was immediately operated on. As the mass recurred time and again, he underwent two more operations on August 23, 1972 and on February 12, 1974 at the Bohol Medical Center. Since the biopsy report showed that the mass was malignant (Carcinoma, Thyroid), he was advised by Dr. Alejandro Z. Magpayo, Director of the Bohol Medical Center, to retire from his work as "his voice has changed" and "the mass has recurred." (Physician's Report, General Remarks). After his last operation on February 12, 1974, petitioner resumed work on May 1, 1974 up to August 15, 1974; from August 16 to February 10, 1975 he went on sick and vacation leave with pay. Records show that he retired on February 11, 1975 at the age of 63 years.

On January 14, 1975, petitioner filed his compensation claim against the respondent Department of Health before the Department of Labor, Regional Office No. 4 in Manila. Despite the express statements in the Employer's Report that the government will not controvert the claim (Item 8) and that claimant employee was injured in "regular occupation" (Item 17), and the fact that at the only hearing held for reception of evidence, the government failed to appear to present its evidence, the Hearing Officer dismissed petitioner's claim for "lack of merit" by Order dated October 13, 1975. Petitioner's motion for reconsideration having been denied, the case was elevated to the respondent Commission for review. The appealed order was, however, affirmed by the Commission's decision dated December 27, 1975. Hence, this petition for review.

After a thorough review of the case at bar, We find that the Hearing Officer and the respondent Commission

gravely abused their discretion in dismissing petitioner's claim. The appealed decision of the respondent Commission must be reversed.

1. Patent from the records are the public employer's statement of non-controversion (Employer's Report, Item 8) and the government's failure to appear at the hearing for reception of evidence for and against petitioner's claim. Since there was no controversion of the claim and there was no showing or claim of fraud or collusion in the non-controversion of the claim, an outright award in favor of the claimant should have been made. For it is well settled that failure of the employer to controvert a claim for compensation results in the loss of non-jurisdictional defenses and constitutes an ultimate admission of compensability.[2] The legal effects of non-controversion of the claim by the employer have long been recognized in compensation cases and very well-entrenched in our jurisprudence. It is for this reason that at this point, We find it compelling to admonish the respondent Commission against pursuing a policy inconsistent with the established rule on non-controversion. We refer to the Comment (p. 65, Rollo) submitted by the respondent Commission to the Court in answer to the petition at bar, in the following tenor:

"As consistently held by the Commission, non-controversion, standing alone, and without substantial evidence will not justify an award. Consequently, a claim which is not compensable in its very face for want of the important preliminary link, will not become compensable on the basis of the respondent's failure to controvert."

The Workmen's Compensation Commission, decreed by law to have exclusive jurisdiction over workmen's compensation claims and, therefore, the administering arm of the government in one of its social legislation endeavors, should be the first to recognize, uphold and implement the guiding principle of liberal construction of the Workmen's Compensation Act so as to fully accord legitimate claims the beneficent provisions of said law. We must impress upon the Commission the injustice it had committed, and will commit, in adhering to its professed stand on non-controversion which is patently inconsistent and in defiance of rulings on non-controversion firmly laid down by this Court in a long line of cases. There ought to be a becoming modesty on the part of a quasi-judicial body such as the Workmen's Compensation Commission to defer and adhere to the doctrinal pronouncements of this Tribunal in regard to the interpretation of specific provisions in the Workmen's Compensation Act, for otherwise the constitutional mandate on social justice as implemented by the Act becomes a farce and is rendered a mockery by the very governmental agency created by law to implement the same.

To repeat, non-controversion amounts to an admission of the validity and reasonableness of the claim, both of which are then placed beyond challenge.[3] It bars all non-jurisdictional defenses, including the non-compensability of the claim.[4]

Neither is the claim of the Solicitor General in behalf of the government that claimant's failure to file his claim within the reglementary period of two months as provided by Section 24 of the Workmen's Compensation Act, as amended, was fatal to the success of his claim, tenable. Said defense is not jurisdictional as the statutory right to compensation prescribes in 10 years [Art. 1144 (2) of the New Civil Code][5]; such defense is barred by the failure to controvert.[6]

2. Petitioner's claim that his "Carcinoma, thyroid" is compensable, is amply substantiated by his evidence. It is clearly established that his illness supervened in the course of employment; thus, the legal presumption of compensability should have been applied [Section 24, Workmen's Compensation Act, as amended]. This, the Hearing Officer and the respondent Commission again gratuitously ignored when they required of the petitioner to establish the causal link between his illness and his work. There was no need for petitioner to prove causation

once he had shown that his illness had arisen in the course of employment. It was enough for him to show that the hypothesis on which he based his claim was probable which is borne out by his evidence showing the following: (1) the government's admission that the petitioner's illness occurred in "regular occupation" (Employer's Report, Item 17); (2) the government's admission that it provided medical attention to the petitioner on February 12, 1974 (Employer's Report, Item 35); (3) Dr. Cahatol's letter (Annex H, p. 34, Rollo) acknowledging that the work of petitioner probably caused his "Carcinoma, thyroid", to wit:

"I have personally observed thru the years that the work of Mr. Espiritu is quite heavy and an exacting one to the physique. I am inclined to believe that his thyroid glands have given way under the strain of his job."

The petitioner having thus sufficiently discharged what was required of him, the respondent Commission should have then required of the public respondent to discharge the burden of disconnecting, by substantial evidence, the petitioner's sickness from the employment. As the government failed to present any evidence against the claim, the above stated legal presumption prevailed.

3. Both the government and the respondent Commission capitalize on the fact that petitioner, despite his ailment, continued working until he retired from the service voluntarily under the Optional Retirement Law, and not from his disability. Therefore, they claim that since petitioner did not suffer any wage-loss, the government is relieved of the burden to compensate him for his disability. This is without merit. Petitioner was forced to retire upon the advice of Dr. Magpayo. Petitioner was then only 63 years of age, short of the compulsory age for retirement. It is not, therefore, accurate to state that there was no wage-loss factor involved, for verily, if petitioner was not disabled, he could have retired two years later and could have received the maximum benefits of the Retirement Law. Thus, the Court herein affirms once more Our ruling in previous cases involving claimants optionally retired that the fact of optional retirement does not militate against the success of their claim for disability compensation, for the fact that their application for optional retirement has been approved places beyond doubt their "physical incapacity to render further efficient service." (R.A. 1616 in relation to Memorandum Circular 133 issued on October 19, 1967 by the Office of the President).[7]

Finally, it appearing from the Physician's Report that petitioner cannot resume his work permanently (Item 14), and that the only other kind of work that he can do is "housekeeping" (Item 15), petitioner should be allowed the maximum benefits under the Workmen's Compensation Act.

WHEREFORE, judgment is hereby rendered reversing and setting aside the appealed decision of the respondent Workmen's Compensation Commission and another is entered ordering the respondent Department of Health to pay to the petitioner (a) the amount of SIX THOUSAND (P6,000.00) PESOS for disability benefits, (b) the amount of SIX HUNDRED (P600.00) PESOS as attorney's fees, and to the Commission, the amount of SIXTY-ONE (P61.00) PESOS as administrative fee.

SO ORDERED.

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

Makasiar, J., concurs in a separate opinion.

[1] Treated as a Special Civil Action per resolution of the Court dated May 10, 1976.

[2] *Romero v. WCC*, 77 SCRA 482, citing *Vallo v. WCC*, L-41816, Oct. 29, 1976 and *Dinaro v. WCC*, 70 SCRA 292; See also *Lopez v. WCC*, 79 SCRA 551.

[3] National Development Company v. Galamgam, 38 SCRA 495; General Textiles, Inc. v. Taay, 42 SCRA 375.

[4] Luzon Stevedoring Corp. v. WCC, 27 SCRA 1132.

[5] Vallo v. WCC, supra.

[6] NDC v. WCC, 10 SCRA 696; Romero v. WCC, supra.

[7] See Romero v. WCC, supra; Ybañez v. WCC, 77 SCRA 501; Sudario v. Republic, 79 SCRA 337.

SEPARATE CONCURRING OPINION

MAKASIAR, J.:

I concur with the additional opinion that the respondent employer should likewise be directed to provide the claimant with such medical, surgical and hospital services as well as appliances and supplies as the nature of their 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 184 of the New Labor Code, as amended, confer such right on the disabled employees, whether disabilities are 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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