

ROMAN MOSQUERRA, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND CANLUBANG SUGAR ESTATE C-J YULO & SONS, RESPONDENTS.

G.R. No. L-45833. June 20, 1988

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for review on certiorari of the decision rendered by the defunct Workmen's Compensation Commission in R05 Case No. C-2799, entitled: "Roman Mosquera, claimant, versus Canlubang Sugar Estate C-J Yulo & Sons, respondent," which reversed the decision issued by the Hearing Officer of the Workmen's Compensation Unit in said case, and absolved the respondent from liability.

The records of this case show that the petitioner, Roman Mosquera, is a former employee of the respondent, Canlubang Sugar Estate C-J Yulo & Sons. He started to work with the respondent in 1947 and his work was to plow, plant and weed sugarcane in fields owned by the respondent. He was paid a weekly wage of P37.63. Sometime in 1960, while he was at work in the field, he felt acute stomach pains. He asked permission from his capataz and went to the Canlubang Sugar Estate Hospital. Upon examination by the company physician, Dr. Zoilo Bunye, he was found to be suffering from peptic ulcers, for which medicines were prescribed to relieve the pains. In December 1966, however, he was retired from the service upon recommendation of the company physician due to the persistence of the ailment. But, he continued to receive medical treatment from Dr. Eusebio Panganiban in Calamba, Laguna, who opined that the petitioner's work had contributed to the development or aggravation of the disease.[1]

On 31 March 1975, the petitioner filed a claim against the respondent employer before the Workmen's Compensation Unit in San Pablo City, seeking benefits under the Workmen's Compensation Act, due to disability resulting from peptic ulcers which he claimed to have incurred in the course of his employment or were aggravated by the nature of his employment.[2]

The respondent company opposed the claim mainly on grounds of prescription, no knowledge of the illness and payment of retirement benefits in the amount of P800.00.[3]

Thereafter, the parties were required to submit affidavit and counter-affidavit supportive of their respective claims in order to expedite the disposition of the case. But, only the herein petitioner complied. The case was then deemed submitted for decision.[4]

After evaluating the evidence presented, the Hearing Officer of the Workmen's Compensation Unit found that the ailment of the petitioner, which supervened during his employment with the respondent company, arose out of, or at least, was aggravated by, his employment, and that the respondent company failed to controvert the petitioner's claim. Consequently, the Court rendered judgment in favor of the petitioner, as follows:

"WHEREFORE, judgment is rendered for the claimant and against the respondent, the latter is ordered to pay:

1. To the claimant, thru this Unit, the sum of SIX THOUSAND PESOS (P6,000.00), reduced, representing disability benefits computed as follows:

'Claimant's disability began on December 31, 1966 and up to October 15, 1975, date of the decision, is 3,285 days or 468 weeks. 60% of P34.73, claimant's average weekly wage, is P20.84 and for 468 weeks equals P9,773.12, reduced to P6,000.00, the maximum amount allowed by law. (Section 14)

2. To pay Mr. Feliciano Reyes, 339 Elizondo Street, Quiapo, Manila, the sum of THREE HUNDRED PESOS (P300.00) as attorney's fee under Section 31.3.

To pay this unit the sum of SIXTY-ONE PESOS (P61.00) as fee under Section 55 of the Act, as amended."[5]

The respondent company appealed. Acting on the appeal, the Workmen's Compensation Commission reversed the decision of the Workmen's Compensation Unit and absolved the respondent company from liability. The reason given was that: "Aside from claimant's claim and his affidavit, the record is bereft of any documents that will support the claim."[6]

The petitioner now seeks a review of the decision of the Workmen's Compensation Commission. He claims that the Commission seriously erred in dismissing his claim. He contends that, while he failed to submit a physician's report in support of his claim, it has been shown that the disease supervened during his employment and is presumed to have arisen out of, or was aggravated by, his employment; and besides, according to petitioner, the respondent company failed to controvert his claim seasonably so that the employer is deemed to have waived his right to interpose any defense and he can not prove anything in relation thereto.

We find merit in the petition. It is a well settled rule under the Workmen's Compensation Act that once the claimant has established that the illness supervened in the course of his employment, there arises a presumption that the illness arose out of, or was aggravated by, his employment and the burden to overthrow the presumption rests upon the employer. The presumption, rebuttable in its inception, becomes conclusive upon the failure of the respondent employer to destroy the same.[7]

In the instant case, the Hearing Officer found that the illness of the petitioner supervened in the course of his employment and that the respondent company failed to present substantial evidence to overthrow the presumption that the ailment so supervened. He said:

"x x x Undoubtedly, claimant was physically healthy in 1947 when he was admitted in the service otherwise if he had been afflicted of any illness, respondent that has hospital of its own with complete facilities would not have admitted him for employment. It was, however, after more than 13 years of continuous hard labor that he complained of stomach pain while at work. No doubt his illness supervened in the course of employment giving rise to a rebuttable presumption that said illness arose out of employment or was at least aggravated by his employment. To overcome this presumption of law, respondent should present substantial evidence which it miserably failed to accomplish."

Such being the case, there was no more need for the presentation of evidence by the petitioner.

Besides, the test of compensability under the old Workmen's Compensation Act is probability and not certainty. In *Bello vs. W.C.C.*[8] the Court said:

"x x x Moreover, laboratory reports are not indispensable prerequisite to compensability of claim and the absence of an x-ray report cannot prejudice such claim. This Court even went to the extent of declaring that to be compensable, it is enough that the hypothesis on which the workmen's claim is based is probable. Medical opinion to the contrary can be disregarded. Indeed, the niceties and refinements of technical rules on procedure must give way to effect substantial justice to the claimant."

Moreover, the findings of fact of the Workmen's Compensation Unit are like findings of fact of the lower courts, which must be upheld and taken as true and correct and not to be undermined or ignored by the appellate courts in the absence of strong and cogent reasons.[9]

But what is most significant is that the respondent company failed to seasonably controvert the petitioner's claim. It is well settled that the failure of the employer to controvert the claim within the prescribed period after knowledge of such disability, amounts to a waiver of the right to controvert and a renunciation of all defenses, like the defense that the claim is not compensable.[10]

It is claimed by the respondent company, however, that the decision of the Workmen's Compensation Commission, which is sought to be reviewed, is already final and can no longer be reviewed. Counsel for the respondent company alleges that Mr. Feliciano Reyes, counsel for the petitioner, received a copy of the decision of the Workmen's Compensation Commission on 23 March 1976 so that it was already final when the petitioner filed on 18 March 1977 his petition before the Court for an extension of time within which to file a petition for review.

It appears, however, that the decision in question is dated 30 December 1976 so that it could not have been served upon and received by petitioner's counsel on 23 March 1976, some eight (8) months before it was promulgated. It is true that in a Manifestation filed with the Court on 15 April 1976[11] counsel for the respondent company stated that the decision in question was rendered on 30 December 1975. But, this mere manifestation is not sufficient to overcome the presumption that the writing (decision) was truly dated.[12] And the date on said decision is 30 December 1976.

We also find no merit in the respondents' contention that the claim had already prescribed since the petitioner was taken ill sometime in October, 1960 and filed his claim only on 31 March 1975. The determining point of the accrual of the cause of action is the time the employee becomes disabled or incapacitated to do his regular work because that is the time when the benevolent mantle of the law commences to cover him.[13]

Finally, counsel for the respondent company claims that the petitioner had opted to retire and had received benefits so that he can no longer recover Workmen's Compensation benefits.

The contention is also devoid of merit. It is well settled that the optional retirement of an employee does not militate against the success of his claim for disability benefits.[14]

WHEREFORE, the decision rendered by the respondent Workmen's Compensation Commission in R05-W.C. Case No. C-2799, entitled: "'Roman Mosquera, claimant, versus Canlubang Sugar Estate C-J Yulo & Sons, respondent," on 30 December 1976, is hereby REVERSED and SET ASIDE and another one entered upholding the decision rendered by the Workmen's Compensation Unit, Batangas Branch. Batangas City, in said case. With costs against the respondent company. This decision is immediately executory.

SO ORDERED

Yap, C. J. (Chairman), Melencio-Herrera, Paras, and Sarmiento, JJ., concur.

[1] Rollo, pp. 25-26.

[2] Id., p. 23.

[3] Id.. Id.

[4] Id., Id.

[5] Id., p. 27.

[6] Id., p. 29.

[7] Guevarra vs. WCC. L-43195, Nov. 27, 1986. 146 SCRA 64.

[8] L-43292, March 18, 1987, 148 SCRA 619.

[9] Berenguel vs. Republic, L-47175, Dec. 15. 1986, 146 SCRA 235, 242.

[10] Dinero vs. WCC, L-42457, March 31, 1976, 70 SCRA 292.

[11] Rollo, p. 10.

[12] Sec. 5(u), Rule 131, Rules of Court.

[13] Chavez vs. ECC, G.R. No. 61931. March 31. 1987. 149 SCRA 82.

[14] Espiritu vs. WCC, L-42471, Aug. 22. 1978. 84 SCRA 036: Buyco vs. Sec. of Labor, L-47276. Nov. 10. 1986. 145 SCRA 361; Berenguel vs. Republic, (supra).

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