

EUSTAQUIO BARBAS, CLAIMANT-PETITIONER, VS. VICTORIAS MILLING CO. INC., AND/OR WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS-APPELLEES.

G.R. No. L-43647. August 31, 1984

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition to review the decision of the Workmen's Compensation Commission which denied the claim for disability benefits earlier granted by the Workmen's Compensation Unit at Bacolod City.

Petitioner Eustaquio Barbas was employed by respondent Victorias Milling Company from 1947 to September 30, 1971 when he retired as a track capataz at the age of fifty-five. On August 22, 1972, the petitioner filed a claim for disability benefits under the Workmen's Compensation Act as amended with the Workmen's Compensation Unit at Bacolod City. He claimed that sometime in 1969, when he was still working for the private respondent, he contracted pulmonary tuberculosis.

On October 2, 1975, the petitioner was subjected to an x-ray test and physical examination at the behest of the Workmen's Compensation Unit at Bacolod City. The Bacolod office found him suffering from PTB Minimal with disability evaluation of 12% under Section 18 of the Workmen's Compensation Act as amended. Chief Referee Felicito D. Ciocon awarded temporary partial disability benefits in favor of the petitioner. The dispositive portion of the decision of the Workmen's Compensation Unit Office reads:

"WHEREFORE, in view of all the foregoing, the respondent is ordered to do the following:

"1. Continue to provide the claimant with such services and appliances and medicines as are necessary to restore him to the maximum level of his physical capacity in accordance with Section 14 of the law;

"2. To pay to the claimant, thru this Office, the amount of EIGHT HUNDRED NINETY FIVE & 56/100 PESOS (P895.56 for 12% N.S.D. (P10.25 daily salary X 7 X 50% 24.96 weeks in accordance with Section 18 of the law;

"3. To pay to counsel for claimant, the amount of FORTY FOUR & 78/100 PESOS (P44.78) in accordance with Sections I and 2 of Rule 27 of the Rules of the Commission; and

"4. To pay to the Workmen's Compensation Fund the amount of NINE PESOS (P9.00) in accordance with Section 55 of the Act."

The petitioner questioned the findings of the Bacolod office on the amount of the award for disability benefits. In the belief that he was entitled to compensation benefits under Section 14 of the Workmen's Compensation Commission he appealed the decision to the Workmen's Compensation Commission. However, the Workmen's Compensation Commission reversed the findings of compensability by the Bacolod office and dismissed the petitioner's disability benefits claim.

The respondent Commission dismissed the petitioner's disability benefits' claim on the ground that the latter was not able to prove that his sickness of pulmonary tuberculosis could be traced during his employment with the private respondent. According to the Commission, the petitioner's x-ray examination showing that he was afflicted with PTB Minimal was taken on September 19, 1972 after retirement.

The respondent Commission's decision is based on its impression that the petitioner's only evidence to prove his disability benefits' claim was his September 19, 1972 x-ray examination. This is not supported by the records of the case.

To substantiate his claim for disability benefits, the petitioner submitted the following evidence:

"Exh. 'A' - The x-ray report of Dr. Amador Antonio to show and to prove that claimant Eustaquio Barbas was suffering from pulmonary tuberculosis.

"Exh. 'B' - Affidavit of the claimant Eustaquio Barbas to show and to prove the circumstances of how and in what manner he contracted the illness of pulmonary tuberculosis.

"Exh. 'C' - Certificate of Appreciation awarded to the claimant by the company of his 26 years of loyal and faithful service.

"Exh. 'D' - Sick leave form dated Nov. 17, 1969."

Exhibits "B" and "D" reveal that in November, 1969, while the petitioner was still employed with the private respondent, he took a leave of absence from his work and was confined at the St. Joseph's Hospital for medical treatment for pulmonary tuberculosis. He was subjected to an x-ray and other examinations by the private respondent's physicians, Dr. Jara and Dr. Duño who found him to be suffering from pulmonary tuberculosis. The private respondent spent for the petitioner's medicines. The company's sick leave form signed by somebody from the respondent's medical department clearly shows that the petitioner was allowed to go on sick leave to undergo treatment for pulmonary tuberculosis.

It is significant to note that the private respondent did not rebut these material points presented by the petitioner.

It is clear from the records, therefore, that the petitioner's sickness had its onset during his employment with the private respondent. Apparently, the petitioner was in good health when he started working for the private respondent and in the course of his employment contracted pulmonary tuberculosis. The principle of presumption of compensability under the old Workmen's Compensation Act as amended applies.

The petitioner "retired" from his job at age 55, long before he reached retirement age. There is evidence to show that his retirement was forced upon him by his ailment. In 1969, when the initial discovery of his sickness was made, it was enough for the petitioner to go on sick leave so he could get medical attention and rest. In 1971, the disease had reached a stage where the petitioner had to stop working. As far as his employment was concerned, the petitioner was totally disabled for work, albeit temporarily.

There are no x-ray results for 1971 but in 1975, after four years of rest, the petitioner was sufficiently recovered such that the Bacolod office of the Workmen's Compensation Commission found him suffering only from PTB minimal and appraised his disability at 12% of N.S.D. under Section 18 of Act 3428 as amended by Republic Act 4119.

Section 14 on temporary total disability for labor would have been more appropriate but the records are silent on how many years, months, and days the petitioner would have been kept from his job by his sickness. At any rate, the decision of the Workmen's Compensation Unit in Bacolod City correctly awarded the grant of such services and appliances and medicines necessary to restore Mr. Barbas to the maximum level of his physical capacity in

accordance with Section 13 of the Workmen's Compensation Act as amended. Considering the age of the petitioner now, restoring him to full physical capacity for resumed employment is obviously out of the picture. Applying the law and equitable considerations to the foregoing facts of the case, the maximum P6,000.00 under Section 14 is fair compensation as far as the petitioner and the private respondent are both concerned.

WHEREFORE, the decision of the Workmen's Compensation Commission dismissing the claim for compensation is hereby REVERSED and SET ASIDE. The decision rendered by the Workmen's Compensation Unit at Bacolod City is REINSTATED but MODIFIED to read as follows:

The private respondent shall pay the petitioner Eustaquio Barbas the sum of SIX THOUSAND (P6,000.00) PESOS pursuant to the provisions of the Workmen's Compensation Act as amended; the petitioner's counsel of record the sum of SIX HUNDRED (P600.00) PESOS in accordance with Rule 27 of the Rules of the Workmen's Compensation Commission on attorney's fees and the sum of SIXTY SIX (P66.00) PESOS to the Ministry of Labor and Employment which now supervises the implementation of decisions under the old Workmen's Compensation Act.

SO ORDERED.

Teehankee, Acting C.J., Melencio-Herrera, Plana, Relova, and De La Fuente, JJ., concur.

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