

CONCEPCION T. UY, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION, BUREAU OF PUBLIC SCHOOLS, CAGAYAN II, RESPONDENTS.

G.R. No. L-38096. May 14, 1975

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Petition for review on certiorari of the decision of the Workmen's Compensation Commission which reversed the decision of Acting Referee Elpidio B. Atal of Regional Office No. 2, Department of Labor, Tuguegarao, Cagayan, ordering respondent Bureau of Public Schools to pay the claimant, petitioner Concepcion T. Uy, compensation benefits under Sections 13, 14 and 18 of Act No. 3428, as amended.

The lone issue raised is whether the sickness which caused mental and physical impairment of petitioner and resulted in expenses for treatment and hospitalization is compensable under the Workmen's Compensation Act, as amended.

The undisputed facts as taken from the decision dated February 1, 1972 of Acting Referee Elpidio B. Atal who investigated petitioner's claim for compensation benefits, and as substantially reproduced in the decision dated October 1, 1973, by the respondent Workmen's Compensation Commission, are as follows:

"Claimant (petitioner) herein started working with respondent (Bureau of Public Schools) as a classroom teacher as early as July 8, 1953, assigned in one of the barrios of the town of Enrile, province of Cagayan. In going to her place of work she had to cross the Cagayan River where she had to board a banca to ferry her to the other side. Her sacrifices in going to her place of work was compounded during the rainy season when she had to walk over a slippery terrain and in boarding and alighting from the boat in going to her place of assignment. In one of her stint in going to her work, sometime in 1954, while alighting from the banca, one of her feet slipped causing her to fall and her head bumped on the side of the boat, causing her pains and contusions on the head.

"After quite sometime, she began suffering from headache and dizziness. At first she had to take palliatives to ease the pain, however, as the years went by the pains became severe and recurrent to the extent that in 1964 her vision was affected. She consulted Dra. Ederlina Manuel who referred her to an eye specialist at the Cagayan Provincial Hospital, Dr. Solon Romero. Her sickness was diagnosed as that of Pteriguim. Dr. Romero operated her right eye. However, because her condition did not improve, she referred herself to another specialist Dr. Manuel Sison who conducted an operation on both of her eyes.

"In spite of these series of operations however, her headache and dizziness persisted and she experienced that this came about specially when she was exposed under the sun or under varying weather elements while performing her work (par. 4, Report of the Division Workmen's Compensation of Committee of respondent.) She had to consult Dr. Tamesis in 1968 who later referred her to a brain specialist, Dr. Bienvenido Aldanese who diagnosed her sickness as that of Pituitary tumor chromohome, with supra sellar extension and pressure to optic nerve, the cause of which is brain tumor.

"Because of these findings, she had to be confined at the V. Luna Hospital in Manila where she underwent a brain operation which greatly improved her condition, allowing her to report back to work on July 6, 1971. But inspite of this she was advised by her physician to report to him every after three (3) months for check-up to the present."

According to referee Elpidio B. Atal "aside from the above narrated facts, the following were substantially established by the claimant without respondent having submitted any evidence to refute the same":

"1. That the sickness of claimant which caused her disability arose out of and in the course of her employment and later aggravated thereby. This fact is established by the testimony of the claimant that she began having headache and dizziness after she suffered a fall while reporting to her work, bumping her head on the side of the banca, and the testimony of Dra. Ederlina Manuel when she declared in open court that in most instances trauma may be an aggravating factor in the growth of the tumor, p. 6 of t.s.n. And there is a great possibility that because of the head injury suffered by the claimant in the course of her employment the production of "growth on the head started and later aggravated because of the nature other work." The same doctor testified that constant reading aggravate the growth of the tumor; (Italics supplied)

"2. That because of the sickness of claimant even after the operation of her brain, she can never be back to her normal self and because of this as a result of an organic brain damage she is under 60% disability (N.S.D.) Testimony of Dra. Manuel p. 10 t.s.n. and p. 159, Medical Handbook on Workmen's Compensation and Principles of Disability Evaluation, by Guilatco;

"3. That as a result of her treatment because of her sickness, for services, appliances and supplies she spent the total amount of P9,982.71. This is being shown by specific receipts, presented as exhibits;

"4. That from the inception of her sickness, or from the lime she suffered a fall to her last operation on the brain, respondent knew of the same. This is being established by the testimony of claimant and of exhibits "G" to "G-4" corresponding to leaves of absences because of her sickness. Claimant testified to the effect that everytime she reports back to work after a sick leave she was allowed to assume her work inspite of the fact that she is sick; (Italics supplied)

"5. That at the time she suffered her disability she was receiving an average weekly wage of P78.40."

Petitioner's claim was held compensable on the basis of the referee's finding that respondent Bureau of Public Schools failed to present evidence to rebut the facts established by claimant's evidence, thus leading to the following unavoidable presumptions:

"The statutory presumption of compensability under Section 44 of the Act places upon the employer the burden of proving that the employee's injury was not and could not be caused or aggravated by the nature of his work. (Pantranco vs. WCC, L-16490, June 29, 1963; A. de Santos vs. Sapon L-22220 April 29, 1966) And in weighing evidence of compensability, doubts should be resolved in favor of the claimant, for in the absence of substantial evidence to the contrary, the claim is deemed to come within the provisions of the statute and it is presumed that the injury or sickness was not occasioned by the willful intention of the injured employee. (Justiano vs. WCC L-22774, Nov. 21, 1966) And once the claimant has established that the illness upon which the claim is premised supervened during the time of his employment, there arises a rebuttable presumption that the illness arose out of or at least aggravated by his employment. (Paulino vs. Rosendo L-20484 Nov. 28, 1964)"

Referee Atal concluded "this is one case where as declared by law the effects of the physical and nervous strain on the teacher's health shall be recognized as a compensable occupational disease". (Section 23 of R.A. 4670, Magna Carta of Public School Teachers)

Respondent Workmen's Compensation Commission reversed the decision of referee Atal and dismissed

petitioner's claim for lack of merit on the basis of the comment and medical opinion of its Evaluation Division, which the Commission adopted as its own, quoted as follows:

"Comment and Medical Opinion:

"Chromophobe adenomas are new growths of the anterior lobe of the pituitary. About 2/3 of all pituitary adenomas and 1/5 of all intracranial tumors are chromophobe adenomas. Since they are nonsecretory, they produce symptoms only through pressure on the neighboring organs, including, of course, the pituitary itself. There may be symptoms of increased intracranial pressure and x-ray evidence of destruction of the sella turcica. A bitemporal homonymous hemianopsia may develop and eventually, when treatment is given, complete optic atrophy and blindness will occur.

"A tumor is a new growth of cells or tissues without useful purpose and serves no relation to what the body needs. It is progressive in nature and its cause is unknown. New growths of the brain or nervous system have no more causal relation to injury than those in other parts of the body. However, it is true that the first symptoms of new growth of the central nervous system may appear soon after an injury to the head. Headache, vomiting and choked disc attributed to the injury are in reality due to tumor growth. The tumor may be of mature size before the injury. The injury does not make the tumor grow any faster, nor does it increase the eventual damaging extent of the tumor. However, the injury may add to the symptoms of disability because of swelling pain and other symptoms that were previously quiescent. Such exaggeration of symptoms are considered as temporary disability. The examination should show the differentiation of disability due to the injury and that due to the tumor. (*Italics supplied*)

The usual criteria of establishing causal relationship of disease and injury apply also to tumors. The injury should be definite and of organic consequences. The interval of time between the injury and the discovery should be within 1 or 2 months and there should be some evidence of continuity during that interval. (*Italics supplied*) The claimant suffered injury to the head on her way to work. She claimed she felt headaches which came on and off from the time of accident. However, because she never bothered to see a physician, there is no evidence to support this claim. The headache if ever it really existed must have been very mild, comes on so infrequently that it never really bothered the claimant. Evidently, it did not interfere with her work because she had never taken any leave of absence on account of it and it did not get in the way of her being promoted as head-teacher. A definite injury of organic consequence would give rise to unignorable symptoms that would lead to the discovery of the tumor in a period no more than 1-2 months. The history of the illness revealed that it took her 10 years to finally see a physician, Dr. Ederlina Manuel, and it took 14 years before the tumor was finally discovered. There was no evidence of continuity of symptoms from the time of injury to the time of discovery.

"Constant reading had nothing to do with the diminution of vision. Rather it was the pressure effect of a growing tumor encroaching on the optic nerves. Mental activities (making daily reports) and physical activity (crocheting and cooking) involved in the work of a head teacher do not in any way affect the normal course of pituitary tumors.

"Conclusion:

"In view of the above consideration, we are of the opinion that the alleged injury did not cause nor aggravate the pituitary tumor of the claimant." (*Italics supplied*)

As the respondent Workmen's Compensation Commission based its decision on the medical opinion of its Evaluation Division solely while Referee Atal based his decision on evidence introduced by petitioner without being refuted by respondent Bureau of Public Schools, We must subject to close scrutiny the contents of the aforequoted medical opinion.

According to said medical report pituitary tumor chromophobe with adenoma are new growths that produce

symptoms through pressure on neighboring organs, including the pituitary itself. It may produce intracranial pressure (pressure within the skull) and x-ray evidence of destruction of the sella turcica (if x-ray is taken of the patient's skull). It (tumor) might result in optic atrophy (failure of sight) and blindness. A tumor is explained as a new growth of cells or tissues without useful purpose, progressive in nature and cause unknown. In other words, the medical opinion admits that up to now science is not sure of what causes tumor. Tumor of the brain or nervous system is not necessarily caused by injury to the head, but the medical opinion admits "that the first symptoms of new growth of the central nervous system may appear soon after an injury to the head".

In this case the evidence shows that while petitioner was on her way to work sometime in 1954, "while alighting from the banca, one of her feet slipped, causing her to fall and her head bumped on the side of the boat causing her pains and contusions in the head" and "she began suffering from headache and dizziness". The medical opinion states that "headache, vomiting and choked disc attributed to the injury are in reality due to tumor growth"; "the tumor may be of mature size before the injury;" "the noticeable symptoms may first be found following the injury". The medical opinion delves on possibilities, never on certainties. We cannot be sure if the tumor preceded the head injury and, was aggravated by it or if the head injury resulted in petitioner's predisposition to tumor or actually caused it. But one thing sure and even the medical opinion admits it, is that tumor, or rather symptoms of its existence, may appear "soon after an injury to the head". The medical opinion goes farther by adding "the injury may add to the symptoms of disability because of swelling pain and other symptoms that were previously quiescent".

On that specific point of whether the petitioner's head injury, incurred while going to work, could have caused the tumor or a predisposition to it, We are convinced that the ends of social justice would be served better to resolve the doubt in favor of petitioner in view of the clear showing of the absence of negligence on petitioner's part that could have caused the head injury, and she was without fault that could have caused the unfortunate accident which in turn might have caused the tumor or at least a predisposition to it. There is no statement in the medical opinion that a head injury could not possibly cause tumor or a predisposition to it. In the absence of any indication of bad faith nor fabrication of evidence on petitioner's part, We believe that the head injury incurred in line of duty caused the tumor or at least some physical condition that induced the inception of the tumor.

It could also be possible that at the time of the head injury the tumor was already there and the head injury aggravated it. Even the medical opinion admits that. Apparently, tumor is a disease of such nature that the development of medical science up to now cannot fully explain its causes and the factors that may aggravate or alleviate the progress of the disease. Thus, there are instances when tumors just suddenly appear with no known reason, and also cases when it retrogresses or disappears with no known explanation.

Applying the statements in the medical opinion that "the usual criteria of establishing causal relationship of disease and injury apply also to tumors"; that "the injury should be definite and of organic consequences"; that "the interval of time between the injury and the discovery should be within one or two months, and there should be some evidence of continuity during that interval", We are convinced that the evidence introduced by petitioner before referee Elpidio B. Atal substantially established the fact that after the head injury symptoms of the tumor (headache and dizziness) occurred, and although the tumor was discovered very much later when petitioner's vision was already affected and after she had undergone two operations arising from erroneous diagnosis of her ailment, it is clear that the symptoms of the tumor appeared "quite sometime" after petitioner's head injury was suffered in that accident of 1954.

The statement appearing on paragraph 4 of the "Comment and Medical Opinion" submitted by the Evaluation Division of the Workmen's Compensation Commission is more of a comment, not a medical opinion. To Our mind the gratuitous findings stated therein that because petitioner "never bothered to see a physician" although

"she claimed she felt headaches which came on and off from the time of accident"; and that "there is no evidence to support this claim" cannot prevail over, and cancel out, the evidence submitted by petitioner to referee Atal establishing that "she began suffering from headache and dizziness"; that "at first she had to take palliatives to ease the pain, however, as the years went by the pains became severe and recurrent to the extent that in 1964 her vision was affected"; that "Dr. Romero operated her right eye"; but "however, because her condition did not improve she referred herself to another specialist, Dr. Sison, who operated on both of her eyes"; that "inspite of the series of operations, however, her headaches and dizziness persisted", "especially when she was exposed under the sun or under varying weather elements while performing her work;" and "that from the inception of her sickness, from the time she suffered a fall, to her last operation on the brain, respondent (Bureau of Public Schools) knew of the same", as "established by the testimony of claimant (petitioner) and of Exhibits "G" to "G-4", corresponding leaves of absences because of her sickness"; and that "claimant, every time she reports back to work after a sick leave of absence, was allowed to assume her work inspite of the fact that she is sick".

The statement appearing on paragraph 5 of the same "Comment and Medical Opinion" to the effect that "constant reading had nothing to do with the diminution of vision"; that "rather it was the pressure effect of a growing tumor encroaching on the optic nerves"; "mental activity (making daily reports) and physical activity (crocheting and cooking) involved in the work of a head teacher do not in any way affect the normal cause of pituitary tumors", aside from being mere expressions of opinion, could hardly be considered credible in the light of the incontestable reality that up to now medical science cannot fully explain the cause of tumor and the factors that aggravate or alleviate the progress of the disease. Again the mere expression of medical opinion cannot prevail over the evidence presented by the petitioner to referee Atal.

Based on the minute dissection of the contents of the foregoing "Comment and Medical Opinion", We cannot but conclude that the Conclusion: "we are of the opinion that the alleged injury did not cause nor aggravate the pituitary tumor of the claimant", is not supported by the contents of said report and it must be declared, as We do declare it, without basis, erroneous and, therefore, valueless and invalid. It necessarily follows that the decision of Respondent Workmen's Compensation Commission which is firmly anchored on that "Comment and Medical Opinion" is also without basis and unsupported by any substantial evidence.

It is now timely to pause and consider the argument advanced in the brief for respondent filed by the Solicitor General to the effect that the petitioner's claim for compensation is not covered by the Workmen's Compensation Act (Act 3428, as amended) because prior to the enactment of R.A. 4119 on June 20, 1964, the only persons covered by the Workmen's Compensation Act were mounted messengers, employees and laborers employed in public works and industrial concerns and to all other performing manual labor (R.A. 772), and inasmuch as petitioner met the accident (bumping of her head on the banca) in 1954, she was not yet within the coverage of the Workmen's Compensation Act at the time the accident happened.

Petitioner claims that as early as June 20, 1952 when Republic Act 772 was enacted, amending the Workmen's Compensation Act 3428), she was already covered by the Workmen's Compensation Act because of the provision of Sec. 2 of R.A. 772, which reads:

"Sec. 3. Applicable to Government — This Act shall also be applicable to mounted messengers in the service of the National Government and all its political subdivision and to the employees and laborers employed in public works and in the industrial concerns of the Government and, to all other persons performing manual labor in the service of the National Government and its political subdivisions and instrumentalities: Provided, however, that laborers and employees insured with the Government Service Insurance System, and their dependents when entitled to the benefits of said Insurance System shall, in addition to the same be entitled to the benefits granted by this Act. (Act 3428, as amended)" (Italics supplied)

The view of the Solicitor General to the effect that the foregoing amendment to Act 3428 by R.A. 772 on June 20, 1952, did not include petitioner within the coverage of the Workmen's Compensation Act because she was not employed as one of those specifically mentioned by the law within the coverage of Act 3428 (mounted messengers, employees and laborers employed in public works and industrial concerns and to all other performing manual labor) is correct. Petitioner as an official of the government was included within the coverage of the Workmen's Compensation Act when Republic Act 4119 was enacted on June 20, 1964 (Sec. 2 of R.A. 4119).

Without necessarily categorically stating that a remedial legislation of the nature of R.A. 4119 intended to increase the coverage of the Workmen's Compensation Act to include all government employees for their additional benefit may be given retroactive effect, it is immediately discernable in the present case that petitioner, although covered by the Workmen's Compensation Act from June 20, 1964, is not basing her claim on the injury of the head caused by the accident in 1954, but on the resultant tumor which was caused by said accident. We already stated that there is nothing definite as to when the tumor started, but we can state that the injury caused by the accident could be presumed to have caused the tumor or aggravated it. One thing definitely sure is that the tumor was discovered in 1968 and she was operated on in 1969, at a time when petitioner was already covered by the Workmen's Compensation Act. If the tumor started before petitioner became included in the coverage of the Workmen's Compensation Act, then the disease gradually developed and was aggravated by the nature of her work after petitioner came under the coverage of the law in 1964. The tumor that developed in petitioner's brain must have had a very gradual progress of growth since the symptoms appeared after the accident in 1954 and was finally discovered, after two operations on the petitioner's eyes only in 1968. We do not lose sight of the fact that adenoma which afflicted the petitioner is a benign tumor of the glands which may take a long time to grow and progress, unpredictable in its rate of development unless detected and arrested in its growth by medical intervention.

In line with what is stated in respondent Workmen's Compensation Commission's decision that "it pains the writer of this decision to dismiss a claim as the instant one, aware as we are that the Workmen's Compensation Act is a social legislation designed to give relief to the workingman who has been the victim of an accident in the pursuit of his employment and which should, by virtue thereof, be liberally construed to attain the purpose for which it was enacted", We are inclined to resolve the doubts in this case in favor of the petitioner even as the doubts on the causes and aggravating factors of the disease that made her suffer so long and up to the present continue to elude the most persistent quest of medical science. To do so would serve better the ends of social justice in this enlightened era of a compassionate society.

WHEREFORE, the decision dated October 1, 1973, in R02-WCU Case No. 1909 of the respondent Workmen's Compensation Commission is declared without basis and hereby set aside. The decision dated February 1, 1972 in the same case penned by referee Elpidio B. Atal is hereby revived and affirmed.

Without costs.

SO ORDERED.

Castro, (Chairman), Teehankee, Makasiar, Muñoz Palma, and Martin, JJ., concur.

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