

## **PEDRITA S. MARTE, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION, RESPONDENT.**

*G.R. No. L-46362. March 31, 1980*

Ponente: MAKASIAR, J.

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### **MAKASIAR, J.:**

This petition seeks to set aside the decision en banc dated March 31, 1977 of the Employees' Compensation Commission in ECC Case No. 0282, affirming the disapproval by the Government Service Insurance System of the claim for income benefits for permanent total disability under Article 192 of the New Labor Code, and dismissing aforesaid claim.

Petitioner Pedrita S. Marte had served as classroom teacher since 1939 at South City Central School, Cagayan de Oro City until she retired on March 2, 1975 under the disability retirement plan at age 54.

The records disclose that on June 10, 1971, petitioner "consulted a physician on complaints of headache, dizziness which later on was accompanied by shortness of breath and short pain radiating to the left shoulder." These symptoms recurred on and off until she was first hospitalized on August 30, 1974. She was again confined on November 22, 1975 during which her ailments were diagnosed to be "hypertensive cardiovascular disease, with congestive heart failure, left ventricular enlargement and impending heart failure" (p. 4, rec.).

On March 2, 1975 or before her second confinement, she was retired under total permanent disability scheme (p. 58, rec.).

On March 31, 1976, petitioner filed her claim for income benefits with the Government Service Insurance System (p. 3, ECC rec.) which said System denied in its letter-resolution of May 19, 1976, stating therein that "the same cannot be given due course on the ground that your ailments, Hypertensive Cardio-vascular disease, with congestive heart failure, left ventricular enlargement and impending heart failure, Renal Hypertension and Coronary Insufficiency, are not occupational diseases; that upon evaluation based on generally accepted medical authorities, your ailments are found not to be in the least causally related to your duties and conditions of work" (p. 4, ECC rec.).

On November 8, 1976, Julio Marte, petitioner's husband requested for reconsideration of aforesaid denial by the GSIS and submitted two medical certificates of Dr. Jorge O. Limjoco as additional evidence in support of his wife's claim (pp. 7 ' 9, ECC rec.).

In its letter-resolution dated November 16, 1976, the GSIS denied reconsideration of its previous action (p. 10, ECC rec.).

On December 3, 1976, the GSIS forwarded petitioner's claim to respondent Employees' Compensation Commission for review pursuant to Section 5 of Rule XVII of the Implementing Rules (p. 12, ECC rec.).

Respondent Commission, in its decision of March 31, 1977 thus ruled:

"x x x No manifestation is, however, made that declarant is making his assertions as an expert on the subject matter; neither does it appear that he was the attending physician of appellant.

"x x x Stress and strain have never been medically accepted as directly causing hypertension. Although under special circumstances, the illness may lead to an attack by reason of an unusual or extraordinary strain or event. In such a case, however, there must be an immediate connection between the exertion in the course of the employment and the worker's collapse. In the case at bar, there is no showing that the deceased (sic) was engaged in unusual exertion at work immediately preceding the attack" (pp. 14-15, ECC rec.).

In his Report of Findings on which the aforesaid decision was based, the ECC Medical Officer stated:

"The decedent (sic), in the instant case, had been performing her assigned duties as a school teacher for so many years but the history of the case does not show that she had been subjected, in the performance of her duties, to such acute disturbances in the form of unusual physical and emotional excesses that could have precipitated an attack of heart failure. In short, the congestive heart failure, including left ventricular hypertrophy and coronary insufficiency are manifestations of her hypertensive cardio-vascular disease brought about by a long standing essential hypertension. The cause of the latter, however, is still unknown" (p. 13, ECC rec.).

Hence, this petition to review aforesaid decision.

The records further show that respondent Commission promulgated on August 10, 1978 Resolution No. 1026, on recommendation of the Solicitor General and the Secretariat based on ECC Resolution No. 432 dated July 20, 1977, as well as on recent rulings of the Commission, approving the withdrawal of the records of the case of Pedrita Marte against said Commission and awarding benefits to party-appellant (ECC rec.).

Accordingly, on September 18, 1978, respondent Commission, thru the Solicitor General, filed its motion to dismiss the petition and to remand the records of this case to said Commission for computation of benefits.

On September 27, 1978, this Court remanded the records to respondent Commission for computation and payment of benefits to petitioner and required said Commission to report on its implementing action (p. 57, rec.). On this same date, entry of final judgment was made (p. 48, rec.).

In a letter dated December 19, 1978, petitioner requested for reconsideration of the award and approval of the claim for permanent total disability.

On April 27, 1979, petitioner filed her opposition to aforesaid motion to dismiss stating therein that on November 10, 1978, she received from the GSIS a check for P1,453.20 as payment for temporary total disability benefits which award was the subject of her letter-protest; that said award is not correct since she asked for benefits equivalent to permanent total disability under Article 191 of the New Labor Code; and that her disability is permanent and total considering that she had suffered temporary total disability continuously for more than 120 days (pp. 58-61, rec.).

Respondent GSIS, in its reply to opposition filed on June 25, 1979 avers that it sent letters to petitioner requiring her to submit the latest progress report issued by either her attending physician or any government physician which was necessary for proper evaluation of the extent of her disability and/or for expeditious settlement of her claim (p. 72, rec.).

On July 12, 1979, petitioner's husband, Julio Marte, submitted a letter with attached certification bearing the same date of Dr. Jorge O. Limjoco, petitioner's attending physician. The certification reads as follows:

"To Whom it May Concern:

"This is to certify that Mrs. Pedrita S. Marte, 59 years old, married, is still under my care and treatment for Hyper-tensive Cardiovascular Disease with Congestive Heart Failure.

"At present, she is still in a Decompensated State and not fit for work because she is confined in Bed Slight Physical Exertion produced Shortness of Breath.

"This certification has been issued upon the request of the above patient."

In its Sur-Rejoinder of October 30, 1979, respondent GSIS alleges that the GSIS Medical Evaluation and Underwriting Group found the above certification insufficient to apprise it of the actual physical condition of the petitioner and hence, it advised petitioner to submit the recently taken ECG tracings, as well as those taken between 1975 and 1978, properly mounted, identified and signed by both applicant and ECG examiner.

The question of compensability of petitioner's ailment is already settled considering that respondent Commission, in its aforecited Resolution No. 1026 dated August 10, 1978 gave favorable consideration of the claim on the basis of its Resolution No. 432 dated July 20, 1977 (declaring cardio-vascular diseases as compensable), as well as on recent rulings that awarded compensation for job-connected cases of cardio-vascular and cerebro-vascular diseases and accordingly approved the withdrawal of records of the case of petitioner against respondent Commission and awarded benefits to party-appellant.

Thus, the only issues left for resolution are whether or not the medical certificate of petitioner's physician, Dr. Jorge O. Limjoco is sufficient to support her request for the grant of permanent total disability benefits and if in the affirmative, whether or not she would be entitled to permanent total disability benefits.

Respondent Commission, in its decision of March 31, 1977, alleges that the GSIS Medical Evaluation and Underwriting Group found the certification of Dr. Limjoco insufficient to apprise it of the actual physical condition of petitioner. Also, it alleges that "no manifestation is, however, made that declarant is making his assertions as an expert on the subject matter; neither does it appear that he was the attending physician of appellant. Under this circumstance, We cannot accord due evidentiary weight to the foregoing declaration."

Petitioner, on the other hand, asserts "that Dr. Limjoco is an accepted authority not only in Cagayan de Oro City but also in Northern Mindanao. Both as an expert and as attending physician of appellant, his observations of the condition of appellant and his conclusion on the work-connection between her ailment and the work of appellant deserve more weight than the opinion of another equally competent doctor or authority on the subject matter who would venture an opinion purely from the medical point of view." x x x "When Dr. Limjoco issued the certificate, he did so only after thoroughly examining petitioner," she also alleges. She assumed "that it was not necessary for her to show that Dr. Limjoco was her attending physician and an expert on the subject of hypertension"; and that "said physician's certification was prepared without the intervention of a lawyer conversant with the law on evidence" (p. 7, rec.).

While it is true that there is no categorical statement or indication in the medical certificate that Dr. Limjoco is the attending physician of petitioner and an expert in his line of specialization, it must be noted that said physician, considering his professional stature in Cagayan de Oro City and Northern Mindanao, would not have risked his profession and practice when he issued the questioned medical certificate. Even as early as October 4, 1976 (p. 6, rec.), Dr. Limjoco already certified to petitioner's total and permanent disability retirement and to the fact that her ailment was work-connected. No physician in his right mind and who is aware of the far-reaching and serious effect that his statements would cause on a money claim filed with a government agency, would issue certifications indiscriminately without even minding his own interests and protection. In fact, if he were not sure of what he was certifying to, then he would not have issued the second certification on July 12, 1979, knowing full well that he would be perpetuating an erroneous or false report. Under normal circumstances, he would not

sacrifice his medical career for the sake of a lowly public school teacher.

It must also be pointed out that the two medical certificates (October 4, 1976 and July 12, 1979) bear the name of Dr. Limjoco and underneath, the words "Internal Medicine, Electrocardiography" are printed, which information indicates that he specializes in internal medicine and that electrocardiography is part of such practice.

Both respondents ECC and GSIS question the veracity and authenticity of the said medical certificates which were issued by Dr. Limjoco in the regular course of his practice with full awareness of his responsibility for such certificates; and yet, they have not shown and did not even bother to show any proof to negate the contents of said certificates. Obviously, they even failed to consider the ECG tracings taken on December 18, 1978 with the corresponding Electrocardiogram Report of Dr. Limjoco which indicates a finding of myocardial ischemia. It may even be stated that respondent GSIS failed in its duty to have petitioner examined by its own medical officer. It merely relied on the evaluation of its medical officer which is not based on first-hand or personal examination of petitioner. Thus, as against the reports of petitioner's attending physician, respondent GSIS had not produced any concrete evidence to support its allegations. Petitioner has therefore aptly stated that "the truth should not be stifled by the rigid requirements of evidence when the substantial rights of a party is prejudiced."

And this Court feels that to deny full compensation disability benefits to a teacher who was forced to retire due to illness contracted after 36 years of loyal service, would be violative of the social justice precept of the Constitution. Hence, this Court has ruled that a physician's report is admissible as evidence under Section 49 of the Act (National Development Co. vs. WCC, 19 SCRA 864 [1967]), which, taken together with the testimony of the petitioner concerning the nature of her work, constitutes substantial evidence to support the award (Pioneer Ceramics Inc. vs. Samia & WCC, 33 SCRA 487-492 [1970]). Again, in *Romero vs. WCC & Republic of the Philippines* (L-42617, June 30, 1977), this Court ruled that under Section 49 of the Workmen's Compensation Act, as amended, a medical report of an attending physician may be received as evidence and used as proof of the fact in dispute (*Vallo vs. WCC, et al.*, L-41816, Oct. 29, 1976). In the instant case, the report of the attending physician was made part of the record and there was no showing that the same is false or erroneous.

Rule XI, Section 1(b) [1] of the Amended Rules on Employees' Compensation provides:

"(b) The following total disabilities shall be considered permanent:

"[1] Temporary total disability lasting continuously for more than 120 days, except as otherwise provided in Rule X hereof; x x."

Petitioner has been disabled since March 2, 1975 when she retired from the service. From said date to July 12, 1979 when Dr. Limjoco issued the medical certificate containing the fact that petitioner was still "in a Decompensated State and not fit for work because she is confined in Bed", more than 4 years have elapsed. Unmistakably, she has suffered from disability much longer than the minimum period of 120 days required under the aforequoted provision, thus making her disability total and permanent. In fact, as of July 12, 1979, she was still in a decompensated state which is "the condition resulting from the failure of the heart to circulate the blood adequately. The failure may be due to heart disease, obstruction in the blood vessels, etc. The condition is marked by edema (swelling), shortness of breath (dyspnea), discoloration of the skin, etc." (p. 215, Schmidt's Attorney's Dictionary of Medicine).

Permanent total disability means an incapacity to perform gainful work which is expected to be permanent. This status does not require condition of complete helplessness. Nor is it affected by the performance of occasional odd jobs (*Landicho vs. WCC and Canlubang Sugar Estate*, 89 SCRA 147). From the foregoing pronouncement, it may thus be seen that petitioner's disabled condition is extremely total and permanent. The ironic fact is, in the report of findings of respondent Commission's medical officer, petitioner was mistaken for having been dead and

referred to as "decendent" (p. 13, ECC rec.).

WHEREFORE, THE DECISION OF THE EMPLOYEES' COMPENSATION COMMISSION IS HEREBY SET ASIDE AND THE GOVERNMENT SERVICE INSURANCE SYSTEM IS HEREBY ORDERED

- TO PAY PETITIONER THE SUM OF TWELVE THOUSAND (P12,000.00) PESOS AS DISABILITY INCOME BENEFITS;
- TO REIMBURSE PETITIONER'S MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY RECEIPTS; AND
- TO PAY HER BY WAY OF ATTORNEY'S FEES THE SUM EQUIVALENT TO 10% OF THE AMOUNT OF THE AWARD.

**SO ORDERED.**

Fernandez, Guerrero, and De Castro, JJ., concur.

Teehankee, Acting C.J., concurs on a separate opinion.

Melencio-Herrera, J., concurs with the qualification that medical and hospital expenses referred to in paragraph 2 of the dispositive portion should refer to those already incurred and not to life long medical and hospital expenses.

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**SEPARATE OPINION**

TEEHANKEE, Acting C.J.:

I concur in the result. I wish to add only by way of clarification that the case at bar involves inclusion under the new Labor Code in the classification of Permanent Total Disability (PTD) - as distinguished from Temporary Total Disability (TTD) - cases of "Temporary total disability lasting continuously for more than one hundred twenty (120) days." [1]

Under the cited provision of the new Labor Code and the Amended Rules on Employees' Compensation, such employee who contracts sickness or sustains an injury resulting in permanent total disability (PTD) (a disability that has lasted continuously for more than 120 days) is entitled to receive the full monthly income benefits provided in the Code, guaranteed for 5 years but the total payments of which shall not exceed P12,000.00 - but the payments may be suspended under any of the following conditions:

- “(1) Failure to present himself for examination at least once a year upon notice by the System;
- “(2) Failure to submit a quarterly medical report certified by his attending physician as required under Sec. 5 of Rule IV hereof;
- “(3) Recovery from his permanent total disability; or
- “(4) Upon being gainfully employed.” [2]

Here, the employee's attending physician certified on July 12, 1979 that the employee "is still under my care and treatment for hypertensive cardiovascular disease with congestive heart failure" and that four years after the disability, the employee-patient was still "in a decompensated state and not fit for work because she is confined in bed." Hence, there is no question as to the employee having complied substantially with the requirements and being entitled to over four years income benefits counted from March 2, 1975, the date of her retirement under the total permanent disability scheme. The employee could not be faulted for not having presented herself for a

yearly examination since as indicated in the main opinion of Mr. Justice Makasiar, the System as administered by respondent GSIS did not comply with its duty of giving her the required notice for such examination. Under the Rules, (Rule IV, section 5 on medical reports) the employee need only present now the certified medical report of her physician as to her continued disability in the fifth year, to entitle her to collect the full amount due her not to exceed P12,000.00 (awarded in lump sum in the main opinion, since five years have now elapsed since her disability on March 2, 1975).

As to Mme. Justice Melencio-Herrera's qualification of her concurrence that "medical and hospital expenses referred to in para-graph 2 of the dispositive portion should refer to those already incurred and not to lifelong medical and hospital expenses", my view as stated in my separate opinion in the recent case of Biscarra vs. Republic of the Philippines<sup>[3]</sup> is that under section 185 of the new Labor Code, the former limitation in the counterpart section 13 of the old Workmen's Compensation Act that totally and permanently disabled employees were not entitled to payment of their subsequent medical expenses since they could no longer be restored to the maximum level of their physical capacity for work has been eliminated, with the result that the totally and permanently disabled are now entitled to payment of such subsequent medical expenses, but that such medical services and expenses are expressly "subject to the expense limitation prescribed by the Employees' Compensation Commission." In addition, Article 190 of the new Labor Code provides for the establishment of a "continuing program for the re-habilitation of injured and handicapped employees, who shall be entitled to rehabilitation services, which shall consist of medical, surgical or hospital treatment, including appliances, if they have been handicapped by the injury, to help them become physically independent" and of reha-bilitation and vocational centers to provide "assistance as may be within its resources to help each rehabilitee to develop his mental, vocational or social potential."

These are the services and assistance to disabled workers en-vised in and provided by the new Labor Code, although I did point out in my separate opinion in Biscarra that "this project of providing rehabilitation services is of such magnitude that even now, five years after the issuance of the new Labor Code, the Minister of Labor has not yet announced any definite plans for the implementation of this provision to provide free rehabilitation services to the permanently disabled workers and to establish rehabilitation centers."

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[1] Article 192, Labor Code of the Phil., P.D. 626, as amended; Rule XI, sec. 1 (b), sub-par. 1 of the Amended Rules on Employees' Compensation.

[2] Section 2 (c) of the Amended Rules on Compensation.

[3] L-43425, promulgated January 22, 1980.

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