

JOSEFINA CEDO, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM, (MINISTRY OF EDUCATION & CULTURE), RESPONDENTS.

G.R. No. L-55072. February 26, 1981

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition to review the decision of the Employees' Compensation Commission in ECC-Appealed Case No. 1421 entitled "In re application for benefit under P.D. No. 626, as amended, and reimbursement, Josefina Cedo, petitioner-claimant" which granted temporary disability benefit by reason of viral pneumonia for the period from December 12 to 27, 1977 but denied the application as to the operation for appendicitis.

The petitioner, Josefina Cedo, is a permanent public school teacher in the Ministry of Education and Culture originally assigned at Molosbolos Elementary School from 1973 until the first week of July, 1976 when she was re-assigned at Buga Elementary School, Libon, Albay, which is about five (5) kilometers distant from her residence at the poblacion of said town. Her places of assignment are inaccessible by any mode of transportation. She had to hike on mountains, slippery and dangerous trails and footh-paths, and was exposed to the heat of the sun and heavy downpour of rains. She made regular visits to distantly separated homes in the barrio as a "purok" adviser. On December 9, 1977, the petitioner was caught in a heavy rain after attending the meeting of "purok" members. On December 13, 1977 she was brought to the Libon Medical Center, Libon, Albay, where she was found to be sick with viral pneumonia. She suffered severe abdominal pains accompanied by vomiting.

On December 27, 1977 while still sick of viral pneumonia she was transferred to the Isip Medical Clinic at Polangui, Albay where she was operated on for appendicitis. She was then suffering from fever and severe coughing as well as pain on the iliac region. Due to her constant coughing the operated wound failed to heal during its normal healing period. The petitioner was transferred to the Ago General Hospital at Legazpi City on February 1, 1978 where she was confined up to November 30, 1978. She was disabled from her work as elementary school teacher for three hundred fifty three (353) days.

The petitioner filed an application for benefits under P.D. No. 626, as amended, with the Government Service Insurance System. The System denied the claim for benefits on the ground that "viral pneumonia", a common respiratory disease, and appendicitis are not compensable.

On appeal to the Employees' Compensation Commission, the petitioner was granted an award for disability benefit arising from viral pneumonia for the period from December 13 to 27, 1977.

It is a fact that the petitioner was still sick with viral pneumonia when she was operated on for inflamed appendicitis on December 27, 1977. Obviously the operation for inflamed appendicitis was directly caused or aggravated by her illness of "viral pneumonia" which was found to be compensable by the Employees'

Compensation Commission.

It is also a fact that because of the fever and severe coughing of the petitioner the operated wound failed to heal during its normal healing period. On February 1, 1978 she was transferred to the Ago General Hospital where she was confined until November 30, 1978.

The petitioner is entitled to disability benefit for one (1) year and to be reimbursed the medical expenses incurred for her illness.

Under Article 192, Sub-section (c) of the Labor Code, Book IV, Title II, Chapter VI, as amended by Presidential Decree No. 1368, a temporary total disability lasting continuously for more than one hundred twenty (120) days should be considered as permanent total disability.

Rule XI, Section 3, of the Commission provides that the amount of benefit for permanent total disability shall be a monthly income computed at one hundred fifteen per cent of the basic benefit in accordance with the following formula:

"45% of the first P300 of average monthly salary credit or fraction thereof plus

25% of the next P300 of average monthly salary credit or fraction thereof

... "

Considering that the petitioner herein has a monthly salary of no less than P600.00, her basic monthly credit will amount to P210.00 or a total annual amount of P2,520.00. Multiplied by one hundred fifteen per cent, the total benefit for the period of one year will be P2,898.00. The petitioner is awarded in round figure an amount of P3,000.00.

WHEREFORE, the decision of the Employees' Compensation Commission sought to be reviewed is modified and the Government Service Insurance System is hereby ordered to pay the petitioner the amount of P3,000.00 as disability for one (1) year; to pay her the amount of P300.00 as attorney's fees and to reimburse said petitioner the expenses she incurred for medical expenses supported by proper receipts.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero and De Castro, JJ., concur.

Melencio-Herrera, J., voted to uphold the decision sought to be reviewed, the operation for appendicitis not being even remotely connected with viral pneumonia, and appendicitis not being an occupational disease. The prolonged period of claimant's disability to work after her appendectomy must have been due to causes other than viral pneumonia.

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