

JOSE B. CAPARAS, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND SEVEN-UP BOTTLING COMPANY OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-42450. September 30, 1976

Ponente: MARTIN, J.

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MARTIN, J.:

Petition to review the decision of the Workmen's Compensation Commission which affirmed the decision of Regional Office No. 4, Department of Labor, Manila, dismissing petitioner's claim for compensation benefits under the provisions of the Workmen's Compensation Act.

In 1957, petitioner was employed as salesman-driver by private respondent in its Calasiao Plant with occasional assignments in Nueva Ecija and Nueva Vizcaya. In the early part of August 1966, he suffered spells of dizziness, severe headaches coupled with heart palpitations, which were diagnosed by his attending physician, Dr. Jesus G. Bustos as "Hyperthyroid Heart Disease and Rheumatoid Arthritis." In the same month, he notified verbally his supervisor, Ernesto Solano, of his illness. On August 29, 1966, private respondent sold its Calasiao Plant to San Miguel Corporation. This forced private respondent to close its plant in Calasiao, Pangasinan. Because of the closing of the plant where petitioner was actually reporting for duty, the Seven-Up Employees Association filed an unfair labor practice charge against private respondent with the CIR which was docketed as No. 1552-ULP Charge. The case was subsequently settled but private respondent could not rehire petitioner in its existing plants because he was sick.

On March 31, 1975, petitioner filed a claim for compensation with the Workmen's Compensation Section, Regional Office No. 4, Department of Labor, Manila. Without any hearing, the Acting Referee dismissed the claim outright on the ground that his illness is non-compensable. A motion for reconsideration was denied. On appeal to the Workmen's Compensation Commission, the decision was affirmed. The respondent Commission considered the illness of petitioner as non-occupational and therefore not compensable.

Petitioner charged the Acting Referee and the respondent Commission for having acted with grave abuse of discretion and contrary to law when they denied his claim for sickness benefits and for having deprived him of due process of law when they did not receive any evidence in support of his claim nor the evidence of private respondent.

Pursuant to the Department Order No. 3 of the Secretary of Labor in implementation of Letter of Instruction No. 190 dated June 3, 1974 directing the Department of Labor to take such remedial steps as may be necessary to expedite the determination and/or settlement of the backlog of compensation cases, it is so provided that when the issue is compensability the Unit is authorized to receive affidavits of the claimant and/or his witnesses concerning the circumstances of the injury or illness which the respondent may rebut with counter-affidavit. In the case before Us, petitioner has presented his claim wherein he stated the circumstances about his illness. He also presented the Physician's Report showing the extent of his illness and the fact that the illness was aggravated by

his employment.

A look into the Physician's Report of Sickness or Accident[1] will show that while the cause of illness was metabolic disorders, yet the attending physician, Dr. Jesus G. Bustos categorically stated that the ailment was aggravated by the employment. As a matter of fact, petitioner felt the early symptoms of his illness only in August 1966 after long years of employment with private respondent. Private respondent did not rebut with counter-affidavit what is contained in his Notice of Injury or Sickness and Claim for Compensation[2] filed with the Acting Referee. Nor did the latter require the private respondent to submit a counter-affidavit. The Acting Referee simply issued an order to the effect that because "the illness Hyperthyroid Heart Disease and Rheumatoid Arthritis is not compensable, the claim is dismissed for lack of merit." [3] When the Acting Referee issued said order, it can be presumed that he had gone over the Notice of Injury or Sickness and Claim for Compensation and the Physician's Report of Sickness or Accident. Even without requiring the petitioner to submit affidavits and private respondent its counter-affidavits pursuant to Department Order No. 3 of the Secretary of Labor earlier mentioned and basing alone on the Notice of Sickness or Injury and Claim for Compensation and the Physician's Report of Sickness or Accident and the allegations in the petition itself, it can easily be deduced that the illness of the petitioner did supervene in the course of his employment. It has been the consistent ruling of this Court that once it is shown that the illness super-vened in the course of employment, there is the rebuttable presumption[4] that said illness arose out of or aggravated in the course of his employment[5] and with this presumption the burden shifts to the employer and the employee is relieved of the burden to show causation.[6] Such presumption has not been overcome by private respondent which decided not to submit any evidence not even an affidavit to rebut the same. The law is clear. When an employee in the course of his employment contracts "x x x illness already caused by such employment, or either aggravated by or the result of the nature of such employment his employer shall pay compensation in the sums and to the persons hereinafter specified. x x x." [7] According to the Physician's Report of Sickness or Accident, the sickness of petitioner resulted in "permanent total disability for labor." As a matter of fact when the charge for unfair labor practice between the Seven-Up Employees Association and the private respondent was settled he could no longer be rehired because of his illness. Pursuant therefore to Section 14 of the Workmen's Compensation Act, he should be entitled to compensation benefits for permanent total disability.[8] For his illness, he also incurred medical and hospital expenses. Under Section 13 of the same Act,[9] he is also entitled to recover such expenses for medical and hospital expenses as indicated in petitioner's Notice of Injury or Sickness and Claim for Compensation.

IN VIEW OF THE FOREGOING, the decision of respondent Commission is hereby set aside and a new decision rendered ordering private respondent to pay the petitioner the amount of P6,000.00 as compensation benefits for his permanent total disability plus re-imbursement of his medical and hospital expenses in the amount of P356.00, as indicated in the Notice of Injury or Sickness and Claim for Compensation, plus attorney's fees equivalent to ten percent (10%) of the amount that the petitioner is entitled to recover as above-indicated with no pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Concepcion, Jr., JJ., concur.

Concepcion, Jr., J., was designated to sit in the First Division.

[1] Annex A-1 of the Petition.

[2] Annex A of the Petition.

[3] Annex B of the Petition.

[4] "SEC. 44. Workmen's Compensation Act. Presumption. - In any proceeding for the enforcement of the claim for compensation under this Act, it shall be presumed in the absence of substantial evidence to the contrary -

1. That the claim comes within the provisions of this Act;
2. That sufficient notice thereof was given;
3. That the injury was not occasioned by the wilful intention of the injured employee to bring about the injury or death of himself or of another;
4. That the injury did not result solely from the intoxication of the injured employee while on duty; and
5. That the contents of verified medical and surgical reports introduced in evidence by claimants for compensation are correct."

[5] Talip vs. WCC, G.R. No. L-42510, May 31, 1976; Reynaldo vs. Republic, G.R. No. L-43108, June 30, 1976; Mercado vs. WCC, et al., G.R. No. L-42451, July 30, 1976.

[6] Abana vs. Quisumbing, G.R. No. L-21849, March 27, 1968.

[7] "SEC. 2. Workmen's Compensation Act. Grounds for compensation. - When an employee suffers personal injury from any accident arising out of and in the course of his employment, or contracts tuberculosis or other illness directly caused by such employment, or either aggravated by or the result of the nature of such employment, his employer shall pay compensation in the sums and to the persons hereinafter specified. The right to compensation as provided in this Act shall not be defeated or impaired on the ground that the death, injury or disease was due to the negligence of a fellow servant or employee, without prejudice to the right of the employer to proceed against the negligent party."

[8] "SEC. 14. Total Disability. - In case the injury or illness causes temporary total disability for labor, the employer shall during such disability, pay to the injured employee a weekly compensation equivalent to sixty per centum of his average weekly wage but not less than fourteen pesos per week, except in the case provided for in the next following paragraph. No compensation shall be allowed for the first three calendar days of incapacity resulting from an injury except the benefits provided for in the preceding section but if the incapacity extends beyond that period, compensation shall be allowed from the first day of such incapacity. Such weekly payments shall in no case continue after the disability has ceased, nor shall the aggregate sum paid as compensation exceed in any case six thousand pesos. But no award of permanent disability shall take effect until after two weeks have elapsed from the date of the injury.

In the case of an employee whose average weekly wages are less than fourteen pesos per week, the weekly compensation shall be the entire amount of such average weekly wages but if the disability is permanent, the compensation shall be fourteen pesos in such case. In the event that the total disability begins after a period of partial disability, the amount of compensation due for the latter and for any other disability shall not exceed the maximum amount of six thousand pesos."

[9] "SEC. 13. Services, appliances and supplies. - Immediately after an employee has suffered an injury or contracted sickness and during the subsequent period of disability, the employer or insurance carrier shall provide the employee with such services, appliances and supplies as the nature of his disability and the process of his recovery may require; and that which will promote his early restoration to the maximum level of his physical capacity.

The word "services" used herein shall include medical, surgical, dental, hospital and nursing attendance and

treatment as well as the proper fitting and training in the use of appliances and the necessary training for purposes of rehabilitation; "appliances" shall include crutches, artificial members and other devices of the same kind, and the replacements or repairs of such artificial members or such devices unless the replacement or repair is made necessary by the lack of proper care by the employee; and "supplies" shall include medicines, as well as medical, sur-gical and dental supplies.

In case the employer or insurance carrier cannot furnish the aforementioned services, ap-pliances and supplies promptly, the injured or sick employee may acquire the same at the expense of the employer or insurance carrier.

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