

RODRIGO LANDAYAN, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND ATLANTIC GULF & PACIFIC CO. OF MANILA, INC., RESPONDENTS.

G.R. No. L-43202. May 31, 1977

Ponente: MARTIN, J.

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MARTIN, J.:

Petition for review^[1] of the decision of the Workmen's Compensation Commission in RO4-WCC Case No. 162523 which reversed the award of P6,000.00 made by the Acting Referee Vivencio Escarcha of Regional Office No. 4 in favor of the petitioner.

Sometime in October, 1966, petitioner was employed as a carpenter by the private respondent Atlantic Gulf & Pacific Co. of Manila, Inc. (hereinafter referred to as respondent Company) with a salary of P8.00 a day for six to seven days a week. In June 1968, petitioner was found by respondent Company's physician, Dr. Bataclan, to be suffering from pulmonary tuberculosis. He was subsequently diagnosed by his attending physician, Dr. Amadeo Jorge, to be sick of pulmonary tuberculosis, moderately advanced, active with cavity, bronchiectasis.^[2] His employment with the respondent Company was terminated on June 6, 1968. Since that time, he has been out of work due to his ailment.

On June 29, 1975, he filed his claim for compensation together with the Physician's Report. Said claim was granted by the Acting Labor Referee, Vivencio Escarcha, in a decision rendered on October 29, 1975, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered ordering the respondent Atlantic Gulf & Pacific Co. of Manila, Inc., to pay, thru this Office in lump sum:

1) The Claimant the disability compensation in the maximum sum of SIX THOUSAND PESOS (P6,000.00);
and

2) To pay this Office the fee of SIXTY-ONE PESOS (P61.00) pursuant to Section 55 of the Act, as amended."

On October 28, 1975, the respondent Commission acting on the motion for reconsideration filed by the respondent Company, reversed the decision of the Acting Labor Referee and dismissed the case for lack of merit on the ground that the Physician's Report is not corroborated by laboratory findings or chest x-ray conducted on the petitioner.

Hence, this petition for review grounded on the sole issue as to whether or not a Physician's Report is sufficient to support claim under Act 3428 as amended.

We reverse the decision of the respondent Commission. The Physician's Report^[3] does not require that an x-ray examination or laboratory findings be attached thereto. Their absence in the Physician's Report will not invalidate the diagnosis appearing therein. Moreover, from the attending Physician's Report, it can be logically inferred that

a previous x-ray examination was made otherwise the physician could not have arrived at his diagnosis of the petitioner's illness,[4] as in the case at bar wherein the following appears in the Physician's Report:

"Diagnosis: PULMONARY TUBERCULOSIS, MODERATELY ADVANCED, ACTIVE

Prognosis: GUARDED WITH CAVITY, BRONCHIECTASIS"

With the findings that the illness of petitioner is moderately advanced and active which could easily be determined by means of physical examination, x-ray or laboratory findings is not indispensable. Moreover, the records show that the respondent Company's physician, Dr. Bataclan, was the first one who found the petitioner to be suffering from pulmonary tuberculosis, which finding was the immediate cause of the termination of his services. The respondent Company is therefore estopped from denying the said illness suffered by the petitioner. In this connection, since the petitioner has complied with the requirements under Section 23 of the Workmen's Compensation Act[5] We find no reason to deny him the benefits provided for by the law.

Considering that the total disability of the petitioner resulting from his illness has been duly established, he is therefore, entitled to compensation under Sections 2 and 14 of the Workmen's Compensation Act.[6]

IN VIEW OF THE FOREGOING, the judgment of the respondent Commission is hereby reversed and set aside and the decision of the Acting Referee of Regional Office No. 4, revived and reinstated with the further modification that respondent Company should also pay petitioner medical and hospital expenses duly receipted for until full recovery and to his lawyer the amount of P600.00 as attorney's fees.

SO ORDERED.

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

[1] Treated as special civil action per resolution dated July 23, 1976.

[2] Physician's Report.

[3] Form No. 4 (Revised) of the Department of Labor.

[4] Rolando Flores vs. Workmen's Compensation Commission and Liberty Manufacturing Corp., L-41612.

[5] SEC. 23. Medical and rehabilitative examination. - After receiving an injury or contracting sickness and during the period of his disability and rehabilitation, the laborer shall at reasonable times and places submit to examination by a duly qualified physician or surgeon and rehabilitation technician designated and paid by the employer or insurance carrier. The laborer shall be entitled to have a physician or surgeon and rehabilitation technician designated and paid by himself at such examination; but this right shall not be construed as denying to the physician or surgeon and rehabilitation technician of the employer or insurance carrier the right to visit the injured or sick laborer at any reasonable time and under any reasonable conditions during his total disability and period of rehabilitation. In case an injured or sick employee refuses to submit to, or does in any manner obstruct the examination mentioned without justifiable cause, his right to proceed under this Act shall be suspended until such refusal or obstruction shall cease, and no compensation shall be payable for the entire time of such obstruction.

[6] SEC. 2. 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 person 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.

SEC. 14. Total disability. - In case the injury or sickness 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 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.

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