

ROSARIO VARGAS, PETITIONER, VS. PHILIPPINE AMERICAN EMBROIDERIES, INC. AND THE HON. N. BAENS DEL ROSARIO AS CHAIRMAN OF THE WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS.

G.R. No. L-23762. August 31, 1970

Ponente: CASTRO, J.

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CASTRO, J.:

This is a petition for review by certiorari of the decision of the Workmen's Compensation Commission (hereinafter referred to as the Commission) dated October 13, 1964, absolving the Philippine American Embroideries, Inc. (hereinafter referred to as the Company), from liability under Act 3428, as amended, otherwise known as the Workmen's Compensation Act.

Presented for resolution are two issues, namely, first, whether the petitioner Rosario Vargas has properly perfected her appeal to this Court, not having filed any notice of appeal with the Commission; and second, whether her affliction (tuberculosis) was caused and/or aggravated by the nature of her work.

On January 7, 1963 disability benefits under the Workmen's Compensation Act were granted to the petitioner by a referee of the Regional Office No. IV in Manila, upon the following findings of fact:

"That claimant was employed in the respondent- company on January 27, 1960, as a brassiere sewer with a daily wage of P4.00; that her duties were to make brassieres with the use of an electric sewer machine; that her quota was to finish 10 bags of brassieres every working day with each bag consisting of 3 dozens of brassieres; that in making brassieres there are six (6) operations and that claimant was assigned to one operation only, that was, to bust and re-stitch operation which consisted of sewing the linings to the embroideries; that her hours of work were from 8:15 a. m. to 12:30 p.m. and 1:30 p.m. to 5:15 p.m., with 30 minutes break in the morning; that she used to work regularly 5 days a week; that 100 workers, including herself, were working in a place 30 meters in length and 15 meters in width and the place was without any blower to keep the air in circulation during the time of her employment; that the workers, including herself, while working were in rows and sometimes back to back and that there were shelves (4 ft. high) which divided the finished brassieres from the raw materials needed by the workers; that on July 19, 1961, claimant was advised by the company to take a 3-month rest starting July 30, 1961 due to pulmonary infection; that the PTB of claimant as of July 20, 1961 was moderately advanced, active, bilateral; that after the 3-month period, claimant reported for work but was required by the company doctor to produce a big X-ray but which she could not produce for financial reasons.

"

The referee held that while the petitioner's affliction could not have been caused directly by the nature of her employment since she was never exposed to any high concentration of free silica dust or to tubercular patients, her illness was, however, aggravated by the nature of her work. The referee attributed this aggravation to the heavy workload of the petitioner - as she had to finish every working day a quota of 360 brassieres - as well as to the crowded ill-ventilated place where she worked.

On December 24, 1963 the Chairman of the Commission reversed the decision of the referee, in the following words:

"We are not convinced, on the basis of the evidence in the record, that the work performed by the claimant would really, and did aggravate, her pulmonary tuberculosis. It is apparent that her work did not involve the use of any strain inasmuch as she handled only light material, and all that she had to do was to guide with her fingers the sewing operation which was actually done by an electrically-driven sewing machine. In other words, her work was light and sedentary. Under the foregoing circumstances, we are of the opinion that the claimant has not established by substantial evidence that her illness which caused her disability for labor was the result of aggravation by the nature of her employment rather than merely the result of the natural progress of the disease."

On October 13, 1964, acting on the petitioner's motion for reconsideration, the Commission affirmed the decision of its Chairman, ruling that her work was relatively light and sedentary and that, moreover, she failed to establish by satisfactory evidence her allegation that the lack of ventilation, the heat inside the factory, and the dust-like thread exhaust which polluted the already congested and impure area, were sufficient cause of the affliction of the petitioner.

On November 5, 1964, the last day of the reglementary period for appeal, the petitioner filed with this Court the present petition for review, and on that same day served copies thereof upon the Commission and the Company. She failed, however, to file any notice of appeal with the Commission.

On January 26, 1965 the Commission moved for the dismissal of this petition for failure of the petitioner to file any notice of appeal, invoking section 1 of Rule 43 of the new Rules of Court which took effect on January 1, 1964. This section provides:

"How appeal taken. - Any party may appeal from a final order, ruling or decision of the ... Workmen's Compensation Commission ... by filing with said bodies [Commission] a notice of appeal and with the Supreme Court twelve (12) printed or mimeographed copies of a petition for certiorari or review of such order, ruling or decision, as the corresponding statute may provide. A copy of the petition shall be served upon the ... Commission ... concerned and upon the adverse party, and proof of service thereof attached to the original of the petition." (emphasis ours)

The petitioner's reply is that although she failed to file any notice of appeal with the Commission, this particular requirement was substantially complied with when she timely filed with Court and served upon the adverse parties her petition for review.

The jurisdictional issue posed by the Commission points up a policy question (which appears to be of first impression) relative to Rule 43 of the New Rules of Court.

Prior to the effectivity of the present Rules, we refused to take cognizance, on jurisdictional grounds based on finality of judgment, of petitions for review of decisions of the Commission brought to this Court where the notice of appeal was filed out of time. Thus, in *Martha Lumber Mills, Inc. vs. Lagradante*,^[1] we ruled that the

"... petitioner's failure to file with the Workmen's Commission any notice of appeal as required by Section 1 Rule 44 of the Rules of Court which governs appeal from decisions of the Workmen's Compensation Commission, is necessarily fatal."

In the subsequent cases of *Heirs of Patricio Pabores vs. Commissioner* ^[2] and *A. L. Ammen Transportation Co. vs. Commission*,^[3] we likewise held that the filing of the notice of appeal was a compulsory requirement so that its non-fulfillment caused the decisions of the Commission to become final and executory.

We cannot now adhere unreservedly to this doctrine, however, in view of the new approach which appears to have been ushered in by the new Rules of Court regarding the filing of a notice of appeal in respect to decisions of the Commission brought to this Court for review.

By virtue of section 46 of the Workmen's Compensation Act, the provisions of law and the Rules of Court governing appeals from the Court of Industrial Relations to this Court shall apply to appeals from the Commission to this Court both as to the reglementary period and the manner of appeal.

Section 1 of Rule 44 of the old Rules of Court, obtaining at the time the aforementioned cases were brought to this Court for review, reads as follows:

"How to perfect an appeal. - An appeal by certiorari from an award, order or decision of the Court of Industrial Relations, shall be perfected by filing with said court a notice of appeal and with the Supreme Court a petition for certiorari against the adverse party within fifteen (15) days from notice of the award, order or decision appealed from." (emphasis ours)

It can readily be seen that there is a difference in phraseology between the above section of Rule 44 of the former Rules of Court and section 1 of Rule 43 of the present Rules, and this difference is by no means an inconsequential one. For while the former explicitly required a notice of appeal for the perfection of the appeal, the latter does not say so. Indeed, that a new perspective regarding the filing of the notice of appeal has been introduced is reflected in section 2 of Rule 43 of the present Rules which, while requiring the fact of the date of the filing on time of the petition for review to be stated on its face, does not demand that the same statement be made with respect to the fact of filing of the notice of appeal.[4] The point clearly suggested then is that the filing of the notice of appeal is no longer compulsory. Indeed, were the filing of the notice of appeal an indispensable act, then the present Rules would have simply said so in the same manner that they do with regard to the petition for review.

It must also be borne in mind that the notice of appeal serves no other purpose than to inform the Commission that the losing party desires to contest its ruling in the proper appellate court. No right of the adverse private litigant appears to be affected by it since such litigant is not entitled to the said notice. Hence, insofar as the real parties in interest are concerned the notice of appeal is something they can totally ignore. On the other hand, with respect to the Commission, it seems to us absurd that after it acknowledges receipt of the petition for review, as it did in this case, and makes reply to it, it is allowed to turn around and say that, after all, it did not know anything about the petitioner's desire to appeal. The petition for review, as required by our rules, unlike the notice of appeal which may consist of only one succinct sentence, is required to be under oath and to delineate to the parties involved and to this Tribunal the areas of dispute or disagreement. Consequently, its preparation and composition involve, to say the least, an appreciable expense of man-hours and money. To contend that the petition for review is not at all expressive of an intention to appeal is to give inordinate importance to the shadow rather than the substance of the law, and to deny justice as it unduly stresses technicality.

The Commission has, however, directed our attention to *A. L. Ammen Transportation Co. vs. Commission*, supra, which this Court decided after the new Rules of Court took effect and in which we held that the filing of the notice of appeal is compulsory in nature. The suggestion, therefore, is that the jurisdictional issue here advanced is now a matter of settled opinion. We do not think so.

That case was submitted to this Court for review before the present Rules became effective, and the decision was based solely upon our ruling in *Heirs of Pabores v. Commission*, supra, and *Martha Lumber Mills, Co. vs. Lagradante*, supra. These two cases, however, cannot be regarded as appropriate precedents under the present Rules for they both involved an interpretation of section 1 of Rule 44 of the old Rules. As we stated earlier, the

change embodied in section 1 of Rule 43 of the present Rules effected not just a change in style, but, more importantly, of substance.

On the other hand, even if we take into account precedents in shaping our perspective on the present case, the contention of the Commission would still be unavailing.

In *University of Sto. Tomas vs. Collector of Internal Revenue*,^[5] in disposing of a motion to dismiss an appeal for failure to file the notice of appeal under the second paragraph of section 18 of R.A. 1125^[6] which reads:

“Appeal to the Supreme Court. - ... Any party adversely affected by any ruling, order or decision of the Court of Tax Appeals may appeal therefrom to the Supreme Court by filing with the said Court a notice of appeal and with the Supreme Court a petition for review, within thirty days from the date he receives notice of said ruling, order or decision....,” (emphasis ours)

this Court held "the petition for review and the furnishing of a copy thereof to the Tax Court as sufficient compliance with the second paragraph of Sec. 18 of Rep. Act 1125." Because of the striking resemblance in phraseology between the above statutory provision and section 1 of Rule 43 of the present Rules, the *seine* interpretation must logically appertain as well to the latter rule.

Having disposed of the jurisdictional problem, we now confront the merits.

The petitioner disputes the Commission's finding that her work was light and sedentary as well as the Commission's conclusion that she failed to establish by substantial evidence her alleged exposure to dust-like threads and the lack of proper ventilation in the factory building where she worked.

We agree with the Commission that the work of the petitioner was light and sedentary, since even the petitioner herself, in her petition for review, makes an explicit admission of this fact. However, we cannot accept the sweeping opinion of the Commission that apparently places on the claimant in a workmen's compensation case the burden of proving that his illness or injury comes within the purview of the statute.

Section 44 of the Workmen's Compensation Act unequivocally establishes a presumption of compensability, although disputable by substantial evidence. This presumption does not arise by the mere filing of a claim which is timely controverted, but by the establishment of a preliminary link, although not by substantial evidence, between the injury or illness and one's employment. Once this link is established, such as that the illness or injury supervened during the period of the laborer's employment, then upon the employer is imposed the burden of demonstrating, by substantial evidence, absence of work-connection.

In the case at hand, we find that this link has been sufficiently established by the petitioner. The Commission's decision states that on January 27, 1960, before the petitioner was given employment by the Company, she was subjected to a pre-employment medical examination and was found to be free from any tubercular infection. Then, in April, 1961, when a mass X-ray examination of the Company's employees was conducted, the petitioner, after a re-check examination involving her and several of her co-employees, was found to be suffering from pulmonary tuberculosis which then was already in a moderately advanced stage, active and bilateral.

Our consistent ruling in a long line of cases^[7] has been that when an injury or illness occurs in the course of employment, the presumption applies that it arose out of such employment. It was therefore clearly incumbent upon the Company to prove by substantial evidence, after a preliminary link of the illness to the employment was established, that the said ailment did not or could not have arisen out of or been aggravated by the petitioner's employment. The Company failed to establish such non-work connection, or, in the very least, non-work aggravation.

The Company, as far as is evident from the record, built its main defense upon the existence of blowers and windows inside the building where the petitioner worked. The witness it presented for this purpose, however, only became an employee of the Company a full six months after the petitioner was employed. Hence, it is obvious that she could not competently testify about the alleged existence of the blowers and windows prior to her employment in the said factory, as in fact she did not. Moreover, this particular witness appears to have been actually assigned to work in another building of the same factory. Consequently, her testimony as to the conditions obtaining inside the building where the petitioner was assigned cannot be accorded credit.

Upon the other hand, it is manifestly undisputed that the building where the petitioner was employed, which had an area of only 30 meters in length and only 15 meters in width, housed 100 workers, plus their equipments, the materials which they worked upon, and the shelves where during the day they temporarily stored the finished brassieres. The totality of the environmental conditions obtaining would indicate, quite clearly, that the building was a veritable sweatshop, unhealthful and insanitary by modern acceptable standards.

ACCORDINGLY, the judgment a quo is set aside, and another is hereby entered, ordering the respondent Company to pay:

1. To the petitioner (a) The sum of One Hundred Twenty Pesos (P120) representing medical expenses incurred by the claimant; (b) A weekly compensation equivalent to sixty (60%) per cent of her average weekly wages for a period of three (3) months during which she was totally disabled to Work, or the total sum of One Hundred Seventy Two Pesos (P172); (c) A weekly compensation of Ten Pesos (P10) for one hundred ninety-six (196) weeks, or a total sum of One Thousand Nine Hundred Sixty Pesos (P1,960), as a result of her permanent disability; (d) Medical, surgical and hospital services and supplies until her ailment will have been completely arrested or cured; and (e) Costs;
2. To the petitioner's legal counsel, attorney's fees equivalent to three (3%) per cent of the amount of compensation recoverable under (a), (b) and (c) of the immediately preceding paragraph; and
3. To the Workmen's Compensation Commission, the Burn of One Peso (P1) for every One Hundred Pesos of the total amount of compensation ordered to be paid.

Costs against the private respondent, the Philippine American Embroideries, Incorporated.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] L-7599, June 27, 1956. See also *Miranda v. Guanzon*, L-4992, Oct. 27, 1952, and *Manila Electric Co. v. Cruz*, L-7355, Feb. 24, 1954.

[2] L-12034, August 30, 1958.

[3] L-20219, November 28, 1964, 12 SCRA 508

[4] Section 2, Rule 43 provides: "Contents of Petition. - The petition shall contain a concise statement of the issues involved and the grounds relied on for the petition, and shall be accompanied with a true copy of the ruling, order or decision appealed from, together with the copies of such material portions of the record as are referred to therein and other supporting papers. The questions raised must be distinctly set forth in the petition.

"The petition shall be made under oath and shall show, by mention of the specific material dates, that it was filed within the period fixed in this rule."

[5] L-11274, November 28, 1958.

[6] Otherwise known as the Court of Tax Appeals Act.

[7] Recent illustrative cases include MRR vs. Rivera, 23 SCRA 922 (1968), Hernandez vs. WCC, 14 SCRA 219 (1965).

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