

SANCHO SEBASTIAN, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND PROVINCIAL GOVERNMENT OF SULU (PROVINCIAL WATERWORKS), RESPONDENTS.

G.R. No. L-43690. September 30, 1978

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition to review the decision of the Workmen's Compensation Commission in WC R09-No. 254-75 entitled "Sancho Sebastian, Claimant, versus, Provincial Government of Sulu (Provincial Waterworks), Respondent," reversing the decision of the Acting Chief of the Unit, Regional Office No. 9 at Zamboanga City which awarded compensation benefits to the claimant.[1]

The claimant, Sancho Sebastian, was employed in the Provincial Waterworks of Sulu as property clerk with a monthly salary of P240.00. He filed an application for sick leave with pay for 16 days from May 16, 1973 to May 31, 1973.[2] The claimant then went on leave with pay from June 1 to June 30, 1973 and he was paid for 201 vacation and sick leave days from July 1, 1973 to January 17, 1974 at the rate of P240.00 per month.[3] On May 15, 1973, the applicant suffered hypertension and arteriosclerotic heart disease. According to the Physician's Report, the illnesses were caused by his employment. Because of his illnesses, the claimant retired at the age of 62 years on January 18, 1974.[4]

On February 3, 1975, Sancho Sebastian filed a claim for compensation with Regional Labor Office No. 9 at Zamboanga City, claiming that his sicknesses were work-connected. At the hearing, claimant presented evidence that his illnesses were caused by his employment. The claimant's sicknesses were medically evaluated by the Unit's Medical Rating Officer who found that said claimant was suffering a permanent partial disability at 25% N.S.D.[5]

The Acting Chief of the Workmen's Compensation Unit at Zamboanga City found the illnesses of the claimant compensable and awarded to him compensation for permanent partial disability.[6]

The Province of Sulu (Provincial Waterworks) appealed to the Workmen's Compensation Commission.

The Workmen's Compensation Commission reversed the decision of the Acting Chief of Regional Labor Office No. 9 and absolved the Province of Sulu (Provincial Waterworks) of the liability because:

"While the physician's report show that his illness was the result of the nature of his job, there is nothing to show that the claimant had presented substantial evidence linking his sickness to his work as property clerk. Even in his claim he did not state how he acquired the sickness, the nature and conditions of his work in order to make it appear that his job was indeed conducive to the acquisition and development of the disease." [7]

The claimant, now petitioner, became sick of hypertension and arteriosclerotic heart disease on May 15, 1973

while he was on leave of absence with pay. An employee who is on leave of absence is considered still an employee. Thus in *Vda. de Uchang vs. Workmen's Compensation Commission*,^[8] this Court said:

"Employer-employee relationship is not suspended when an employee is given a vacation leave with pay. That the employee on vacation leave with pay is accorded his regular compensation, attests to said employee's continuously rendering regular service, in line with the settled principle that the basis of remuneration is actual work rendered (*Philippine Air Lines Employees Association vs. Philippine Air Lines*, L-31341 & L-31343, March 31, 1976, 70 SCRA 244, 252)."

Inasmuch as the illnesses of the claimant supervened during his employment, there is a disputable presumption that the said illnesses are compensable. It was held in *Vargas vs. Philippine American Embroideries, Inc.*^[9] that:

"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."

The claimant presented evidence that his illnesses were the result of the nature of his job. The respondent, Provincial Government of Sulu (Provincial Waterworks), did not adduce any evidence to show that the illnesses of the claimant, now petitioner, were not work connected.

The Acting Chief of Regional Labor Office No. 9, Zamboanga City, found that the following benefits are to be given to the claimant:

"1. Compensation for disability for labor under Section 14 of the Act, said compensation to be equivalent to 60% of the average weekly wage of the claimant for a period of 84-4/7 weeks. The weekly wage of the claimant is as computed based on his monthly salary of P240.00 equals P55.38 and 60% of same is P33.22 and for 84-4/7 weeks equals P2,809.40; and

2. Compensation for permanent partial disability under Section 17 of the Act, said compensation to be equivalent to 50% of the weekly wage of the claimant which is P55.38. So, 50% of same is P27.69 and for a period of 52 weeks (25% N.S.D. times 208 equals 52) equals P1,439.88."^[10]

We find the foregoing computation correct.

In addition to the compensation for disability, the petitioner is entitled to reimbursement of medical expenses if supported by proper receipts.

WHEREFORE, the decision of the Workmen's Compensation Commission appealed from is hereby set aside and the respondent, Provincial Government of Sulu (Provincial Waterworks), is ordered:

1) To pay the petitioner the total sum of Four Thousand Two Hundred Forty Nine Pesos and 28/100 (P4,249.28) pursuant to Sections 14 and 17 of the Workmen's Compensation Act;

- 2) To reimburse the petitioner medical expenses supported by proper receipts;
- 3) To pay counsel of the petitioner attorney's fees in the amount of Four Hundred Twenty Five Pesos (P425.00); and
- 4) To pay the successor of the Workmen's Compensation Commission the sum of Sixty One Pesos (P61.00) as administrative fees.

SO ORDERED.

Teehankee, (Chairman), Muñoz Palma, and Guerrero, JJ., concur.

Makasiar, J., concurs in a separate opinion.

[1] Annex "F", Rollo, pp. 22-24.

[2] Annex "A", Application for Leave, Rollo, p. 15.

[3] Annexes "C" and "D", Rollo, pp. 17 and 18.

[4] Petition, Rollo, p. 8.

[5] Annex "F", Rollo, p. 19.

[6] Ibid., Rollo, pp. 19-21.

[7] Rollo, pp. 25-24.

[8] 77 SCRA 69, 72.

[9] 34 SCRA 680, 687.

[10] Rollo, p. 20.

SEPARATE CONCURRING OPINION

MAKASIAR, J.:

I concur with the additional opinion that the respondent employer should likewise be directed to provide the claimant with such medical, surgical and hospital services as well as appliances and supplies as the nature of his disability and the progress of his recovery may require and which will promote his early restoration to the maximum level of his physical capacity. It is my consistent view that the provisions of Section 13 of the Workmen's Compensation Act, as amended, and Article 184 of the New Labor Code, as amended, confer such right on the disabled employee, whether his disability is temporary or permanent. This is in compliance with the social justice guarantee of both the 1935 and 1973 Constitutions and in obedience to the directive of Article 4 of the New Labor Code that "all doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor", which is a re-statement of existing jurisprudence as well as Article 1702 of the New Civil Code. To limit such right to a temporarily disabled

employee would inflict gross injustice on those permanently disabled, who still need to be relieved from the pain, trauma, social ostracism or humiliation generated by such permanent disability.

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