

REGINA A. AFABLE, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND THE DEPARTMENT OF EDUCATION AND CULTURE, RESPONDENTS.

G.R. No. L-45456. March 18, 1985

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

On July 16, 1974, or after 33 years as a public school teacher working five (5) days a week at P3,411.00 per annum salary, petitioner, 62 years old, married, with two daughters, stopped working due to ailments diagnosed as "diabetes mellitus, cardiomegally with hypertension, and Koch's pulmonary and peripheral neuritis." [1]

Petitioner applied for retirement with the Government Service Insurance System (GSIS), describing her disabilities as partial blindness, tired joints, handicap in walking and dizziness. [2] The application was approved on December 20, 1974 and petitioner received the amount of P7,596.87 [3] as retirement pay.

On February 4, 1975, petitioner filed a notice of sickness and claim for disability benefits with Labor Regional Office No. 4. To support her claim she submitted her Physician's Report of Sickness or Accident, GSIS Medical Certificate and the Medical Certificate issued by the Bethany Hospital. [4]

On October 25, 1975, the Regional Office dismissed petitioner's claim, stating that she cannot now allege that she stopped working due to illness because the records show that she applied for optional retirement from the service. [5] Respondent Workmen's Compensation Commission affirmed the dismissal of the claim. [6]

The first question to resolve is whether or not petitioner is entitled to disability benefits under the Workmen's Compensation Act in addition to the retirement compensation given by the GSIS.

An affirmative answer is called for, Section 3 of the Workmen's Compensation Act provides:

"This Act shall also be applicable to all officials, employees and laborers in the service of the National Government and its political subdivisions and instrumentalities: Provided, however, That officials, laborers, and employees insured with the Government Service Insurance System, and their dependents when entitled to the benefits of the said insurance system shall, in addition to the same, be entitled to the benefits granted by this Act."

The records further show that petitioner actually retired because of disability rather than on the optional retirement plan. As the Solicitor General had pointed out:

"x x x Her application contains allegations and entries indicating her preference for disability retirement. The retirement annuity voucher likewise indicates that she was granted an annuity according to the disability retirement plan." [7]

Next to determine is whether or not petitioner's disability is work connected.

The Physician's Report, dated July 5, 1974, of Dr. Silvino R. Adizas, Jr., of Bethany Hospital, Tacloban City,

states that petitioner's illnesses were due to strenuous mental and physical activities during her 33 years of active service in the teaching profession.[8] Indeed, petitioner's illnesses supervened in the course of her employment. She was not suffering from any illness upon entering the employ of the Bureau of Public Schools. It was only during her stint as a classroom teacher that she contracted the ailments. Since petitioner's illnesses had their onset in the course of employment, the rebuttable presumption arises that they arose out of or were at least aggravated by petitioner's employment.[9] With this legal presumption, the burden of proof shifts to the employer, and the employee is relieved of the burden to show causation. Respondent employer herein has not rebutted that presumption nor the evidence adduced by petitioner.

The Workmen's Compensation Act specifically provides that pulmonary tuberculosis is compensable [Section 2]. Hypertension has likewise been held compensable in *Lavilla vs. Secretary of Labor*[10], also involving a school teacher, by reason of the physical and nervous strains to which the profession is subjected. And while diabetes mellitus by itself has not been held compensable, it normally occurs with such diseases as pulmonary tuberculosis[11], or with heart ailment.[12]

The conclusion is thus inevitable that petitioner's disability was service-connected and is compensable under the Workmen's Compensation Act.

WHEREFORE, the Decision of the Workmen's Compensation Commission is SET ASIDE and respondent is hereby ordered:

1. To pay petitioner the sum of Six Thousand (P6,000.00) Pesos as disability compensation benefits; and
2. To pay the Ministry of Labor and Employment the sum of Sixty-One (P61.00) Pesos as administrative fees.

No attorney's fees are being awarded since it does not appear that petitioner was represented by counsel. No costs.

SO ORDERED.

Teehankee, (Chairman), Plana, Relova, Gutierrez, Jr., De La Fuente, and Alampay, JJ., concur.

[1] Rollo, pp. 34 & 35.

[2] *Ibid.*, p. 37.

[3] *Ibid.*, p. 38.

[4] *Ibid.*, pp. 4, 5 & 7.

[5] *Ibid.*, p. 40.

[6] *Ibid.*, p. 44.

[7] *Ibid.*, p. 61.

[8] *Ibid.*, p. 5.

[9] Section 44(1), Workmen's Compensation Act [Act No. 3428]; *Lopez vs. Workmen's Compensation Commission*, G.R. No. L-42592, September 28, 1984; *Villavieja vs. Marinduque Mining & Industrial Corporation*, G.R. No. L-43349, October 23, 1984.

[10] 122 SCRA 657, 611 [1983].

[11] Gascon vs. Employees' Compensation Commission, 129 SCRA 297 [1984].

[12] Matta vs. Workmen's Compensation Commission, G.R. No. L-43280, December 26, 1984.

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