

CENTRAL AZUCARERA DON PEDRO, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND NEMESIO TANIO, RESPONDENTS.

G.R. No. L-29670. October 09, 1987

Ponente: NARVASA, J.

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NARVASA, J.:

Nemesio Tanio started working at the Central Azucarera Don Pedro (hereafter simply referred to as the CENTRAL) as a laborer, picking up strewn cane, during the 1946-1947 milling season. Starting with the 1954-1955 milling season, he was assigned as operator of an electrically operated cane-unloading machine.[1]

Tanio stopped working on February 9, 1960, allegedly because he began to spit blood at this time. An x-ray examination conducted by the CENTRAL's physician revealed that Tanio was suffering from minimal pulmonary tuberculosis (PTB) in the right lung. He was consequently confined at the CENTRAL's hospital, pursuant to a collective bargaining agreement then in force, but after three (3) days, he refused further treatment and at his request was discharged.

Tanio then opted to retire, and the CENTRAL paid him P400.00 as gratuity. On March 30, 1960, he executed an affidavit affirming his voluntary refusal to be treated at the CENTRAL's hospital.[2]

Three years later, or more precisely on October 8, 1963, Tanio filed a complaint against the CENTRAL with Regional Office No. 4 of the Department of Labor at Manila, seeking disability compensation and reimbursement of medical expenses. The CENTRAL moved to dismiss, alleging that Tanio was statutorily barred from presenting and prosecuting his claim.[3]

The Hearing Officer to whom the case was assigned rendered a decision on August 15, 1965 dismissing the case for lack of merit. The decision pointed out that Tanio's averment of having spat blood was corroborated by neither an eyewitness nor medical proof; there was no showing of any resulting disability for labor; and proof of illness alone does not entitle an employee to compensation under the Workmen's Compensation Act.[4]

On appeal taken by Tanio, the Workmen's Compensation Commission reversed the judgment of the Hearing Officer. It declared that since Tanio was healthy when first admitted for employment by the CENTRAL and he was afterwards found to be suffering from minimal PTB, the presumption was that his illness had been caused or aggravated by his employment, a presumption that had not been overthrown by the evidence on record. It accordingly ordered the CENTRAL to pay Tanio P4,000.00 as disability compensation; P1,300.00 as reimbursement for medical expenses; P400.00 as attorney's fees, and P41.00 as costs. It also commanded the CENTRAL to provide medical services to Tanio until his illness was cured.[5] Subsequently, in a Resolution dated September 27, 1968, the Commission denied the CENTRAL's motion for reconsideration.[6] However, the Medical Member of the Commission dissented. According to her, Tanio's PTB was minimal, was not in an aggravated stage at all but was in fact just beginning, hence, there could be no causal relation between Tanio's illness and his employment.[7]

The CENTRAL has filed a petition with us for the review of the Commission's judgment in accordance with Rule 43 of the Rules of Court, seeking to persuade us that the latter has decided a question of substance not theretofore determined by us or decided it in a way not in accord with law or our applicable decisions. Said petitioner submits the following particular issues: (1) whether or not the Regional Office No. 4, stationed in Manila, had jurisdiction over Tanio's claim; (2) the proper interpretation of Sections 24 and 45 (paragraph 2) of Act 3428, otherwise known as the Workmen's Compensation Act; (3) whether or not Tanio was entitled to reimbursement of medical expenses notwithstanding his voluntary waiver of proffered medical treatment; and (5) whether or not attorney's fees were correctly awarded despite the absence of any prayer therefor in Tanio's complaint.

The CENTRAL maintains that Regional Office No. 4 stationed at Manila is, under the law, without authority to entertain the claim and that Tanio having admitted he is a resident of Bo. Talon, San Luis, Batangas, only Regional Office No. 5 could validly assume jurisdiction over the claim.

Under Section 1, Rule 16 of the Rules of the Workmen's Compensation Commission, a claim for compensation may be filed and heard in the regional office of any of the following places: where the accident occurred; where the claimant, or any of the claimants resides; or where the respondent or any of the respondents, resides, at the option of the claimant. The choice of any of these venues is solely the claimant's.

Tanio having opted to file his claim for compensation at the Regional Office No. 4, stationed at Manila, and it having been established that Tanio was residing at Sta. Cruz, Manila, at the time of such filing, Regional Office No. 4 validly assumed jurisdiction over the same. The purpose of the rule is to foster the convenience of the claimant considering that he is the aggrieved party.[8]

The CENTRAL contends that in order to maintain an action under the Workmen's Compensation Act, as amended, it was necessary for Tanio to file with said employer notice of his illness and claim for compensation within two months after learning of such illness, as prescribed by Section 24 of the Act; and that, not having done this, his cause of action, if any, had already prescribed when he filed the compensation claim herein with the Department of Labor, Regional Office No. 4, on October 8, 1963, three years and some seven months after he first learned that he had tuberculosis and chose to retire.

That contention is without merit, there being no dispute that as soon as he exhibited the first symptoms of his ailment, which the CENTRAL's physician diagnosed as minimal PTB, Tanio was confined and treated at the CENTRAL's expense at the latter's hospital for at least three days. The employer's act of extending and paying for medical assistance suffices for and obviates the necessity of giving him the notice required by law. Just as we have consistently ruled that compensation claims accruing under the Workmen's Compensation Act and prior to the effectivity of the Labor Code of 1974 prescribe in ten years,[9] so we have also held that delay or failure to give the employer notice of compensable illness or injury within the prescribed period does not bar a claim for compensation if it is shown that the latter, his agent or representative in fact knew of such injury or illness or that he suffered no damage by reason of such delay or lack of notice.[10]

Whether, considering the nature of the private respondent's employment, minimal PTB is a compensable illness in his case, is also a settled question. As we held in *Villones vs. Employees' Compensation Commission*[11]:

"Moreover, this Court, in consistently holding that the disease of tuberculosis is an occupational disease or work-connected in such occupations as that of a teacher, laborer, driver, land inspector and such other occupations, hence compensable, aptly stated and WE quote: 'Medical science has it that tuberculosis as an ailment is latent in man regardless of his age, sex and occupation. When given favorable conditions this disease becomes active and prominent. Some of these favorable conditions are: too much physical exertion without the corresponding rest; exposure to excessive heat and cold; lack of good food as to weaken the body constituents and contact with people suffering from tuberculosis ***' (*Corales vs. ECC*, supra)."

Moreover, the CENTRAL having failed to comply with the mandatory requirement of Section 45 of the Workmen's Compensation Act to controvert Tanio's claim within the limiting periods established in said section,[12] it is deemed to have waived by operation of law its right to controvert said respondent's claim on non-jurisdictional grounds.[13]

Likewise, we find the CENTRAL's allegation that the Commission erred in awarding attorney's fees without a prayer for such fees and evidence to justify an award thereof, devoid of merit.

The case of *Central Azucarera Don Pedro v. Agno*[14] cited by the CENTRAL, is no longer applicable. The insertion of the phrase "which shall be chargeable against the employer" in Section 31 of the Workmen's Compensation Law by Rep. Act 4119, which was approved June 30, 1964 clearly indicates the intention of the law to make attorney's fees an integral part of the compensation or benefits due the employee or his dependents under the Act. As said Section 31 fixes the amount of the attorney's fees that may be recovered, prayer for such relief and proof thereof are no longer necessary.[15]

We, however, find that the Commission incurred in legal error in awarding reimbursement for medical expenses and ordering that Tanio be given medical services until his illness is cured. As already observed, after three days of confinement following discovery of his illness, Tanio had refused further treatment and was discharged from petitioner's hospital at his own request, a fact he later confirmed in a sworn statement. The right of a disabled employee to medical attendance under Section 13 of the Workmen's Compensation Act, as amended, can be impugned or abated if he unreasonably refuses to accept the medical services proffered by the employer, or if he shall voluntarily impede or obstruct such services.[16]

WHEREFORE, modified only by striking therefrom the award of P1,300.00 to reimburse medical expenses incurred by Tanio as well as the order that he be extended medical services until he is cured of his illness, the decision under review is affirmed in all other respects, with costs against Central Azucarera Don Pedro.

SO ORDERED.

Teehankee, C.J., Cruz, and Paras*, JJ., concur.
Gancayco, J., on leave.

[1] Rollo, p. 35.

[2] Rollo, p. 36.

[3] Id., p. 2

[4] Rollo, p. 28.

[5] Id., pp. 31-41.

[6] Id., pp. 54-55.

[7] Id., p. 58.

[8] *Phil. Cotton Dev. Corp. v. WCC*, 2 SCRA 16, 19-20.

[9] *Corales vs. Employees Compensation Commission*, 88 SCRA 547, 553; *Capinpin vs. WCC*, *infra*; Art. 1144 [2], Civil Code.

[10] *Balanga vs. Workmen's Compensation Commission, et al.*, 83 SCRA 721.

[11] 92 SCRA 320, 329.

[12] on or before the 14th day after disability or within 10 days after the employer first has knowledge of the accident.

[13] Capinpin v. WCC, 103 SCRA 271; Vda. de Eustaquio v. WCC, 96 SCRA 45, 46-47.

[14] L-20424, Oct. 22, 1964, 12 SCRA 179.

[15] Manila Electric Company v. WCC, 39 SCRA 669.

[16] Lerma v. WCC, No. L-29805, Oct. 29, 1971, 42 SCRA 125, 130, citing Cebu Portland Cement Co. vs. WCC, No. L-19164, Feb. 29, 1964, 10 SCRA 420, 425.

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