

BUENAVENTURA J, BARGA, JR., PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (COMMISSION ON AUDIT), RESPONDENTS.

G.R. No. L-49227. April 25, 1980

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This petition seeks to review the March 15, 1978 decision of the Employees' Compensation Commission affirming the dismissal of the petitioner's claim.

Petitioner filed a claim for compensation for his perforated duodenal ulcer contracted while employed in the respondent Commission on Audit (formerly GAO) in Iligan City as auditing-aide and supplies checker. He had been employed for almost fourteen years when he contracted said ailment starting therein as laborer-helper on August 10, 1959 and was later on promoted to auditing aide and supplies checker, the position he was occupying when he contracted duodenal ulcer. His duties consisted in inspecting workers in their respective places of assignment, acting as the auditor's representative in inspecting deliveries of supplies and materials for use in various projects of the Highways District Engineer, occasionally witnessing the opening of bids and proposals, preparing monthly and annual reports and such other duties as were assigned to him by the auditor from time to time. In delivering requisitioned supplies and materials, petitioner had to pass bumpy and unmaintained roads. Sometimes he had to lift heavy materials such as pieces of lumber, iron rods, boxes, etc., particularly when detours have to be made due to washed-away bridges, or when the vehicle carrying the supplies suffered a breakdown on the way, necessitating a transfer of the cargo to another conveyance. In the performance of his duties, petitioner made mention that oftentimes, he missed his meals due to the urgency of the need for requisitioned supplies and materials that have to be delivered and he had to perform his duties regardless of time, working up to late hours at night, if only to cope with the rush work for the smooth and orderly flow of traffic (pp. 10--11, rec.). This fact was supported by the affidavit of one Leonardo Lagat, a co-employee of the petitioner stating that -

"x x x x x

"x x x our assignment in the field sometimes results in foregoing our meals due to lack of eateries in the far flung projects we are supposed to inspect;

"x x x on several occasions, Mr. Barga, Jr. complained to me of stomach pains specially when our meals in the field were delayed;

"x x x our work includes the checking of deliveries of materials such as cement, lumber, etc., and we have to exert extra effort in making physical count. x x

"x x x (p. 16, ECC rec.).

On February 22, 1975, petitioner was hospitalized at the Dr. Uy Hospital for severe epigastric pains and for

surgical intervention and closure of perforated duodenal ulcer. His clinical records reveal that he started experiencing symptoms of duodenal ulcer sometime in 1969 (pp. 1, 3, 4, 5, ECC rec.).

According to medical science -

"An ulcer is an erosion in the skin or mucous membrane (moist lining, as of mouth), along with some destruction of the tissue below. When the erosion is a little farther down, in the duodenum (the first part of the intestine), it is a duodenal ulcer. Stomach ulcer and duodenal ulcer are referred to, loosely, as peptic ulcer, which means a digestive ulcer" (p. 757, Schmidt's Attorneys' Dictionary of Medicine).

"In the development of duodenal ulcer in a given patient, it is likely that a multiplicity of causative and contributing factors is involved, which includes hyper-secretion of gastric juice, genetic factors, neuropsychiatric factors (emotional factors), endocrine factors, and other predisposing diseases.

"Duodenal ulcer is a chronic disease characterized by exacerbations and remissions. Although many individuals have only one encounter with active duodenal ulceration, the diathesis seems to recur or persist in most patients. Characteristically, symptoms last for a few days, weeks or months and disappear for varying periods of time, only to reappear with or without therapy or frequently without identifiable precipitating cause" (Harrison, T. R., Principles of Internal Medicine, McGraw Hill, N.Y. 8th edition, 1978, 1496-1497).

On March 4, 1975, he was discharged from the hospital only to be re-admitted four days later because of abdominal distension and ileus. Exploratory laparotomy and drainage of pelvic abscess were done. He was discharged improved on March 30, 1975, and subsequently resumed working on May 5, 1975.

Thereafter, the petitioner filed a claim for compensation with the respondent GSIS, which in a decision dated May 27, 1975 denied the claim on the ground that his ailment of duodenal ulcer is not an occupational disease under the present law on compensation. Further, it pointed out that there was no showing that the said illness was directly caused by his employment nor was the risk of contracting the said ailment increased by the working conditions, relying on Sec. 1(b), Rule III of Presidential Decree No. 626 (Rules on Employees' Compensation, as amended), which provides that -

"x x x For the sickness and the resulting disability or death to be compensable, the sickness must be the result of an occupational disease listed under Annex 'A' of these Rules with the conditions set therein satisfied; otherwise, proof must be shown that the risk of contracting the disease is increased by the working conditions.
x x "

The petitioner elevated his case to the respondent Employees' Compensation Commission (ECC for short). On March 15, 1978, the ECC rendered an en banc decision affirming the denial of the petitioner's claim, reiterating the same grounds relied upon by the respondent GSIS.

Hence, this petition for review.

It is evident that respondent ECC erred in denying the claim of the petitioner. It overlooked the fact that medical records disclose that petitioner started experiencing symptoms of duodenal ulcer sometime in 1969, prior to the effectivity of the New Labor Code provisions on Employees' Compensation. It is incontrovertible fact that petitioner was mentally and physically fit when he entered government service in 1959. Certainly, his illness supervened in the course of his employment with the respondent Commission on Audit. Under Sec. 1(c), Rule III of P.D. 626, it is provided that -

"x x x only injury or sickness that occurred on or after January 1, 1975 and the resulting disability or death shall be compensable under these Rules x x."

Undoubtedly, this brings into operation the provisions of the Workmen's Compensation Act. Thus, he has in his

favor the statutory presumption that his claim is compensable and the burden of proof is shifted to the respondent employer to show by substantial evidence that while the illness, subject of the claim, supervened in the course of employment, it does not necessarily follow that it also arose from such employment or was at least aggravated by it (*Corales vs. ECC*, 84 SCRA 762 [1978]; *Lizardo vs. WCC*, Republic of the Philippines, 89 SCRA 77 [1979]; *Mesina vs. Rep. of the Phil., et al.*, 90 SCRA 489 [1979]). This, the respondent failed to do.

The medical findings of the Commission's medical officer, Dr. Nicolas T. Tagle (pp. 18-19, ECC rec.) which would otherwise disconnect the ailment of Buenaventura Barga, Jr. from his employment are insufficient to overthrow the presumption of compensability mandated by law (*Rabanes vs. WCC and the Province of Misamis Oriental*, 86 SCRA 54 [1978]). In the oftquoted case of *Abana vs. Quisumbing*, this Court stated:

"While there is that possibility that factors other than the employment of the claimant may also have contributed to the aggravation of his illness, this is not a drawback to its compensability. For, under the law, it is not required that the employment be the sole factor in the growth, development or acceleration of claimant's illness to entitle him to the benefits provided for. It is enough that his employment had contributed, even in a small degree, to the development of the disease. It has been repeatedly held that under the Workmen's Compensation Law, it is not necessary for a claimant to carry the burden of proof to establish his case to the point of demonstration. It is sufficient to show that the hypothesis on which he bases his claim is probable" (22 SCRA 1278, 1289, reiterated in *Sevilla vs. WCC and Rep. of the Phil.*, 85 SCRA 199 [1978]).

The respondent ECC's contention that its findings of facts are final and conclusive and therefore, not subject to review, deserves no merit, it being clear that said findings are not supported by substantial evidence. Needless to say, the presumption of compensability remains.

Furthermore, the GSIS, in its letter-denial dated May 27, 1975, stated:

"x x x We regret to inform you, however, that your claim cannot be considered compensable under the implementing rules of the above-mentioned decree, since your ailment, Ruptured Duodenal Ulcer, is not an occupational disease."

"An occupational disease is one which usually and directly results from the occupation or profession of the worker and not from some external factors. In your particular case, the nature of your employment aggravated your condition. x x x" (p. 18, rec., underlining supplied).

Likewise, the respondent ECC stated that "while it may be admitted that the rigors of his work may have aggravated his duodenal ulcer, this aggravation, however, is already removed from the compensation perimeter of P.D. 626, as amended" (pp. 19-20, rec., underlining supplied).

From the foregoing, it is apparent that the herein respondents in controverting the claim, pursued on a wrong assumption. Unmistakably, Section 44 of the Workmen's Compensation Act, which establishes in favor of the workingman the presumption of compensability, should have been applied. Contrary to the respondents' stance, the theory of aggravation plays a significant factor and henceforth cannot be abandoned. In a long catena of cases, this Court has ruled that "it is not necessary that the illness be caused by the employment or by the nature thereof. It is sufficient that the illness is aggravated by the nature of the employment" (*Gragasin vs. WCC, et al.*, 85 SCRA 222 [1978]).

In the case at bar, not only did the respondents fail to rebut the presumption of compensability by presentation of substantial evidence; but they did, in fact, admit that the illness of the petitioner, duodenal ulcer, was aggravated by the nature of his employment.

Inevitably, there is no other recourse but to grant the claim of the herein petitioner for temporary total disability benefits.

Petitioner was assisted by counsel only before this Court.

WHEREFORE, THE DECISION OF THE RESPONDENT EMPLOYEES' COMPENSATION COMMISSION IS HEREBY SET ASIDE AND THE RESPONDENT GOVERNMENT SERVICE INSURANCE SYSTEM IS HEREBY DIRECTED

- TO PAY THE PETITIONER THE SUM OF SIX THOUSAND (P6,000.00) PESOS AS TEMPORARY TOTAL DISABILITY BENEFITS;
- TO REIMBURSE PETITIONER HIS EXPENSES FOR MEDICAL, SURGICAL AND HOSPITAL SERVICES DULY SUPPORTED BY PROPER RECEIPTS; AND
- TO PAY THE PETITIONER ATTORNEY'S FEES EQUIVALENT TO FIVE PERCENT (5%) OF THE AWARD.

SO ORDERED.

Teehankee, (Chairman), Fernandez, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.

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