

ABUNDIO ALBURAN, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES (DEPARTMENT OF HEALTH), RESPONDENT.*G.R. No. L-43249. August 25, 1978*

Ponente: MAKASIAR, J.

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This is a petition to review the decision rendered on January 26, 1976 by the Workmen's Compensation Commission which affirmed the January 15, 1976 order of the Acting Referee, Regional Office No. 4, Department of Labor, Manila, dismissing petitioner's claim for sickness benefits under the provision of the Workmen's Compensation Act, as amended.

It appears that petitioner was employed as a driver since February 15, 1955 by respondent Department of Health with station at Malaria Unit No. C-17 in Catbalogan, Samar, with a daily wage of P14.66 (average weekly wage of P98.62, per petitioner's memo), working five days a week. On May 19, 1973, he submitted himself to medical examination due to difficulty of urination, dizziness, severe headache and general body weakness. His attending physician, Dr. Modesto Villarín, Jr., diagnosed his sickness as "Glomerulonephritis Hypertension (Essential) Rheumatoid Arthritis Guarded" and opined that it was the result of, and aggravated by, the nature of his employment for as a "driver, he is exposed to physical, mental and environmental incompatibility" (Physician's Report of Sickness or Accident, Annex "E", p. 11, rec.). It is also shown that while employed as such driver by the respondent, petitioner went on sick leave on the following periods: January 15 to 31, 1959 (16 days); February 19 to April 31, 1959 (67 days); May 19 to August 31, 1973 (105 days); and September 1 to October 31, 1973 (61 days).

Sometime in June, 1974, petitioner filed his notice of sickness and claim for compensation benefits with Regional Office No. 4, Workmen's Compensation Unit of the Department of Labor, Manila, which was docketed as R04-WC Case No. 154362 (p. 20, WCC Case record). On July 10, 1974, counsel for claimant (herein petitioner) filed with the same office an ex-parte motion to set the case for hearing, giving as reason therefor "to give both the claimant and respondent the opportunity to present their respective evidence" (p. 15, WCC case rec.). The Office of the Solicitor General upon receipt on June 30, 1974 of a copy of claimant's notice for sickness and compensation benefits, registered for and in behalf of respondent its controversion to said claim on July 24, 1974 (Memo of the Solicitor General, p. 64, rec.).

Petitioner in his Memorandum dated December 30, 1976 asserted that during the early part of the year 1975, he sent to the Workmen's Compensation Unit, Regional Office No. 4, Department of Labor, Manila, in support of his claim, the following papers:

- (a) Summary Report of the circumstances of illness of the claimant, Mr. Abundio Alburan, signed by Officer-in-Charge Pablito M. Flores, Malaria Unit No. C-17, Catbalogan, Samar, dated March 3, 1975 (Annex "D" of Petition for Review);

(b) Physician's Report of Sickness duly signed by Dr. Modesto Villarin, Jr., attending physician, dated February 26, 1975 (Annex "E" of Petition for Review);

that during the middle of the same year (1975), he came to Manila to verify the status of his claim in R04-WCC Case No. 154362 but that the records of said case could not be located in Regional Office No. 4, so what he did was to file another compensation claim with the Tacloban Labor Regional Office No. 9 on August 20, 1975 and docketed as R04-WCC Case No. 14521 but same was dismissed on September 15, 1975 due to his pending claim with the Manila Regional Office; that under the circumstances, he continued the search for his compensation claim in R04-WCC Case No. 154362 with the Manila Regional Office and submitted additional evidence, namely, Certificate of Attending Physician duly signed and dated November 2, 1975 (Annex "F" of petition for review); and that during the latter part of the year 1975, due to his (petitioner's) worries about the said unlocated compensation claim in Manila and to catch up with the deadline regarding the filing of such claim as appearing in a newspaper (clipping of which is attached as Annex "B" of petition for review), he filed the motion for reconsideration and/or appeal, with the Work-men's Compensation Commission in Quezon City on December 27, 1975 (p. 12, WCC Case rec.).

It turned out, however, that as early as January 15, 1975, and obviously before petitioner allegedly sent the necessary documents in support of his claim as he adverted to above, acting Referee Estratonico S. Añano of Regional Office No. 4 issued an order in connection with R04-WCC Case No. 154362-284, stating that: "It appearing upon verification of the records that this claim is not supported with the required documents this case is hereby dismissed, without prejudice" (p. 13, WCC Case rec.).

On January 14, 1976, the Workmen's Compensation Section of Regional Office No. 4 issued an order denying claimant's motion for reconsideration and at the same time elevated the entire records of the case to the Workmen's Compensation for review (p. 8, WCC Case rec.).

On January 26, 1976, the Workmen's Compensation Commission rendered its decision which affirmed the order of dismissal dated January 15, 1975 of the Workmen's Compensation Unit of Regional Office No. 4, denying the claim of petitioner for compensation benefits, pertinent portion of said decision reads as follows: "We have gone over the entire record of this case and failed to see any supporting evidence which may establish the illnesses and more so their work-connection. Even in the appeal made by claimant's counsel, nothing has been mentioned about the illnesses and their relation to the work of the claimant. No medical evidence was presented to warrant a favorable action on the claim" (p. 4, WCC Case rec.).

In this petition for review dated March 16, 1976, petitioner maintained that the assailed decision of the Workmen's Compensation Commission of January 26, 1976 in connection with R04-WCC Case No. 154362 is not in accordance with law for it deprived claimant (herein petitioner) of his right to due process of law, stating that:

"1. The Acting Referee of the Workmen's Compensation Unit of origin issued his order, dated January 15, 1975, dismissing the case without the benefit of hearing on the merits;

"2. Granting without admitting that said Acting Referee has scheduled the case for hearing, he failed to give claimant due notice of such scheduled hearing for the truth of the matter is that since the time claimant filed his claim, sometime in the year 1974, claimant has not received, until date hereof, copy of any hearing in connection with above-entitled case;

"3. That the Workmen's Compensation Commission has rendered a Decision on claimant's Motion for Reconsideration and/or Appeal, dated December 27, 1975, x x x x when the Workmen's Compensation Commission fully knew well that claimant filed said pleading because the records of his case could not be located and, therefore, aforementioned pleading was merely filed to beat the deadline set by the Secretary of Labor that appeared on the December 25, 1975, issue of the Bulletin, copy of which news item is hereto attached as annex 'B';

"4. That the Workmen's Compensation Commission has, also, rendered its Decision without the entire records of the case in their possession for the truth is that when claimant, accompanied by his undersigned Counsel, came to Manila this month he saw the records of his case from the files of the Workmen's Compensation Section, Regional Office No. 4, Department of Labor, Manila, and as evidenced by a recent second (another) Dismissal Order, dated March 12, 1976, on the same case by the aforesaid Workmen's Compensation Section and which second Dismissal Order has, also, been issued without any benefit of hearing nor any notice thereof, thereby depriving claimant again of due process of law. x x x " (pp. 1-2, rec.).

Petitioner, in the same petition for review, further maintained that he filed his claim for sickness benefits under the Workmen's Compensation Act with the undisputed fact of Employer-Employee relationship; that he submitted evidence to the effect that he incurred the illness arising out of and in the course of the employment, and in support thereof there appear in the records (in the possession of the Workmen's Compensation Section, Regional Office No. 4, Department of Labor, Manila, until date hereof) the following pertinent evidences in his favor:

"1. Summary Report of the circumstances of illness of the claimant, Abundio Alburan, dated March 3, 1975, submitted by Mr. Pablito M. Flores, Officer-in-Charge of Malaria Unit No. C-17, Department of Health Catbalogan, Samar, copy of which summary report is hereto attached as annex 'D';

"2. Physician's Report of Sickness or accident (WCD Form No. 4 of the Department of Labor), dated February 26, 1975, issued by Dr. Villarin, Jr., copy of which Physician's Report is hereto attached as annexes 'E' and 'E-1';

"3. Certificate of Attending Physician (GSIS Form - Part 2) issued by Dr. Modesto Villarin, Jr., on November 2, 1975, copy of which medical certificate is hereto attached as annex 'F'."

The Solicitor General, as counsel for respondent, in his comment to the petition (pp. 34-38, rec.) took exception to petitioner's claim of having been denied due process in connection with the adjudication of his claim for compensation benefits both before the Workmen's Compensation Unit of Regional Office No. 4, as well as, in the rendition of this assailed decision rendered by the Workmen's Compensation Commission, stating inter alia:

"4. As will be noted from the newspaper clipping Annex 'B' of the present petition, all pending workmen's compensation cases were being acted upon by the Department of Labor to expedite their liquidation in compliance with the provisions of the New Labor Code. Letter of Instruction No. 190 was in fact issued by the President of the Philippines on June 3, 1974 authorizing the Secretary of Labor to take steps in this direction and accordingly, Labor Department Order No. 3, Series of 1974, was issued, section 2 of which provides:

'Section 2. Decision and Evidence. -- Should the parties fail to arrive at a settlement, the decision shall be rendered thereon within three (3) working days thereafter if the evidence on record is sufficient to support the decision; otherwise the case shall be heard and decided as provided for in the succeeding section.' (Italics supplied)

Labor Department Order No. 3 was made applicable to the government by Labor Department Order No. 1, series of 1975. Pursuant to the authority thus granted, and considering that claims filed against the government were not usually subject to amicable settlement, the Acting Referees and Hearing Officers of the different labor regional offices issued orders based on the available records of the cases pending before them such as the one issued by the Hearing Officer in the present case dismissing the petitioner's claim; and

"5. The procedure followed by the Hearing Officer of Regional Office No. 4 in this case being in accordance with the procedure set for the implementation of Letter of Instructions No. 190 of the President of the Philippines, we respectfully submit that there was no denial of due process to herein petitioner in this case. Further, it appearing that the records reviewed by the Workmen's Compensation Commission did not include any of the papers now sought to be submitted by petitioner to this Honorable Court for consideration, we also respectfully submit that there was no error in the decision rendered by said Commission in this case."

Petitioner, thru counsel, took issue with the foregoing contention of the Solicitor General, particularly with respect to the interpretation of Section 2 of Labor Department Order No. 3, holding that if the evidence on record is not sufficient then no decision or order may as yet be made and instead the "case should have been heard and/or decided as provided for in the succeeding section," thus:

"Section 3. Conduct of Proceedings; Rendition of Decision. - The Unit shall reduce the issues for determination to either employee-employer relationship or the compensability of the injury or illness or both.

"Where the issue is employee-employer relationship, the Unit shall cause the production of the employment contract, payrolls, vouchers, time records, SSS records, or such other documents which may serve as basis for the immediate and summary determination of employee- employer relationship.

"Where the issue is compensability, the Unit shall receive evidence thereof through any of the following:

"1. Affidavits of the claimant and/or his witness concerning the circumstances of the injury or illness which the respondent may rebut with counter affidavits.

"2. Where the medical causation of the illness or injury or nature and extent of the disability is directly in question, the medical opinion and/or findings of the Compensation Rating Medical Officer shall be secured and used as basis for the determination. x x x"

Thus, petitioner maintained that the procedure adopted by the Acting Referee and the Hearing Officer is not in accordance with the procedure set under Labor Department Order No. 3 pursuant to Letter of Instructions No. 190 and that such actuations amount to denial to herein petitioner of his right to due process of law.

WE find merit in the petition. The questioned decision of the Commission constitutes a grave abuse of discretion and should be set aside.

The records amply show petitioner's determined and continuing efforts in the prosecution of his claim for sickness benefits since June of 1974, the date he filed with Regional Office No. 4, Workmen's Compensation Unit in Manila. Aware of the merit of his claim, he made it known by filing a motion on July 10, 1974 with said Regional Office to set it for hearing so both parties could present evidence. That in the early part of 1975 and in support of his claim, he sent to the same Regional Office a summary report of the circumstances of his illness as prepared and signed by Mr. Pablo M. Flores under date of March 3, 1975 (Annex "D") and the Physician's Report of his sickness by the attending physician, Dr. Modesto Villarin, Jr., dated February 26, 1975 (Annex "E"). Obviously unaware of the official action taken by Regional Office No. 4 of his claim, he took it upon himself to come to Manila in the middle of 1975 only to find out that the records of said case could not be located, thus, prompting him to file another compensation claim based on the very same cause of action with Regional Office No. 9 at Tacloban City, on August 20, 1975 (R09-WCC Case No.14521), but the same was dismissed on September 15, 1975 in view of his pending claim in R04-WCC Case No. 154362 with Regional Office No. 4 in Manila.

Despite the foregoing efforts exerted by the poor claimant who came from the far province of Samar, all directed towards the prosecution of his claim under the benevolent provisions of the Workmen's Compensation Act, no ray of hope appears in his favor by way of uplifting his predicament from the officials vested with the sworn duty to give meaning to the social justice concept as guaranteed by our Constitution. And worst still, it was made to appear that as early as January 15, 1975, the Acting Referee of Regional Office No. 4 had issued an order dismissing petitioner's claim for sickness benefits solely on the ground that said claim is not supported by the required documents. Motion for reconsideration was filed by petitioner on December 27, 1975, not based on his receipt of said dismissal order, but due to his worries about his unlocated claim for compensation benefits in the Regional Office in Manila and in order to catch up with the deadline on the filing of the same in view of the taking into effect of the provisions of the National Labor Code. This motion was denied on January 14, 1976, hence, the entire records were elevated to the Commission en banc for review. And instead of ordering a reinvestigation of the case and/or consolidating the records, including the supporting evidence submitted by petitioner, the Workmen's Compensation Commission rendered its decision on January 26, 1976, affirming the earlier order of dismissal of the Acting Referee of Regional Office No. 4, again based on lack of supporting documents regarding the claim.

If the dismissal of petitioner's claim by respondent Commission without the benefit of giving him (petitioner) the opportunity to present evidence in support of his claim was due to the impending abolition of said Commission on March 31, 1976, the same is not a just cause for the commission of such a grave abuse of discretion on the part of respondent Workmen's Compensation Commission (Curno, Jr. vs. WCC, et al., L-44271, Sept. 22, 1977).

All told, the main issue to be resolved is whether herein petitioner is entitled to sickness or disability benefits under the Workmen's Compensation Act based on the evidence which are now part of the records of this claim and remain undisputed by the respondent Department of Health.

OUR answer is in the affirmative. It is undisputed that while petitioner was employed as a driver of respondent Department of Health at its Malaria Unit No. C-17 in Catbalogan, Samar, he contracted sickness which was diagnosed by his attending physician, Dr. Modesto Villarin, Jr., as "Glomerulonephritis Hypertension,

Rheumatoid Arthritis" and according to said physician, the same was the result of, and aggravated by, the nature of his employment as such driver of respondent (Physician's Report of Sickness or Accident dated February 26, 1975, Annex "E", p. 11, rec.). This is substantially corroborated by the "Summary Report of the Circumstances of Illness of the Claimant, Mr. Abundio F. Alburan" dated March 3, 1975, prepared by Mr. Pablito M. Flores, Officer-in-Charge of said Malaria Unit No. C-17, the pertinent portion of which reads as follows:

"With the necessity of the service in malaria operations in connection with the eradication of malaria, the drivers are mostly involved in assisting to augment the force. Hence, upon reaching to a point where vehicle is no longer necessary they have to hike to their scheduled places in the hinterlands, crossing rivers and streams, thereby exposing the driver of his lower extremities to an abrupt change of temperature from heat to cold.

"Mr. Alburan's right foot is deformed as a consequence of its exposure to the heat of the engine having frequent contact with the accelerator while driving the vehicle. Since some of the previous Unit vehicles which he used to drive have no side-door window shutters as in the case of the McArthur and Eisenhower types, the driver left shoulder was always exposed to heat and cold that is when driving during hot days from the start of his travel to sometimes sudden rain before reaching his destination. Very often he encounters this exposure, thus resulting to his left arm and shoulder deformity and limited motion" (Annex "D", p. 10, rec.).

Such was the nature of the work of herein petitioner as driver of herein respondent since February 15, 1955 up to October 20, 1975 (Annex "F", p. 13, rec.), when he could no longer engage in any gainful work, thus prompting him to file total and permanent disability claim with the Government Service Insurance System and the instant claim for sickness benefits with the Workmen's Compensation Unit of Regional Office No. 4, Department of Labor in Manila.

As earlier mentioned, among the ailments diagnosed by his physician that petitioner contracted and there-after aggravated by the nature of his employment are "Rheumatoid Arthritis, dizziness and general body weakness." In the past, this Court granted compensation benefits where the ailments were chronic rheumatic arthritis (*Dimaano vs. WCC, et al.*, L-43553, Aug. 31, 1977; *PROS vs. WCC, et al.*, L-43348, Sept. 29, 1976, 73 SCRA 92; *Caparas vs. WCC, et al.*, L-42450, Sept. 30, 1976, 73 SCRA 221), and migraine and dizziness (*Dometita vs. WCC, et al.*, L-43612, Nov. 29, 1976, 74 SCRA 217). In said cases, this Court invariably applied the rule of presumed compensability of the claim of the employee either because the ailment supervened in the course of employment or was aggravated by the nature of the work uncontradicted by any substantial evidence presented by the employer.

As clearly pointed by counsel, petitioner, since 1973, had suffered temporary total disability and which became permanent total disability when he later became unable to engage in gainful occupation starting October 20, 1975 (Annex "E" of petition), and pursuant to Section 191 (b) of PD 442, as amended, he is entitled to a monthly income benefit for five years but in no case exceeding P12,000.00. The New Labor Code is a social legislation primarily intended to help the employees and laborers and should always be accorded a liberal interpretation so as not to defeat its purpose, to give meaning to the social justice guarantee enshrined in both the 1935 and 1973 Constitutions.

WHEREFORE, THE DECISION OF THE RESPONDENT DEFUNCT WORKMEN'S COMPENSATION COMMISSION IS HEREBY SET ASIDE AND RESPONDENT DEPARTMENT OF HEALTH IS HEREBY ORDERED:

A. TO PAY

(1) CLAIMANT ABUNDIO ALBURAN THE SUM OF SIX THOUSAND [P6,000.00] PESOS AS DISABILITY COMPENSATION;

(2) CLAIMANT'S EXPENSES FOR MEDICAL AND HOSPITAL SERVICES DULY SUPPORTED BY PROPER RECEIPTS;

(3) ATTORNEY'S FEES EQUIVALENT TO 10% OF THE RECOVERABLE AMOUNT; AND

(4) ADMINISTRATIVE FEES; AND

B. TO PROVIDE THE CLAIMANT WITH SUCH SERVICES, 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.

THERE IS NO UNANIMITY WITH RESPECT TO PARAGRAPH B OF THE DISPOSITIVE PORTION. CONSEQUENTLY, THE SAME CANNOT BE ENFORCED.

SO ORDERED.

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

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