

**FELISA PARIAN, PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION AND REPUBLIC OF THE PHILIPPINES
(BUREAU OF PUBLIC SCHOOLS), RESPONDENTS.**

G.R. No. L-42433. August 23, 1978

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Review on certiorari of the December 17, 1975 decision of the respondent Commission reversing the October 10, 1975 award of the referee in RO4-WC Case No. 163905.

Petitioner, since June 7, 1937 until her retirement on July 6, 1971, or for a period of thirty-four (34) years, more or less, was employed as a public school teacher by respondent employer.

On March 10, 1975, petitioner by reason of her illness of rheumatoid arthritis filed a notice of injury and claim for compensation with the Workmen's Compensation Commission at its Regional Office No. IV.

On even date, respondent employer filed its Employer's Report of Sickness stating that it will not controvert the right of the petitioner to compensation and further admitted the fact that the illness of petitioner was acquired in regular occupation.

Notwithstanding that the claim was uncontroverted, the referee set the case for hearing, and after due hearing, the referee on October 10, 1975 rendered an award to petitioner in the amount of One Thousand Two Hundred Four (P1,204.00) Pesos as compensation benefits under Section 14 of the Workmen's Compensation Act, as amended, aside from attorney's and administrative fees.

In his order of award, the referee declared the claim as uncontroverted and that respondent employer admitted its liability. In addition, the referee found the following facts:

“x x x claimant was employed with the respondent as a classroom teacher and assigned at the Division of Surigao City with an annual salary of P3,727.33. That as a classroom teacher, aside from teaching Grade Six classes, claimant does extracurricular activities after her classes, like conducting rondalla practice, girl scouting activities, visiting homes of students, attending PTA meetings and at night preparing lesson plans and classroom teaching aids. That sometime on June 11, 1968, claimant began to feel the symptoms of Rheumatoid Arthritis. She was treated by Dr. Jaime A. Go. Despite her ailment, claimant continued with her employment. It was on July 6, 1971 that claimant stopped working due to her ailment which became aggravated. She therefore retired under disability retirement at the age of 61 x x.

“x x x She was referred to the Compensation Rating Medical Officer and was found to have suffered only total temporary disability without permanent partial disability.

"xxx xxx xxx."

On November 13, 1975, the respondent employer through the Solicitor General, filed a motion for reconsideration of the aforesaid award, but the same was denied for lack of merit. The entire records of the case were however elevated for review to the Commission, which reversed the award on December 17, 1975.

Except for the question of controversion, the respondent Commission did not disturb the factual basis of the award made by the referee; nevertheless, it reversed the award and ordered the dismissal of the claim for the following reasons:

"x x x She actually went on optional retirement on July 6, 1971. There was no proof whatsoever that she had to stop working due to her illness. The claimant chose to retire to avail of the benefits of Republic Act 1616 and not due to her illness. It is very clear therefore, from the physician's report above stated that when the claimant retired she was no longer suffering from her disability."

Hence, this petition.

The decision of the respondent Commission in reversing the order of award of the referee constitutes a grave abuse of discretion, the same being palpably contrary to law and the controlling jurisprudence on workmen's compensation cases and should, therefore, be set aside.

Three outstanding facts are patent from the records of the case which call for no other course of action except to grant compensation benefits to herein petitioner.

I

First, the subject illness supervened in the course of claimant's employment with respondent employer, it appearing that claimant, herein petitioner, felt the symptoms of rheumatoid arthritis sometime on June 11, 1968 for which she was treated by Dr. Jaime A. Go. Despite her condition, she forced herself to continue working until her ailment caused her retirement on July 6, 1971 from the service at the age of 61. From that incontrovertible fact flows the rebuttable presumption that such illness arose out of, or was at least aggravated by, the nature of claimant's employment; hence compensable. Consequently, the employer assumes the burden of destroying that presumption by substantial evidence. This is the rule strictly adhered to by this Court. As there was no evidence ever presented by the respondent employer to discharge the above-stated burden -- for the records reveal that respondent employer despite due notice failed to appear at and attend to any of the scheduled hearings -- there can be no occasion for the respondent Commission to go out of its way to absolve respondent employer. For by its failure to discharge the aforesaid burden, the presumption of compensability, rebuttable at its inception, becomes conclusive (*Cañonero vs. WCC*, L-43880, Feb. 28, 1978; *Santos vs. WCC*, 75 SCRA 365, 370 [1977]). Moreover, respondent employer expressly admitted that the illness of petitioner was acquired in regular occupation (item 16, Annex C, p. 8, WCC rec.)

Second, the compensation claim of petitioner was not controverted.

The referee made an express finding on this matter which, however, was lightly taken by the respondent Commission when it casually stated in its order of reversal that the "x x x records of this case show that respondent controverted the claim and hearing on the merit was conducted." This conclusion of the respondent Commission finds no support in the records for precisely what the records show is that respondent employer expressly stated that it was not controverting the compensation claim as it recognized that the illness of petitioner was traceable to her regular employment. And the Solicitor General did not dispute the fact of non-controversion

of the claim.

It is now settled that the failure of the employer to controvert a compensation claim entitles the claimant to an outright award; because by such failure, the employer is deemed not only to have renounced its right to controvert the claim but also to plead and prove non-jurisdictional defenses. Non-compensability as a defense was therefore waived.

Third, petitioner retired from the government service at the age of 61 or four years before the compulsory age of retirement. This fact strengthens, rather than weakens, her claim for disability compensation for the reason that under Memorandum Circular No. 133 issued by the Office of the President in connection with applications for optional retirement under C.A. No. 186, as amended by R.A. No. 1616 and No. 4968, such retirement can only be ultimately allowed if the employee applicant is below 65 years of age and is physically incapacitated to render further efficient service. Any doubt therefore on petitioner's state of health and incapacity was laid to rest by the approval of her retirement (*Romero vs. WCC*, 77 SCRA 490 [1977]; *Gomez vs. WCC*, 75 SCRA 395; *Despe vs. WCC*, 75 SCRA 350, 354 [1977]). Hence, respondent employer's claim that petitioner was not suffering from any disability at the time of her retirement is clearly without basis.

II

Undoubtedly, petitioner's illness and disability supervened in the course of employment and therefore at a time when employer-employee relationship still obtained between her and respondent employer. Consequently, the contention of the respondent employer that the jurisdictional foundation of the claim of petitioner is wanting as the same was filed only almost four (4) years after her retirement from the service, is without merit.

To deny petitioner who had faithfully served the government for thirty-four years what is rightly due her under the facts obtaining, is to emasculate the very objective of the Workmen's Compensation Act, as amended -- a social legislation designed to effectuate and implement the social justice guarantee of the Constitution.

Relatedly, R. A. No. 4670, otherwise known as the Magna Charta for Public School Teachers, directs that -

"Teachers shall be protected against the consequences of employment injury in accordance with existing laws. The effects of the physical and nervous strain on the teacher's health shall be recognized as compensable occupational diseases in accordance with existing laws."

WHEREFORE, THE DECISION DATED DECEMBER 17, 1975 OF THE RESPONDENT WORKMEN'S COMPENSATION COMMISSION IS HEREBY SET ASIDE AND RESPONDENT BUREAU OF PUBLIC SCHOOLS IS HEREBY ORDERED

- TO PAY PETITIONER FELISA PARIAN

1. THE SUM OF ONE THOUSAND TWO HUNDRED FOUR PESOS (P1,204.00) AS DISABILITY COMPENSATION;
2. HER MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY PROPER RECEIPTS; AND
3. ATTORNEY'S FEES EQUIVALENT TO 10% OF THE RECOVERABLE AMOUNT;

- TO PROVIDE CLAIMANT WITH SUCH MEDICAL, SURGICAL AND HOSPITAL SERVICES AS WELL AS APPLIANCES AND SUPPLIES AS THE NATURE OF HER DISABILITY AND THE PROGRESS OF HER RECOVERY MAY REQUIRE AND WHICH WILL PROMOTE HER EARLY RESTORATION TO THE MAXIMUM LEVEL OF HER PHYSICAL CAPACITY; AND

- TO PAY ADMINISTRATIVE COSTS

SO ORDERED.

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

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