

ISIAS PROS, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND REPUBLIC OF THE PHILIPPINES (BUREAU OF TELECOMMUNICATIONS), RESPONDENTS.*G.R. No. L-43348. September 29, 1976*

Ponente: MARTIN, J.

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Petition for review of the decision of the Work-men's Compensation Commission which affirmed the dismissal of petitioner's claim for compensation benefits by the Acting Labor Referee for lack of merit.

In July 1951, petitioner Isias Pros was employed by the respondent Republic of the Philippines as a telephone lineman with a salary of P2,583.16 per annum. On June 15, 1965, while in the performance of his duties, he suffered a stroke. Upon advice of the Officer-In-Charge of the local Telecom Office he consulted the Rural Health Physician who diagnosed his ailment as hypertension. Again in August 1965 he suffered another stroke. This time he engaged the services of Dr. Jose Llanto who found him to be suffering from fainting spell, rheumatic arthritis and hypertension. For the third time in December 1966, he suffered another stroke forcing him to apply for ten (10) days leave of absence with pay (Exh. A-2). Then in February 1973 another stroke, the fourth, came for which he had to apply for a vacation leave of twenty-one (21) days with pay. All in all petitioner claims to have spent the amount of P1,500.00 for medical expenses. With this state of health he was constrained to retire from the service of respondent Republic in November 1973. After his retirement he filed his claim for compensation due to disability caused by his ailments. Respondent Republic failed to controvert the claim. On October 7, 1974, the Acting Referee conducted a hearing (ex-parte). In said hearing, petitioner presented his evidence in support of his claim. In addition he was required by the Acting Referee to submit to a physical examination by the Compensation Rating Medical Officer of Regional Office No. 8, Dr. Francisco Dayak. After the latter has submitted his Physician's Report, petitioner's counsel sent a letter to the Acting Referee requesting that the Physician's Report be set for hearing so that he can cross-examine Dr. Francisco Dayak on his report. The request was, however, denied. Based on the Physician's Report, the Acting Referee dismissed petitioner's claim for compensation. On review of the decision of the Acting Referee, the respondent Commission affirmed the same and absolved the respondent Republic from liability under the Workmen's Compensation Act.

Hence this petition for review which the Court treats as Special Civil Action as per its resolution dated June 4, 1976.

The main issue in this case is whether or not petitioner's illness is compensable under the Workmen's Compensation Act. It has sufficiently shown that petitioner as lineman for twenty-four (24) years was frequently exposed to the elements as a result of which he developed hypertension which caused him to suffer several strokes - one in June 1965, another in August 1965, a third one in December 1966 and the last one in 1973. Dr. Jose Llanto testified to this fact (Exhs. C and C-3) that he treated petitioner for hypertension; that petitioner was under check-up and medical treatment for at least twice a month; that his ailment was due to his frequent exposure to

the elements; and that he advised petitioner to apply for retirement as his illness has permanently and totally disabled him for labor. As if the Acting Referee was not convinced of the extent of the illness of petitioner, he required the latter to submit to a physical examination by the Compensation Rating Medical Officer of Regional Office No. 8 who subsequently submitted a report finding petitioner's disability to be negative. A request was made by petitioner's counsel that the report be set for hearing but the Acting Referee refused. This is so because pursuant to Section 3 of Department Order No. 3 of the Secretary of Labor,[1] where the issue is compensability, the Unit may depend on the medical opinion and/or findings of the Compensation Rating Medical Officer as the basis for the determination of the nature and extent of the disability of the claimant in compensation cases. But as between the negative report of the Compensation Rating Medical Officer and the evidence of petitioner that he suffered no less than four (4) strokes while in the performance of his duties as telephone lineman for the respondent, the Court is inclined to give more weight to the evidence of petitioner. It is thus clear from the evidence that illness of petitioner occurred during his employment as telephone lineman for respondent. Well-settled is the rule that once the illness supervened in the course of employment, a rebuttable presumption arises that such illness arose out or was at least aggravated by such employment[2] and that the burden to overthrow said presumption shifts to the employer.[3] In the present case, the respondent has not failed to discharge such burden. It has not even controverted the claim of the petitioner. Indeed, pursuant to the mandate of the law the absence of controversion is fatal to any defense that the employer could interpose.[4] Constructively, such failure is an admission that the claim is compensable.[5] Petitioner's claim for compensation should therefore be granted pursuant to Section 2 of the Workmen's Compensation Act.[6] Since petitioner's disability is permanent and total he should be entitled to an outright grant of P6,000.00 as compensation under Section 14, supra.[7] and to reimbursement of his expenses in the amount of P1,500.00 for medicines and payment of professional services of his attending physician as evidenced by Exhibits B and B-1, pursuant to Section 13 of the Workmen's Compensation Act.[8]

WHEREFORE, IN VIEW OF ALL THE FORE-GOING, the decision of the respondent Commission is hereby reversed and set aside and a new decision rendered ordering respondent Republic (Bureau of Telecommunications) to pay the petitioner:

1. The sum of P6,000.00 as disability compensation; and
2. The sum of P1,500.00 as reimbursement for medical expenses.

No pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Concepcion, Jr., JJ., concur.

[1] Series of 1974.

[2] Magalona vs. WCC, 21 SCRA 1199, citing Itemcop vs. Florzo, L-21969, Aug. 31, 1966; Vda. de Acosta vs. WCC, L-19772, Oct. 31, 1964; Maria Cristina Fertilizer Co. vs. WCC, 60 SCRA 228; Talip vs. WCC, L-42575, May 31, 1976; Reynaldo vs. Republic, L-43108, June 30, 1976; Mercado vs. WCC, L-42451, July 30, 1976; Simon vs. Republic, L-42510, June 30, 1976.

[3] Abana vs. Quisumbing, L-21849, March 27, 1968; Magalona vs. WCC, supra, citing Justiniano vs. WCC, L-22774, Nov. 21, 1966, citing Agustin vs. WCC, L-19957, Sept. 29, 1964; Cabinta vs. WCC, L-42639, July 30, 1976.

[4] *Apolega vs. Hizon*, 25 SCRA 336; *National Mirror Factory vs. Vda. de Anure*, 27 SCRA 719; *Victorias Milling Co. vs. WCC*, 28 SCRA 285; *Northwest Airlines vs. WCC*, 28 SCRA 877; *La Mallorca vs. WCC, & Zuñiga*, 30 SCRA 613.

[5] *A.D. Santos vs. Vasquez*, 22 SCRA 1156, citing *A.D. Santos vs. De Sapon*, L-22220, April 29, 1966; *Itemcop vs. Florzo*, supra.; *Nadeco vs. Rongavilla*, L-21963, August 30, 1967; *Rio y Compania vs. WCC*, L-21467, Aug. 30, 1967; *Pampanga Sugar Mills vs. Espeleta*, L--24973, January 30, 1968.

[6] "SEC. 2, WCC Act. Grounds for compensation. - When an employee suffers personal injury from any accident arising out of and in the course of his employment, or contracts tuberculosis or other illness directly caused by such employment, or either aggravated by or the result of the nature of such employment, his employer shall pay compensation in the sums and to the persons hereinafter specified. The right to compensation as provided in this Act shall not be defeated or impaired on the ground that the death, injury or disease was due to the negligence of a fellow servant or employee, without prejudice to the right of the employer to proceed against the negligent party."

[7] "SEC. 14. Total disability. - In case the injury or sickness causes temporary total disability for labor, the employer shall, during such disability, pay to the injured employee a weekly compensation equivalent to sixty per centum of his average weekly wage but not less than fourteen pesos per week, except in the case provided for in the next following paragraph. No compensation shall be allowed for the first three calendar days of incapacity resulting from an injury except the benefits provided for in the preceding section; but if the incapacity extends beyond that period, compensation shall be allowed from the first day of such incapacity. Such weekly payments shall in no case continue after the disability has ceased, nor shall the aggregate sum paid as compensation exceed in any case six thousand pesos. But no award of permanent disability shall take effect until after two weeks have elapsed from the date of injury.

In the case of an employee whose average weekly wages are less than fourteen pesos per week, the weekly compensation shall be the entire amount of such average weekly wages; but if the disability is permanent, the compensation shall be fourteen pesos in such case. In the event that the total disability begins after a period of partial disability, the amount of compensation due for the latter and for any other disability shall not exceed the maximum amount of six thousand pesos."

[8] "SEC. 13. Services, appliances and supplies. - Immediately after an employee has suffered an injury or contracted sickness and during the subsequent period of disability, the employer or insurance carrier shall provide the employee with such services, appliances and supplies as the nature of his disability and the process of his re-recovery may require; and that which will promote his early restoration to the maximum level of his physical capacity.

The word "services" used herein shall include medical, surgical, dental, hospital and nursing attendance and treatment as well as the proper fitting and training in the use of appliances and the necessary training for purposes of rehabilitation; "appliances" shall include crutches, arti-ficial members and other devices of the same kind, and the replacements or repairs of such artificial members or such devices unless the replacement or repair is made necessary by the lack of proper care by the employee; and "supplies" shall include medicines, as well as medical, surgical and dental supplies.

In case the employer or insurance carrier cannot furnish the aforementioned services, appliances and supplies promptly, the injured or sick employee may acquire the same at the expense of the employer or insurance carrier.

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