

SEVERO E. CUENZA, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION & GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

G.R. No. L-45892. February 26, 1981

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition to review the decision of the Employees' Compensation Commission in ECC Case No. 0121 entitled "Severo E. Cuenza, appellant vs. Government Service Insurance System (Civil Intelligence & Security Agency), respondent" which affirmed the decision of the Government Service Insurance System denying the claim for compensation filed by Severo E. Cuenza.[1]

The petitioner, Severo E. Cuenza, was employed as a driver on April 21, 1950 in the Government Service Insurance System (Civil Intelligence and Security Agency). On February 5, 1976, the petitioner filed a claim for disability benefit with the Government Service Insurance System on the ground of an ailment diagnosed as "Neuroblastoma, Mediastinum". On February 25, 1976 the Government Service Insurance System denied the claim on the ground that the ailment is not an occupational disease.

The petitioner appealed to the Employees' Compensation Commission which affirmed the decision of the Government Service Insurance System denying the claim.

Hence the petitioner filed this petition for review.

The facts, as found by the Employees' Compensation Commission, are:

"It appears from the record that Severo E. Cuenza, appellant herein, is employed by the Civil Intelligence and Security Authority as a driver since April 21, 1950 until the present. His ailment started in 1972 with clinical manifestations of shortness of breath, associated with fatigability and vague pain in the front and back portion of the left hemithorax. These symptoms gradually became more severe and now accompanied by occasional cough and bloody expectoration, which were not relieved by medications. A chest x-ray examination done at the UST Hospital showed a mass located on the appellants left hemithorax. He underwent operation for the surgical removal of the mass, which was later on diagnosed as a neurogenic tumor known as Neuroblastoma.

"On February 25, 1976, his claim for income benefits for temporary total disability filed under Presidential Decree No. 626 was denied by the respondent System on the ground that the ailment upon which the claim was based is not an occupational disease and that the nature of appellant's duties as a driver as well as the working conditions of his employment could not have directly caused such ailment. In his motion for reconsideration filed on March 19, 1976, appellant stressed that since the cause of neuroblastoma is still unknown, the existing doubt as to whether or not his employment could have placed a significant role in the development of his

ailment must be resolved in his favor since, he said, Presidential Decree No. 626, as amended, is characterized by spirit of liberality in its interpretation and implementation. Nonetheless, the respondent System reiterated its previous decision and stated further that appellant's ailment is not directly influenced at all by a particular kind of employment for had he been employed in some other forms of occupations, he would nevertheless have contracted the same ailment. For this denial, appellant filed his present appeal with this Commission." [2]

The Employees' Compensation Commission denied the claim because "x x x other than his own unsubstantiated statement that he was healthy when he joined the government service, there is nothing at all in the record which could justify a finding that indeed such employment conditions to which appellant herein had been exposed have increased the risk of contracting his malignant ailment". [3]

The Employees' Compensation Commission found that the ailment of the appellant-petitioner herein falls outside the "compensable ambit" of Decree No. 626 because the appellant's ailment manifested itself sometime in 1972 and "only injury or sickness that occurred on or after January 1, 1975 and the resulting disability or death are cognizable under the present Employees' Compensation Program under Presidential Decree No. 626, as amended x x x". [4]

It is clear that the ailment of the petitioner was contracted before January 1, 1975.

Under the recent decisions of this Court, the claim of the petitioner should be decided under the Workmen's Compensation Act. In *Balatero vs. Employees' Compensation Commission* [5] this Court held:

"It is true that the claim for compensation was filed after the effectivity of the New Labor Code. However, the facts of the case call for the application of the Workmen's Compensation Law. It is a settled rule that the governing law in the prosecution of a cause of action which has accrued prior to the effectivity of a new law shall be the law enforced at the time of the accrual of said cause of action. In the case at bar, the cause of action existed as early as 1972. Since the Workmen's Compensation Law was then in full force and effect, then it should govern the present case, based on the principle that 'rights accrued and vested while a statute was in force ordinarily survive its repeal. (*Corrales vs. ECC, et al.*, L-44063, February 27, 1979; *Villones vs. ECC, et al.*, L-46200, July 30, 1979; *De los Angeles vs. ECC, et al.*, L-47099, November 16, 1979).

"It is undisputed that petitioner's ailments supervened in the course of his employment as a school teacher, and respondents admitted that at most, said ailment were just aggravated by the nature of his work. Under the old Workmen's Compensation Law, when there is a showing that the ailment was contracted and/or aggravated in the course of one's employment, the presumption of compensability arises and the burden of proof is shifted to the employer to show by substantial evidence that although the illness 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. (*De los Angeles vs. ECC, supra*; *Animos vs. WCC, et al.*, L-53021, June 30, 1978; *Enriquez vs. WCC, et al.*, L-48252, October 30, 1979) It can rightly be said that petitioner's hypertension and loss of hearing supervened in the course of his employment. Said ailments were therefore, presumed to be service-connected. Consequently, they are compensable, in accordance with Section 2 of the Workmen's Compensation Act, as amended."

As found by the Employees' Compensation Commission, the ailment of the petitioner supervened during his employment with the Government Service Insurance System (Civil Intelligence and Security Authority), hence there is a disputable presumption that the claim is compensable. When there is a showing that the ailment was contracted in the course of his employment, the presumption of compensability arises and the burden of proof is shifted to the employer to prove by substantial evidence that although the illness 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.[6]

The respondent Government Service Insurance System did not rebut the presumption that the petitioner's claim is compensable.

Under the facts of record, the petitioner is entitled to an amount of P6,000.00 as disability benefit. He should be reimbursed the medical expenses incurred.

WHEREFORE, the decision of the Employees' Compensation Commission sought to be reviewed is hereby set aside and the Government Service Insurance System is ordered to pay the petitioner the amount of SIX THOUSAND PESOS (P6,000.00) as disability benefit and the amount of SIX HUNDRED PESOS (P600.00) as attorney's fees; and to reimburse said petitioner the medical expenses he incurred supported by proper receipts; and to pay the successor of the Workmen's Compensation Commission the amount of SIXTY ONE PESOS (P61.00) as administrative fee.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero and Melencio-Herrera, JJ., concur.

[1] Rollo, pp. 31-34.

[2] Rollo, pp. 31-32.

[3] Rollo, p. 33.

[4] Rollo, pp. 33-34.

[5] 95 SCRA, pp. 608, 612-613; *Cañeja vs. ECC*, 96 SCRA 896.

[6] *Balatero vs. ECC*, 95 SCRA 608, 613.

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