

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

G.R. No. L-42213. October 23, 1978

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

Domingo Herrera, petitioner-claimant in this proceeding, was first appointed on July 25, 1929 as "Junior teacher" by Mr. E.A. Gilmore, Secretary of what was then the Department of Public Instruction, now Ministry of Education & Culture. Herrera was assigned at the Paco Elementary School.[1] On October 30, 1963, Herrera was promoted assistant to the principal of the Sta. Ana Elementary School,[2] which position he was occupying when he was forced to retire on October 2, 1969 at the age of 61 as he was suffering from (a) diabetes mellitus, (b) insomnia, (c) geneto-urinary tract infection, and (d) essential hypertension, all of which disabled him from continuing with his teaching job.

A claim for disability compensation against the Bureau of Public Schools was filed with Regional Office No. 4 of the Workmen's Compensation Unit, Manila, on September 27, 1972,[3] which was controverted by the Solicitor General on November 16, 1972.[4]

A hearing was held and on the basis of the evidence adduced by claimant, the acting referee, Vivencio E. Escarcha, found that sometime in April, 1969, Domingo Herrera was physically examined and treated by Dr. Sofia A. Lopez for several ailments, to wit: diabetes mellitus, insomnia, geneto-urinary tract infection, and essential hypertension; because of his recurrent headaches and other ailments, claimant had to go on sick leave from April 7 to 18, 1969 and from July 16 to October 15, 1969, until upon advice of his attending physician, Herrera was forced to apply for early retirement which was approved effective October 2, 1969.

Finding that the ailments occurred in the course of employment and were aggravated by it, and that as per certification of Dr. Lopez claimant was totally disabled to continue with his teaching due to physical disability and impaired faculties, the referee granted disability compensation, as follows:

"WHEREFORE, premises considered, judgment is hereby rendered, ordering the respondent, REPUBLIC OF THE PHILIPPINES, Bureau of Public Schools, to pay thru this Office and in lump sum:

1) Claimant, the disability compensation in the maximum sum of P6,000 plus reimbursement of medical expenses in the amount of P250.00;

2) His counsel, Atty. Elpidio Ungria, the attorney's fee of P300.00, and;

3) To pay this Office the fee of P61.00 pursuant to Sec. 55 of the Act, as amended." (pp. 49-50 WCC record)

A motion for reconsideration dated September 17, 1975 was filed by the Office of the Solicitor General, but this was denied by the referee, hence the record of the case was elevated to the Commission for review.

The Workmen's Compensation Commission in a decision dated December 16, 1975, set aside the award and dismissed the claim for lack of merit, reasoning thus:

"xxx xxx xxx

"First, there is no evidence in the record substantial enough to support the existence of the illnesses claimed. The bare statements on the Physician's Report do not warrant an award of compensability. Aside from the Physician's Report, claimant must present convincing evidence to prove that he actually suffered the ailments which resulted in his disability for labor. Secondly, the ailments complained of are not disabling ailments. In other words, affliction of these illnesses does not automatically incapacitate the afflicted. And as it is disability for labor and not illness which is compensated for by the Act, claimant must prove that said ailments had actually incapacitated him. The service record reveals a continuous service up to retirement without disability. Thirdly, these ailments are part of the degenerative process and is prevalent in aging people. Hence, affliction thereof cannot be attributed to employment but rather to age. Lastly, it is clear that he retired from the service because he was qualified to retire by reason of age and length of service and not due to any disabling illness." (p. 55, WCC record)

We are constrained to disregard once more the foregoing arguments of respondent Commission.

1. Sufficiency of evidence -

The decision under review stubbornly ignores the existing law and jurisprudence under which an illness which supervenes in the course of and is aggravated by the employment and results in the employee's disability to perform his customary work either permanently or for some period of time, is presumed compensable. The burden is on the employer to rebut by satisfactory evidence that legal presumption.[5]

The evidence adduced by claimant Herrera is similar in nature with the evidence adduced by the claimant in *Sudario Jr. vs. Workmen's Compensation Commission, et al.*, where the claimant simply presented a physician's report attesting to his illness and an application for sick leave due to his ailments, and the Court thru Justice Ruperto Martin held that with those documents the employee-claimant had sufficiently substantiated his claim and it was incumbent upon the employer to overthrow by its own evidence the presumption of compensability of the claim of the disabled employee.[6]

2. Resulting physical disability -

The records of this case show that Herrera was physically fit to undertake the work of a classroom teacher when he was appointed in 1929. The demands of the teaching profession especially at the elementary level were not light in nature. They involved not only academic activities, preparation of lesson plans, whole day teaching and enforcing discipline among children of tender age, but also outside of the classroom undertakings such as supervision in gardening, school shops, scouting, athletics, and projects of parent-teacher organizations. All that resulted in the general weakening of petitioner's mental and physical faculties and rendered him vulnerable to diseases such as those which afflicted him.

Dr. Sofia Lopez who examined and treated Herrera sometime in April, 1969 certified in her report that the

ailments of petitioner occurred in the course, and were aggravated by reason of the rigors of his job as a teacher, and that he is totally disabled for an indefinite length of time to pursue his teaching because of extreme physical debility. Forty years of continuous service with the Bureau of Public Schools converted the young teacher of 1929 into a sick and debilitated person at the early age of 61.

"Disability occurs when an employee is disabled from rendering further service due to his physical inability to perform work in the usual and customary way. For purposes of the Workmen's Compensation Act there is disability when there is a loss or diminution of earning power which is due to an injury arising out of and in the course of the employment. It is not the injury which is compensated but rather it is the incapacity to work resulting in the impairment of one's earning capacity."[7]

3. Degenerating process immaterial -

Respondent Commission argues that the ailments of petitioner Herrera are degenerative in nature and prevalent in aging people. This is not the first time that We heard the same argument from respondent Commission. We will simply restate here what We said in *Bautista vs. Workmen's Compensation Commission, et al.* wherein the claimant was also an elementary school teacher who was forced to retire at the age of 60 due to coronary arteriosclerosis, to wit:

"x x x While We do not discount the possibility that such ailment may be 'caused by the aging process' as claimed by respondent employer, nonetheless, that fact alone will not be sufficient to remove the ailment from the periphery of compensable disabling diseases under the Workmen's Compensation Act. The law applies to the young as well as to the aged, and while advancing age may be a contributing factor to the occurrence of an injury, the constant physical and mental exertions, strain, and tension in teaching children of tender age for a period of almost 37 years are equally contributing and aggravating causes which render the resulting disabling injury or ailment compensable under the law."[8]

4. Optional retirement indicates disability -

Petitioner Herrera was forced to optionally retire at the age of 61 on the advice of his physician.

In a litany of decisions this Court has held that with the approval of the employee's optional retirement before his scheduled compulsory retirement at the age of 65, the fact of said employee's disability is placed beyond question of doubt considering that under Commonwealth Act 180 as amended by R.A. 1616 & No. 4968 in conjunction with Memorandum Circular No. 133 of the Office of the President, October 16, 1967, optional retirement before reaching the compulsory age of 65 is authorized only when the employee "is physically incapacitated to render sound and efficient service."[9]

Having discussed the merits of petitioner's claim for disability compensation, We find it no longer necessary to look into the argument of petitioner that the referee's decision had become final even before the respondent Commission promulgated its decision reversing the award.

WHEREFORE, for reasons indicated above We set aside the decision under review and We affirm the referee's award with modification and order respondent employer to:

- 1) Pay petitioner Domingo Herrera the maximum amount of Six Thousand Pesos (P6,000.00) as disability compensation, plus Two Hundred Fifty Pesos (P250.00) as reimbursement for medical expenses;

2) Pay Attorney Elpidio Ungria the total sum of Six Hundred Pesos (P600.00) as attorney's fee;

3) Provide petitioner with such services, appliances and supplies as the nature of his disability and the process of his recovery may require and that which will promote his early restoration to the maximum level of his physical capacity; and

4) Pay the Workmen's Compensation Fund the administrative fee of Sixty-One Pesos (P61.00).

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, and Guerrero, JJ., concur.

[1] p. 44, WCC record

[2] p. 43, *ibid.*

[3] p. 4, *ibid.*

[4] p. 10, *ibid.*

[5] *Maria Cristina Fertilizer Corp. vs. WCC, et al.*, 1974, 60 SCRA 228

[6] 79 SCRA 337

[7] *Bellos vs. WCC*, L-43018, 1977, 80 SCRA 153, 156. See also *Romero vs. WCC, et al.*, 77 SCRA 482; *Ybañez vs. WCC, et al.*, 77 SCRA 501; *Vda. de Flores vs. WCC, et al.*, 78 SCRA 17; *Espino vs. WCC, et al.*, 78 SCRA 189; *Roma vs. WCC, et al.*, 80 SCRA 170; *Tenasas vs. WCC, et al.*, 80 SCRA 461; *Magat vs. WCC, et al.*, 80 SCRA 617.

[8] L-42885, 80 SCRA 313, 319, per Muñoz Palma, J. See also *Reynaldo vs. WCC, et al.*, 71 SCRA 650; *Gonzales vs. WCC, et al.*, 81 SCRA 703, among others.

[9] *Legason vs. WCC, et al.*, 75 SCRA 213; *Gomez vs. WCC, et al.*, 75 SCRA 395; *Romero vs. WCC, et al.*, 77 SCRA 482; *Ybañez vs. WCC, et al.*, 77 SCRA 501; *Dimaano vs. WCC, et al.*, 78 SCRA 506; *Sudario Jr. vs. WCC, et al.*, 79 SCRA 337; *Bautista vs. WCC, et al.*, 80 SCRA 313.

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