

FEDERICO M. FAICOL, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND THE REPUBLIC OF THE PHILIPPINES (NATIONAL IRRIGATION ADMINISTRATION), RESPONDENTS.

G.R. No. L-45497. October 30, 1979

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition for review on certiorari of the decision of the Workmen's Compensation Commission rendered on January 30, 1976 affirming the order issued on October 1, 1975 by Regional Office No. 4, Workmen's Compensation Section, Department of Labor, Manila, which dismissed petitioner's claim for compensation benefits under the Workmen's Compensation Act, as amended.

Petitioner was an employee of the government having continuously served therein in various positions for 39 years prior to his retirement on January 12, 1974 at the age of sixty-three (63) years by reason of his disability due to hypertension with renal complication.

Petitioner spent most of his years in the government service with the National Irrigation Administration where he started as an instrument man and retired as Irrigation Superintendent II. His duties as an engineer in said agency consisted primarily of planning, directing and supervising the operation, maintenance, rehabilitation and improvement of large irrigation system and other allied activities. The nature of his work entailed travelling to different places to inspect various projects and in the process exposed himself to the heat of the sun, dust and bad weather.

As early as January 3, 1960, it was discovered that he was suffering from hypertension as shown by the medical certificate issued on November 16, 1968 by the petitioner's personal physician, Dr. Eduardo J. Garcia, stating that the petitioner was suffering from partial disability due to his recurring hypertension for the last eight years and unstable blood pressure (p. 47, rec.). Moreover, the Clinical History executed on March 11, 1975 by the Assistant City Health Officer, Dr. Nelson M. Quinto, reveals the fact that petitioner's sickness was aggravated from July 6, 1967 up to the time of his sixteenth consultation on January 12, 1975 (p. 48, rec.). At the time of his retirement he was suffering, not only from hypertension, but also from chronic nephritis. His disability is partial (70%) and its duration is for an indefinite period.

A perusal of the records of the case will show that petitioner, prior to his retirement on January 12, 1974, applied for optional retirement under Section 6(c) of Republic Act 4968 on September 10, 1967 at the age of 57 years on account of his hypertension but the same was postponed because his services were still badly needed. It was only therefore on January 12, 1974 that he finally retired under the provision of Commonwealth Act 660, as amended, which provided for optional retirement.

Subsequent to his retirement, petitioner prepared the necessary application papers which he sent through the

Philippine Express Messenger Corporation (PEMESCO) on March 21, 1975 to his attorney-in-fact, Mrs. Ester Tagle as he was then residing at Tangub, Bacolod City, in order that the same may be filed by her with the Regional Office No. 4, Workmen's Compensation Section, Department of Labor, Manila, before the deadline for the filing of Workmen's Compensation Claims which was March 31, 1975 in accordance with Art. 281 (now Art. 292) of the Labor Code. Somehow, the application papers were not received by Mrs. Tagle in due time for one reason or another. So petitioner immediately sent on March 31, 1975 the carbon originals of his application papers in his possession direct to the Department of Labor by registered mail.

On October 1, 1975, Regional Office No. 4, Workmen's Compensation Section, Department of Labor, Manila, through the assistant chief of section, Danilo C. Reynante, issued an order dismissing petitioner's claim for compensation for having been filed after March 31, 1975 beyond the reglementary period as provided for under Article 281 (now Article 292) of the Labor Code (p. 51, rec.).

Petitioner filed on January 3, 1976 a motion for reconsideration of the order of dismissal of the assistant chief stating among other things that his claim for compensation was filed within the reglementary period as provided for by law (p. 52, rec.). On January 30, 1976, the respondent Workmen's Compensation Commission rendered a decision affirming the order of dismissal of the assistant chief, stating that:

"Claimant in his letter requesting for reconsideration of the said order, stated that he retired optionally at the age of 63.

"Having retired at that age, claimant was entitled to retirement benefits equivalent to that of the compulsory retirement at age 65. Hence, claimant did not suffer any loss of earning power and consequently he is disqualified to the benefits under the Workmen's Compensation Act, as amended. Besides, claimant's alleged illness of hypertension is not an occupational disease, hence, it is not compensable under the Act. The record, also, is devoid of any showing that he was disabled when he retired" (p. 53, rec.).

Upon receipt of the decision of the Workmen's Compensation Commission on March 4, 1976, petitioner filed a letter of appeal from the decision of the Commission with this Court but the same was dismissed on April 5, 1976 for non-payment of docket and legal research fund fees.

Subsequently, petitioner in a letter dated November 9, 1976 sought advice from the clerk of court in connection with his dismissed appeal (p. 18, rec.).

On November 25, 1976, the clerk of court, acting upon instruction of the Court, advised petitioner to seek the assistance of counsel in the preparation and filing of a petition for review on certiorari and further informed him of the necessary fees to be paid in connection therewith (p. 22, rec.).

On February 10, 1977, petitioner filed his petition for review on certiorari of the decision of the Commission.

Required to comment on the petition, the Solicitor General, representing the respondents, filed one on March 19, 1977 (p. 103, rec.).

On March 30, 1977, the Court resolved to dispense with the comment of respondent Commission and further resolved to give due course to the petition and required the parties to submit their respective memoranda.

I

On the question as to whether the notice and claim for compensation was filed within the reglementary period, a perusal of the records of the case will show that indeed petitioner's claim was filed within the reglementary period provided for under Article 281 (now Article 292) of the Labor Code. This is clearly supported by the evidence submitted by the petitioner consisting of the Registry Receipt No. 5939 which was postmarked March 31, 1975

bearing the registered mail containing the carbon originals of the notice of claim for compensation and other supporting documents sent to the Workmen's Compensation Commission, Regional Office No. 4, Manila, upon the failure of the original copies of the application for compensation to arrive in Manila before the deadline (p. 41, rec.). This is further substantiated by the certification of the postmaster of Bacolod City that "registered letter No. 5939 posted at this office on March 31, 1975, sent by Mr. Federico M. Faicol and addressed to the Regional Administrator, Department of Labor, Manila, was dispatched to Manila on March 31, 1975, under Bill No. 150, page 1, Column 5" (p. 157, rec.).

Therefore, although the notice of claim was actually received by the Regional Office No. 4, Workmen's Compensation Section, Department of Labor, Manila, only on April 8, 1975, the same is deemed filed on March 31, 1975 (Sec. 1, Rule 13, New Rules of Court; *Mintu vs. CA*, 53 SCRA 114 [1973]). In *Cañete vs. Insular Co. Inc.* [61 Phil. 592], this Court ruled that:

"One of the rules of this court is that the date of the mailing of motions, pleadings, or any other papers, as shown by the post-office registry receipt, shall be considered as the date of their filing in this court. x x x"

Assuming *arguendo* that the claim was filed beyond the reglementary period as provided by Article 281 (Article 292) of the Labor Code, still the respondent employer failed to controvert the claim for compensation of the petitioner in accordance with Section 44 of the Workmen's Compensation Act, as amended, which provides that in case the employer decided to controvert the right to compensation, he shall either within 14 days following the date of disability or within 10 days following the employer's knowledge thereof, file a notice with the Commission. It is evident that petitioner's notice of injury and claim was filed on February 12, 1975; while the employer's report of accident or sickness containing its controversion was submitted only on March 5, 1975 (pp. 42-43, rec.), about 21 days later, way beyond the 14-day or 10-day period for controversion. WE have already ruled that "the failure of the employer to controvert the claim within the prescribed period of fourteen (14) days from the date of the disability or within ten (10) days after knowledge of such disability amounts to a waiver of the right to controvert and a renunciation of all defenses, like the defense that the claim is not compensable" [*Simeon A. Cañonero vs. WCC*, L-43880, Feb. 28, 1978; *Romero vs. WCC*, 77 SCRA 486-487 (1977); *DBP vs. WCC*, 49 SCRA 365 (1973); *MRR vs. WCC*, 20 SCRA 982-983 (1976)].

The National Irrigation Administration knew as early as September 10, 1967 when petitioner applied for optional retirement and again on January 12, 1974 when petitioner actually retired that petitioner was suffering from hypertension and chronic nephritis. But the National Irrigation Administration failed to controvert that petitioner's illness was not service-connected.

This is further strengthened by the fact that when the petitioner first suffered an attack of hypertension on January 3, 1960, the respondent employer failed to submit the Employer's Report of Accident or Sickness in accordance with Section 37 of the Workmen's Compensation Act after it was notified in writing by the petitioner (p. 42, rec.). OUR ruling in the case of *Vda. de Calado vs. Workmen's Compensation Commission* (38 SCRA 567 [1971]) is to the effect that: "Employer should report any compensable injury or death suffered by employees or workers to the Workmen's Compensation Commission."

II

The ruling of the respondent Commission that the petitioner having retired at the age of 63 years (optional retirement), did not suffer any disability nor loss of earning power and therefore is not entitled to the benefits under the Workmen's Compensation Act, is erroneous; because having availed of the optional retirement under C.A. 660, as amended, the fact of his disability is already implied for under Memorandum Circular No. 133, issued on October 19, 1967 by the Office of the President, optional retirement may be allowed before reaching the

compulsory age of retirement only upon proof that the employee is already physically incapacitated to render sound and efficient service. Therefore, the question as to petitioner's disability is thus foreclosed with the approval of his optional retirement under C.A. 660 and petitioner is entitled to the disability benefits of the Workmen's Compensation Act, as amended (Simeon A. Cañonero vs. WCC, supra, citing Romero vs. WCC, supra; Despe vs. WCC, 75 SCRA 350, 354, [1977]).

III

It is evident from the records of the case that the illness of the petitioner arose out, and was aggravated in the course, of his employment with the respondent employer. This is attested to by the personal physician of the petitioner who certified that since the time the hypertension began in 1960 up to 1968 the petitioner was suffering from partial disability due to his recurring hypertension. Moreover, the assistant city Health Officer of Bacolod City also indicated in the clinical history of the petitioner that from 1967 up to the time of retirement petitioner's sickness was so aggravated that he was suffering from hypertension with kidney complication. Obviously, during those years the petitioner was still employed with the respondent employer and consequently, there arises in favor of the petitioner the rebuttable presumption of compensability of the illness because it supervened in the course of his employment (Simeon A. Cañonero vs. WCC, supra; Leopoldo Lorenzo vs. WCC, L-42631, Jan. 31, 1978; Romero vs. WCC, supra).

The respondent employer failed to present any substantial evidence showing lack of connection between the petitioner's illness and his employment. There-fore, the illness remains compensable.

Even when the cause of the ailment is unknown, as long as it occurs during employment, the presumption of compensability subsists.

WHEREFORE, THE DECISION DATED JANUARY 30, 1976 OF THE RESPONDENT WORKMEN'S COMPENSATION COMMISSION IS HEREBY SET ASIDE AND RESPONDENT NATIONAL IRRIGATION ADMINISTRATION IS HEREBY ORDERED

- (1) TO PAY PETITIONER SIX THOUSAND [P6,000.00] PESOS AS COMPENSATION BENEFITS;
- (2) TO REIMBURSE PETITIONER HIS EXPENSES FOR MEDICAL AND HOSPITAL SERVICES, DULY SUPPORTED BY PROPER RECEIPTS;
- (3) TO PAY PETITIONER'S COUNSEL THE SUM OF SIX HUNDRED [P600.00] PESOS AS ATTORNEY'S FEES; AND
- (4) TO PAY THE SUM OF SIXTY-ONE [P61.00] PESOS AS ADMINISTRATIVE FEES.

SO ORDERED.

Fernandez, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.
Teehankee, J., (Chairman), took no part.

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