

SIMON GENCIANA, PETITIONER, VS. THE WORKMEN'S COMPENSATION COMMISSION, THE CITY OF MANILA AND THE REPUBLIC OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-34663. June 28, 1974

Ponente: MAKALINTAL, C.J.

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MAKALINTAL, C.J.:

The petitioner, Simon Genciana, was formerly a classroom teacher of mathematics at the Mapa High School, Division of City Schools, Manila. He had been appointed by the Superintendent of City Schools "(B)y authority of the Secretary of Education," but his salary was paid by the City of Manila.

On July 8, 1966 the members of the faculty of the Mapa High School had a conference in preparation for the school year 1966-1967, which would begin the following Monday, July 11, 1966. After said conference, which lasted from 8:00 o'clock in the morning until 12:00 o'clock noon, Simon Genciana went home tired and his head aching. On July 10, 1966, while he was typing some school materials he felt his hands becoming heavy on the keys of his typewriter. The next day, which was the first day of classes, he started feeling weak, so he did not report for work. His wife called a doctor (Carlos Caparas), who examined him and found his blood pressure to be 210/130. He was taken to the Singian Clinic in the afternoon of July 12 and was confined therein until July 16. Even after he was released he continued to be under medical care by the family physician.

Genciana's illness was diagnosed as "cerebro-vascular accident, cerebral thrombosis due to arteriosclerosis and hypertension." Because of his physical disability he went on leave during the school year 1966-1967, and finally applied for retirement, which was approved effective April 30, 1967. The City of Manila paid in full his retirement benefits under Republic Act No. 1616.

Meanwhile, on February 1, 1967 Genciana filed with the Department of Labor Regional Office No. 4, Manila, a notice of injury or sickness and claim for compensation. On the same day the notice was transmitted to and received by the Division of City Schools. However, it was only on March 20, 1967 that the Employer's Report, dated February 10, 1967, was filed with the regional office.

On May 24, 1967 Genciana lodged with the aforementioned Regional Office No. 4 a claim against the City of Manila and the Republic of the Philippines for compensation benefits. The two respondents were joined in the alternative because the "claimant was not certain which of them is liable under the law." The respondent City of Manila filed simultaneously its answer and motion to dismiss. On the other hand, the respondent Republic of the Philippines, after filing a motion for extension of time to answer, moved to dismiss the claim on the ground that it had no employer-employee relationship with the claimant, contending that said claimant was an employee of the City of Manila. During the hearing on the merits on February 9, 1968, the Acting Referee granted the motion to dismiss of the respondent Republic but no formal written order was ever issued. Thereafter, the said respondent Republic ceased to be represented at the hearings of the case.

On May 8, 1969 the Acting Referee rendered its decision ordering the respondent City of Manila to pay the

claimant the amount of P23,347.96 as medical and disability benefits and attorney's and administrative fees. After the respondent's motion for reconsideration had been denied, the entire record of the case was elevated to the Workmen's Compensation Commission for review. On November 18, 1961 the Commission, through Associate (Medical) Commissioner Herminia Castelo-Sotto, rendered a decision reversing that of the Acting Referee and dismissing the claim for compensation on the ground that the claimant's illness was neither caused nor aggravated by his employment. Thereupon the claimant appealed to the Commission en banc, which after proper proceedings promulgated its resolution dated January 11, 1972, finding that the Republic of the Philippines and not the City of Manila was the actual employer of the claimant. Consequently, the decisions of the Acting Referee and Commissioner Castelo-Sotto, respectively, were set aside and the respondent City of Manila was absolved from liability, but "without prejudice on the part of the claimant to file his claim against the Republic of the Philippines (Bureau of Public Schools)."

Not satisfied with the resolution of the Workmen's Compensation Commission, the claimant filed the instant petition for review, raising the following issues, to wit: (1) Whether he was an employee of the City of Manila or of the Republic of the Philippines for purposes of the Workmen's Compensation Act; and (2) Whether or not his illness was caused or aggravated by his employment.

Inasmuch as in workmen's compensation cases the prevailing test in ascertaining the employer-employee relationship is the control test,[1] the resolution of the first issue hinges on the determination as to which of the two respondents, the Republic of the Philippines and the City of Manila, had supervision and control of the petitioner as mathematics teacher in the Mapa High School.

Section 20 of Republic Act No. 409, the Revised Charter of the City of Manila, specifies the "city departments over which the Mayor shall have direct supervision and control," but the division of city schools headed by the city superintendent is not included in the enumeration. On the contrary, Section 28 of the same law explicitly confers upon the Director of Public Schools "the same jurisdiction and powers in the city as elsewhere in the Philippines." It also confers upon the superintendent of city schools "all the powers and duties in respect to the schools of the city as are vested in division superintendents in respect to the schools in their divisions."

Specifically, Section 910 of the Revised Administrative Code defines the powers and duties of the Director of Public Schools, among them the following:

"x x x x x x x x

(c) He shall fix the salaries of teachers within the limits established by law.

(d) He shall fix the curricula for all public schools under his jurisdiction.

(e) He shall prescribe the authority to be exercised by the principal teacher of each school over the other teachers, if any, and his duties as teacher actually engaged in the work of instruction and in caring for the schoolhouse and school property.

x x x x x x x x."

(Underscoring supplied)

As regards the authority and duties of division superintendents of schools, Section 917 of the same Code provides:

"Section 917. Authority and duties of division superintendents. - Conformably with the regulations of the Bureau of (Education) Public Schools, the superintendent of a school division shall, among other things, exercise the following powers and be subject to the following duties:

(a) He shall exercise a general superintendence over the schools and school interests in his division.

(b) He shall examine the schoolhouses occupied for public instructions within his division, with a view to determining their suitability and hygienic condition.

(c) He shall appoint municipal school teachers to serve in the schools within his division and shall fix their salaries from year to year, within the limits of the fund appropriated by the municipal council.*

(d) He shall make himself familiar with the supplies and textbooks needed in each school in his division and shall make report of the same at as early a date as possible to the Director of (Education) Public Schools, who may furnish the supplies needed.

(e) He shall see to it by personal visit and by requiring reports from the principal teacher of each school that the curriculum for primary and secondary schools prescribed by the Director of (Education) Public Schools is complied with.

(f) He shall have control over the uses of the provincial and municipal school buildings; and their use for other purposes than such as are incident to the conduct of the public schools shall be subject to his approval or the approval of his representative.

The superintendent of the city schools of Manila shall exercise similar powers and be subject to similar duties as regards the city schools." (Underscoring supplied)

All superintendents of schools, including that of Manila, are responsible administratively to the Director of Public Schools and to a great extent the powers and duties of the Director are delegated to them.[2]

It is clear from the foregoing that the national government has the exclusive right to appoint the classroom teachers in the city high schools and, incidentally thereto, has the power to remove them. It has also the authority to control and direct their activities. Consequently, notwithstanding the fact that the salary of the petitioner was paid by the city government of Manila, the respondent Republic of the Philippines had the supervision and control of said petitioner, and therefore it is the employer within the purview of the Workmen's Compensation Act. It is settled that the question of who pays the salary is not a controlling element in determining the existence of an employer-employee relationship. In *Francia vs. Pecson*,^[3] this Court held that the City Auditor of Manila (who was paid from the funds of the city) was not an officer or employee of the City but of the General Auditing Office. Also, in *Lacson vs. Villafranca*,^[4] it was held that the Deputy Clerk of the Municipal Court of Manila was not an officer or employee of the city. In the case of *Iloilo Chinese Commercial School vs. Fabrigar*,^[5] a workmen's compensation case, this Court ruled that the school which supervised the deceased janitor in his work and had control over the manner he performed the same and not the Chinese Chamber of Commerce, which paid his salary, was the employer for purposes of the Workmen's Compensation Law. In view thereof, the City of Manila cannot be held liable for the payment of compensation benefits to the petitioner.

For its part, the respondent Republic of the Philippines, in asking for the dismissal of the petition, contends that the ruling of the Acting Referee granting its motion to dismiss the case has long become final and executory and can no longer be reviewed or reversed, whether in the instant case or in another proceeding. The contention is untenable. Rule 14 of the Rules of the Workmen's Compensation Commission provides:

"Section 1. Rendition of Decisions and Issuance of Orders.- All decisions on the merits of cases shall be in writing personally and directly prepared by the referee having control of the case, stating clearly and distinctly the facts and the law on which they are based and signed by him. All orders disposing the contested cases on the merits or otherwise shall likewise be in writing and signed by the referee concerned." (Underscoring supplied)

Since the order of dismissal was not "in writing and signed by the referee concerned," as expressly required by the Rules, it acquired no legal effect whatsoever.

However, because of the erroneous ruling of the Acting Referee the respondent Republic was neither notified of nor represented in the subsequent hearings in the case. As a consequence it was deprived of its right to cross-examine the petitioner and his witnesses and to present its evidence in support of its defense that the petitioner's illness was not compensable. Under the circumstances, it would be improper to rule on the second issue raised by the petitioner.

WHEREFORE, the resolution of the Workmen's Compensation Commission en banc, dated January 11, 1972, is hereby affirmed.

Ruiz Castro, Teehankee, Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

[1] Viana vs. Al-Lagadan, 99 Phil. 408; Koppel (Philippines), Inc. vs. Darlucio, 109 Phil. 191; Iloilo Chinese Commercial School vs. Fabrigan, No. L-16600, December 27, 1961, 3 SCRA 712.

* When municipal school teachers were placed on the national rolls and their salary items provided for in the yearly General Appropriation Act, Section 917 (c) of the Revised Administrative Code became inoperative, and thus the authority to appoint these teachers devolved upon the Secretary of Education pursuant to the provisions of Section 79 (D) of the Code. However, the Secretary later delegated his authority to appoint these National (Municipal and City) teachers to the superintendent of schools. In like manner, by authority of the Secretary of Education, the superintendent now appoints provincial, city, and municipal high school teachers and other employees in the schools within his division and fixes their salaries from year to year, within the limits of the funds appropriated and in accordance with the rates provided by law. (Service Manual of the Bureau of Public Schools, 1960 ed., p. 13)

[2] Service Manual of the Bureau of Public Schools, 1960 ed., p. 12.

[3] 87 Phil. 100.

[4] No. L-17398, January 30, 1962, 4 SCRA 144.

[5] Supra.

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