

FRANCISCO S. MARCELINO, PETITIONER, VS. SEVEN-UP BOTTLING COMPANY OF THE PHILIPPINES AND THE WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS.

G.R. No. L-30443. October 31, 1972

Ponente: ZALDIVAR, J.

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ZALDIVAR, J.:

A petition for review of the decision of the Workmen's Compensation Commission of November 14, 1968, in its R04-WC Case No. 5088, and of its resolutions of February 28, 1969, and March 31, 1969, denying petitioner's motions for reconsideration of said decision.

On March 16, 1953, petitioner Francisco Marcelino was employed by respondent company, Seven-Up Bottling Company of the Philippines, after passing a pre-employment physical check-up. Marcelino first worked as a stocker, later as an assistant foreman, and then as bottle inspector of respondent company. He was getting a daily wage of 7.90 as bottle inspector, when at about ten o'clock in the morning of July 12, 1965, Marcelino suddenly became unconscious and collapsed while performing his work. He was immediately taken to his home where he was placed under the medical care of Dr. Gil Angeles, the respondent company's physician, who advised him that he was suffering from high blood pressure. Marcelino was later hospitalized at the Veterans Memorial Hospital upon the recommendation of Dr. Angeles.

Due to his illness, on May 14, 1966, Marcelino, thru counsel, filed a formal complaint with the Department of Labor Regional Office No. 4, Manila, to recover disability compensation benefits under the Workmen's Compensation Act (Act 3428, as amended) against respondent company. On June 2, 1966 counsel for respondent company filed an Answer to the complaint. After due hearing before Acting Referee, Claro Q. Riego de Dios, said referee, on October 17, 1966, rendered a decision, the pertinent portions of which are quoted as follows:

"Under the foregoing facts and circumstances, we therefore hold the claim of the herein claimant to be meritorious and compensable, more so, if we take into account the pattern of social justice initiated by the late President Ramon Magsaysay that 'he who has less in life should have more in law'.

"Considering claimant's illness of hypertension had caused the claimant disability, claimant, therefore, is entitled to P6,000.00 as permanent disability benefits under Sections 14 and 15 of the Act, as amended. Claimant is not entitled to reimbursement of medical expenses for nothing has been proven to that effect. However, under Section 13 of the Act, as amended, respondent should provide claimant with such medical, surgical, hospital services and supplies as the nature of his illness may require.

"WHEREFORE, respondent Seven-Up Bottling Company of the Philippines is hereby ordered:

"1. To pay claimant Francisco Marcelino, thru this Office, the sum of SIX THOUSAND PESOS (P6,000.00), as disability compensation benefits;

"2. To provide claimant with such medical, surgical, hospital services and supplies as the nature of his illness

may require; and,

"3. To pay to this office the sum of SIXTY ONE (P61.00) PESOS, as fee, pursuant to Section 55 of the Act, as amended."

On November 8, 1966, counsel for respondent company filed with the Regional Office No. 4 a petition for review and reconsideration of the referee's decision. Acting Referee Claro Q. Riego de Dios denied the motion for reconsideration, and consequently the case was elevated to the Workmen's Compensation Commission for review.

On November 14, 1968 Associate Commissioner Severo M. Pucan of the Workmen's Compensation Commission rendered a decision declaring that petitioner Francisco Marcelino was not entitled to compensation on the basis of a permanent total disability under Sec. 15 of the Workmen's Compensation Act. The Associate Commissioner ruled that said claimant was simply temporarily disabled to work from July 12, 1965, when he collapsed and was brought to the hospital, until November 3, 1965 when he was discharged from said hospital, or for a period of 16-3/7 weeks. Commissioner Pucan thus declared said petitioner entitled to only sixty per centum of his average weekly wage of P47.50 (or P28.04 centavos a week) for 16-3/7 weeks, as disability compensation under Section 14 of the Workmen's Compensation Act, as amended. The Commissioner further ordered the payment of P46.72 as attorney's fees for petitioner's counsel, chargeable against the respondent employer, and reduced the decision fee of P61.00 to P5.00.

On November 27, 1968 petitioner Marcelino, through counsel, filed a motion for reconsideration and/or for reception of additional evidence, praying, for the reasons stated in the motion, that the decision rendered by Commissioner Pucan be modified so as to conform with what is provided for under Section 14 of the Workmen's Compensation Act and/or to order that he (petitioner) be made to undergo physical examination by the medical officer of the Commission to determine the extent and nature of his illness and to evaluate thereby his actual disability. The motion for reconsideration was denied by the Workmen's Compensation Commission en banc on February 28, 1969. On March 20, 1969 petitioner filed a second motion for reconsideration and/or reception of additional evidence in support of his claim, which second motion for reconsideration was opposed by counsel for respondent company, and against the opposition of respondent company, the petitioner filed a rejoinder. On March 31, 1969 the Workmen's Compensation Commission denied petitioner's second motion for reconsideration. On April 25, 1969 the petitioner filed his notice of appeal with the Workmen's Compensation Commission, and on April 26, 1969 he filed the present petition for review before this Court.

The respondent company, through counsel, filed a motion to dismiss the petition for review. On May 5, 1969 this Court issued two separate resolutions, one denying respondent's motion to dismiss petition, and the other giving due course to the petition.

In his brief before this Court the petitioner assigns three errors that, according to him, were committed by respondent Workmen's Compensation Commission. The three errors boil down to the question of: whether or not petitioner is entitled to a compensation based on permanent total disability, or simply to a compensation based on temporary total disability under the Workmen's Compensation Act.

It is undisputed that petitioner Marcelino started working with the respondent company as a stocker on March 16, 1953, after passing a pre-employment physical examination; that two years after, he was promoted to the position of assistant foreman, and in 1962 he was promoted to the position of bottle inspector; that on July 12, 1965, at about ten o'clock in the morning, while busy inspecting the bottles in the production department of respondent company, he suddenly collapsed; that he was treated by the company physician, Dr. Gil D. Angeles, who found him to be suffering from hypertension. That thereafter he was treated at his home by the company physician, and on October 18, 1965, upon recommendation of said physician, petitioner was admitted to the Veterans Memorial

Hospital; that on November 3, 1965 he was discharged from the hospital; that on many occasions after his discharge from the hospital he presented himself before the management of respondent company and requested that he be allowed to return to work but he was, time and again, refused admission to work because the company feared that his illness might recur.

It is the finding of the Workmen's Compensation Commission that the ailment of the petitioner had supervened in the course of his employment and that said ailment is presumed to be caused or aggravated by his employment.

The Workmen's Compensation Commission, however, is of the view that the petitioner is only entitled to an award for temporary total disability, to cover the period from July 12, 1965 when he stopped working by reason of his ailment to November 3, 1965 when he was discharged from the Veterans Memorial Hospital. The reason of the Workmen's Compensation Commission in declaring that petitioner had simply suffered a temporary total disability is the fact that his hypertensive condition had not resulted into some fatal or disabling complications, such as paralysis, partial or total, which would prevent him from pursuing his regular job.

We believe that the Workmen's Compensation Commission is in error when it declared that the petitioner was not entitled to compensation for permanent total disability, simply because the petitioner had not suffered from paralysis or other fatal complication due to his ailment of hypertension. The Workmen's Compensation Commission has overlooked the vital circumstance that after his discharge from the hospital the petitioner had on many occasions presented himself before the respondent company and requested that he be allowed to return to work in the company, but every time he presented himself he was refused admission to work upon the ground that his illness might recur. This simply shows that as far as respondent company was concerned the petitioner was incapacitated or disabled to perform any substantial amount of labor in the line of work where he was formerly engaged, or in any other kind of work for which he could be assigned. The record shows that petitioner had not been able to work in any kind of employment after his discharge from the Veterans Memorial Hospital on November 3, 1965. The record also shows that after his discharge from the hospital, he continued to be under treatment for chronic hypertension, chronic nephritis, frequent low grade fever, occasional numbness of right half of the body.[1] The record further shows that as of April 24, 1969 when the present petition was filed before this Court petitioner was suffering from hypertensive cardiovascular disease, cardiomegaly asthmatic bronchitis, and osteoarthritis, multiple.[2]

In the book entitled "Comments and Annotations on the Workmen's Compensation Act," by Severo M. Pucan and Cornelio R. Besinga[3] We read:

"It has been held that for workmen's compensation purposes, 'total disability' does not mean a state of absolute helplessness, but means disablement of an employee to earn wages in the same kind of work, or a work of similar nature, that he was trained for, or accustomed to perform, or any kind of work which a person of his mentality and attainments could do."

In his book, "Philippine Labor and Social Legislation", Mr. Justice Ruperto Martin of the Court of Appeals says about "permanent total disability", as follows:

"Permanent total disability means disablement of an employee to earn wages in the same kind of work, or work of a similar nature that he was trained for, or accustomed to perform, or any other kind of work which a person of his mentality and attainments could do. A workman who, solely because of his injury, is unable to perform or to obtain any substantial amount of labor, either in his particular line of work, or in any other for which he would be fitted except for the injury is totally disabled within the meaning of the Workmen's Compensation Law.[4]

In the book, "Labor Standards and Welfare Legislation", written by Perfecto V. Fernandez and Camilo D.

Quiason,[5] the authors, citing American authorities on Workmen's Compensation Laws, comment on "permanent total dis-ability", as follows:

" 'Disability' does not refer to the injury nor to the pain and suffering it has occasioned but to the loss or impairment of earning capacity. 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. Where the disability is merely functional, whether physical or psychic, there is no disability under the Act. Medical disability without an accompanying decrease in earning capacity, is not compensable. The basis of compensation under the Act is reduction of earning power. (Harovitz, 41 Neb. L. R. 68)"

* * * * *

"With certain exceptions * * * an employee in order to obtain an award of compensation must show a diminution of his earning capacity which is due to an injury arising out of and in the course of his employment. Incapacity for work resulting from the injury is the statutory basis upon which a claim must be based for total, permanent and total, or partial disability * * *. Compensation is awarded not for the injury as such but rather for an impairment of earning capacity caused by the injury."

* * * * *

"It has been held that for workmen's com-pensation purposes 'total disability' does not mean a state of absolute helplessness, but means dis-ablement of an employee to earn wages in the same kind of work or a work of similar nature, that he was trained for, or accustomed to perform, or any other kind of work which a person of his mentality and attainments could do." (Riesenfield and Maxwell, p. 301, citing Elliot vs. Gooch Freed Mill, 23 N. W. 2d. 262)

* * * * *

"Permanent total disability means an incapacity to perform gainful work which is expected to be permanent. This status does not require condition of complete helplessness. Nor is it affected by the performance of occasional odd jobs." (Harovitz, 41 Neb. L. R. 70; Riensenfield & Maxwell, pp. 302-303)

The evidence shows that the petitioner had rendered satisfactory service to respondent company, so much so that on March 16, 1963 he was awarded a silver service pin with the corresponding service certificate. About three months after he was awarded the service pin and the service certificate, or sometime in June, 1963, he contracted the ailment of hypertension, but he kept on working until he had a stroke, or when he suddenly collapsed, on July 12, 1965. True it is that he was hospitalized and was discharged from the hospital, but he continued to bear the disabling effect of his illness. The testimonies, of the two witnesses for the respondent company, Mr. Ruben Perreras, who was the company's personnel manager, and Mr. Ruben Rodriguez, the foreman in the production department, extensively dwelt on the employment and illness history of petitioner, but they did not in any way deny petitioner's averments regarding the continued existence of his illness and disability. There is no showing in the record that after petitioner was discharged from the Veterans Memorial Hospital his ability for work was restored. On the contrary there is a showing that after his discharge from the hospital he continued to be under medical treatment for the very same ailment that he was treated while in the hospital. The fact that he requested the management of respondent company that he be admitted back to work was not an indication that his ability to work was restored, because in his testimony, under cross-examination, petitioner said that he requested to be taken back to work because he wanted to work even if he was sick. The refusal of respondent company to admit petitioner back to work in its bottling plant, even if petitioner had been an employee with a very satisfactory record of service, is the best proof of his disability to perform any kind of work in the bottling plant of respondent company, and much less could he be considered as able to be reassigned to his former work as bottling inspector, which was the work that he was accustomed to perform before he became ill.

In the light of the afore-stated authoritative opinions and/or comments on what constitutes permanent total disability within the meaning of the Workmen's Compensation Act, it is Our considered view that herein petitioner had contracted illness in the course of his employment which rendered him permanently and totally disabled to work, and as such is entitled to full compensation as provided for in Sections 14 and 15 of the Workmen's Compensation Act. We have arrived at this conclusion ever mindful of the constitutional mandate that the State should afford protection to labor, and of the doctrine that the Workmen's Compensation Act being basically a social legis-lation, designed to give relief to a workman, it must be liberally construed, and all doubts should be resolved in favor of the workman and his dependents, in order to attain the purpose for which it was enacted.[6]

IN VIEW OF THE FOREGOING, the decision of the Workmen's Compensation Commission of November 14, 1968 and the orders of said Commission dated February 28, 1969 and March 31, 1969, denying petitioner's motion for reconsideration of the decision should be, as they are hereby, set aside, and a new decision is entered, ordering respondent Seven-Up Bottling Company of the Philippines: (1) to pay petitioner Francisco Marcelino, through the Workmen's Compensation Commis-sion, the sum of six thousand pesos (P6,000.00) as com-pensation for permanent total disability; (2) to provide the petitioner with such medical services and supplies as the nature of his illness may require as of the time this decision is executed; (3) to pay attorney's fees for petitioner's counsel in the sum of six hundred pesos (P600.00); (4) to pay the decision fee of P61.00; and (5) to pay the costs.

IT IS SO ORDERED.

Concepcion, C.J., Castro, Fernando, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

Makalintal, J., on official leave of absence.

Teehankee, J., took no part.

[1] Annex B to petition.

[2] Annex C to petition.

[3] 1971 Edition, page 255, citing Riesenfield and Maxwell, Modern Social Legislation, p. 301, which also cited Elliot vs. Gooch Freed Mill, 23 N.W. 2d. 262.

[4] 1968 Edition, page 72, citing Schneider's Workmen's Compensation, Vol. II, page 404.

[5] 1964 Edition, pages 594-595. Italics supplied.

[6] Abana vs. Quisumbing, L-23489, March 27, 1968, 22 SCRA 1278, 1283; Batangas Transportation Co. vs. Perez, L-19522, August 31, 1964, 11 SCRA 793, 799; Francisco vs. Consing, 63 Phil. 354, 360. See also "Labor and Social Legislation", by Carlos and Fernando, p. 415.

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