

**BENIGNO GONZALES, PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION AND REPUBLIC OF THE PHILIPPINES
(NATIONAL IRRIGATION ADMINISTRATION, SIBALOM-SAN JOSE
IRRIGATION SYSTEM), RES...**

G.R. No. L-43689. February 28, 1978

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petition for review on certiorari of the January 14, 1976 decision of the respondent Commission reversing the April 25, 1975 award of the acting referee in WCU Case No. 169.

Petitioner filed on January 21, 1975 a Notice of Injury or Sickness and Claim for Compensation by reason of his illnesses of hypertension, cardiomegally-atrial and ventricular and myocardial ischemia with the Department of Labor Regional Office No. VII at San Jose, Antique, claiming therein that he notified his employer of said illnesses on June 20, 1973 through the irrigation superintendent. Earlier, or on February 15, 1974, he retired from the government service at the age of sixty-four.

The evidence adduced during the hearing of the claim before the acting referee shows that petitioner started working with the respondent Sibalom-San Jose Irrigation System on February 16, 1932 as dike inspector and, at the time of his retirement from the service on February 15, 1974 at the age of 64, he was holding the position of watermaster which he held as early as July 1, 1959. As a watermaster, he supervised the construction of dikes and conducted inspection of canals covering around twenty-six (26) kilometers a day in the irrigation system, and in the performance thereof, he had to ride a bicycle, but most of the time had to walk especially during the rainy days (pp. 28, 31-34, WCC rec.).

On June 3, 1973, petitioner suffered a stroke and was immediately brought under the medical care of Dr. Julito V. Osunero, chief of the Sibalom Emergency Hospital, Sibalom, Antique. According to Dr. Osunero, petitioner was suffering from hypertension, cardiomegally-atrial and ventricular, and myocardial ischemia.

Based solely on the evidence adduced by the claimant (pp. 20-44, WCC rec.) as the respondent employer did not present any (p. 39, WCC rec.), the acting referee found for the claimant and ordered respondent employer to pay him the amount of four thousand five hundred ninety-nine pesos and 93/100 (P4,599.93), plus attorney's fees and administrative fees.

Respondent employer filed a motion for reconsideration from the aforesaid award but the acting referee denied the same and thereafter caused the elevation of the entire records of the case to the respondent Commission for review.

On January 14, 1976, the respondent Commission reversed the aforesaid order of award for the following reasons:

"The records show that the claimant retired from the service on February 16, 1974, under RA 660. There is no medical indication on record that the claimant was physically disabled for labor immediately before or at the time he filed his application for retirement. The ailments complained of are not considered disabling, ailments, because they can be cured or controlled by proper medication and appropriate diet. Claimant's ailments were the result of the degenerative changes of the human anatomy due to ageing. Hence, the ailments of the claimant cannot be traceable from the nature of his employment with the respondent but rather, they were the natural result of the ageing process.

"It was not even established in evidence that the claimant was on sick leave due to the ailments complained of. We believe that he stopped working in order to avail himself of retirement benefits under RA 660 and not due to his ailments complained of.

"xxx xxx xxx."

Hence, the instant petition.

The decision of the respondent Commission in reversing the order of award of the acting referee constitutes a grave abuse of discretion, the same being palpably contrary to the facts and the law and the controlling jurisprudence on workmen's compensation cases and should be set aside.

I. It is indubitable from the records that petitioner's illnesses supervened in the course of his employment with respondent employer as there is no dispute that he started service therewith in good health and thereafter, or after a period of forty-two (42) years, he was found afflicted with hypertension, cardiomegally-atrial and ventricular, and myocardial ischemia. This undisputed fact mandatorily calls for the application of the now too well-settled doctrine of presumed compensability in workmen's compensation cases. For it is now beyond question that once an illness supervened in the course of employment there arises a rebuttable presumption in law that the same arose out of, or at least was aggravated by, such employment (*Romero vs. WCC, et al.*, 77 SCRA 483, 487-488 [1977]; *Buenaventura vs. WCC, et al.*, 76 SCRA 485, 488-489 [1977]). And with that presumption, the claimant is relieved from proving causation and the respondent employer assumes by force thereof the burden of establishing the contrary by substantial evidence; and failure on its part to do so, like the failure of herein respondent employer, entitles the claimant, as herein petitioner, to compensation benefits award. For under such a situation, there is no more need for the claimant to carry the burden of proof, to establish his case (*Guevarra vs. Republic*, 77 SCRA, 292, 295 [1977]) because the failure of respondent employer to discharge the aforesaid burden, rendered the presumption of compensability in favor of claimant conclusive (*Santos vs. WCC*, 75 SCRA 365, 370 [1977]). Hence, respondent Commission gravely erred when it absolved respondent employer (*Lopez vs. WCC*, G.R. No. L-42582, Oct. 21, 1977).

II. Respondent Commission faulted the claimant, herein petitioner, of having failed to establish by evidence that he "x x x was on sick leave due to the ailments complained of x x x" and inexplicably ruled that there was "x x x no medical indication on record that the claimant was physically disabled for labor immediately before or at the time he filed his application for retirement x x x." This stand of the respondent Commission not only unduly nullified the aforesaid presumption of compensability and patently distorted the consequent burden of proof placed on the respondent employer (and no longer on the claimant) but likewise totally ignored and disregarded the evidence on record. For the records show that petitioner was confined at the Sibalom Emergency Hospital, Sibalom, Antique by reason of his illnesses from June 3, 1973 to June 20, 1973 (Exh. "A"-Medical Certificate, p. 73; Exh. "B"-Certification" issued by the Chief of the Sibalom Emergency Hospital, p. 77, WCC rec.) and he was

able to report back to work only on October 1, 1973 as expressly stated in the Employer's Supplementary Report of Accident or Sickness filed by respondent employer on January 21, 1975 (p. 69, WCC rec.). Also, the attending physician of petitioner, Dr. Julito Osunero, M.D., a government doctor and chief of the Sibalom Emergency Hospital of Antique, who testified in the hearing of this compensation claim, affirmed the contents of the aforesaid medical certificate (Exh. A, supra) and the certification dated April 15, 1974 (Exh. B, supra) issued by him, as well as the contents of the Physician's Report (Exh. "C", p. 63, WCC case), wherein he stated that the illnesses of claimant were directly caused and/or aggravated by his employment (pp. 15, 20-25, WCC rec.). Furthermore, the Compensation Rating Medical Officer of the Department of Labor Regional Office No. VII, Workmen's Compensation Unit, Iloilo City, to whom the record of the case was sent for evaluation of claimant's disability, found out and reported that "x x x the patient is sick of essential hypertension, cardiomegally-atrial and ventricular, myocardial ischemia and rheumatoid arthritis, x x x. His illnesses x x x greatly affected his ordinary physical activity and x x x he retired from the government service due to disability. Disability evaluation: 60% N.S.D. (Section 18) x x x." And contrary to the finding of the respondent Commission, claimant was on sick leave due to his illnesses as expressly stated by respondent employer itself in its employer's report of accident or sickness, specifically under item 21 thereof, which was submitted as claimant's evidence and marked as Exhibit "E-1" (p. 66, WCC rec.).

The aforesaid evidence on record very well exposed the lack of merit of respondent Commission's posture.

III. The claim of respondent employer that claimant's disability came about only after his retirement from the service is pure speculation on its part and is unrealistic as it ignored the fact that from June 3, 1973, when petitioner felt for the first time the impact of his illnesses, up to June 30, 1973, he was confined at the hospital and thereafter was under the medical care of Dr. Osunero, a government physician, and was able to report back to work only on October 1, 1973. That petitioner was able to resume his work on October 1, 1973 and continue up to the very day immediately prior to his retirement, does not detract from the fact that he had by that time been disabled because his ability to resume work may only have been through his sheer determination to continue earning a living for himself and his family, which, however, did not last long as he had to give way to actuality when on February 15, 1974 or four and a half months after he resumed working, he retired from the service at the age of 64, a year before his compulsory age of retirement. For as WE stated in the case of *Romero vs. Workmen's Compensation Commission*, supra, at 489, quoting from Inton and Morabe's *The Workmen's Compensation Act* -

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"Disability, as a basis for compensation, is the combination of partial or total physical incapacity and of inability to work, or inability to work with the same ease and competency as before the injury, or the loss, total or partial, of earning power from the injury (*Corpus Juris*, Sec. 535, p. 813).

"Disability is used either in the medical or physical sense, as evidenced by obvious loss of members or by medical testimony that the claimant simply cannot make the necessary muscular movements and exertions; it is also used to mean de facto inability to earn wages, as evidenced by proof that claimant has not in fact earned anything.

"These medical and wage-loss aspects of disability may be more clearly illustrated as follows: A claimant may be, in a medical sense, utterly shattered and ruined, but by mere sheer determination and ingenuity contrive to make a living for himself; conversely, a claimant may be able to work, in both his and the doctor's opinion, but

awareness of his injury may lead employers to refuse him employment.

"The problem of the administrators of the Act is the proper balancing of these medical and wage-loss factors. An absolute insistence on medical disability in the abstract would produce a denial of compensation in the latter case, although the wage-loss is as real and as directly traceable to the injury as in any other instance. At the other extreme, an insistence on wage-loss as the test would deprive the claimant in the former illustration of an award, thus not only penalizing his laudable efforts to make the best of his misfortune but also fostering the absurdity of pronouncing a man non-disabled in spite of the unanimous contrary evidence of medical experts and of common observation (Larson, p. 3, Vol. III)" [p. 76].

It should be noted that petitioner voluntarily retired at the age of 64 on February 15, 1974. His voluntary retirement was by virtue of his ailment; because Memorandum Circular No. 133 of October 19, 1967 requires that such voluntary retirement before reaching the compulsory retirement age of 65 must be predicated on the fact that the retiree is "physically incapacitated to render sound and efficient service" (Romero vs. WCC, supra, at 490).

IV. Indeed, it would be an affront to the social justice mandate of the Constitution to deny to herein petitioner what is due him under the circumstances obtaining in this case, and more so, in the light of his forty-two (42) years of faithful service to the country, devoting thereto the best years of his life.

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

I. TO PAY

A. THE CLAIMANT

- (1) THE SUM OF FOUR THOUSAND FIVE HUNDRED NINETY NINE PESOS AND NINETY THREE CENTAVOS (44,599.93) AS DISABILITY BENEFITS; AND
- (2) HIS EXPENSES FOR MEDICAL AND HOSPITAL SERVICES DULY SUPPORTED BY PROPER RECEIPTS;

B. CLAIMANT'S COUNSEL THE AMOUNT OF TEN PERCENT (10%) OF THE TOTAL AMOUNT AWARDED; AND

C. THE SUM OF SIXTY-ONE PESOS (P61.00) AS ADMINISTRATIVE FEE; AND

II. TO PROVIDE CLAIMANT WITH SUCH SUPPLIES, APPLIANCES AND SERVICES 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.

SO ORDERED.

Teehankee, (Chairman), Muñoz Palma, Fernandez, and Guerrero, JJ., concur.

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