

**VISIA REYES, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES
(BUREAU OF PUBLIC SCHOOL AND THE WORKMEN'S
COMPENSATION COMMISSION), RESPONDENTS.***G.R. No. L-48122. February 21, 1989*

Ponente: FELICIANO, J.

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This is a Petition for Review of the Decision of the Workmen's Compensation Commission ("WCC") in RO3-WCC Case No. 12190 denying petitioner Visia Reyes' claim for disability compensation benefits under the Workmen's Compensation Act (Act No. 3428, as amended).

For twenty-six (26) years, petitioner was employed by the Bureau of Public Schools ("BPS") as an elementary grade school teacher in Pampanga. She started working for the BPS in 1948 as a substitute teacher and in 1957 became a permanent teacher. Her last station of work was the Sta. Rita Elementary School, Sta. Rita, Pampanga.

On 4 May 1974, petitioner was advised by Dr. Pedro J. Castro of San Fernando, Pampanga, her attending physician, that she was ill with rheumatoid arthritis and hypertension. Dr. Castro attributed this illness to petitioner's frequent exposure to floods in Sta. Rita, where she had to wade through flooded streets to go to and from the elementary school where she taught and to the circumstance that in that elementary school, she frequently had to conduct her classes in a flooded classroom. In a "Physician's Report of Sickness or Accident" dated 17 January 1975, Dr. Castro stated that "[b]ecause of her rheumatoid arthritis, --- she is no longer physically fit to render efficient service" and that she was "indefinitely disabled" such that he believed that petitioner was "qualified for retirement." Petitioner, though only fifty-two (52) years old and still far away from the compulsory retirement age of sixty-five (65), applied for retirement under the provisions of Section 12 (c) of Commonwealth Act No. 186, as amended, attaching to her application Dr. Castro's Report. The Acting Executive Secretary of the Office of the President of the Philippines, in a first indorsement^[1] to the Government Service Insurance System (GSIS) dated 10 February 1975, informed the latter that the Committee on Physical Examination of the Office of the President, had "opined that Ms. Reyes is no longer physically fit to render sufficient service. Her aforesaid application for retirement may, therefore, be given due course pursuant to Circular No. 133, series of 1967." On 29 July 1974, petitioner ceased working and actually retired from the service.

Seven months later, i.e., on 4 March 1975, petitioner filed with the Department of Labor a claim for disability compensation benefits under the Workmen's Compensation Act. She attached to her application for disability benefits the same documents she had filed with her application for optional retirement, that is, Dr. Castro's "Physician's Report of Sickness or Accident" and her service record. Her application for disability benefits was denied by the Chief of the Workmen's Compensation Unit in a letter dated 5 November 1975, upon the ground that her rheumatoid arthritis and hypertension had not disabled her from working, for she had stopped working for the BPS because of her optional retirement rather than because of physical disability.

Petitioner filed a Motion for Reconsideration, which Motion was, however, denied by the Workmen's

Compensation Unit of Region 3, San Fernando, Pampanga on 9 December 1975. This denial was confirmed by the WCC in a Decision dated 19 December 1975 which stated, *inter alia*, that:

"[A]lthough apparently it is established that her illness of rheumatoid arthritis surfaced while employed by the respondent (BPS), the same did not disable the herein claimant from performing her work and an award for compensation under the Act is based on disability due to illness or injury which disable[d] an employee during the period of employment from performing her functions. There is no showing that this requirement has been established [so as] to warrant an award pursuant to Section 2 of the Act, for claimant was not disable[d] during her employment.

Premises considered, the order of dismissal is hereby affirmed without pronouncement as to the payment of administrative fee and costs of review." [2]

Hence, the present Petition for Review.

The sole issue to be resolved in this case is whether or not petitioner, a retired public elementary school teacher, is entitled to compensation benefits under the Workmen's Compensation Act for her claimed disability caused by rheumatoid arthritis and hypertension.

Petitioner claims that her rheumatoid arthritis and essential hypertension supervened during her employment as public school teacher and had been aggravated by the nature and conditions of her employment as such public school teacher. Thus, petitioner claimed that aside from being entitled to optional retirement benefits, she was also entitled to compensation benefits under the Workmen's Compensation Act. Upon the other hand, respondent WCC contends that petitioner's illness of rheumatoid arthritis combined with essential hypertension was an ordinary disease to which the general public is exposed, and which is prevalent among individuals of advanced age, which therefore was not compensable *per se*. The WCC further argued that petitioner had not been disabled by her illness, considering that her service record showed that she had been working up to and until 19 March 1975.

The basis of the decisions of the Workmen's Compensation Unit of Regional Office No. 3 and of the respondent WCC denying petitioner's claim for disability benefits, may be seen to be that petitioner's illness was not an occupational disease. It appears clear to us that the circumstances of this case call for the application of the doctrine of presumed compensability under Section 44 of the Workmen's Compensation Act which provided as follows:

"Section 44. Presumption. -- In any proceeding for enforcement of the claim for compensation under this Act, it shall be presumed in the absence of substantial evidence to the contrary:

(1) That the claim comes within the provisions of this Act;

x x x x x x x x."

It has been repeatedly held[3] by this Court that once an illness is shown to have supervened in the course of employment, there arises a rebuttable presumption in law that that illness arose out of, or at least was aggravated by, such employment. Where this presumption is applicable, the burden of proving the non-compensability of the illness by substantial evidence, is transferred to the employer. In the present case, however, the BPS failed effectively to controvert petitioner Reyes' claim, since no evidence whatsoever was presented by BPS to traverse and defeat petitioner's claim. The statutory presumption, therefore, prevails.

In the instant case, respondent WCC faulted petitioner for having failed to establish by competent evidence that she has been disabled for work immediately before or at the time of filing her application for retirement. To sustain respondent WCC in such a position, however, would not only nullify the presumption of compensability

and distort the burden of proof placed by the statute on the respondent employer; it would also require the Court to disregard the evidence of record.[4] That evidence, as noted earlier, consisted of the attending physician's report, which explicitly stated that petitioner was totally disabled from resuming her former occupation and from doing similar work save that she could do "minor household work." That report also declared expressly that petitioner was physically unfit for her regular work as a teacher and moreover attributed her illness to the circumstance that she had frequently to wade through flood waters to reach the Sta. Rita Elementary School which was located in a very "low area," and there had to teach in a flooded classroom. As also noted earlier, the record includes the indorsement of the Acting Executive Secretary, Office of the President to the GSIS which stated that petitioner was no longer fit to render efficient service and, therefore, entitled to optional or early retirement. It is worthwhile noting that in *Legason v. Workmen's Compensation Commission*,[5] the Court held that the retirement of a public school teacher at age sixty-three (63) after rendering forty (40) years of government service, could not have been approved had she not complied with the conditions required for optional retirement that the employee-applicant be below sixty-five (65) years of age and physically incapacitated to render efficient service. It has also been held by the Court more than once that optional retirement of a claimant for disability benefits is an indication of physical incapacity to render efficient service.[6] Petitioner must, therefore, be regarded as having sufficiently shown that she had in fact been disabled by her illness.

We note, finally, that respondent WCC's failure to controvert, through the Solicitor General, petitioner's claim to disability compensation benefits within the statutory period is a waiver of the right to challenge the claim and a renunciation of all non-jurisdictional defenses. Such inaction on the part of the employer is ultimately an admission of the compensability of the claim. In the case at bar, the BPS, through the Office of the Solicitor General, received the notice of injury or sickness and of the claim for compensation, together with the "Physician's Report of Sickness or Accident," on 21 April 1975. The BPS did not present any evidence showing that petitioner's illness had not arisen out of and had not been aggravated by the conditions of her employment. Petitioner's claim must, therefore, be held to be compensable.

WHEREFORE, the Decision of the Workmen's Compensation Commission in RO3-WCC Case No. 12190 is hereby REVERSED and petitioner awarded the disability compensation benefits available under the Workmen's Compensation Act. Costs against respondents.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Rollo, Annex "E" of Petition, p. 17-A.

[2] *Id.*, Annex "I" of Petition, p. 23.

[3] *Pillsburg Mindanao Flour Milling Co., Inc. v. Murillo*, 81 SCRA 306 (1978); *Lorenzo v. Workmen's Compensation*, 81 SCRA 434 (1978); *Trinidad v. Workmen's Compensation Commission*, 81 SCRA 668 (1978); *Vda. de Torres v. Warner Barnes & Co., Inc.*, 81 SCRA 682 (1978); *Martillo v. Republic*, 83 SCRA 519 (1978); *Delana v. Workmen's Compensation Commission*, 83 SCRA 528 (1978); *Eliseo v. Workmen's Compensation Commission*, 84 SCRA 188 (1978); *Abordo v. Workmen's Compensation Commission*, 84 SCRA 385 (1978); *Lamco v. Workmen's Compensation Commission*, 84 SCRA 401 (1978); and *Parisan v. Workmen's Compensation Commission*, 84 SCRA 713 (1978).

[4] *Gonzales v. Workmen's Compensation Commission*, 81 SCRA 703 (1978), see. p. 707.

[5]75 SCRA 213 (1977).

[6] Pillsburg v. Mindanao Flour Milling Co., Inc. v. Murillo, *supra*; Valencia v. Republic, 83 SCRA 713 (1978); Balanga v. Workmen's Compensation Commission, 83 SCRA 721 (1978); and Ulibas v. Republic, 83 SCRA 819 (1978).

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