

**CAYETANO FRANCISCO, PETITIONER, VS. THE WORKMEN'S
COMPENSATION COMMISSION AND/OR THE HONORABLE
SECRETARY OF LABOR AND REPUBLIC OF THE PHILIPPINES
(NATIONAL IRRIGATION ADMINISTRA...**

G.R. No. L-43811. May 31, 1978

Ponente: GUERRERO, J.

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GUERRERO, J.:

In the present petition for review, We modify the decision of the Workmen's Compensation Commission declaring petitioner Cayetano Francisco as entitled only to receive permanent partial disability benefits under Section 18 of the Workmen's Compensation Act. We declare and rule that petitioner is entitled to receive permanent total disability compensation under Sec. 15 of the Act.

Cayetano Francisco was employed as a ditch tender by the National Irrigation Administration with a monthly salary of P270.00. His duties consisted of cleaning ditches, removing weeds, bamboo branches and other matters that clog rivers and canals, all the while using his bare hands and travelling the distance on foot. Complaining of frequent backaches, chest pains and physical weakness, he was examined on August 1, 1974 by one, Dr. Norma G. Alarilla, and was found to have pulmonary tuberculosis. Consequently, on Nov. 16, 1974, petitioner gave an oral notice of sickness to the National Irrigation Administration after which he stopped working on December 1, 1974 with a total of 26 years of loyal service to his credit.

Petitioner then filed his claim for compensation benefits with the Workmen's Compensation Section, Department of Labor, Regional Office No. 4, Manila. However, the claim was dismissed by the hearing officer in his order of February 18, 1976. A motion for reconsideration was likewise dismissed resulting in the elevation of the case to the respondent Commission for review.

On review, the respondent Commission reversed the order of dismissal and granted petitioner the amount of P794.98 as permanent partial disability benefits under Section 18 of the Act, and the amount of P79.50 as attorney's fees.

Not satisfied with the award, petitioner comes to Us praying that he is entitled to the total amount of P6,000.00 as his disability compensation under Section 15 of the Act, considering that due to his sickness he is now totally and permanently disabled for any other kind of work.

We find the petition impressed with merit.

Claimant's evidence consisting of the Physician's Report of Sickness^[1] established not only the causal relation between his work and his complained sickness, but also that his disability is permanent and total. According to said Physician's Report, it is noted that under Item 8 thereof, "the cause of illness can be traced to the nature of his employment, i.e. constant exposure to dust and overwork;" Item 14. "the sickness has caused total disability for labor for an indefinite period of time;" Item 15. "after the period of such disability, he cannot resume his former

occupation;" Item 16. "he cannot do any other kind of work;" and Item 20. "his illness resulted in permanent total disability for labor." The physician's finding of pulmonary tuberculosis is confirmed by an x-ray report issued and signed Dr. Benedicto M. Joson, Roentgenologist, showing that petitioner has "PTB, Minimal Chronic, Right." [2]

On the other hand, no evidence was submitted by the respondent employer in support of its controversion of the claim.

The Republic of the Philippines, through the Office of the Solicitor General, by way of comment, contends that its failure to controvert was the logical result of claimant's failure to transmit the Notice of Claim to their office. It also contends that the Republic cannot be made to answer for the disability claim having been denied its day in court from the beginning, i.e. the notice of sickness and claim for compensation Benefits had never been forwarded to the Office of the Solicitor General; neither was it represented at the initial proceedings before the Hearing Officer; that it had notice of the claim only upon receipt of the order of the Hearing Officer dismissing the claim and of claimant's Motion for Reconsideration of the said order. In other words, the Solicitor General maintains that neither the Hearing Officer nor the Commission had acquired jurisdiction over the Republic and being without jurisdiction, the Hearing Officer and the Commission is without authority to render judgment against the Republic.

The case of *Republic v. Hernando*, 99 Phil. 687 (1956) and GAO Circular No. 69 dated Oct. 6, 1959 are cited by the respondents to support their contention. These authorities, however, have been overruled by *Dinero vs. WCC and Republic*, 70 SCRA 292 (1976) and Memorandum Circular No. 210 dated Oct. 28, 1968 of the Office of the President. Under said Memorandum Circular, "x x x the duty to file the notice of controversion of claims for compensation of government employees devolves upon the heads of Departments, Bureaus or Offices concerned." In *Dinero vs. WCC and Republic*, supra, this Court categorically declared that the provision for transmittal of claims against the government found in GAO Circular No. 69 "cannot be the instrument of injustice against the claimant-employee nor override the statutory sanction for non-controversion in accordance with enshrined doctrinal jurisprudence."

Therefore, it appearing from the facts cited above that petitioner has duly notified the Republic of his claim, through the National Irrigation Administration as contemplated under the revised procedure of transmittal, We cannot fault him with the NIA's failure to notify the Solicitor General of its decision to controvert the claim and thus represent the Government.

As it is uncontroverted that petitioner suffered from a permanent total disability, which is also amply established by petitioner's evidence, he is entitled to the maximum benefit of P6,000.00 under Section 15 of the Workmen's Compensation Act.

WHEREFORE, the decision of the respondent Commission declaring petitioner's illness as compensable is affirmed, but the award of benefits is modified so as to allow compensation under Section 15 of the Act. Judgment is hereby entered ordering the respondent employer -

- (1) To pay the claimant Cayetano Francisco the sum of Six Thousand (P6,000.00) Pesos as compensation;
- (2) To reimburse claimant his medical, surgical and/or hospital expenses duly evidenced by proper receipts;
- (3) To pay claimant's counsel the sum of Six Hundred (P600.00) Pesos as attorney's fees; and
- (4) To pay the respondent Commission the sum of Sixty-One (P61.00) Pesos as administrative fees.

No costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Santos, and Fernandez, JJ., concur.

[1] Annex C, Rollo, p. 9.

[2] Annex B, Rollo, p. 8.

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