

PANGASINAN TRANSPORTATION COMPANY, INC., PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND ARTURO DACOYCOY, RESPONDENTS.

G.R. No. L-25974. April 04, 1975

Ponente: MAKALINTAL, C.J.

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MAKALINTAL, C.J.:

This is a petition for review of the decision of the Workmen's Compensation Commission dated December 23, 1965, and the resolution dated April 4, 1966, denying the motion for reconsideration.

The claimant, Arturo Dacoycoy, was hired by the Pangasinan Transportation Company in 1947 as a painter. In that job he had to clean the company buses by removing the dirt, dust and rust before painting them. In 1954 he was assigned as a gasoline man. His duties were to drive a cargo truck and deliver gasoline and oil contained in drums to the bus stations of the company in Pangasinan and in Tarlac. He would unload the drums, which had a capacity of 200 liters each, and then roll them a distance of about fifteen meters.

On January 3, 1954 the claimant had a chest x-ray examination at the Pangasinan Provincial Hospital and the findings were as follows:

"Rt. lung: Minimal T.B. fibro-exudative type, 1[st] and 4[th] intercostal spaces. Increased fibrosis of the hilar region.

"Lt. lung: Fibrosis upper lobe with calcifications in the hilum."

Another x-ray examination taken on December 9, 1954 showed "fibroid infiltrates both upper lobes" of claimants lungs.

On January 3, 1955 the claimant was confined in the Pangasinan Provincial Hospital for pulmonary tuberculosis. His x-ray examination revealed that his illness had progressed to "moderate T.B. bilateral chronic fibro-exudative type, with cavitation in the right." On January 14, 1955 he was released from the hospital. When he reported for work at the company he was given a light assignment as guard at the water pump, but after a year he was returned to his former job as gasoline man.

From 1956 to 1958 the claimant was hospitalized for 3 or 4 days each year for undisclosed illness, but went back to work after each confinement. In 1960 he met an accident in the course of employment when he was pinned between a truck and a forklift. As a result he spat blood and was confined at the company hospital. Thereafter he resumed working until December 7, 1962, when he was again confined at the same hospital for pulmonary tuberculosis. He was released on February 11, 1963, but the company refused to readmit him because according to its management officials he was afflicted with tuberculosis although there was a certification from the hospital

that he had recovered and was "physically fit for work."

On March 12, 1963 the claimant filed his claim for compensation with the Workmen's Compensation Unit in Dagupan City, which in turn referred it to the company. On March 28, 1963 the latter submitted the required Employer's Report of Accident or Sickness, indicating therein its intention to controvert the claim. In due time the case was heard.

After the claimant presented his evidence the respondent moved to dismiss on the ground that the claim was filed beyond the period prescribed in Section 24 of the Workmen's Compensation Act. Sustaining the respondent, the Acting Referee dismissed the claim by order of July 30, 1964. The claimant moved to reconsider. In his order dated September 15, 1964, the Acting Referee maintained the dismissal of the claim but on a different ground not raised in the respondent's motion to dismiss: that the claimant's evidence was not sufficient to establish the compensability of the claim.

On October 17, 1964 the claimant filed a petition for review of the order of September 15, 1964. Finding no justification for reversing or modifying his previous order, the Acting Referee elevated the case to the Workmen's Compensation Commission. On September 9, 1965 the claimant, assisted by counsel, filed with the Workmen's Compensation Unit in Dagupan City a notice withdrawing his claim against the respondent. The notice was forwarded to the Workmen's Compensation Commission and attached to the record of the case.

Notwithstanding the notice of withdrawal of claim the Commission proceeded with the case and on December 23, 1965 rendered its decision, the dispositive portion of which reads as follows:

"WHEREFORE, judgment is hereby rendered setting aside the Orders dated July 30, 1964 and September 15, 1964, respectively, of Acting Referee, and ordering the respondents:

"1. To pay the claimant in one lump sum through this Commission the sum of THREE THOUSAND TWO HUNDRED FIFTY FOUR and 16/100 PESOS (P3,254.16) as compensation; and commencing August 21, 1965, to pay the claimant a weekly compensation of P21.84 until his illness is declared by competent authority to have been cured or arrested, but not to exceed the period of 208 weeks nor the amount of P4,000.00 in the aggregate;

"2. To provide the claimant with the necessary medical, surgical and hospital services and supplies as the nature of the sickness may require, pursuant to Sec. 13 of the Act;

"3. To pay claimant's counsel the sum of THREE HUNDRED TWENTY FIVE and 42/100 PESOS (P325.42) as attorney's fees; and

"4. To pay the Workmen's Compensation Fund the sum of THIRTY EIGHT PESOS (P33.00 as decision fee and P5.00 as cost of this review) pursuant to Sec. 55 of the Act."

On February 8, 1966 the respondent filed a motion for reconsideration and/or rehearing but was turned down for lack of merit. As regards the prayer for rehearing the Commission en banc found that "apart from the question of its legal propriety, the same has become academic as the claimant himself has already repudiated his Withdrawal of Claim."

Thereupon the respondent instituted the instant petition, alleging that the Workmen's Compensation Commission erred: (1) in not remanding the case to the Acting Referee for the purpose of ascertaining what was the consideration for the withdrawal of claim, and in concluding without any basis at all that claimant did not know his right at the time he filed said withdrawal of claim; (2) in not holding that the claim was filed beyond the reglementary period provided for by law; and (3) in holding the claim as compensable, contrary to the evidence on record.

The private respondent moved to dismiss the petition on the ground that the petitioner had complied partially with the decision of the Workmen's Compensation Commission by making an advance payment to him in the sum of P1,300.00. Denying the allegation of the private respondent, the petitioner further averred that "if ever there was really any payment to him, the same has no connection whatsoever to the above entitled case or to the claim for compensation filed in the Regional Office of the Department of Labor in Dagupan City." By resolution of June 8, 1966, the petition was given due course.

In connection with the first assigned error it is to be noted that the private respondent did not give any reason for withdrawing his claim. He merely stated in his motion that he was "withdrawing his claim for compensation against the respondent Pangasinan Transportation Company after having a talk with the President and General Manager Don Rafael Gonzales x x x in the presence of union officials x x x." Evidently there was an amicable settlement reached by the parties. However, under Section 29 of Act 3428[*] two requisites must be fulfilled for any agreement concerning compensation to be valid, namely: (1) the amount agreed upon must be at least equal to that provided by the Act and (2) the agreement must be approved by the Workmen's Compensation Commissioner or his authorized representative. Even granting that the first requisite regarding the amount to be paid was complied with, still the agreement reached by the parties that led to the withdrawal of the claim is not valid since it was not "approved by the Workmen's Compensation Commissioner, or any of his authorized representatives." Consequently, there is no necessity for remanding the case to the Acting Referee to determine what was the consideration for the withdrawal of the claim.

Moreover, as found by the respondent Commission the claimant himself had already repudiated his withdrawal of claim.

The second assigned error is likewise without merit. It is now settled in this jurisdiction that failure on the part of an employee to comply with the requirement of Section 24 concerning the giving of notice and the filing of the claim within the prescribed period is non-jurisdictional in nature and does not constitute a bar to the proceeding if it is shown that the employer, his agent or representative, had knowledge of the injury, sickness or death, or that the employer did not suffer by such delay or failure.[1] Here, the private respondent availed of the facilities of the company hospital when he was hospitalized on December 7, 1962 for pulmonary tuberculosis. Under the circumstance, the employer or his agent had knowledge of the sickness of the employee.

With respect to the compensability of the claim the respondent Commission made the following findings:

"x x x. With regard to the second point, it should be noted that the respondent since 1954 knew of the illness of the claimant but it allowed him to continue working until its aggravation forced the respondent to give him a light job. One year thereafter, it returned him to his old job despite the risk of further aggravating his illness. Aggravate further it inevitably did, to the extent of requiring his hospitalization and causing his subsequent dismissal from the service.

"x x x x x x x x x x

"We need not rely on the respondent's forfeiture of its right nor indulge in the statutory presumption of compensability to make an award in this case, for the facts clearly show that claimant's employment as driver and gasoline man contributed to the aggravation of his illness."

The foregoing findings are supported by substantial evidence and therefore binding on this Court. As to the certification issued by the hospital to the effect that the private respondent had recovered and was "physically fit for work", suffice it to state that even the management did not give credence to it, as shown by the fact that said private respondent was dismissed from the service by reason of his illness.

WHEREFORE, the decision appealed from is affirmed, with costs against the petitioner.

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

Castro, J., took no part.

[*] SEC. 29. Agreement on compensation. — In case the employer and the injured laborer or the dependents entitled to compensation arrive at any agreement concerning the compensation provided for by this Act, such agreement in order to be valid, shall provide, at least, the same amount of compensation as that prescribed by this Act and must be approved by the Workmen's Compensation Commissioner, or any of his authorized representatives: Provided, however, That the employer shall be exempt from all liability under this Act as soon as the compensation has been paid in accordance with this section, saving the provisions of section six of this Act.

[1] Central Azucarera Don Pedro vs. WCC, No. L-27870, October 23, 1974, 60 SCRA 263.

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