

EDUARDO HERNANDEZ, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND CENTRAL TEXTILE MILLS, INC., RESPONDENTS.

G.R. No. L-42737. December 29, 1978

Ponente: GUERRERO, J.

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GUERRERO, J.:

Petition for review^[1] of the decision of the respondent Workmen's Compensation Commission dated January 16, 1976 reversing the order of the Hearing Officer issued September 22, 1975 awarding petitioner the amount of One Thousand Six Hundred and Sixty-Six Pesos and Eight Centavos (P1,666.08) as compensation benefits and affirmed by the Regional Office in its own decision of January 13, 1976.

Petitioner is employed in the respondent company as a machine operator in its weaving department since June 3, 1970. He filed on March 24, 1975 the Notice of Injury or Sickness and Claim For Compensation for partial disability benefits for the period from October 23, 1974 up to six months thereafter by reason of illness diagnosed as PTB, minimal. At the hearing set by Expedito J. Castillo, Hearing Officer, Compensation Task Force, Regional Office No. 4, the following findings of facts was established:

"That the claimant was employed as a Weaving Machine Operator in its Weaving Department since June 3, 1970, with a daily salary of P8.90, working six (6) days a week; that sometime in August, 1974, he suffered from accurate fever with cough and back pain for a period of one month and had to continue working due to company's strict rules and regulations on absences; that on September 12, 1974, he was forced to consult the company doctor due to high fever and was given from two to three days rest; that claimant's chest and back pains, high fever and cough persisted and he was recommended by the company physician to the St. Mary Hospital for x-ray examination and was found to have PTB inactive; that not being satisfied with the medical findings, he was constrained to consult Dr. Aida Villanueva of the Sta. Maria General Hospital who, after x-ray examination, diagnosed claimant's ailment as Pulmonary Tuberculosis, Minimal and recommended him for sixty (60) days rest; he was again advised to undergo another 60 days rest and had to extend his sick leave of absence for another 60 days which totalled to six months; that during his period of sick leave of absence, he was paid the corresponding sick leaves benefits by the Social Security System thru its Public Affairs Office; that per Physician's Report of his attending physician, Dr. Aida Villanueva claimant's ailment of PTB was either caused or aggravated by the nature of his employment."

The respondent employer controverted the claim on the grounds that the alleged illness of the claimant was not service-connected nor was it caused and/or aggravated by the nature of his employment. Respondent employer presented in evidence the affidavit of Miss Selfa D. Aranas, Chief of the Industrial Relations and Personnel Services of the company, attesting that the claimant "is employed by the company as a machine operator and that as a machine operator, he is purely performing light and simple work since the machines in the company are all electrically operated, hence his mere duty as a machine operator is merely pressing the buttons of the machines;

that Mr. Hernandez is working in a sanitary and well-ventilated place and that he is enjoying ample breaktime schedules during his working hours with the company."

It is further claimed by the respondent employer that it was never notified of claimant's alleged sickness; that he is fit to resume work as per recommendation of Dr. Salvador Samson, Radiologist, dated November 30, 1973; and that even up to September 11, 1975 the diagnostic x-ray in the clinic specifically show that claimant has PTB, min. fibrotic, inactive and that he is fit for work. The diagnostic x-ray is duly signed by Dr Peter S. De Guzman. Claimant's alleged sickness of high fever in August, 1974 was denied by the company because the main reason of his absence for the whole month of August, 1974 was the unavailability of transportation in their place due to flood.

The Hearing Officer, finding and holding that the claim is meritorious and compensable, extended to the claimant compensation benefits as follows:

- Under Section 13 of the Act - Reimbursement of medical, hospital and surgical services and supplies, in this case, claimant failed to present any medical receipt, hence, medical expenses are hereby deem waived;
- Under Section 14 of the same Act - compensation equivalent to sixty percentum of his average weekly wage which is P53.40 equals P32.04 and for 52 weeks (six months) claimant is entitled to the amount of P1,666.08.

Decision was thereby entered in favor of the claimant and the respondent employer was ordered:

- a. To pay the claimant, thru this Office, the amount of ONE THOUSAND SIX HUNDRED SIXTY SIX PESOS & 08/100 (P1,666.08) as disability compensation benefits; and
- b. To pay to this Office, the sum of SEVENTEEN PESOS (P17.00) as administrative cost pursuant to Section 55 of the Act, as amended.

The respondent employer, not satisfied with the decision of the Hearing Officer, filed an appeal on the sole ground that the Hearing Referee erred in concluding that the instant claim falls squarely within the compensatory provision of the Act. The Regional Office, finding respondent's appeal to be without merit denied the same in an order dated January 13, 1976 and elevated the entire records of the case to the respondent Commission for review.

In its Decision of January 16, 1976, the respondent Commission, disagreeing with the findings and conclusion of the Referee below, reversed the latter's decision and ordered the dismissal of the claim for lack of merit, based upon the showing that according to the records the claimant was subjected to a comparative chest x-ray examination on October 10, 1974 and the result showed:

"Right Hemithorax - fibro-calcific lesions at apex, stationary since 1973.
Left Hemithorax - negative
Remarks - PTB, Minimal, fibro-calcific, Inactive. Fit to resume work."

Another chest x-ray examination was conducted by the National Tuberculosis Center Clinic on claimant on August 6, 1975 with the findings that both his right and left lungs are essentially negative. The Commission concludes that since the diagnosis of claimant's attending physician is not supported by a chest x-ray examination to confirm his findings; that claimant's assertion is rebutted by the chest x-ray report on October 10, 1974 which disclosed that his PTB is already arrested and further confirmed by the x-ray report on August 6, 1975 which

shows that both his lungs are essentially negative and there is no showing in the records tending to show that claimant was indeed suffering from a disabling illness on October 23, 1974 (when he stopped working), the claim must accordingly be denied.

We reject the reasoning of the respondent Commission for lack of merit and factual basis.

It is true that the chest x-ray examination on the claimant on October 10, 1974 showed that the right hemithorax had fibro-calcific lesions at apex, stationary since 1973 and that the left hemithorax was negative. The remarks at the bottom indicated PTB, minimal, fibro-calcific. Inactive. Fit to resume work. Petitioner's condition, however, failed to improve so he consulted Dr. Aida Villanueva of Sta. Maria General Hospital who diagnosed his illness as PTB, supported by a Radiological Report of the chest x-ray examination of the claimant confirming the doctor's clinical diagnosis showing the following chest findings: "Minimal fibroid densities at the right infra-clavicular area. Sinuses and diaphragm appear normal. Heart is within normal limits." (Annex "H", p. 37, Records). This x-ray report is dated December 24, 1974.

The Physician's Report Of Sickness Or Accident signed by Dr. Aida C. Villanueva (Annex "A", p. 22, Records) also clearly show that in answer to the queries therein contained, the attending physician affirmed that claimant's illness was due to and in pursuance of the nature of his employment (Item 9); that claimant's illness was contracted by the nature of claimant's employment (Item 10); that claimant's illness was also aggravated by his employment (Item 10-c); that the physician first administered treatment to the claimant on October 23, 1974 and that the last treatment was on March 8, 1975 (Items 12 and 13); and that the illness of the claimant temporarily and partially disabled him for labor for six months (Item 14).

Aside from the chest x-ray report marked Annex "H" hereinbefore mentioned, there is also the chest x-ray result dated February 1, 1975 of the claimant with the following findings: "CHEST: (PA-Tala) Minimal fibroid densities at the right infra-clavicular area. Cardiac shadow is within normal limits." (Annex "H-1", p 38, Records).

On the basis of the Physician's Report and the two x-ray results referred to above, there was established and substantiated the causal link between claimant's employment and his disability for the period from October 23, 1974 to six months thereafter or April, 1975. It remained for the respondent company to controvert the claim by substantial evidence which in this case it had failed to do. The sole affidavit of Selfa Aranas, Chief of the Industrial and Personnel Services of respondent company, stating that petitioner's work is slight because it consisted merely of pressing the buttons of the machines in the company which are all electrically operated and that claimant was working in a sanitary and well-ventilated place, enjoying ample breaktime schedule during his working hours with the company, uncorroborated by any other evidence is insufficient to rebut the statements made in the Physician's Report that petitioner's PTB arose out of the nature of his employment.

Claimant has not only established the compensability of his illness by clear and convincing evidence but also the presumption of compensability lies in his favor, it having been established that his illness of Pulmonary Tuberculosis, although minimal, fibro-calcific and inactive as found in his chest x-ray examination of October 30, 1974 supervened in the course of his employment as confirmed by the clinical diagnosis of Dr. Villanueva on October 23, 1974 and supported by the x-ray findings dated December 24, 1974. The burden of proof now shifts to the respondent employer who must then disconnect by substantial evidence the injury or sickness from the employment. These are basic tenets of compensation cases applied in a long line of decisions decided by this Court but here again ignored by the respondent Commission.

Instead, the Commission deviated from repeated doctrinal pronouncements of this Tribunal and denied compensation on the ground that the physician's diagnosis was not supported by any x-ray report. We have held in numerous precedents that the attending physician's report of sickness or injury may be received in evidence of the

fact in dispute, and that x-ray reports are not indispensable to compensation. (Vallo v. WCC, 73 SCRA 623; Jacob v. WCC, 72 SCRA 575; Ybanez v. WCC, supra; Romero v. WCC, 77 SCRA 482; National Development Co. v. Raymundo & WCC, 19 SCRA 861). Indeed, the physician's report is sufficient to support the claim for disability compensation. (Landayan v. WCC, 77 SCRA 305; Caling v. WCC, 77 SCRA 309; Evangelista v. WCC, 77 SCRA 497). Be that as it may, the undisputed fact is that the physician's diagnosis is supported by the two x-ray reports dated December 24, 1974 and February 1, 1975, the findings of which are stated heretofore in this decision

Neither is the respondent Commission correct in relying on the two x-ray reports dated October 10, 1974 and August 6, 1976 purportedly showing that the petitioner's left and right lungs are essentially negative. The x-ray report of October 10, 1974 does not negate the physician's diagnosis of PTB minimal. On the contrary, it confirms the presence of tuberculosis in petitioner. The result of that particular x-ray states the presence of fibro-calcific lesions at the right hemithorax, found to be stationary since 1973. Remarks states - "PTB, Minimal, fibro-calcific. Inactive. x x x"

We note that petitioner was advised "(F)it to resume work" and that on this basis respondent Commission declared that petitioner was not disabled for work. But it ignored the fact that petitioner did in truth go back to work until October 23, 1974 when he was examined and treated by Dr. Aida Villanueva who advised him to rest. Petitioner does not make any pretense as to when he became disabled for work for he clearly claims benefits only for a six-month period starting October 23, 1974. Thus, the same is true for the x-ray report dated August 6, 1976. Not only is the x-ray report not introduced in evidence but also that the date is not within the period of disability claimed by petitioner, and therefore of no consequence. In fact, petitioner points out that as early as April, 1975, petitioner resumed working for respondent company. (Memorandum for petitioner, p. 8).

IN VIEW OF THE FOREGOING, the decision of respondent Commission is hereby reversed and the decision of the Hearing Officer dated September 22, 1975 is reinstated, and respondent company is hereby ordered:

- To pay the claimant the sum of One Thousand Six Hundred Sixty-Six Pesos and Eight Centavos (P1,666.08) as disability benefits;
- To pay claimant's counsel the amount of One Hundred Sixty-Six Pesos and Sixty-One Centavos (P166.61) as attorney's fees; and
- To pay the successor of the Workmen's Compensation Commission the amount of Seventeen Pesos (P17.00) as administrative fee.

SO ORDERED.

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

[1] Treated as a Special Civil Action per Resolution of the Court dated May 18, 1978.

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