

DOMINGO LOPEZ, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND REPUBLIC OF THE PHILIPPINES, (BUREAU OF PUBLIC SCHOOLS), RESPONDENTS.

G.R. No. L-43036. September 30, 1978

Ponente: GUERRERO, J.

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GUERRERO, J.:

On March 17, 1975, petitioner, a shop teacher at the Balayan Elementary School, located at Balayan, Batangas, filed a claim[1] for compensation against respondent Republic of the Philippines (Bureau of Public Schools) with Regional Office No. 5, San Pablo City claiming sickness benefits under the Workmen's Compensation Law. He alleged therein that he was 64 years of age; that he was forced to stop working on December 21, 1973 and that he was unable to return to work due to rheumatism, hypertension and pulmonary tuberculosis contracted as a result of the nature of his work and/or aggravated by it.

Upon the filing of the said notice and claim for compensation, Atty. Amado Enriquez, Acting Chief of Unit, forwarded a copy of the said notice and claim for compensation to the Director of Public Schools through the Office of the Solicitor General. He attached therewith copies of the Employer's Report of Accident or Sickness[2] accomplished by Mr. Pacifico Dimailig, Principal, Balayan Elementary School which stated categorically that the employee's right to compensation is not controverted, and the Physician's Report of the Accident or Sickness[3] accomplished by Dr. Ireno Sison of Balayan, Batangas, who diagnosed the illness of claimant as hypertension, chronic rheumatism and pharyngitis.

On September 25, 1975, petitioner, through his counsel, was advised to submit evidence by way of affidavit furnishing the Office of the Solicitor General with a copy thereof. In compliance therewith, counsel for petitioner filed the affidavit on October 2, 1975 and subsequently, the case was set for conference on October 3, 1975. There being no showing that the City Fiscal of San Pablo City had been authorized by the Solicitor General to represent respondent in this case, the conference was reset on October 17, 1975 at 9:00 a.m. and respondent was advised to submit its counter-affidavit within five (5) days from receipt of the order.

Although the records showed that the Office of the Solicitor General received the said order, there was no appearance for respondent. The case was reset for the second time on October 27, 1975. But still there was no representation for respondent on the said date. In the interest of justice, the hearing was reset anew on November 17, 1975 in an order dated November 7, 1975 with the admonition that "if at this scheduled hearing counsel for respondent again fail to appear then the case will be submitted for resolution." [4]

On November 24, 1975, an Award[5] was issued by Acting Chief of Unit, Atty. Amado Enriquez, the dispositive portion of which states:

"AWARD, therefore, is entered in favor of the claimant of the aforesaid compensation benefits and the

respondent is directed:

1. To pay to the claimant, thru this Unit, the sum of Eighty-eight Pesos and Ninety Centavos (P88.90) representing reimbursement of medical expenses incurred; (Section 13)
2. To pay the claimant, thru this Unit, the sum of One Thousand Two Hundred Sixty-Three Pesos and Twenty-Two Centavos (P1,263.22) as compensation in lump sum as it is now due and demandable; (Section 14)
3. To pay attorney's fees to Atty. Cresenciano I. Espino the sum of Sixty Three Pesos and Sixteen Centavos (P63.16) representing 5% of the total compensation due;
4. To pay this Office, the sum of P13.00 as fee (Section 55).

SO ORDERED."[6]

On December 8, 1975, the special counsel representing the Office of the Solicitor General moved for a reconsideration of the aforesaid award on the ground that the award rendered is contrary to law and evidence as the diseases allegedly suffered by claimant are not compensable under the Workmen's Compensation Act and that no evidence was presented by claimant to show causal relation between the diseases suffered and the nature of the work. The motion for reconsideration having been denied, the case was elevated to respondent Workmen's Compensation Commission in an order dated December 10, 1975. Upon review of the award, respondent Workmen's Compensation Commission en banc reversed the same Award on December 31, 1975, ruling that the illnesses complained of, namely: hypertension, rheumatism, and pharyngitis are "not compensable"[7] and/or are "not caused or aggravated by employment"[8] and that "there is no showing that the claimant has been rendered disabled for work by any or all of these manifestations and illnesses anytime during the period of his employment with the respondent."[9]

Contending that respondent Commission committed grave abuse of discretion in reversing the Award, petitioner filed this instant petition for review on certiorari and presented for resolution the following issues:

"I. Whether or not the Workmen's Compensation Commission En Banc has gravely abused its discretion by reversing the award given by Acting Chief of Unit, Hon. Amado A. Enriquez which was based on records and evidence presented by the petitioner.

"II. Whether or not the Workmen's Compensation Commission en banc can rightfully reversed (sic) an award to claimant on the basis of findings of facts not supported by substantial evidence."[10]

Easily inferable from the facts as aforesaid is the conclusion that this is a case of an uncontroverted claim for compensation under the Workmen's Compensation Act as the Employer's Report of Accident or Sickness categorically answered in the negative the question as to whether the employee's right to compensation is

controverted or not. Moreover, despite several notices to respondent requesting attendance at a conference and submission of a counter-affidavit to petitioner's affidavit, respondent did not heed any of them. Only after an award was issued based on the evidence presented by petitioner and the findings of a Compensation Rating Medical Officer did respondent finally awaken from its slumber sleep and file a motion for reconsideration of the said award alleging that the latter was contrary to law and evidence.

Yet, despite this fact of non-controversion, upon denial of the motion for reconsideration, the case was elevated to respondent Workmen's Compensation Commission. Evidently, the elevation thereof is contrary to Section 1, Rule 11 of the Rules of the Workmen's Compensation Commission, which provides that the award issued where liability is admitted is final and unappealable. This provision notwithstanding, respondent Workmen's Compensation Commission took cognizance of the case and thereupon, reversed the award. Hence, the issues raised by petitioner deserve careful consideration.

Petitioner contends that he has duly established: (1) that his right to compensation has been admitted as shown by the Employer's Report of Accident or Sickness and (2) that he got sick of hypertension, rheumatism and pharyngitis due to the nature of his work and/or aggravated by the same as evidenced by the Physician's Report of Accident or Sickness. Therefore, he concludes, that respondent Workmen's Compensation Commission gravely abused its discretion when it reversed the award.

Respondent urges this Court to place no significance on the Employer's Report of Accident or Sickness as the same was allegedly not accomplished in the manner prescribed in Memorandum Circular No. 210 of the Office of the President of the Philippines. He contends that it does not appear that the principal teacher who accomplished the same based his action on the recommendation of an evaluation committee set up by said Memorandum Circular to study all reports of injuries and sicknesses.

Assuming that the employer's report did not comply with said Memorandum Circular, this case is still an uncontroverted claim for compensation as it appears that no proper controversion has been filed in the manner prescribed and within the reglementary period required by Section 46 of the Workmen's Compensation Act and by Section 1, Rule 10 of the Rules of the Workmen's Compensation Commission. For instead of filing a petition under oath to reinstate the right to controvert in accordance with Section 3, Rule 10 of the Rules of the Workmen's Compensation Commission, wherein the reasons for failure to controvert the right to compensation and the grounds relied upon to defeat the claim should be specified, the Solicitor General in behalf of respondent Commission merely filed a motion for reconsideration of the award questioning the compensability of the claim.

Under the provisions of the Workmen's Compensation Act and the Rules of the Workmen's Compensation Commission, such could no longer be done as the employer is already precluded from contesting the compensability of the claim. This Court on various occasions has consistently adhered to the rule that failure to controvert is a waiver of all non-jurisdictional defenses. In one of such cases, *Victorias Milling Co., Inc. vs. Workmen's Compensation Commission*, L-10533, May 13, 1957, this Court held:

"Failure to file a seasonable notice of controversion constitutes a waiver, by operation of law, of the right to controvert the claim on non-jurisdictional grounds, and such legal effect does not violate the requirements of due process. Under the circumstances, the remedy of the employer is to seek reinstatement of his right to controvert by submitting reasonable grounds or proving excusable negligence before the Commissioner."

More emphatically, the said doctrine was explained in the case of *La Mallorca vs. Zuñiga and Workmen's Compensation Commission*, L-29315, November 28, 1969, this wise:

"The failure to controvert the right of the claimant within the ten-day period prescribed in Section 45 of the Act renders the compensability of the claim, its reasonableness and validity, beyond challenge. The absence of controversion is fatal to any defense that an employer could interpose. Any assertion to the contrary is doomed to futility."

The rationale of the doctrine was succinctly stated in the case of *Agustin vs. Workmen's Compensation Commission, et al.*, L-19957, September 29, 1964, as follows:

"The forfeiture of the right to controvert is imposed by the statute as a sanction for the employer to file the notice required by Section 45, and is therefore a measure of public policy designed to compel observance of the Act's requirements. The protection of the claimant-laborer is here incidental. Hence, forfeiture can only be removed in the manner specifically prescribed by the law itself."

In the light of the above rulings, respondent, after failing to controvert petitioner's claim and to reinstate said right to controvert, cannot now allege that the Physician's Report of Accident or Illness does not at all prove petitioner's sickness and/or disability during the 26-1/7 weeks, beginning December 2, 1973 up to June 2, 1974, for which he was awarded P1,263.22. Although the certification by the attending physician, Dr. Ireno Sison, was that petitioner was treated for hypertension, chronic rheumatism and pharyngitis beginning September, 1972 and only up to December 2, 1973, it is not disputed that petitioner was not able to return to work after incurring said illnesses, for which reason he was forced to retire from government service even before reaching the compulsory age of sixty-five.

The approval of his optional retirement simply means that he has met the conditions necessary for retirement, namely, physical incapacity to render further efficient service. There is, thus, no better proof of petitioner's disability than the approval of his optional retirement as the Government Service Insurance System, is presumed to have looked into the circumstances of the case before such approval. In consonance with the rulings in *Hernandez vs. Workmen's Compensation Commission*, L-20202, May 31, 1965, 14 SCRA 219; *Galang vs. Workmen's Compensation Commission*, L-41893, August 27, 1976, 72 SCRA 454; and *Cirila Legazon vs. Workmen's Compensation Commission and Republic of the Philippines (Bureau of Public Schools)*, L-43089, January 31, 1977, 75 SCRA 216, 217, petitioner herein should, therefore, be entitled to compensation for his disability to work during the remaining period before his scheduled compulsory retirement at age 65.

Petitioner contends that the dismissal of his claim by respondent Workmen's Compensation Commission is based on "findings of facts not supported by substantial evidence." Indeed, We find that respondent Republic of the Philippines (Bureau of Public Schools) not only failed to controvert the claim but also to submit any substantial evidence to rebut the presumption in Section 44 of the Workmen's Compensation Act, which provides under Sec. 44 that "In any proceeding for the 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 provision of this Act, x x x"

Under this provision of law, it is only necessary that the illness or illnesses supervened in the course of employment, a fact not disputed in this case. The establishment of a causal link between the illness or illnesses suffered and the nature of the work is dispensed with as it is presumed that such illness or illnesses arose out of employment or were at least aggravated by such employment. The burden to overthrow this presumption devolves upon the employer who must demonstrate, by substantial evidence, the absence of work-connection.

As respondent in this case disregarded several notices to attend the conference set by the Acting Chief of Unit at the regional level of the Workmen's Compensation Commission and failed to submit a counter-affidavit to rebut

the evidence presented by petitioner in his affidavit, coupled with the statutory presumption that the claim comes within the provisions of the Act, the award of compensation to petitioner is well-justified and meritorious.

IN VIEW OF THE FOREGOING, the judgment appealed from is hereby REVERSED and the award of Regional Office No. 5, Workmen's Compensation Unit at San Pablo City, is hereby REINSTATED with modifications. Respondent Republic (Bureau of Public Schools, now the Bureau of Elementary Education) is hereby ordered:

1. To pay to the petitioner the sum of Eighty-eight Pesos and Ninety Centavos (P88.90) representing reimbursement of medical expenses incurred, and provide him with such services, appliances and supplies as the nature of his disability and the progress of his recovery may require;
2. To pay the petitioner the sum of One Thousand Two Hundred Sixty-Three Pesos and Twenty-Two Centavos (P1,263.22) as compensation benefits under Section 14 of the Workmen's Compensation Act;
3. To pay attorney's fees to Atty. Cresenciano I. Espino the sum of One Hundred Twenty Six Pesos and Thirty Centavos (P126.30) representing 10% of the total compensation due;
4. To pay the sum of Sixty-One Pesos (P61.00) as administrative fee under Section 55 of the Act.

SO ORDERED.

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

- [1] Annex "A", Petition.
- [2] Annex "B", Petition.
- [3] Annex "B-1", Petition.
- [4] Rollo, p. 22
- [5] Annex "E", Petition
- [6] Rollo, p. 24.
- [7] Annex "G", Petition; Rollo, p. 27.
- [8] Ibid., p. 28.
- [9] Ibid.
- [10] Rollo, p. 12.

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