

JAIME T. BUENAFLOR AS GENERAL MANAGER AND TREASURER OF THE A. L. AMMEN TRANS. CO., INC., PETITIONER VS. CESARIO DE LEON, COMMISSIONER OF THE WORKMEN'S COMPENSATION COMMISSION AN...

G.R. No. L-7583. May 25, 1955

Ponente: BENGZON, J.

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BENGZON, J.:

At the outbreak of the Pacific war, and before, Marcial Olaguer was a mechanic of the A. L. Amen Transportation Co.—Alatco for short. After liberation, in November 1945, he was recalled for duty and rendered service in the Alatco's establishment in Ligao, Albay, later in Iriga, Camarines Sur, as a blacksmith-repairing chasis, pounding iron with hammer and chisel, until he became sickly and was, on January 4, 1952 hospitalized for chronic articular rheumatism in the Ago Hospital, Legaspi City. Discharged on January 10, 1952, he immediately reported for work. However it appearing that he was already incapacitated, he was on January 13, 1952 formally relieved from his job and given by the Alatco the equivalent of three months's salary, as compensation, in lieu of retirement pay.

On November 29, 1952 Marcial Olaguer filed with the Workmen's Compensation Commission—Commission for short—a claim for indemnity under the Workmen's Compensation Act. The demand was referred "to the Public Defender of Legaspi City, who, as referee, investigated the matter, receive evidence both oral and documentary, and awarded to the demandant, on the basis of the wages he had been receiving, total of P2,505 payable by, the Alatco in the manner and at the times specified in its decision of October 3, 1953, copy of which was duly served on the Alatco. The latter filed with the Commission on October 31, 1953, a written petition for review. But the respondent, Cesareo de Leon, as Commissioner, rejected the petition in his order of November 4, 1953 saying it had been filed beyond the reglamentary period, "as it was mailed" only on October 31, 1953, or after the lapse of 16 days from his receipt on October 15, 1953" of the referee's decision.

Thereafter, a petition for relief was filed, the Alatco's attorney representing to the Commission that thru mistakes and negligence on the part of its clerk Felicito Leander, (who failed to write down the true date of receipt of the decision) the company's attorney had been led to believe that the fifteen-day period expired October 31, 1953. Affidavits accompanied the petition, which alleged and explained "important issues" to be discussed if the appeal be given due course. The Commission declined to grant relief in its order of February 3, 1954.

Hence this petition for review by certiorari, asserting grave abuse of discretion. Petitioner alleges it intended to raise substantial questions to wit:

"WHETHER THE SICKNESS OP 'IREUMATISMO ARTICULAR CRONICO' IS AN OCCUPATIONAL DISEASE DIRECTLY CAUSED BY OR DUE TO THE NATURE OP THE WORK OF THE CLAIMANT AS MERE LABORER IN THE CHASSIS REPAIR DEPARTMENT OP THE RESPONDENT;

WHETHER CLAIMANT'S CLAIM FOR COMPENSATION CAN PROSPER IN SPITE OF THE FACT

THAT THE SAME WAS FILED MORE THAN TEN MONTHS AFTER THE ALLEGED ILLNESS, * * *."

The respondents contend that this petition is out of time, and they make, in their memorandum, a computation of the number of days elapsing from November 4, 1953 to March 8, 1954, excluding the days when petition for relief was pending. Their contention however, must be overruled, because it misconceives the object of this review. This is not to reverse the order of November 4, 1953, whereby the Commission refused to review the findings of its referee. Rather this is an appeal from the refusal of said Commission to extend relief under Rule 38 of the Rules of Court, which said Commission had adopted for its own guidance.[1]

Appeals from denials of relief under Rule 38 are permitted.[2]

Now, having gone into a cursory examination of the propositions the petitioner wished to sustain, we found them not likely to be good and substantial defenses. The causation of Olaguer's rheumatism which is petitioner's first proposition—depends on issues of fact, which the Commissioner probably thought had not been grossly or negligently considered by the referee. And neither the petition nor the memorandum in support thereof, demonstrated plain error of the referee's opinion (Annex C) that Olaguer's sickness resulting in his permanent incapacity was due to "unusual and extraordinary strain, occasioned by the nature of his employment as blacksmith of the respondent" and that by reason of the nature of his assigned task Olaguer became sickly during the latter period of his service."[3]

In the second proposition which petitioner allegedly desired to raise in its appeal to the Commission, it is asserted that the claim for compensation was belated because filed more than ten months after the illness. Petitioner quotes this portion of section 24 of Act 3428 as amended by Commonwealth Act 3428 as amended by Commonwealth Act 210:

"No compensation proceeding under this act shall prosper unless the employer has been given notice of the injury or sickness as soon as possible after the same was received or contracted, AND unless a claim for compensation was made not later than TWO MONTHS after the date of the injury or sickness, or in case of death, not later than three months after death, regardless of whether or not compensation was claimed by the employee himself." (Caps and Italics supplied)

The respondents, however, invoke quite correctly the other portion of the same section which says:

"Sec. 24 * * * In case medical, surgical, and hospital services and supplies have been furnished voluntarily by the employer, notice of the injury or sickness within the time limit above mentioned shall not be necessary, and if the employer has voluntarily made the compensation payments, the claim for compensation to be made within the time limits above established shall no longer be necessary." (Italics supplied)

And they point out that Olaguer was confined in the Agoo Hospital, Legaspi City, from January 4, 1952 to January 10 of the same year at the expense of the Alarco the latter having, in addition, made compensation payment in the form of three-month's pay. Consequently, in accordance with the underlined portions above transcribed, and contrary to petitioner's contention, it was no longer necessary to make the claim for compensation within two months.

For all the foregoing, we find no good reason to hold that the Workmen's Compensation Commissioner abused his discretion in denying relief.

Petition denied, with costs against petitioner.

Pablo, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion and Reyes, J. B. L., JJ., concur.

[1] Francisco, Labor Laws p. 956.

[2] Medran vs. Court of Appeals, 46 Off. Gaz. 4271; Monteverde vs. Jaranilla, 60 Phil., 297.

[3] It is presumed prima facie that the claim "comes within the provisions of the Act" (Compensation Act) sec. 24, E. A. No. 772.

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