

PEDRO ILINGAN, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND PHILIPPINE NATIONAL RAILWAYS, RESPONDENTS.

G.R. No. L-40174. October 11, 1977

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petition for review on certiorari of the decision dated January 30, 1975 of the Workmen's Compensation Commission in R04-WC Case No. 12552 reversing the decision dated September 4, 1972 of the acting labor referee of Regional Office No. IV of the Department of Labor, awarding compensation benefit to the petitioner Pedro Ilingan.

Petitioner Pedro Ilingan was employed by respondent in various capacities as clerk-telegrapher, relief station agent and ultimately as station agent, until he stopped working on April 1, 1967 upon reaching the age of 63, after which he filed his application for optional retirement.

On April 27, 1970, he filed, through counsel, a claim for disability benefit with the Department of Labor.

On September 7, 1970, private respondent filed its report controverting the claim.

On September 4, 1972, after hearing on the merits, Regional Office No. IV of the Department of Labor, rendered an award granting compensation benefits to petitioner herein (Annex A, pp. 11-16, rec.). Dissatisfied, private respondent appealed the decision to the Commission.

On January 30, 1975, the Commission rendered its decision, reversing the award (Annex C, pp. 22--24, rec.).

Petitioner urges that the Commission erred

"IN NOT TAKING INTO ACCOUNT THAT PETITIONER'S ILLNESS HAD SUPERVENED AT THE TIME OF HIS EMPLOYMENT AND HENCE SHOULD BE PRESUMED TO HAVE ARISEN OUT OF SAID EMPLOYMENT OR WAS AGGRAVATED BY THE SAME" and

"IN NOT APPLYING SECTION 45 OF ACT NO. 3428, AS AMENDED, CONSIDERING THAT RESPONDENT PHILIPPINE NATIONAL RAILWAYS FAILED TO FILE A TIMELY CONTROVERSION TO THE RIGHTS OF CLAIMANT TO COMPENSATION."

Indeed, the physician's report (p. 116, WCC sec.) dated July 10, 1970 and the certificate of chest X-ray results (p. 117, id.) dated March 15, 1967 of petitioner with the impression "PTB minimal right", and "chronic bronchial asthma" were ignored by the respondent Commission. Evidently, the findings in his chest X-ray prompted petitioner to stop working upon reaching the age of 63 on April 1, 1967 and to apply for optional retirement. He may not wait for his body to waste away or his condition to worsen by applying for retirement at the age of 65, when he is entitled under the law to an earlier retirement. The chest X-ray report should have been given great weight and credence. This is the best evidence that petitioner can submit under the circumstances. For, under

Section 23 of Act 3428, as amended, "after receiving an injury or contracting sickness and during the period of his disability and rehabilitation, the laborer shall at reasonable times and places submit to examination by a duly qualified physician or surgeon and rehabilitation technician designated and paid by the employer or insurance carrier. The laborer shall be entitled to have a physician or surgeon and rehabilitation technician designated by himself at such examination; x x x" (underscoring supplied).

WE ruled times without number that:

"x x x (T)he law presumes, in the absence of substantial evidence to the contrary, that the claim is compensable. The burden to disconnect, by substantial evidence, the injury or sickness from employment, is laid at the employer's door. Petitioner failed to discharge this burden. So rigid is the rule that even where the cause of the employee's death is unknown -- as petitioner claims -- the right to compensation subsists. Reason for this is that the Workmen's Compensation Act is a social legislation; it is designed to give relief to the workman; therefore, to effectuate its purpose, it must be liberally construed" (ITEMCOP vs. Florzo, L-21969, Aug. 31, 1966, 17 SCRA 1104, 1110, citing Sec. 44/I, Workmen's Compensation Act; Vda. de Acosta, et al. vs. Workmen's Compensation Commission, et al., L-19772, Oct. 31, 1964, 12 SCRA 168, 173; see also Galang vs. WCC, et al., L-42531, March 30, 1977; Vallo vs. WCC, L-41816, Oct. 29, 1976; Simon vs. RP, L-42510, June 10, 1976).

Furthermore, respondent failed to seasonably controvert the claim. It has been invariably held that "failure on the part of the employer to file a seasonable notice of controversion of the right of employees to compensation as required by Section 45 of the Workmen's Compensation Act, as amended, constitutes a waiver by operation of law of his right to controvert the employee's claim for compensation on non-jurisdictional grounds and such legal defect does not violate the requirement of due process (Carlos vs. Dela Rosa, 5 SCRA 262, Guardian Security & Investigation Agency vs. WCC, 34 SCRA 29; Development Bank of the Phil. vs. WCC, 49 SCRA 365; Phil. Graphics Arts, Inc. vs. Mariano, 53 SCRA 409; Camotes Shipping Corp. vs. Otadoy, 35 SCRA 456 (cited in Simon vs. Rep. of the Phil. [Supreme Court], G.R. No. L-42510, June 30, 1970). A claim for compensation filed by an employee against his employer under the Workmen's Compensation Act is deemed admitted if not controverted within the time provided by law (Victorias Milling Co., Inc. vs. WCC, et al., L-25665, May 22, 1969; Filipino Pipe and Foundry Corp. vs. WCC, et al., L-20381, Dec. 24, 1963; Malan Bros. Watchman Agency vs. Conanan, 7 SCRA 856; A.D. Santos, Inc. vs. Ventura Vasquez, L-23586, March 20, 1968; General Textiles, Inc. vs. WCC, et al., L-30428, Feb. 7, 1973, id.). Consequently, respondent cannot now claim that the illness of petitioner was not work-connected or that it was not aggravated by the nature of his employment.

WHEREFORE, THE DECISION DATED JANUARY 30, 1975 OF THE RESPONDENT WORKMEN'S COMPENSATION COMMISSION IS HEREBY REVERSED AND SET ASIDE AND RESPONDENT PHILIPPINE NATIONAL RAILWAYS IS HEREBY ORDERED

1. TO PAY CLAIMANT PEDRO ILINGAN THE SUM OF SIX THOUSAND (P6,000.00) PESOS AS DISABILITY BENEFITS;
2. TO REIMBURSE CLAIMANT HIS MEDICAL AND HOSPITAL EXPENSES, SUPPORTED BY PROPER RECEIPTS;
3. TO PAY PETITIONER'S COUNSEL THE AMOUNT OF SIX HUNDRED (P600.00) PESOS; AND
4. TO PAY THE WORKMEN'S COMPENSATION COMMISSION THE SUM OF SIXTY-ONE PESOS (P61.00) AS ADMINISTRATIVE FEES.

SO ORDERED.

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

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