

FELIPE Z. CAÑETE FOR HIMSELF AND IN BEHALF OF HIS MINOR CHILDREN NAMELY: ALLYN (RUFO) AND ANDREW, ALL SURNAMED CAÑETE, PETITIONERS, VS. WORKMEN'S COMPENSATION COMMISSION AND REP...

G.R. No. L-43086. May 08, 1985

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

The petition seeks the annulment of the (now defunct) Workmen's Compensation Commission decision of December 4, 1975, reversing the acting referee's decision dated February 5, 1969, and absolving respondent Republic of the Philippines (Bureau of Public Schools) of its liability under the Workmen's Compensation Act, as amended, thereby denying petitioners' — Felipe Z. Cañete and his minor children. Allyn and Andrew — claim for compensation benefits for the death of Felicitacion E. Canete (pp. 1-2, 5-6, rec).

The following facts are not controverted.

The deceased, Felicitacion E. Cañete, was employed as a public school teacher for four years until her death on May 15, 1967 (p. 68, WCC rec). She was initially assigned for two weeks at Tubaran Elementary School, Tubaran, Higan City; thereafter, she was transferred to Tambacan Community School, Tambacan, Iligan City (p. 69, WCC rec).

The records show that on August 8, 1966, the deceased was found to be suffering from pulmonary tuberculosis. She was hospitalized for ten (10) days at the Sacred Heart Hospital in Iligan City and was transferred to the Cebu TB Pavilion where she underwent treatment for several months. On May 15, 1967, she died (p. 4, rec).

On August 3, 1967, claimants-petitioners filed the claim for death compensation benefits provided for under the Workmen's Compensation Act, as amended, before the Workmen's Compensation Unit at Regional Office No. XI, Cagayan de Oro City. The claim was received by said office on August 15, 1967 (p. 7, rec).

The Solicitor General was informed of the claim and the necessity to submit an employer's report of the sickness or accident (pursuant to Sec. 37, WCA. as amended) through a letter dated January 31, 1968 and sent by registered mail on February 2, 1968, by the chief of the Workmen's Compensation Unit, Regional Office No. XI. In reply thereto, the Solicitor General sent the following letter, dated February 16, 1968:

"xxx please be apprised that WCC Form No. 2 was transmitted to the employer Bureau of Public Schools, Manila, with the request that we be furnished with the necessary documents relative to the claim for compensation filed by the widower under Act 3428, as amended.

"Please register our controversion to the claim pursuant to Section 45, same Act. as it appears that the illness is not work-connected (p. 8, WCC rec).

On June 17, 1968, the acting referee issued the order declaring claimants-petitioners' claim as non-controverted

(pp. 8-9. rec).

The Solicitor General filed a motion to set aside the preceding order, which was denied. Thereafter, the acting referee decided the claim on February 5, 1969, granting death compensation benefits to claimants-petitioners and declaring the fatal illness — pulmonary tuberculosis — as compensable in accordance with the Workmen's Compensation Act, as amended (pp. 23, 27, WCC rec; pp. 7-8, rec).

On December 4, 1975, respondent Commission issued the decision denying petitioners' claim, declaring therein that the alleged fatal illness — pulmonary tuberculosis — is not compensable per se under the Workmen's Compensation Act, as amended; that furthermore, claimants-petitioners failed to show by substantial evidence that tuberculosis was indeed the cause of death (pp. 4-6, rec).

The only issue in this case is whether or not petitioners' claim is compensable under the Workmen's Compensation Act, as amended.

This Court finds petitioners' claim compensable.

A perusal of the records shows that the deceased's fatal ailment supervened during her employment with respondent Bureau of Public Schools. The decision of respondent Workmen's Compensation Commission confirms such findings and We quote:

"xxx xxx xxx.

"It appears that the late Felicitacion E. Canete was in life employed by the respondent as a public school teacher xxx; that on August 8, 1966 she was found to be suffering from PTB; that she was hospitalized at the Sacred Heart Hospital in Iligan City and later transferred to the Cebu TB Pavilion in Cebu City and on May 15, 1967 she died due to pulmonary tuberculosis leaving the herein claimants who are all dependent upon her for support.

"xxx xxx xxx. (pp. 4-5, rec).

Death having occurred in 1967, long before the effectivity in 1975 of the New Labor Code, the legal presumption of compensability as mandated by Section 44 of the Workmen's Compensation Act, as amended, applies.

A host of cases decided by this Court applied the presumption once it has been proved that the illness supervened during the course of employment. To the employer is shifted the burden of proof to establish by substantial evidence that the illness is not compensable (*Villasan vs. Rep.*, L-47075, April 8, 1981, 104 SCRA 102; *Capinpin vs. WCC*, L-43451, February 26, 1981, 103 SCRA 270; *Cayaha vs. WCC*, L-43649, January 27, 1981, 302 SCRA 346; *Cabalquinto vs. Rep.*, L-45141, January 27, 1981, 102 SCRA 365; *Francisco vs. WCC*, L-43696, April 22, 1977; *Abana vs. Quisumbing*, L-23489, March 27, 1968, citing *MRR vs. WCC* and *Pineda*, L-19773, May 30, 1964; *Juanita Naira vs. WCC*, Dept. of Labor and Cia. General de Tabacos de Filipinas, L-18066, Oct. 30, 1962; *Vda. de Santiago vs. Reyes and WCC*, L-13115, Feb. 29, 1960, citing *Larson*, *Workmen's Compensation Law*, Vol. II, p. 232; *Batangas Trans. Co. vs. Rivera*, L-7658, May 8, 1956; *Phil. Manufacturing Co. vs. Geronimo, et al.*, L-6968, Nov. 29, 1954).

This Court, in the case of *Vda. de Galang vs. WCC*, L-45231, March 30, 1977, 76 SCRA 153, has even gone further and declared:

xxx xxx xxx.

"xxx for it is a settled doctrine in our jurisdiction that the law presumes in the absence of substantial evidence to the contrary that a claim is compensable, and so rigid is the rule that even where the cause of death is unknown the right to compensation subsists, the reason being that the WCA is a social legislation designed to give relief to the working man" (*Italics supplied*).

Despite respondent Workmen's Compensation Commission's failure to establish by substantial evidence that the death was not work-connected, the findings of facts of the acting referee remain uncontradicted that it was caused by the deceased's work as a teacher, thus —

xxx xxx xxx.

"xxx that the latter (the deceased) was originally assigned at Tubaran Elementary School, Tubaran, Iligan City for a period of two weeks only after which she was then transferred to Tambacan, Iligan City; that during the short period of her assignment thereat, it appeared that she was going home to Tambacan in her place of abode sometimes by overland and sometimes by foot, with a distance of 12 kilometers more or less, arriving home usually between 6:30 or 7:00 p.m.; that during all these trips, there were occasions wherein Mrs. Canete was exposed to the elements of nature while in her midst of physical and mental fatigue and exhaustion on account of the nature of her work and the distance of her place of assignment; that the records further show that Mrs. Canete's health before and after her employment was found out to be in good shape as shown in her flourosopic examination; xxx" (pp. 68-69, WCC rec.)

The above-stated facts alone are enough evidence to substantiate, at the very least, a conclusion that the nature of deceased's employment indeed caused and aggravated her ailing condition. "Every employee is taken as he is, with his infirmities, whether few or many, and those infirmities are not to be aggravated or accelerated unnecessarily during his employment. And to the extent that they are aggravated or accelerated by accidental injuries and in some states to exposure, to hazardous conditions, not necessarily constituting an accident, compensation may be awarded [Koppel (Phil.) Inc. vs. Javellana, L-19966, April 30, 1965]."

That PTB was indeed the cause of death of the deceased is evidenced by the death certificate, the authenticity or admissibility of which was never questioned during the proceedings before the Commission and with the acting referee.

An X-ray or some other laboratory report is not an indispensable prerequisite to compensation (Ybanez vs. WCC, L-44123, June 30, 1977, 77 SCRA 501; Romero vs. WCC, L-42617, June 30, 1977, 77 SCRA 501). Strict rules of evidence are not applicable in claims for workmen's compensation cases (Cristobal vs. ECC, 103 SCRA 329). The degree of proof required is merely substantial evidence which means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion" (Ibid., citing Ang Tibay vs. CIR and NLU, Inc., 69 Phil. 635).

The Solicitor General went only as far as questioning the issuance of the order of non-controversion by the acting referee, without offering any proof to rebut the evidence of the claimants nor the presumption of compensability.

In *Relente vs. Republic* (L-47691, August 5, 1981, 106 SCRA 505), the Court ruled:

xxx xxx xxx.

"xxx, whatever defenses the respondent bureau might have interposed were barred by its failure to validly controvert petitioner's claim. Although it manifested that it was controverting the claim, that manifestation or 'registration' of controversion was not made in the proper form prescribed by the rides of the commission.

"A notice of controversion which does not specify in clear terms the grounds or reasons for controversion is defective and even if filed seasonably, shall not have the effect of a valid controversion (Sec. 2, Rule 8, WCC Rules and Regulations)" [italics supplied].

Section 2 of Rule 8 of the WCC Rules reads thus:

"SEC. 2. Rule 8 — The notice of controversion may be. made in W.C. Form No. 3, 'Employer's Report of Accident or Sickness' or in case no such form has been submitted or is available, in any other written

communication stating in clear terms the grounds or reasons for controverting the employees' right to compensation."

It does not matter therefore that the notice of claim was filed on time (as vigorously contended by respondent); the notice must also be filed in the proper form as expressly provided in the law.

The effect of failure to controvert a workman's compensation claim is waiver of all non-jurisdictional defenses (*Mulingtapang vs. WCC*, 80 SCRA 610; *Bautista vs. WCC*, 80 SCRA 313; *Roma vs. WCC*, 80 SCRA 1 70; *Lopez vs. WCC*, 79 SCRA 55 1; *Ilingan vs. WCC*, 79 SCRA 100; *Baterna vs. WCC*, 75 SCRA 409; *Gomez vs. WCC*, 75 SCRA 395). is a constructive admission of the compensability of the claim (*Vda. de Flares vs. WCC*, 78 SCRA 1 7); and, the claimant is not required to substantiate his claim as in such case the compensability of the illness is presumed (*Buenaventura vs. WCC*, 76 SCRA 485).

The compensability of tuberculosis, aggravated by the nature of the employment has been admitted by this Court in the past (*National Dev. Co. vs. WCC*, L-21724, April 27, 1967, 19 SCRA 861; *Mia. Railroad Co. vs. Perez*, L-21071, June 29, 1965; *Hernandez vs. WCC*, L-20202, May 31, 1965; *Agustin vs. WCC*, L-19957, Sept. 29, 1964; *Batangas Trans. Co. vs. Perez*, L-19522, August 31, 1964; *Mia. Railroad Co. vs. Vda. de Chavez*, L-201 03, Sept. 30, 1964; *Itogon-Soyoc Mines, Inc. vs. Dulay*, L-18241, Dec. 21, 1963). Tuberculosis is not an instantaneous disease: it is an imperceptible disease caused by a germ which is breathed into and feeds on the lungs or taken with food. It is medically accepted that exposure to dust and dirt is a predisposing cause of tuberculosis and tends to produce fibrosis of the lungs which weakens resistance to any latent tuberculosis infection and reactivates that infection (*Justo vs. WCC*, 75 SCRA 220, citing *Gray, Attorney's Textbook of Medicine*, 1940 Ed. p. 639; *Valencia vs. WCC and the City of Manila*, L-41554, July 30, 1976, citing *Grain Handling Co., Inc. vs. Sweeney*, 102 F. (2d) 464, *Jour. A.M.A.* Vol. 115. No. 23, December 7, 1940. p. 2022).

The deceased, as mentioned earlier in this decision, was exposed to the harsh elements of nature and was constantly suffering from fatigue due to the strain and pressure of work as a public school teacher, which naturally weakened her physical stamina and made her susceptible to diseases. In this connection, it must be pointed out that Republic Act 4670, otherwise known as the Magna Charta for Public School Teachers directs that —

"Teachers shall be protected against the consequences of employment injury in accordance with existing laws. The effects of the physical and nervous strain on the teacher's health shall be recognized as compensable occupational diseases in accordance with existing laws" (*Romero vs. WCC*, 1,-42617, June 30, 1977. 77 SCRA 482).

WHEREFORE, THE DECISION OF THE WORKMEN'S COMPENSATION COMMISSION IS HEREBY SET ASIDE AND THE RESPONDENT REPUBLIC OF THE PHILIPPINES (BUREAU OF PUBLIC WORKS) IS HEREBY ORDERED:

1. TO PAY TO THE PETITIONERS-CLAIMANTS THE SUM OF SIX THOUSAND (P6,000.00) PESOS AS DEATH COMPENSATION BENEFITS;
2. TO REIMBURSE THE PETITIONERS-CLAIMANTS THE AMOUNT OF P1,078.66 AS MEDICAL AND HOSPITAL EXPENSES IN CONNECTION WITH THE HOSPITALIZATION AND TREATMENT OF THE LATE FELICITACION E. CANETE, PURSUANT TO SEC. 13 OF THE WCA (p. 62, WCC rec), DULY SUPPORTED BY PROPER RECEIPTS;
3. TO PAY THE AMOUNT OF FIVE HUNDRED (P500.00) PESOS AS FUNERAL EXPENSES;
4. TO PAY THE SUM OF SIX HUNDRED (P600.00) PESOS AS ATTORNEY'S FEES; AND
5. TO PAY ADMINISTRATIVE COSTS.

SO ORDERED.

Teehankee (Acting C.J.), Abad Santos, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., Dela Fuente, Cuevas, and Alampay, JJ., concur.

Fernando, C.J., and Concepcion, Jr., J., on leave.

Aquino, J., took no part.

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