

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

G.R. No. L-42340. August 31, 1978

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

Petitioner Victoria Natividad filed this Petition for Review of a decision of the defunct Workmen's Compensation Commission on the ground that the latter dismissed her claim for compensation against the Bureau of Public Schools without any hearing and without having accorded her an opportunity to present evidence to substantiate her claim.

We gave due course to the Petition and ordered the Department of Labor to forward to Us the records of the case.

The records show that on March 31, 1975, a notice of sickness and claim for compensation was filed with the Department of Labor, Regional Office No. 4, by Victoria Natividad against the Republic of the Philippines (Bureau of Public Schools) wherein she alleged inter alia that on October 23, 1973 she stopped working as a teacher by reason of hypertension, nervousness, rheumatism and pneumonia.[1] Attached to her Petition are: (a) report of Dr. Jose L. Occeña certifying that he treated Victoria Natividad sometime in September of 1973 for essential hypertension and hypertrophic osteoarthritis which disabled her from pursuing her classroom teaching;[2] (b) certification dated September 26, 1973 of Dr. Juan Yason, Medical Officer of the Division of School Health Services, Manila Health Department, attesting to the essential hypertension of Victoria Natividad which required her to rest from work for a period of at least two months;[3] (c) another certification from Dr. Yason dated January 22, 1974 that Victoria Natividad was still under his medical care for essential hypertension and that she still needed rest from work for another three months; and (d) service record of Victoria Natividad showing that she was appointed as a teacher at the Manila High School on November 10, 1946 and before that she was connected with the Division of Schools of the province of Antique from June 1933 to June 30, 1946 and that her last day of actual service with the Division of City Schools of Manila was October 22, 1973, although the effective date of her retirement was March 24, 1974, at the age of 63.[4]

A notice of the filing of claim was sent to the Director of the Bureau of Public Schools which was received on July 31, 1975,[5] and on August 8, 1975, a tentative controversion was filed in behalf of the employer by the Office of the Director of Public Schools.[6]

On September 25, 1975 without any hearing having been held with notice to the claimant, Acting Referee Gregorio Calasan issued an order to the following effect:

"After a careful evaluation of the attendant facts in the instant claim, it appears that it does not fall within the purview of Section 2 of the Workmen's Compensation Act, as amended.

WHEREFORE, premises considered, let the above-entitled case be, as it is hereby, dismissed for lack of merit." (p. 24, WCC records)

Having received copy of the foregoing order, Victoria Natividad who was not then represented by counsel, filed a "motion for reconsideration and/or motion to re-open the case" calling attention to the fact that no hearing was held and praying that she be given an opportunity to present evidence to support her claim.[7] This motion was denied in an order dated November 24, 1975 by Acting Referee Roberto Blanco who elevated the records of the case to the Workmen's Compensation Commission.[8] On December 27, 1975, respondent Commission affirmed the dismissal of the claim stating:

"The facts of this case are as follows: The claimant was employed by respondent as teacher with a salary of P5,100.00 per annum. On October 23, 1973, she stopped working due to her alleged illnesses of essential hypertension and hypertrophic osteoarthritis, caused or either aggravated by or the result of the nature of her employment (Physician's Report of Accident or Sickness); that this claim was filed on March 31, 1975.

"From the foregoing established facts, we sustain the decision.

"It appears from the records that the claimant stopped working on October 23, 1973, due to her alleged illnesses of hypertension and hypertrophic osteoarthritis, allegedly acquired by her in the course of the employment. Hypertension is the presence of elevated blood pressure reading which is controllable by proper diet and medication. It is usually the result of arteriosclerosis or the hardening of the blood vessel caused by the degenerative changes in the lining of the joints, which is caused by heredity and ageing process. Hypertrophic osteoarthritis is a pain in the joints caused by a degenerative change in the lining of the joints, which is brought about also by the ageing process, and the pain can be controlled by proper food and medication. The Physician's Report of the Accident or Sickness submitted in support of the claim, indicated that claimant was first treated by Dr. Jose L. Occeña on September 23, 1973, of claimant's alleged illness yet, claimant was able to continue working until October 23, 1973. Hence, we believe that the illnesses were not directly caused by or either aggravated by or the result of the nature of such employment. Moreover, they are not disabling illnesses, because they can be controlled by proper food and medication. Considering the age of the claimant to be 63 years, she has retired under the optional retirement plan, there being no evidence of the records that she retired under disability." (pp. 29-30, WCC records)

We find merit in this appeal for the following reasons:

1. There was denial of due process to petitioner-claimant.

The Solicitor General admitted in the Comment filed in behalf of respondent Bureau of Public Schools that no hearing was held by the referee before the latter issued his order denying petitioner's claim. This procedure was justified, according to respondent's counsel, to enable the Labor Department to dispose of or terminate at the quickest possible time all workmen's compensation cases filed on or before March 31, 1975.[9] Such an argument, however, does violence to the principle of due process which the Court must uphold at all times especially where substantial rights of a litigant are at stake. Expediency cannot be invoked at the sacrifice of procedural due process.

"x x x The due process requirement is not a mere formality that may be dispensed with at will. Its disregard is a

matter of serious concern. It is a constitutional safeguard of the highest order. It is a response to man's innate sense of justice. It demands that governmental acts, more specially so in the case of the judiciary, be not infected with arbitrariness. It cannot be satisfied unless the elementary requirements of fairness are met." (Luzon Surety Co., Inc. vs. Beson, et al., 31 SCRA 313, 318, per Fernando, J.)

2) Even if a hearing could have been dispensed with, the outright dismissal of the claim was arbitrary; in fact, an outright award in favor of claimant would have been justified.

Firstly, there was no controversion from the employer. Although the administrative officer, Felix C. Pagalunan, of the Bureau of Public Schools sent to Regional Office No. 4 a letter to the effect that a "tentative controversion" was being registered,[10] the same was not followed by any formal answer or opposition to the claim during the intervening period of almost 2 months before the referee issued the order dismissing the claim on September 25, 1975.

Furthermore, respondent employer, more particularly, the Superintendent of City Schools, who exercised immediate supervision over the claimant, failed to file a notice of employer's report concerning the sickness of Victoria Natividad as required by Sec. 45 of the Workmen's Compensation Act.

One of the documents attached to the claim for compensation of petitioner shows that her last day of service was October 22, 1973, while the effective date of her retirement was on March 24, 1974. From that it is apparent that on October 23, 1973 Victoria Natividad did not report for duty because of her ailments and that she had to go on leave from that date until she had to retire from the service effective March 24, 1974. During that period of time her employer did not file the necessary report of sickness so as to controvert any possible claim for disability compensation. This Court time and again ruled that failure to file such an employer's report required under Sec. 45 of the Workmen's Compensation Act, as amended, constitutes non-controversion of the employee's claim for disability compensation and a waiver of all non-jurisdictional defenses.[11]

Secondly, there was substantial evidence to support the validity of the claim.

In proceedings before the Workmen's Compensation Commission, all that is necessary is substantial evidence to justify an award; the rule of preponderance of evidence required in ordinary civil cases need not be followed.[12]

The documents attached to petitioner's notice of claim for compensation adequately prove that in the course of her employment as a public school teacher from 1933 up to October 22, 1973, the last day she reported for duty at the Manila High School - a span of forty years - she developed essential hypertension and hypertrophic osteoarthritis. The presence of these ailments were certified to by at least two physicians, one of whom, Dr. Yason, was with the Manila Health Department, whose veracity we have no reason to doubt. Although under the ordinary rules of evidence a physician's report may be considered hearsay, however, this Court has ruled that the same is admissible in proceedings before the Workmen's Compensation Commission under Sec. 49 of the Workmen's Compensation Act as amended notwithstanding the absence of the physician's testimony at a hearing.[13]

Thirdly, the ailments of Victoria Natividad are legally presumed to be compensable.

The decision under review argues that the illnesses of the claimant were either hereditary or caused by advancing age, and because they could be controlled by proper diet and medication they were not disabling in nature, and if Victoria Natividad stopped teaching it was due to her optional retirement.

Respondent Commission once more patently ignored the presumption of compensability established by law under Section 44 (1) of the Workmen's Compensation Act as amended. A claim filed under the Workmen's Compensation Act is presumed by law to be compensable and this presumption can be overthrown only by substantial evidence to the contrary.

Pursuant to this legal presumption applied in numerous cases in a spirit of utmost liberality called for by the social and humane character of the law, this Court held that the exact medical cause of the ailment suffered by a claimant is not significant, and the possibility that factors other than the employment, such as advancing age, may have caused or contributed in the development of the ailment is not a drawback, for what is material and decisive is that the employment contributed even in a small degree in aggravating the ailment.[14]

Contrary to respondent's assertion that Victoria Natividad was not disabled from work, the medical reports attest that her periodic dizziness caused by hypertension made it necessary for her to discontinue her teaching and take at least a five-month rest. As already stated before, the service record shows that Victoria Natividad stopped reporting for duty at the Manila High School on October 23, 1973, and since then she was on a leave of absence until she retired from the service effective March 24, 1974. Although it is correct, as claimed by respondents, that Victoria Natividad optionally retired, nonetheless her retirement at the age of 63 was caused by her ailments.

Disability occurs when there is a loss or diminution of earning power due to an injury or sickness which arose out of or was aggravated in the course of employment, and it is this incapacity to pursue one's customary work which the law compensates.[15]

Petitioner's optional retirement confirms her resulting disability for as ruled in *Romero vs. Workmen's Compensation Commission and Republic of the Philippines*, the approval of a claimant's application for optional retirement although she has not yet reached the compulsory retirement age is an indication of her physical incapacity to render further efficient service.[16] Thus, rather than being a ground for defeating the cause of herein petitioner, her optional retirement strengthens her claim for disability compensation. Undoubtedly, teaching young boys and girls of high school age which can be a trying experience, caused petitioner mental tension and emotional stress which contributed to the unusual rise of her blood pressure and eventual essential hypertension.

WHEREFORE, the decision of respondent Commission under review is set aside and respondent Republic of the Philippines (Bureau of Public Schools) is ordered:

- to pay petitioner Victoria Natividad the amount of SIX THOUSAND PESOS (P6,000.00) as maximum compensation for her temporary partial disability;
- to provide petitioner with such services, appliances and supplies as the nature of her disability and the process of her recovery may require and that which will promote her early restoration to the maximum level of her physical capacity;
- to pay Atty. Isaac Chaves as attorney's fee for this appeal the sum of Six Hundred Pesos (P600.00); and
- to pay to the Workmen's Compensation Fund the amount of Sixty-one Pesos (P61.00) as administrative fee.

SO ORDERED.

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

[1] p. 4, WCC records

[2] p. 14, *ibid*

[3] p. 13, *ibid*.

[4] pp. 10-11, *ibid*.

[5] p. 17, *ibid.*

[6] p. 22, *ibid.*

[7] p. 23, *ibid.*

[8] p. 28, *ibid.*

[9] p. 44, rollo

[10] p. 22, WCC records

[11] *Sebastian vs. WCC*, 1978, 81 SCRA 675; *Carlos vs. de la Rosa, et al.*, 1962, 5 SCRA 262, citing *Victorias Milling Co., Inc. vs. WCC*, L-10533, May 13, 1957; *Iloilo Dock & Engr. Co. vs. WCC*, 1962, 5 SCRA 765; and a host of other cases.

[12] *Iloilo Chinese Commercial School vs. Leonora Fabrigar & WCC*, 1961, 3 SCRA 712, 716

[13] *Pioneer Ceramics, Inc. vs. Samia & WCC, et al.*, 1970, 33 SCRA 487

See also *National Development Co. vs. WCC, et al.*, 1967, 19 SCRA 861

Vallo vs. WCC & Republic of the Philippines, 1976, 73 SCRA 623

Romero vs. WCC & Republic of the Philippines, 1977, 77 SCRA 482

[14] *Abana vs. Quisumbing*, 22 SCRA 1278; *Bautista vs. WCC, et al.*, 80 SCRA 313.

[15] *Bello vs. WCC & Bureau of Public Schools*, L-43018, October 28, 1977, citing *Marcelino vs. Seven-Up Bottling Co., et al.*, 1972, 47 SCRA 343

[16] 77 SCRA 482, 490, per Makasiar, J., citing C.A. 186 as amended by R.A. 1616 and R.A. 4968 in relation to Memorandum Circular No. 133, October 19, 1967 of the Office of the President

See also *Flores vs. WCC, et al.*, 71 SCRA 633; *Galang vs. WCC, et al.* 72 SCRA 454; *Ybañez vs. WCC, et al.* 77 SCRA 501; *Sudario, Jr. vs. Republic of the Philippines*, 79 SCRA 337

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