

GREGORIO BALLESTAMON (DECEASED) SUBSTITUTED BY CARIDAD VDA. DE BALLESTAMON, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND PHILIPPINE NATIONAL RAILWAYS, RESPONDENTS.

G.R. No. L-43083. September 30, 1978

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition to review the decision of the Workmen's Compensation Commission in RO4-WC Case No. 139172 entitled "Gregorio Ballestamon, Claimant, versus, Philippine National Railways, Respondent," affirming the order of dismissal of the Hearing Officer of Labor Regional Office No. 4, Manila, and absolving the respondent, Philippine National Railways, from any liability under the Workmen's Compensation Act.[1]

The late Gregorio Ballestamon was formerly employed with the Philippine National Railways as first class storekeeper or warehouseman with an annual salary of P4,920.00. Gregorio Ballestamon had been employed with the Manila Railroad Company and later with the Philippine National Railways, since 1938 up to August 1, 1971. As warehouseman, his work consisted in lifting heavy loads such as bales, crates and bundles of cargoes stored in the bodega. The claimant incurred pulmonary tuberculosis as early as 1964. The illness deteriorated into an advanced stage in 1970. In April 1971, while in the actual performance of his work as warehouseman, Gregorio Ballestamon suffered serious hemoptysis. He vomited blood on account of his illness of advanced pulmonary tuberculosis. As a consequence, Ballestamon applied for retirement under Republic Act No. 660. The application for retirement was approved on August 1, 1971. At the time of the retirement of the claimant, his pulmonary tuberculosis was already in an advanced stage.[2]

On March 13, 1973, Gregorio Ballestamon filed with the Regional Office No. 4 of the Department of Labor in Manila a claim for disability compensation. During the pendency of this claim, the claimant died on June 12, 1974. On June 23, 1975, a petition for substitution was filed by the widow, Caridad Vda. de Ballestamon. On September 18, 1975, the Acting Referee of the Regional Office No. 4 dismissed the claim principally on the ground that the claimant had already received retirement pay when he retired at the age of 63 years under Act 660. The widow of the claimant elevated the case to the Workmen's Compensation Commission for review. On February 12, 1976, a decision en banc was rendered by the Commission affirming the order of dismissal on the ground, among others, that optional retirement without disability does not give the retiree a right to compensation benefit under the Workmen's Compensation Act, as amended.[3]

The record shows that Gregorio Ballestamon was in good health at the time he was employed by the Manila Railroad Company, predecessor of the Philippine National Railways. During his employment, he was afflicted with pulmonary tuberculosis which became so far advanced that he had to apply for retirement under Republic Act No. 660, as amended, at the age of 63 years after having rendered 39 years of service with the Philippine National Railways. On June 12, 1974, Gregorio Ballestamon died as a result of the pulmonary tuberculosis which

supervened during his employment with the Philippine National Railways.

The respondent, Philippine National Railways, contends that:

"It is true that the benefits granted to the deceased in the case at bar under RA 660, as amended, is not a bar to claim under the Workmen's Compensation Case as held by this Hon. Supreme Court in the case of Falcon vs. Mathay, G. R. No. L30303, August 31, 1970.

However, the Falcon case should not be made applicable to instant claim as the records of this case clearly conveyed the conclusion that the claimant's illness did not disable him for labor nor did it contribute in any way in impairing his capacity to work. As pointed out by the Commission, optional retirement without disability negates compensation under the Act.

Herein respondent company submits to the contention of the doctrine of legal presumption to the effect that once it is shown that the employee suffered any injury or accident in the course of his employment, the presumption is that the claim comes within the purview of the Workmen's Compensation Act.

However, in the instant case, record is bereft of any evidence that claimant herein suffered any disability in the course of his employment with the PNR. On the contrary, it appears from his service record that he continuously worked up to the last day of his service on August 1, 1973. There was no showing that he was incapacitated to work while still an employee or even prior to his retirement. For if indeed he stopped working, it was due to his retirement and not because of any disability. It is to be noted that this case was dismissed on three occasions because claimant herein failed to show that his alleged illness has produced disability for labor which can entitle him to compensation under the Workmen's Compensation Act, as amended." [4]

The foregoing contention is devoid of merit.

It is a fact that Gregorio Ballestamon became sick of pulmonary tuberculosis in 1964. The law presumes, in the absence of substantial evidence to the contrary, that the claim is compensable inasmuch as the sickness of pulmonary tuberculosis supervened during the employment of Gregorio Ballestamon, claimant, with the Philippine National Railways. The burden to disconnect by substantial evidence the injury or sickness from employment is laid at the employer's door. The Philippine National Railways failed to discharge this burden. So rigid is the rule that even when the cause of the employee's death is unknown, the right to compensation subsists. The 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. [5]

Precisely, the claimant, Gregorio Ballestamon, had to retire at the age of 63 years because he was disabled from performing the normal duties of his work by pulmonary tuberculosis which supervened during his employment with the Philippine National Railways. Under the established facts and circumstances, he is entitled to disability benefits and to reimbursement of medical expenses which may be supported by proper receipts.

WHEREFORE, the decision appealed from is hereby set aside and the respondent, Philippine National Railways, is ordered:

- 1) To pay Candida Vda. de Ballestamon, widow of the claimant, Gregorio Ballestamon, the sum of Six Thousand Pesos (P6,000.00) as disability benefits;
- 2) To reimburse the petitioner medical expenses which may be supported by proper receipts;
- 3) To pay counsel of the petitioner the amount of Six Hundred Pesos (P600.00) as attorney's fees; and
- 4) To pay the successor of the Workmen's Compensation Commission the amount of Sixty One Pesos (P61.00) as administrative fees.

SO ORDERED.

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

[1] Annex "E", Rollo, pp. 26-27.

[2] Memorandum for the Petitioner, Rollo, p. 49.

[3] Memorandum of the Respondent, Philippine National Railways, Rollo, p.55.

[4] Ibid., Rollo, pp. 56-57.

[5] Manila Railroad Company vs. Workmen's Compensation Commission, et al., 21 SCRA 98, 103.

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