

VICTORIANO F. CORALES, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND THE GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

G.R. No. L-44063. August 25, 1978

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition for review of the decision of the Employees' Compensation Commission affirming the decision of the GSIS Medicare-Employees' Compensation denying the claim of herein petitioner for income benefits (Annex "B", petition) on the ground that "for tuberculosis and the resulting disability to be compensable, an employee's occupation must involve close and frequent contact with a source or sources of tuberculous infection" (Annex "E", petition).

Petitioner filed with the GSIS Employees' Compensation "Income Benefits" on August 4, 1975, alleging that he contracted pulmonary tuberculosis (moderately advanced) while in the employ of respondent Bureau of Lands resulting in total and permanent disability for work (Annex "A", petition).

On August 7, 1975, the GSIS Medicare Employees' Compensation Department denied petitioner's claim, stating:

"For Tuberculosis to be compensable, the employee manifesting this disease should have an occupation involving close and frequent contact with source or source of tuberculous infection by reason of employment: (a) In the medical treatment or nursing of a person or persons suffering from tuberculosis, (b) As a laboratory worker, pathologist or post-mortem worker, where occupation involves working with material which is a source of tuberculous infection. Your occupation as Land Investigator of the Bureau of Lands does not involve the risks mentioned above.

"x x x" (Annex "B", petition).

On August 14, 1975, petitioner moved for the reconsideration of the foregoing decision, followed by a supplemental pleading thereon filed on August 19, 1975 (Annexes "C" and "D", petition). Acting on these pleadings, the acting assistant general manager, Medicare-Employees' Compensation, GSIS, denied the said petition for reconsideration, stating:

"After a careful evaluation of your particular claim, we believe that the nature of your duties did not expose you to the source or sources of tuberculosis infection aforementioned. Your exposure to natural elements such as rain or heat of the sun sometime in 1965 could not have caused your present ailment. At most, these circumstances are just considered aggravating factors on one's condition.

"xxx xxx xxx."

Petitioner interposed his appeal before the Employees' Compensation Commission. On December 12, 1975, the Commission, sitting en banc, dismissed petitioner's appeal.

The facts of the case, in the opinion of the respondent Employees' Compensation Commission, are as follows:

"Victoriano Corales started his government service as a Classroom teacher at the Saravia Elementary School in Negros Occidental on June 10, 1932. On June 10, 1946, he transferred to the Bureau of Lands as Computer and later on until his retirement on March 26, 1975, as Land Investigator. His official duties, as certified to by his Personnel Officer, include the review of applications; inspection of the land and interview of tenants or applicants to determine the length of possession and cultivation of the land by the applicants and predecessors in interests; study of the law under which a petitioner in court claims the land and determination of whether all the requisites are complied with; conduct formal hearing of the arguments, evidence and claim of conflicting applicants who may appear through counsel and submission of reports and recommendations thereon to a higher official.

"His medical record shows that he contracted tuberculosis sometime in September 1965 when he was caught by a heavy downpour while on his way home from a field work at Lawak, Mangatarem, Pangasinan. Since then, he frequently suffers fever, chest and back pains, hoarse voice and coughing with blood sputum. He was treated by Dr. Ricardo Almario who diagnosed claimant's ailment as PTB, moderately advanced. His latest chest x-ray examination on March 17, 1975 disclosed broad linear densities in the right upper lung fields and ill-defined densities in the root of the lung field which are indicative of the fact that he is still suffering from PTB moderately advanced. On March 26, 1975, he was compulsorily retired from the service at the age of 65" (Decision, Employees' Compensation Commission, Annex "G", petition, pp. 15-18, rollo).

Petitioner argues that by the nature of his work he had to travel to distant places and exposed himself to the ravages of the natural elements such as rain and the heat of the sun, to people who must be suffering from tuberculosis, as well as to strenuous physical exertion such as hiking; that due to the exigencies of the service, he did not have the necessary physical rest; and that sometimes he had to forego his rest and meals.

Petitioner also claims that the decision of the Employees' Compensation Commission is "contrary to the liberal spirit of PD 626 - that of giving benefits or aids to disabled and sickly retired employees in order to ameliorate their living conditions and to help them combat pauperism."

Upon the other hand, respondent insists that "tuberculosis is not an occupational disease insofar as the employment of the petitioner is concerned" citing section 1(b) Rule III of the amended Rules on Employees' Compensation, as follows:

"For sickness and the resulting disability or death to be compensable, the sickness must be the result of an occupational disease listed under annex 'A' of these Rules with the conditions set therein satisfied; otherwise, the employee must prove that the risk of contracting the disease is increased by the working conditions."

While it is true, continued the respondent, that "tuberculosis is one of the compensable diseases recognized by law, but for it to be compensable, the employee having this disease should have an occupation involving close and frequent contact with source or sources of tuberculosis infection by reason of employment (a) in the medical treatment or nursing of a person or persons suffering from tuberculosis, (b) as a laboratory worker, pathologist or

post-mortem worker, where occupation involves working with material which is a source of tuberculous infection" (Decision, Employees' Compensation Commission, p. 17, rollo).

The presumption of compensability in favor of petitioner remains unrebutted by the respondent employer. It is to be deplored that this rule has been ignored time and time again by the respondent Commission, which has exhibited callous disregard of the command of the law and the Constitution.

Moreover, petitioner has shown by clear and convincing evidence that he contracted tuberculosis or at least the risk of contracting said disease had been increased by the conditions under which he was then working.

To be sure, the personnel officer of the Bureau of Lands certified that as land investigator, the duties, among others, of the petitioner, were as follows:

Review of applications for the issuance of homestead or free patent; inspection of the lands involved in the aforementioned applications; interview of tenants or applicants to determine the length of possession and cultivation of the land by the applicants, etc., etc. (Annex "G", p. 15, rollo).

From the nature of petitioner's duties, there can be no dispute that indeed petitioner had traveled a lot thereby exposing himself to dust, heat and cold, not to mention hunger and inevitably to people who must have been suffering from tuberculosis (see certification of the attending physician, Annex "F", p. 9, rollo).

Medical service has it that tuberculosis as an ailment is latent in man regardless of his age, sex and occupation. When given favorable conditions, this disease becomes active and prominent. Some of these favorable conditions are: too much physical exertion without the corresponding rest; exposure to excessive heat and cold; lack of good food as to weaken the body constituents and contact with people suffering from tuberculosis. All of the foregoing factors were present and affected the petitioner while in the pursuit of his assigned tasks as land investigator, and by good authority we have it that before tuberculosis may be compensable as a disabling disease, it must first be shown that long continued exposure to the peculiar hazards of employment brought on some pathology in the lung tissue which rendered the employee peculiarly susceptible to tuberculosis (*Bolsino vs. Laclede Christy Clay Products Co.* Mo. 124 S.W. (2) 581, cited by *Schneider*, p. 539. vol. 3).

There is no doubt that tubercle bacilli are carried through air borne dust while traveling by bus from petitioner's station to the lands he had to inspect. When one inhales the dust and also the exhalations of people with whom he had contact and who are suffering from tuberculosis, he invariably accumulates these tubercle bacilli. When further exposed to excessive heat and cold, hunger and physical exertion, his body resistance to diseases weakens and thereby begins to exhibit symptoms of tuberculosis. These predicaments happened to the petitioner.

The degree of disability as certified to by Dr. Franklin Bravo, a government physician, and which is not disputed by the parties, is "total and permanent" (Annex "A", p. 8, rollo).

But the fact that petitioner-claimant was never absent from work nor went on leave of absence for at least four days and instead continued to report for work until his compulsory retirement at the age of 65, militates against his right to disability compensation (Sec. 14, Workmen's Compensation Act, as amended); because the very term implies that the compensation must be for loss or diminution of salary by reason of illness incurred or aggravated due to his employment (p. 5, orig. rec.). WE sympathize with the predicament of petitioner-claimant especially because in his affidavit dated July 19, 1975, he stated that "his financial hardship prevented me (him) from hospitalization, so that I (he) hired the services of Dr. Ricardo Almario since September 1965 to date". But OUR sympathies with his sad plight will not justify a different conclusion as the same would be in effect amending the law, which WE cannot legally do.

However, he is entitled to reimbursement for his medical expenses with proper receipts as well as to medical services and appliances as the nature of his sickness and progress of his recovery may require and to such rehabilitation services as may be made available to help him become physically independent and to develop his mental, vocational and social potential.

WHEREFORE, THE DECISION OF RESPONDENT WORKMEN'S COMPENSATION COMMISSION IS HEREBY MODIFIED AND THE RESPONDENT GOVERNMENT SERVICE INSURANCE SYSTEM IS HEREBY DIRECTED

- TO REIMBURSE PETITIONER HIS EXPENSES FOR MEDICAL SERVICES DULY SUPPORTED BY PROPER RECEIPTS;
- TO FURNISH HIM SUCH MEDICAL SERVICES AND APPLIANCES AS THE NATURE OF HIS SICKNESS AND PROGRESS OF HIS RECOVERY MAY REQUIRE AS WELL AS REHABILITATION SERVICES TO HELP HIM BECOME PHYSICALLY INDEPENDENT AND TO DEVELOP HIS MENTAL, VOCATIONAL AND SOCIAL POTENTIAL;
- TO PAY THE PETITIONER ATTORNEY'S FEES EQUIVALENT TO TEN PERCENT (10%) OF HIS MEDICAL EXPENSES; AND

- TO PAY THE ADMINISTRATIVE COSTS.

SO ORDERED.

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

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