

CONSOLACION M. TONSON, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES (BUREAU OF CUSTOMS) AND THE WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS.

G.R. No. L-42675. April 30, 1976

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

The petition now before Us presents a clear case of a mistaken official action of the Workmen's Compensation Commission as well as a denial of due process which if not corrected will result in a grave failure of justice. This, the Office of the Solicitor General concedes and accordingly joins the petition to set aside the decision of the Commission dismissing the claim for death compensation filed by Consolacion Tonson in her behalf and of her two minor children against the Bureau of Customs, Republic of the Philippines, for the death of her husband, Benedicto Tonson.

The following undisputed facts appear in the record of this case:

Benedicto Tonson was employed with the Bureau of Customs as a Senior Inspector with a monthly salary of P447.30. Sometime on November 16, 1968, while working in his office, Tonson vomitted blood and was brought to the Lourdes Hospital where he was confined until November 28, 1968, when he died of "portal cirrhosis". The deceased was survived by his widow, Consolacion Tonson and five children two of whom were minors at the time of his death. On June 30, 1969, Consolacion Tonson filed a claim with Regional Office IV, Department of Labor, for death compensation against the Republic of the Philippines (Bureau of Customs).

On March 31, 1975, an order was issued by Regional Office IV thru Acting Referee, Atty. Angel Hernando, Jr. dismissing the claim without prejudice for lack of interest due to the failure of the claimant to appear at the hearing. Acting on a Manifestation of the claimant's son Angelo Tonson that the notice of hearing was received after the scheduled date, the case was reported on July 7, 1975, and set for reception of evidence. This manifestation of Angelo Tonson was followed by a formal motion for reconsideration of the order of March 31, 1975, signed by claimant's counsel.[1]

The case having been reopened, hearings were held in the Regional Office after which the case was submitted for decision sometime in September, 1975. On October 31, 1975, the Referee rendered a decision awarding to the estate of Consolacion Tonson, the latter having died during the pendency of the case, and the minor children, Elvira and Arturo, all surnamed Tonson the following amounts: "the sum of P6,713.15 by way of death compensation benefits, reimbursement of medical and burial expenses; Atty. Andres Fernandez, the sum of P260.00 by way of attorney's fee and to the Workmen's Compensation Commission Fund, the sum of P53.00 by way of decision fee under Section 55 of the Act, as amended."

For one reason or another which is not clear from the record of the case, the formal motion for reconsideration filed by claimant's counsel mentioned earlier was elevated to the Commission, and the latter, presumably not being aware that the case had been reopened, heard and decided by the Referee, rendered its own decision on the

merits of the case, although there was no evidence before it as it did not conduct any hearing, dismissing the claim on the ground that there was no casual relation between the illness of the deceased employee and the nature of his employment.

Obviously, as stated in the comment of the Office of the Solicitor General, the elevation of the case from the Regional Office to the Commission was a mistake. The motion for reconsideration of the dismissal order of March 31, 1975, was addressed to Regional Office IV, and was but a reaffirmation by claimant's counsel of a previous manifestation made by claimant's son Angelo Tonson. Hence, at the moment, there was no incident which needed action by the Commission.

But the more serious aspect of this case is the denial of due process to petitioner where respondent Commission peremptorily dismissed the present claim on December 31, 1975 without a hearing or reception of evidence, documentary or otherwise, from the parties, especially so when the Acting Referee had already heard and decided the claim as of October 31, 1975 on the basis of the evidence duly submitted before him but which was never before the Commission. Copy of the decision of the Referee was received by the Office of the Solicitor General on January 12, 1976, which in an indorsement to the Manager of the Bureau of Customs dated January 16, 1976, recommended payment of the claim. (pp. 28-29, rollo)

The opportunity to present evidence either through a formal hearing[2] or some other abbreviated procedure such as presentation of affidavits and counter-affidavits[3] is an essential and indispensable part of the proceedings before any administrative board or tribunal.

When this particular claim of Consolacion Tonson was filed on June 30, 1969, the rules of the Workmen's Compensation Commission issued pursuant to the Workmen's Compensation Act as amended by Republic Act 4119 more particularly, Sections 47 to 49 of the latter, which was the law in force at the time, provided that each party in interest shall have the right to be heard in person or by counsel, present such testimony or evidence as may be pertinent, relevant and material to the controversy; cross-examine the witnesses against him and rebut them by contrary evidence, and that the notice of hearing shall be served upon each party interested by personal delivery or by registered mail at his last known post office address or if he is represented by a counsel, through the latter.[4]

In the instant case the Commission proceeded to decide the claim of petitioner without any evidence having been submitted before it either by the claimant or the respondent. Even on the assumption that the motion for reconsideration of the order of March 31, 1975, was properly elevated to the Commission, all that the latter could have done under the premises was either to affirm the dismissal of the case for lack of interest of the claimant or to set aside said dismissal and remand the case back to the referee concerned for a hearing, or conduct its own hearing.[5] But for it to dismiss the case on the merits and hold that the illness of the deceased-employee was not work-connected and hence not compensable without hearing the parties, was to deprive the claimants in particular, of what, in the words of Justice Jose P. Laurel in *Ang Tibay vs. Court of Industrial Relations, et al.* is a cardinal primary right – the right to a hearing which includes the right of the party interested or affected to present his own case and submit evidence in support thereof.[6]

The excuse given by the Commission that although normally it should have remanded the record of the case to the regional office of origin for the reception of evidence, nevertheless it did not do so because – to use its own words – it was in the last stages of its legal existence, is absolutely without justification. The substantial rights of a party litigant, to wit: the right to a hearing and to have his case decided on the basis of the evidence presented or at least contained in the record and disclosed to the parties[7] cannot be sacrificed for the sake of expediency.

Thus, to paraphrase Justice Moreland in *Edwards vs. McCoy*, 22 Phil. 589, the decision rendered by herein

respondent Commission which finds no support from any evidence adduced by the parties, is a nullity.

WHEREFORE, We hereby set aside the decision of the Workmen's Compensation Commission dated December 31, 1975, and order the due execution of the decision of Acting Referee Angel Hernando, Jr. dated October 31, 1975, which has long become final and executory. Without pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Esguerra, and Martin, JJ., concur.

[1] Angelo Tonson continued to prosecute the claim in behalf of the estate of his mother and of his minor brothers. (p. 11, rollo)

[2] Ang Tibay vs. Court of Industrial Relations, et al., 69 Phil. 635, 642.

[3] Section 6, Rule VII, Rules of the National Labor Relations Commission, 1974.

[4] Sections 1 and 2, Rule 15, 69 O.G. No. 8, 1444.

[5] In Republic vs. Workmen's Compensation Commission, L-26763, December 26, 1969, 40 SCRA 811, this Court expressly upheld or recognized the authority of the Commission or any of the Commissioners to conduct a hearing notwithstanding the provisions of Section 48 of the Workmen's Compensation Act as amended by R.A. No. 4119 which provides that referees shall assume original jurisdiction over all workmen's compensation cases in the Regional Offices where they are assigned, because such original jurisdiction does not exclude that of the Commission considering that Section 49 of the same Act explicitly states that hearings under the provisions thereof may be held before the Commissioner or any of the referees. See also Republic vs. Lim, et al., L-32109, October 29, 1971, 42 SCRA 163.

[6] 69 Phil. 635, 642; See also Manlapat vs. Workmen's Compensation Commission, L-30427, June 28, 1973, 51 SCRA, 390, 393.

[7] Ang Tibay vs. Court of Industrial Relations, supra; Art. 220, Labor Code of the Philippines, PD 442.

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