

METROPOLITAN WATER DISTRICT (NOW NAWASA), PETITIONER, VS. EDUVIGES OLEDAN NIRZA, FOR HERSELF AND AS NATURAL GUARDIAN OF THE MINORS ROSITA, ROGELIO AND JAIME, ALL SURNAMED NIRZA,...

G.R. No. L-14079. October 26, 1960

Ponente: PADILLA, J.

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PADILLA, J.:

Appeal by certiorari under sections 46 and 50, Act No. 3428, as amended, and Rule 44 of the Rules of Court, to review a decision of the Workmen's Compensation Commission dated 8 May 1958, affirming that of its Referee dated 29 September 1956 where the herein petitioner was ordered to pay the heirs of the deceased Felix Nirza, as follows:

1. Under Section 8 of Republic Act No. 772, as amended, the widow and the heirs are entitled to receive sixty per centum (60%) of the weekly wage of the deceased, or 60% of P40.20 equals P24.12. For 208 weeks, therefore, they should be paid the amount of P5,016.96. But the law only provides that the compensation to be awarded shall not exceed P4,000.00, plus burial expenses of not exceeding P200.00, which the respondent should also pay the widow.
2. The respondent is also ordered to pay to the Commission Fund the amount of P41.00, as fee for this decision or P1.00 plus P1.00 for every hundred pesos awarded as compensation. (Annex C).

and to pay to the Commission the sum of P5 (WCC Case No. 534, Annex E), and a resolution of the Commission en banc, dated 25 June 1958, denying the petitioner's motion for reconsideration (Annex G).

The evidence is summarized by the Commission as follows:

About week before July 12, 1952, (Saturday) a group of workers, of the Metropolitan Water District, MWD for short, was undertaking the construction of a certain sewer project located at the corner of Carriedo and Rizal Avenue Streets, Manila. In this group of workers under Foreman Eduardo Ramos was included the deceased, Felix Nirza. It is not denied that these laborers all belonged to the MWD Worker's Union. Leoncio Pascua, the then Chief of the Construction Division, MWD, instructed another group of laborers under foreman Celestino Lingad to take over the job from the first group, allegedly because the management wanted to have the project finished before midnight of that day (July 12). However, there is no showing as to how the same number of workers could insure the completion of the work earlier than if it were continued by the first group.

It appears that Nirza and his co-workers objected to the turnover of the job and thereby ensued a heated discussion between Lingad, head of the MWD Brotherhood Association, and Nirza who was generally looked upon by his companions as one of the leaders of the MWD Worker's Union. It also appears that the discussion ended with the first group of laborers relinquishing the job to the second group, although there was some delay in the actual turn-over thereof.

The next working day, Nirza and his group reported to the MWD compound for assignment, they were

verbally informed that the management had suspended them. Nirza and his companion then tried to verify this information from Mr. Pascua but they failed to contact him.

In their desire to know something about their status as workers of the firm, Felix Nirza and his "suspended" companions next tried to see Perlas, Assistant Manager of the MWD, who was allegedly the chairman of the investigating committee. The "suspended" workers appear to have been given no categorical answer in respect to their queries so they had to go to the MWD compound everyday to know their fate.

On August 31, 1952, Nirza and a companion, named Allanague, also "suspended" had a serious altercation with one Alipio Morales, driver of Leoncio Pascua and a member of the MWD Brotherhood Association. The altercation resulted in a fight but the protagonists were pacified by MWD officials. On September 3, 1952, Nirza together with Allanague were again at the MWD compound and at about noon, they were seen being chased by Alipio Morales, then armed with a pistol. Nirza was shot fatally by Morales while the former was running away.

The petitioner argues that at the time of his death, the deceased was under suspension and could not have been in the actual performance of his work. Hence the personal injury he suffered, as a result of which he died, did not arise out of and in the course of his employment. Consequently, his heirs are not entitled to death benefits. In rejecting the petitioner's argument, the Commission reason out that-

* * * In the first place, it has been shown that the suspension of Nirza was declared void and of no effect by the Court of Industrial Relations in its order dated August 17, 1953 on the ground that said suspension was without the benefit of investigation or hearing at which the worker should have been accorded opportunity to present his side of the case. In the proceedings for the collection of Nirza's unpaid wages before the Court of Industrial Relations, the respondent herein agreed to a stipulation of facts, paragraph 3 of which reads, thus:

"3. That when Felix Nirza died on September 3, 1952, he was not laboring under valid suspension or under valid dismissal, as the Order of suspension of the petitioners by the respondent, Manuel Manosa alone, without due investigation, effective July 14, 1952, was nullified and superseded by the order of dismissal of the same petitioners by the MWD Board effective also July 14, 1952, and both these suspension and dismissal of petitioners were not sustained by this Honorable Court in its Order of August 17, 1953"

As a matter of fact the MWD paid to the heirs of Felix Nirza an amount corresponding to the decedent's wages from July 14, 1952 (date of alleged suspension) to September 3, 1952 (date of death), pursuant to the Order of the Court of Industrial Relations on July 24, 1954. It has been judicially established therefore, that the late Felix Nirza's employment with respondent MWD terminated only upon his death. To our mind Felix Nirza had undisputed right to go to the offices and premises of the MWD to make inquiry as to his status as a worker of the firm.

The respondent also argues that Nirza's death did not arise out of the employment inasmuch as at that time, he was not actually performing his work in the MWD. This too cannot be sustained as under the workmen's compensation law it is enough that a worker is injured while engaged in something incidental to his employment and such injury will be looked upon as having causal relation to that employment.

It is hard to see why the worker's death in this case should not be held occupational in origin since it is proven that the quarrel between the deceased and his attacker is directly traceable to the dispute arising from the turn-over of the work mentioned elsewhere in this decision.

* * * * *

The respondent's contention that the deceased Nirza was the aggressor is totally belied by the findings of the Court of First Instance which tried and convicted Alipio Morales for homicide. The Court's decision has been

cited in the decision under review.

This Court has held on several occasions that findings of fact by the Workmen's Compensation Commission will not be disturbed on appeal except when the decision appealed from is not supported by substantial evidence.[1] We find no reason for disturbing the findings of the Commission. Nonetheless, from a perusal of the annexes attached to the record of the case the following points appear: that after the incident that took place on 12 July 1952 at the corner of Carriedo street and Rizal Avenue, Manila, where the deceased and his co-workers objected to the turn-over of this job they were working on to the group of workers headed by one Lingad, head of the MWD Brotherhood Association, a rival organization of the MWD Workers' Union to which the deceased and his co-workers belonged, the general manager of the petitioner formed a special investigating committee headed by the assistant general manager to investigate the incident; that after investigation, the committee recommended that Felix Nirza, Ri-cardo Allanague, Bernardo Duray, Restituto Odonio, and Andres Lorenzo be suspended for two months without pay and that the first three mentioned employees be fined an amount equivalent to two months' pay, one month pay and one-half month's pay, respectively; that the general manager transmitted the report and recommendations of the committee to the Board of Directors of the respondent with the comment that the employees involved "should deserve a more stiff punishment than what was recommended ;" that on 4 September 1952 the board of directors dismissed the five mentioned employees effective 14 July 1952 (Annex 2, respondents' answer). At about noon of 3 September 1952 the deceased was shot and killed by Alipio Morales, a member of the MWD Brotherhood Association, a rival organization of the MWD Workers' Union to which the deceased belonged, inside the petitioner's compound, one day before the board of directors actually ordered his dismissal from the service. Therefore, at the time of his death, his suspension or dismissal was not yet final and he was duty bound to render service to his employer or be within its compound.

The decision under review is affirmed, with costs against the petitioner.

Paras, C.J., Bengzon, Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, Gutierrez David, and Paredes, JJ., concur.

Decision affirmed.

[1]Union of Philippine Education Employees (NLU) vs. Philippine Education Co., 91 Phil., 93; 48 Off. Gaz., 5278; Laguna Tayabas Bus Company vs. Consunto, 108 Phil., 62; International Oil Factory vs. Martinez, supra, 554. See also section 46, Act No. 3428, as amended; section 2, Rule 44.

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