

NORBERTA MARTILLO, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, (NATIONAL LIBRARY) AND THE WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS.

G.R. No. L-42713. May 31, 1978

Ponente: GUERRERO, J.

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GUERRERO, J.:

Petition for review^[1] of the decision dated December 30, 1975 of the Workmen's Compensation Commission in RO9-WC No. 14583 reversing the award made by the Hearing Officer in favor of petitioner.

Petitioner was an employee of the National Library of the Philippine Government for thirty-nine (39) years, the last day of which was on December 31, 1972 when she retired from the government service as provincial librarian for the province of Samar at the age of 62 years. During her employment as provincial librarian, she underwent gall-bladder and appendectomy operations at the GSIS General Hospital, East Avenue, Quezon City from May 22, 1972 to June 1, 1972 as evidenced by the medical certificate issued by Dr. Jose Caedo, Jr. On July 11, 1972, petitioner was again admitted to the GSIS General Hospital for Cholecystitis Acute With Cholelithiasis and Myocardial Ischemia as shown by the medical certificate attached to the records of this case and the summary discharge from the GSIS General Hospital. In 1975, she filed a claim for compensation with Regional Office No. 9, Workmen's Compensation Unit at Tacloban City.

On October 8, 1975, Alfonso E. Paa, Hearing Officer of said office, issued an award directing the respondent Republic of the Philippines (National Library) to pay claimant the sum of P6,000.00 as compensation and the further sum of P1,430.82 as reimbursement of duly receipted and evaluated medical expenses pursuant to Section 13 of the Workmen's Compensation Act.

Respondent's motion for reconsideration of said award having been denied by the Hearing Officer in the order dated December 2, 1975, the record of the case was elevated to the Workmen's Compensation Commission at Quezon City. The Commission in its decision dated December 30, 1975 reversed the award on the ground that: "the oral testimonies of the claimant and the supporting papers she had submitted in connection with her claim does not show even by mere substantial evidence that her illnesses which were coronary insufficiency, rheumatic arthritis, hypertension essential, frequency of urination, cholelithiasis and PTB were contracted during the period of her employment," and that "the claimant had already retired from her employment and by the time she filed her claim, she was no longer connected with the government."

The sole issue to be resolved is whether petitioner's illnesses arose out of and in the course of her employment as provincial librarian.

The first ground for the reversal of the award is without merit. The fact that petitioner filed her claim for compensation when she was already separated from the service does not affect the jurisdiction of the Workmen's Compensation Commission.

In a long, long line of cases,[2] one of the most recent of which is the case of *Guevarra vs. Republic*, L-43099, May 31, 1977, 77 SCRA 292, the Supreme Court has held that:

"x x x failure on the part of the employee or claimant to comply with the requirements of Section 24 of Act No. 3824 is non-jurisdictional and that failure or delay in giving said notice is not a bar to the proceeding in the claim for compensation if it is shown that the employer, his agent or representative has knowledge of the injury, sickness or death, or that the employer did not suffer by such delay or failure."

There being no showing in the record that the employer suffered injury or prejudice by reason of the delay, the ruling above-cited holds in the case at bar. Moreover, under the Workmen's Compensation Act, the duty of the employer to provide medical attendance subsists even if the employee is separated from the service as long as the illness incurred during his employment is shown to be compensable and such medical attendance or services are required to cure or relieve him of such illness. (*Centino vs. WCC, et al.*, 72 SCRA 115).

It is admitted that during the employment of petitioner as provincial librarian, she underwent gall-bladder and appendectomy operations from May 22, 1972 to June 1, 1972 and was hospitalized for Cholecystitis Acute With Cholelithiasis and Myocardial Ischemia starting July 11, 1972. Upon the advice of Dr. Jose Caedo, Jr. of the GSIS General Hospital, she retired from the government service on December 31, 1972 at the age of 62-1/2 years old. From these undisputed facts, the presumption at once arises that her illness having supervened in the course of her employment, arose out of or was at least aggravated by such employment and the burden to overthrow said presumption shifts to the employer. This is also Our ruling in very numerous cases[3] which the respondent Workmen's Compensation Commission had failed to apply in many meritorious cases.

We find nothing in the record to indicate the rebuttal of the employer, the National Library, to overthrow the presumption referred to previously, for the employer failed to appear at the hearing before the Hearing Officer. Hence, the presumption stands un rebutted.

The contention of the Solicitor General that it was incumbent on the petitioner to show by satisfactory evidence that the illnesses she suffered while in the government service were the result of her employment or that they were aggravated thereby more so when said illnesses are not occupational diseases, considering her work as a librarian and the fact that her claim was filed three years after her retirement from the service, is without merit. As We have pointed out, the burden to prove that the illness complained of is not work-connected and therefore not compensable, lies with the employer the moment it is shown that said illness supervened during her employment.

We also reject respondent's contention that the findings of fact of the respondent Workmen's Compensation Commission are conclusive and not reviewable on appeal, alleging that there was no showing that the Workmen's Compensation Commission ignored or failed to consider any fact or circumstance of weight which, if it did, would alter the result. Precisely, We have noted from the records that the respondent Commission failed to consider the weight of the medical certificate issued by Dr. Jose Caedo, Jr., attending physician, GSIS General Hospital, attesting to the confinement of petitioner at the hospital from May 22-25, 1972 for Cholelithiasis and from July 11-25, 1972 for Cholecystitis with Cholethiasis and Myocardial Ischemia, as well as the Discharge Summary in each confinement.

The second ground on which the respondent Commission reversed the order of award is also unmeritorious. The record shows that petitioner was forced to retire at the age of 62 upon the advice of Dr. Jose Caedo, Jr. of the GSIS General Hospital. Her retirement at the age of 62 after having rendered long years of government service would not have been approved if she had not complied with the conditions prescribed for optional retirement. Memorandum Circular No. 133 dated October 16, 1967, issued by the Office of the President provides that "all applications for optional retirement under Commonwealth Act No. 186, as amended by Republic Act No. 1616

and No. 4968 shall not be recommended for approval unless funds are available in the bureau or office concerned for the payment of applicant's retirement gratuity over and above the fund requirement of its programmed projects and activities and provided any of the following circumstances or conditions is present: (1) xxx; (2) The employee is below 65 years of age, is physically incapacitated to render further efficient service." (italics supplied). The approval of her retirement at the age of 62 shows that petitioner was physically incapacitated to render further efficient service, and should thus be entitled to disability benefits allowed by the Workmen's Compensation Act. (Guevarra vs. Republic, 77 SCRA 292).

IN VIEW OF THE FOREGOING, the decision of respondent Commission dated December 30, 1975 is set aside and the award made by the Hearing Officer in favor of the petitioner is hereby reinstated and restored.

The respondent employer, Republic of the Philippines (National Library) is hereby ordered to pay:

- To the petitioner, the sum of Six Thousand (P6,000.00) Pesos as compensation;
- Sixty-One (P61.00) Pesos as administrative fee;
- Six Hundred (P600.00) Pesos as attorney's fees; and
- To the petitioner, the sum of One Thousand Four Hundred Thirty Pesos and Eighty Two Centavos (P1,430.82) as reimbursement of duly receipted and evaluated medical expenses pursuant to Sec. 13 of the Act.

No costs.

SO ORDERED.

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

[1] Treated as special civil action per resolution of May 10, 1976.

[2] Manila Railroad Co. vs. Perez and the Workmen's Compensation Commission, 14 SCRA 504; National Development Company vs. Galamgam, 38 SCRA 495; Snow White Ice Cream and Ice Drop Factory vs. Garcia, 42 SCRA 295; Manlapat vs. Workmen's Compensation Commission, 51 SCRA 390; Central Azucarera Don Pedro vs. Workmen's Compensation Commission, 60 SCRA 263; Cabinta vs. Workmen's Compensation Commission and City of Manila, 72 SCRA 266; Vallo vs. The Workmen's Compensation Commission, 73 SCRA 623; Caling vs. Workmen's Compensation Commission, 77 SCRA 309.

[3] Naria vs. WCC, L-18066, October 30, 1962, 6 SCRA 361; Pangasinan Transportation Co., Inc. vs. WCC, L-16490, June 29, 1963, 8 SCRA 352; Iloilo Dock and Engineering Co. vs. WCC, L-17283, July 31, 1962, 5 SCRA 765; A.D. Santos, Inc. vs. De Sapon, L-22220, April 29, 1966, 16 SCRA 791; National Shipyards and Steel Corp. vs. WCC, L-22628, Jan. 31, 1967, 19 SCRA 254; Talip vs. WCC, L-42574, May 31, 1976, 71 SCRA 218; Mercado vs. WCC and Riverside Mills Corporation, L-42451, July 30, 1976, 72 SCRA 260; Galang vs. WCC and San Miguel Corp., L-41893, Aug. 27, 1976, 72 SCRA 454; Jacob vs. WCC and Republic of the Philippines (Bureau of Public Schools), L-43302, Aug. 31, 1976, 72 SCRA 575; Vda. de Leorna vs. WCC, L-42543, Sept. 30, 1976, 73 SCRA 228; Ayuso vs. WCC and White Ways, Inc., L-42893, Sept. 30, 1976, 73 SCRA 233; Camarillo vs. WCC, Hon. Eugenio I. Sagmit, Jr., Associate Com. and Firestone and Rubber Co. of the Philippines, L-42831, Oct. 21, 1976, 73 SCRA 497; Guevarra vs. Republic, L-43099, May 31, 1977, 77 SCRA 292; Ybañez vs. WCC, L-44123, June 30, 1977, 77 SCRA 501.

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