

CARLOS ESPINO, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND VICTORIAS MILLING CO., INC., RESPONDENTS.

G.R. No. L-43638. July 29, 1977

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition for review on certiorari of the decision dated December 26, 1975 of the Workmen's Compensation Commission in R07-WCC No. 1815 reversing the decision dated October 3, 1975 of Unit Chief and Referee Felicito D. Ciocon of the Department of Labor, Sub-Regional Office No. VII, Bacolod City.

On February 11, 1975, petitioner filed a workmen's compensation claim (p. 98, WCC rec.) against respondent Victorias Milling Company, Inc., with the Department of Labor, Sub-Regional Office No. VII, Bacolod City.

On October 3, 1975, the sub-regional office decided in favor of petitioner (Annex "A", pp. 15-16, rollo).

On October 22, 1975, respondent Victorias Milling Company, Inc. filed a motion for reconsideration and/or petition for review, which was denied on November 5, 1975 by the Unit Chief and Referee who elevated the case to the Workmen's Compensation Commission (p. 9, WCC rec.).

On December 26, 1975, respondent Workmen's Compensation Commission reversed the decision of the Unit Chief and Referee, absolving respondent Victorias Milling Company, Inc. from any liability under the Workmen's Compensation Act (Annex "B" of Petition, pp. 18-19, rollo), anchoring its action on the observation and opinion of the Department of Labor Compensation Rating Medical Officer who stated that "gout is an inborn error of metabolism, and the duodenal ulcer was induced by the anti-gout medication taken by the claimant and wherefore nature of employment has no service-connection."

The decision of the Workmen's Compensation Commission should be set aside.

Respondent Victorias Milling Company, Inc. admits that claimant rose from the ranks since he joined the company on April 28, 1947. From a mere remelter centrifugal in the Boiling House Department, he rose to the position of evaporator tender, pan man, evaporator capataz, relief foreman, regular foreman, until he became boiling house technician on November 1, 1968 up to the time of his retirement on December 31, 1973, due to intractable propyloric ulcer and gouty arthritis.

In awarding his claim for compensation benefits in the amount of Six Thousand (P6,000.00) Pesos and the reimbursement of medical expenses amounting to Fourteen thousand nine hundred eight and 71/100 Pesos (P14,908.71), the Unit Chief and Referee found that the "gouty arthritis and duodenal ulcer" suffered by claimant while in the employ of respondent Victorias Milling Company, Inc. is compensable, stating that:

"x x x. The extraordinary exertion in the performance of his work would naturally result in the disease which he suffered. The stress of work and the position that he ultimately occupied as foreman of such a big company

in the boiling house where the manufacture of sugar is done would ultimately lead not only to the gouty arthritis but also to the attack of ulcer which, according to the doctors, was brought about by the drugs that he was taking to counteract the arthritis, but if I may add it may also be due to the stress of the work and the position he occupied as foreman. In all the treatment of the claimant, he spent a total of P14,908.71. It is true that the first operation was performed at the respondent's hospital but the expenses were charged to him and were deducted from his salary and later on the expenses for his operation in Manila were deducted from his retirement benefits. The above amount was supported by receipts which are attached to the records of this case"(pp. 15-16, rollo).

It will be noted that respondent Victorias Milling Company, Inc. never controverted claimant's allegations that after liberation, the employees were subjected to medical examination by the company every year; that he was found well until 1966 when, due to the nature of his work and the conditions of the working place in the boiling house where the temperature is quite warm, he began to suffer gouty arthritis which attacked his right shoulder, and later affected also his left shoulder; that he had to exert physical effort while actually operating the old centrifugal basket; that sometimes he could not eat his meals on time; that in 1966 he was operated on for ulcer because of the reaction of the arthritis drugs that he was taking; that after the operation, he went back to work as boiling house technician but still in the same place where the working condition is so injurious to his health that his gouty arthritis continued until he had to retire ultimately in 1973 because of physical disability.

The records disclose that claimant-petitioner was instructed to submit to medical examination by Dr. Antonio M. Habana, Compensation Rating Medical Officer of the Department of Labor, Sub-Regional Office No. VII, Bacolod City, who found him with rheumatoid arthritis of the right shoulder joint, affecting the right extremity; that there was a recurrence of duodenal ulcer secondary to anti-gout drug; that the blood pressure was high and did not go down to normal level even at rest and after a long period of treatment; that his illness had greatly affected his ordinary physical activity that rendered him unfit for service; and that his disability evaluation was 50% N.S.D. (Section 18) [p. 90, WCC rec.].

Clearly, petitioner's claim is meritorious. This Court has in no uncertain terms pronounced in the many cases brought before It that there is a statutory presumption of compensability so that the burden is on the employer to establish by substantial evidence that the illness was not in fact aggravated by the nature of the job (*National Shipyards & Steel Corp. vs. WCC*, Jan. 31, 1967, No. L-22628; *National Development Co. vs. WCC*, No. L-21724, April 27, 1967; *National Development Co. vs. Ayson*, No. L-23450, May 24, 1967; *Magalona vs. WCC*, No. L-21849, Dec. 11, 1967; *Vda. de Forteza vs. WCC*, No. L-21718, Jan. 29, 1968; *Abana vs. Quisumbing*, No. L-23489, Mar. 27, 1968; *Rebar Bldgs., Inc. vs. WCC*, No. L-27486, April 30, 1968; *Central Azucarera Don Pedro vs. WCC*, No. L-24987, July 31, 1968; *Isberto vs. Republic*, No. L-22769, Aug. 30, 1968; *C.A. Chiong Shipping Co. vs. WCC*, No. L-24202, Sept. 23, 1968; *Manila Pest Control vs. WCC*, No. L-27662, Oct. 29, 1968; *Seven-Up Bottling Co. of the Phil. vs. Mimerata*, No. L-24349, Dec. 24, 1968; *Operators' Incorporated vs. Cacatian*, No. L-26172, Oct. 21, 1969; *Vargas vs. Phil. American Embroideries, Inc.* No. L-23762, Aug. 31, 1970; *Manila Electric Co. vs. WCC*, No. L-31591, June 30, 1971; *Vda. de Leorna, et al. vs. WCC, et al.*, No. L-42543, Sept. 30, 1976; *Arzadon vs. WCC, et al.*, No. L-42404, Dec. 8, 1976). There is no showing that respondent Victorias Milling Company has proven by substantial evidence that the illness of the petitioner could have arisen out of factors other than the nature of his employment. In fact, the yearly examination of its employees conducted by respondent company evinces that petitioner was physically and mentally agile to perform the duties of his position until he was operated on for ulcer. But even after the operation he went back to work as boiling house technician but still working in the same place where the working condition was deleterious to health as his gouty arthritis continued until he ultimately retired in 1973 at the early age of fifty-five (55) when a man normally is still in the prime of life. Indeed, the stance taken by respondent must perforce fail considering that it only relied on the opinion of the Compensation Rating Medical Officer who even then was not categorical in her findings. It is

well-settled that once it is shown that the illness supervened during the employment, as in this case, there is the legal presumption that the illness arose out of or was aggravated by the employment. Respondent, having failed to rebut the presumption of compensability, should satisfy petitioner's claim.

WHEREFORE, THE DECISION DATED DECEMBER 26, 1975 OF RESPONDENT WORKMEN'S COMPENSATION COMMISSION IS HEREBY SET ASIDE, AND THE RESPONDENT VICTORIAS MILLING COMPANY, INC. IS HEREBY ORDERED

I. TO PAY:

A. THE CLAIMANT

(1) THE SUM OF SIX THOUSAND (P6,000.00) PESOS AS DISABILITY COMPENSATION; AND

(2) THE SUM OF FOURTEEN THOUSAND NINE HUNDRED EIGHT AND 71/100 (P14,908.71) PESOS REPRESENTING REIMBURSEMENT FOR MEDICAL EXPENSES INCURRED;

B. THE CLAIMANT'S COUNSEL, ATTY. FELICISIMO DIVINO, TEN PERCENT (10%) OF THE RECOVERABLE AMOUNT, AS ATTORNEY'S FEES;

C. THE WORKMEN'S COMPENSATION COMMISSION THE SUM OF SIXTY-ONE (P61.00) PESOS AS ADMINISTRATIVE FEES; AND

D. THE COSTS; AND

II. TO PROVIDE THE CLAIMANT WITH SUCH SERVICES, APPLIANCES AND SUPPLIES AS THE NATURE OF HIS DISABILITY AND THE PROCESS OF HIS RECOVERY MAY REQUIRE; AND THAT WHICH WILL PROMOTE HIS EARLY RESTORATION TO THE MAXIMUM LEVEL OF HIS PHYSICAL CAPACITY.

SO ORDERED.

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

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