

TEODORO E. LERMA, DOING BUSINESS UNDER THE STYLE NAME KWIK-WAY ENGINEERING WORKS, INC., PETITIONER, VS. THE WORKMEN'S COMPENSATION COMMISSION AND BENJAMIN AGUSTIN, RESPONDENTS.

G.R. No. L-29805. October 29, 1971

Ponente: REYES, J. B. L., J.

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REYES, J. B. L., J.:

This is a petition for review of the decision of the Workmen's Compensation Commission and the resolution of the Commission en banc, ordering petitioner employer to pay disability compensation to a resigned employee and to provide continuous medical treatment to the latter until his work-aggravated tuberculosis is finally cured or arrested.

The proceedings commenced with the filing by Benjamin Agustin in the Department of Labor, Regional Office No. 4, of a claim for disability compensation and for medical expenses against his former employer, Teodoro R. Lerma, doing business under the style Kwik-Way Engineering Works (RO4-W. Case No. 3126). Claimant alleged in the complaint that he was employed by respondent as latheman at the rate of P5.00 a day, working 7 days a week, from August, 1960 up to his lay-off on account of disability on 13 May 1963; that he used to render overtime services; that he was in fair health when he first entered employment, but he subsequently contracted pulmonary tuberculosis which was aggravated by the nature of his work, causing his separation from employment on 13 May 1963; that for treatment of said disease, he had already incurred medical expenses in the sum of P800.00, which amount may even increase as his ailment has remained unarrested.

Disputing the allegations of the complaint, the respondent employer averred that claimant was employed in the firm as latheman earning P5.00 a day, working 6 days a week; that the latter seldom rendered overtime services; that he was not laid-off, but voluntarily resigned from work; that respondent offered to have claimant hospitalized at company expense, but the latter refused and preferred to accept cash (P450.00) in full satisfaction of his claim against the employer.

The case was heard, and in due time, decision was rendered by the Hearing Officer finding as having been established the fact that claimant, as of 13 May 1963, was suffering from compensable pulmonary tuberculosis. Considering that after an x-ray examination made on 12 August 1963 claimant was certified by the physician to be capacitated to do clerical jobs, it was ruled that the latter's illness disabled him only from 13 May 1963 up to and including 12 August 1963, or for a period of 88 days (12-4/7 weeks); thus, respondent was ordered to pay to claimant disability compensation in the sum of P226.28. The demand for continuous medical treatment, however, was denied, the Hearing Officer holding that in view of the severance by claimant of his relationship with the respondent employer, the latter can no longer be compelled to provide the former with free medical, surgical and hospital services until his illness is cured. As regard the claim for medical expenses allegedly incurred by the claimant in the sum of P800.00, the same was likewise disallowed for insufficiency of proof.

On appeal to the Workmen's Compensation Commission, the foregoing decision was set aside, and respondent was ordered to pay to claimant disability benefits for 208 weeks in the amount of P3,744.00; attorneys' fees for P450.00; to reimburse the sum of P500.00[1] spent by claimant for medication; to provide him with continuous medical treatment as the illness may warrant, and to pay P51.00 as administrative costs. In making this award, the trial Commissioner took into account the fact that the very recommendation of the physician itself, issued on 12 August 1963, that claimant "may do clerical job; to continue taking trisovit tablets for at least six months", which was relied upon by the Hearing Officer in declaring the illness to have been already arrested, indicated that claimant until then was still disabled from performing his regular work as latheman. The medical expenses allegedly incurred by the claimant was also allowed. Respondent employer brought the matter on appeal to the Workmen's Compensation Commission en banc, and when it affirmed the Commissioner's ruling, the present petition for review was filed in this Court.

We find no error in the decision and resolution of the Workmen's Compensation Commission now under review.

Petitioner in this instance does not contest the compensability of claimant's illness. His complaint is rather directed against the award to the worker of disability compensation for the maximum period of 208 weeks; it being contended that since the latter's x-ray examination on 12 August 1963 showed only pulmonary scar in his right lung, on account of which finding he was merely advised to engage in light work and continue the trisovit medication for an additional 6 months, then claimant should be considered disabled from work at most from 13 May 1963 up to 12 February 1964 (6 months from 12 August 1963). In short, according to petitioner, claimant should have been completely recovered from his illness by 12 February 1964, and if he were not, then it could only be attributed to his fault, and, consequently, the same would no longer be compensable. The weakness in this line of argument lies in the fact that the physician, who examined claimant on 12 August 1963, himself specifically declared in court that the trisovit treatment prescribed for claimant would be sufficient to produce a complete cure of the illness "provided he will be only given clerical work and provided also that his personal habits will be within control." [2]

True it is that the chest x-ray examination made on claimant on 12 August 1963 revealed "fibrotic spots and strands" in the apex to the second anterior interspace in the right lung, or in the layman's language, what remained of the lesion was a scar or scab ("langib"). [3] But such condition of the disease would not justify a conclusion that it was indeed cured. The chest doctor who conducted the examination would not even categorically declare that claimant, as of 12 August 1963, was already cured of his tuberculosis, confining himself into saying that the disease was simply inactive.

Upon the other hand, there is evidence that not only was claimant refused clerical assignment by the employer, but also, he was practically forced into resigning from employment because of the danger (of contamination) that his presence might pose to the health of the other workers. [4] In the circumstances, with claimant rendered jobless and left to his own resources to eke a living, the aforesaid favorable conditions for recovery from his illness would be difficult to obtain. This situation certainly can not be laid at claimant's door. Besides, as claimant had already established that he was afflicted with a compensable disease since 12 May 1963, the onus would be on the employer to prove either that the persistence of the illness was due to claimant's fault, or that the latter was totally rid of the disease as of 12 February 1964. No proof to this effect has been presented by herein petitioner.

It is also contended that petitioner should not be required to provide claimant with free medical, surgical and hospital services until his illness is cured, the latter having chosen to resign from work and therefore is already beyond the control of the former.

The contention is devoid of merit. It may be pointed out that the provision of Section 13 of the Workmen's

Compensation Act 5[5] on medical attendance does not require continuation of an existing employer-employee relationship for its operation. For the employer's liability to accrue, it is enough that the illness of the employee was contracted during and/or aggravated by the employment, and such liability shall subsist until the ailment is cured or arrested.[6] In one case, a petition for further medical attendance, filed by a separated employee who had already been paid disability benefits and medical expenses awarded by the Commission, was still granted, the Court reasoning thus:

"It may be observed that the law, in imposing on the employer the obligation to provide medical attendance to an injured or sick employee, unlike those provisions relating to compensation for disability (Sections 14, 16, 17 and 18 of Act 3428) does not provide maximum either in the amount to be paid or the time period within which such right may be availed of by the employee. On the contrary, the law imposes on the employer the obligation to 'provide the employee with such medical, surgical, and hospital services and supplies as the nature of the injury or sickness may require.' The implication is that, such medical expenses as may be necessary until the work-connected injury or sickness ceases, may be charged against the employer." (Cebu Portland Cement Co. vs. WCC, G.R. No. L-19164, 29 February 1964, 10 SCRA 420).

This right of the disabled employee to medical attendance, however, can be impugned or abated if said employee shall unreasonably refuse to accept the medical services proffered by the employer, or if he shall voluntarily impede or obstruct such services.[7] But petitioner in this instance has failed to establish that claimant has lost the right to medical attendance by any of the foregoing means nor is there proof that the employee's disease was cured within the 208 weeks fixed by law.

Neither can petitioner's remonstrance against the order to reimburse the claimant of the P500.00 medical expenses be sustained. Evidence was presented showing that in addition to the sum of P450.00 which was spent for doctor's fees and drugs, complainant had used up his savings of about P400.00 to purchase other medicine and necessary food.[8] Considering the nature of the ailment, the expenditures allegedly incurred by claimant for a period of about 10 months are hardly unreasonable or unlikely. The Commission deducted from the total expenses P300 advanced by the employer, and ordered the latter to reimburse only the balance of P500.00 (Resolution of 23 October 1968).

The case at bar is distinguishable from *Saulog vs. Baens del Rosario*, G.R. No. L-11504, 23 May 1958, in that here the employee's separation was practically forced upon him by the employer's refusal to assign him to clerical work as recommended by the Company physician and by the danger of his contaminating fellow workers.

WHEREFORE, the decision and resolution of the workmen's Compensation Commission under review is hereby affirmed, with costs against the petitioner.

Concepcion, C.J., Makalintal, Zaldivar, Castro, Fernando, Barredo, Villamor, and Makasiar, JJ., concur.
Teehankee, J., in the result.

[1] The original demand for P800.00 was reduced by deducting therefrom the sum of P300.00 received by the worker from the employer.

[2] Page 16, t.s.n., hearing of 26 January 1965.

[3] Pages 13-14, *idem*.

[4] Pages 11-14, t.s.n., 27 April 1964.

[5] As amended by Republic Act 772, which is applicable to the case.

[6] Itogon-Suyoc Mines, Inc. vs. Dulay, G.R. No. L-18974, 30 September 1963, 9 SCRA 199; Hernandez vs. WCC, G.R. No. L-20202, 31 May 1965, 14 SCRA 219. Cf. Carroll vs. State (Minn.) 64 NW 2d 166.

[7] Cebu Portland Cement Co. vs. WCC, *supra*.

[8] Pages 20-21, t.s.n., hearing of 24 April 1964; pages 19-20 t.s.n., hearing of 10 August 1964.

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