

ZACARIAS PONCE, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND REPUBLIC OF THE PHILIPPINES (BUREAU OF PUBLIC SCHOOL), RESPONDENTS.

G.R. No. L-43030. August 31, 1978

Ponente: SANTOS, J.

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SANTOS, J.:

This is a "Petition for Review on Certiorari"[1] filed March 15, 1976 to review and reverse the decision of the Workmen's Compensation Commission (Commission, for short) en banc, in R07-WWC Case No. 19043, affirming the decision of its Hearing Officer and Acting Referee, (Referee, for short) Fernando S. Camacho, which dismissed claimant-petitioner's claim for compensation under Act No. 3428, as amended, on two grounds namely - "claimant x x x retired under CA 186 which prohibits the granting of benefits or gratuity to an employee who retired under the Act, and x x x claimant did not lose (sic) any earning power or suffer any loss thereof x x x." [2]

In Our resolution of June 9, 1976 the above petition was treated as a special civil action and both petitioner and respondents were required to submit simultaneous memoranda within thirty (30) days from notice.[3]

The facts, as found by the Referee, follow. Claimant was a public school teacher since August, 1938 to September 9, 1974 when his optional retirement was approved, at the salary rate of P4,305.00 per annum; that sometime in 1965 he contracted pulmonary tuberculosis and was, since then, under treatment by Dr. Vivencio B. Lopez; that he continued working as a classroom teacher despite his illness; that on July 5, 1974, at about 3 p.m., he vomited blood while conducting classes, and was advised by his Principal Teacher to go on leave of absence, presumably for intensive treatment and in order to avoid contaminating the school children; that he applied for optional retirement which was approved effective September 9, 1974; that he was advised by his attending physician to have a complete rest and to stop working; that he was examined by the Regional Office Compensation Rating Medical Officer, who found him suffering from PTB moderately advanced; and, that he was granted a disability evaluation rating of 48% N.S.D. permanent, partial disability.[4]

Respondent (Bureau of Public Schools) resisted the claim on the grounds of "(1) Prescription, and (2) Prohibition under Section 28 (b) of Commonwealth Act 186, as amended (GSIS Charter)," [5] The Referee rejected prescription as a ground for dismissal, citing *Surigao Consolidated Mining Company, Inc. v. WCC* [6] and *National Development Company v. Galamgam*, [7] which reiterate previous rulings to the effect that failure on the part of the employee to comply with the requirements of Section 24, Act No. 3428, i.e. the giving of notice of injury and the filing of claim within the time prescribed therein, is non-jurisdictional. Further, the court restated in the former case the doctrine that the employer's liability to pay compensation under the Workmen's Compensation Act is an obligation created by law, and under paragraph (2), Article 144 of the Civil Code, the action to enforce the obligation can be brought within 10 years from the time the right of action accrues. However, he sustained the second ground, citing *Cebu Portland Cement v. Mamerto de Jesus* [8] for the reason, among others, that CA No.

186, as amended, "prohibits the grant of gratuity or benefit to an employee who has already recovered the retirement benefits granted under the law," and that "(T)he policy of the law is to grant only one gratuity or retirement benefit granted under the law."

Petitioner-claimant moved for the reconsideration of the decision of the Referee dismissing his claim and raised the following issues:[9]

I

"THAT THE DISMISSAL OF THE CLAIM PREDICATED ON REASONS THAT CLAIMANT IS NOT ENTITLED TO COMPENSATION BECAUSE HE WAS ALREADY GRANTED RETIREMENT BENEFITS OR GRATUITY UNDER RE-PUBLIC (SIC) 186 AND BECAUSE HE DID NOT LOSE ANY EARNING POWER OR SUFFER ANY LOSS THEREOF FINDS NO SUPPORT IN LAW AND JURISPRUDENCE; AND

II

"THAT IN SO DISMISSING THE CLAIM WHICH IS NOT ONLY WITHOUT BASIS IN LAW AND JURISPRUDENCE BUT ALSO APPEARING AS IF THE HONORABLE REFEREE IS EATING BACK HIS FINDINGS OF FACT CONTAINED IN THE DECISION, IT WOULD SEEM THAT THE SAID HONORABLE REFEREE HAS COMMITTED A GRAVE ABUSE OF DISCRETION AND BIAS IN THE RENDITION OF DECISION."

The motion for reconsideration was, however, denied for lack of merit.[10] Hence, the entire records of the case were elevated to the respondent Commission for review.

In its decision of January 22, 1976, respondent Commission restated the aforesaid issues raised in the motion for reconsideration below, but instead of resolving the same, proceeded to make its own findings of fact, to wit: that claimant contracted pulmonary tuberculosis sometime in 1965 and underwent treatment by Dr. Vivencio B. Lopez; that on July 5, 1974 at 3 p.m. he vomited blood in front of his pupils, while conducting his class; that upon advice of his principal, he went on leave from July 6 to 12, 1974; that he returned to work until he retired on September 9, 1974 at an annual compensation of P4, 305.00 and was given a lump sum gratuity of 3 years, the balance of 2 years payable upon reaching the age of 63; that the records failed to establish that claimant was suffering from a disabling illness at the time of retirement, especially considering that he was able to resume working after his leave of absence on July 6 to 12, 1974, until his retirement; that the only x-ray examination submitted was the one taken after his retirement and the gap between that time and his x-ray examination "was quite too long to trace his pulmonary tuberculosis during the period of his employment or at the time he retired from service." [11]

On the basis of said findings, the respondent Commission "AFFIRMED" the decision of the Referee appealed from, and absolved respondent Republic (Bureau of Public Schools) from liability.

It is now alleged that the Commission en banc "completely side-tracked them (meaning the issues) and went out of its way, in clear abuse of discretion amounting to excess of jurisdiction, making its own findings and conclusion of fact in order to return a dismissal affirmance." The following issues are now being raised in this

petition which, as earlier stated, has been treated as a special civil action, to wit:

"I. Whether or not an employee who has already been granted retirement gratuity or benefit under the GSIS law can still be entitled to the compensatory benefits under the Workmen's Compensation Act, as amended;

"II. Whether or not an employee who collected retirement benefits under the GSIS law does not suffer any loss of earning power and, therefore, is not entitled to compensation under the Workmen's Compensation Act, as amended; and

"III. Whether or not the Workmen's Compensation Commission, in the exercise of its appellate jurisdiction, can digress from the issues submitted for review and resolution and, as in this case, go out of its way making its own finding and conclusion of fact not borne out by the evidence and without giving the adverse party a chance to be heard, especially where it involves dismissal and/or denial of substantial justice." [12]

Respondents, through the Solicitor General, filed their comment on May 27, 1976. [13] He avers with respect to the first and second issues, that they are "bereft of merit" stating, among other things, that after petitioner-claimant went on leave for one week from July 6 to 12, 1974, upon advice of his principal, "he resumed teaching until he finally retired on September 9, 1974 x x x at an annual compensation of P4,305.00." [14] In specific regard to petitioner's contention that he is entitled to disability compensation notwithstanding his having received retirement gratuities, the Solicitor General admits that as "a general proposition, said contention x x x is correct." [15] However, he would reject its application in the subject claim "because petitioner has not shown that he was not paid during his absence on account of his sick leave or that his earning capacity was impaired." [16] There is every reason to believe, he asserts, that "he (petitioner) was paid and consequently x x x has suffered neither loss nor impairment, of his earning capacity." [17]

The Solicitor General would also admit as "clear from the above findings of the Commission, that petitioner's illness, if it was suffered at all, occurred only immediately before his retirement." He concludes, however, that "petitioner retired from the service because of the beneficial aspects of retiring at the age of 63, considering that he had already received the full retirement benefits afforded to those retiring at the age of 65." [18]

In connection with the third issue, it is contended that respondent Commission is not bound by the findings of the referee; and that it may affirm, reverse or modify any decision, order or award as the law and facts may require, citing Section 3, Rule 16 of the Revised Rules of the Workmen's Compensation Commission, as follows:

"Sec. 3. Review by Commission. Upon receipt of an appealed case from the referee, the Chairman shall assign the case to any member of the Commission who shall thereupon review the case and he may affirm, reverse modify any decision, order or award as the law and facts may require, or take such other action as the interest of justice may demand." [19]

Contrary to respondents' previous assertion that illness, if suffered at all, "occurred only immediately before his retirement, " as was "clear from the above" findings of the Commission," [20] it is now claimed that "petitioner was not suffering from any disability at the time of his retirement" so that "it is therefore, clear that the alleged illness or disability was incurred after he was separated from the service, hence, he is no longer entitled to compensation." [21]

In a counter-comment[22] petitioner points to the "futility" of the Solicitor General's comment, as a "useless scrap of paper, " the same having been filed one day after the motion for a fifth extension was filed, which motion itself "suffers from a fatal infirmity" because it was also filed one day late.[23] The "nullity" of the Referee's dismissal is again pressed - invoking Section 3 of the Workmen's Compensation Act (Act No. 3428, effective December 10, 1927), as amended by R.A. No. 4119, effective June 20, 1964, which reads:

"This Act shall also be applicable to all officials, employees and laborers in the service of the National Government and its political subdivisions and instrumentalities: Provided, however That officials, laborers, and employees insured with the Government Service Insurance System, and their dependents when entitled to the benefits of the said insurance system shall, in addition to the same, be entitled to the benefits granted."
(Italics supplied.)

Petitioner also made a distinction between retirement benefits under GSIS law which "are mere return to the retiree x x x of his own money contributed to the retirement fund, " and compensation under the Workmen's Compensation Act when an employee's earning power or capacity" is lost upon disablement or incapacity from work x x x." [24] Thus, in petitioner's view, the dismissal of the claim "was a patent grave abuse of discretion, resulting in the total denial of (his) substantive rights x x x" since throwing his claim out on grounds which are "entirely contrary to law and jurisprudence" was "arbitrary, capricious and whimsical." [25]

Petitioner would also stress - that the fundamental rule is that "matters not raised on appeal cannot be the subject of disposition or adjudication"; and that the Commission, as an appellate body, has a limited function only, i.e. to determine whether or not there is evidence on record supporting the findings and conclusions of the lower office in relation to the issue presented for review, and to ascertain the validity or invalidity of the dismissal.[26]

Respondents' Memorandum of July 16, 1976 reiterates earlier allegations in their comment, but adds further, in support of their denial, that petitioner was granted his day in court and had ample opportunity to prove his case; and that the decision of respondent Commission affirming that of the Regional Office was properly within the competence and authority of said respondent.[27] Petitioner's memorandum filed on July 23, 1976[28] likewise restates previous arguments contained in his petition and counter-comment.

This petition is impressed with merit.

This Court has had the occasion in an early 1938 case to state the policy considerations behind the enactment of the Workmen's Compensation Act[29] which is -

"x x x to secure workmen and their dependents against becoming objects of charity, by providing for reasonable compensation for such accidental calamities as are incidental to the employment. Under the Act, injuries to workmen and employees are to be considered no longer as the results of fault or negligence, but as the products of the industry in which the employee is concerned. x x x. Hence the provision that the injury must arise out of and in the course of the employment." (Italics supplied).

Section 2 of the Workmen's Compensation Act, as amended, specifically provides for grounds of compensation, arising from illness and injuries, as follows:

"When an employee suffers personal injury from any accident arising out of and in the course of his employment, or contracts tuberculosis or other illness directly caused by such employment, or either aggravated by or the result of the nature of such employment, his employer shall pay compensation in the sums

and to the persons hereinafter specified. x x x." (Emphasis supplied).

Thus, when an employee contracts tuberculosis or other illness directly caused or is aggravated by his employment - in this case teaching - the same is compensable.

There are clear indications of the compensability of petitioner-claimant's illness based on material and relevant facts as shown by the findings of the Referee, as stated earlier. Respondent Commission itself adopted most of these findings in its decision of January 22, 1976, specifically the dates when claimant –

(1) started as a classroom teacher (August, 1938);

(2) vomited blood while conducting his classes (July 5, 1974);

(3) went on leave upon advice of his principal (July 6 to 12, 1974); and

(4) applied for optional retirement (effective September 9, 1974)

In short, claimant's PTB was contracted and/or was aggravated without doubt, during his employment as a classroom teacher, and this, in fact, was the compelling reason for his application for optional retirement upon the advice of his physician. The facts are also strongly supported by the "Notice of x x x." [30] "Sickness x x x," [31] dated March 29, 1975, as well as the "verified "Physician's Report x x x, " dated March 25, 1975, with the latter document expressly finding, among other things, that claimant's illness was "PTB caused by exhaustive activity in his teaching" and was the direct result of such employment; that he was in perfect physical condition before December, 1965; that he had "profuse hemoptysis" on May 10, 1972; and that he was "positive in x-ray since the beginning of his illness for PTB up to the present date as verified by his x-ray taken on March 19, 1975 x x x." (Italics supplied).

The dismissal of petitioner-claimant's claim by the Referee on the grounds given was patently erroneous, considering the express provisions of Section 3 of the Workmen's Compensation Act, as amended by R.A. No. 4119, effective June 20, 1964, quoted above, to the effect that the benefits to which an employee is entitled under the Workmen's Compensation Act "shall" be "in addition to" the benefits which may be enjoyed by the same employee insured with the Government Service Insurance System (GSIS, for short) upon his retirement. It is, thus, clear that the benefits received under CA No. 186, as amended, do not preclude the enjoyment of benefits under the Workmen's Compensation Act.

Upon the other hand, there is absolutely no basis for the Referee's assumption that claimant's receipt of retirement benefits from the GSIS proved that he "does not suffer (from) any loss of earning power..." and is, therefore, "not entitled to compensation under the Workmen's Compensation Act." Accordingly, petitioner-claimant was correct in his assertions that the dismissal of the claim by the Referee was "without basis in law and jurisprudence" and that he disregarded his own findings of fact. [32]

On appeal, respondent Commission should have limited itself to resolving the issues raised by the petitioner-claimant, and should have overruled the Referee's patently erroneous conclusions of law in the light of applicable laws already adverted to. Instead, the Commission ignored the issues capriciously and whimsically, and made its own findings of fact to justify rejection of the claim, e.g. (1) that petitioner-claimant was not

suffering from a disabling illness at the time of retirement, despite the principal's certification[33] that he resumed working only "because of the demands of the service x x x;" and (2) that "the time of his x-ray examination was quite too long to trace his pulmonary tuberculosis during the period of his employment or at the time he retired from service," contrary to the express medical findings that this last x-ray examination merely "verified" earlier PTB symptoms, such as profuse hemoptysis and positive x-ray findings since the beginning of his illness in December, 1965, which findings are admitted by both respondent Commission and the Referee.

In the recent Workmen's Compensation case of *Ruelan v. Republic*,[34] which this Court also treated as a special civil action. We had occasion to rule, in effect, that respondent Commission should have limited itself to the issue raised on appeal, which was whether petitioner should be awarded the maximum compensation of P6, 000.00. The question of compensability of petitioner's illness was no longer in issue in the said case, having already been finally adjudicated. Nonetheless, the Commission entirely reversed the award and absolved the employer from all liability. It was accordingly held that respondent Commission acted in excess of authority and with grave abuse of discretion in "arbitrarily, unreasonably and whimsically" reversing the award.

Respondent Commission points to Section 3, Rule 16 of its Revised Rules, *supra*, but the appellate power of the member of the Commission under the said rule to "affirm, reverse or modify any decision, order or award" of the Referee may be exercised only "as the law and facts may require." The "law and facts" in the instant case precisely demand the correction of the patent errors complained of, and when respondent Commission evaded a positive duty to rule on the issues raised, and instead proceeded to make its own findings of facts, to justify its disallowance of the claim, it exceeded its jurisdiction and gravely abused its discretion as an appellate body. Neither did "the interest of justice" warrant such a course of action.

However, granting *arguendo* that the above-cited rule justified respondent Commission's actuations, it still committed grave abuse of discretion when it dismissed the claim in the face of overwhelming evidence to show that petitioner-claimant's illness was work-connected and/or aggravated, and that said party was suffering from permanent total disability (not permanent partial disability) at the time he retired. This conclusion is strongly supported by Item 20 of the verified Physician's Report, thus: "Has the injury or sickness resulted in permanent total disability for labor? Yes." (*Italics supplied*). The fact that claimant resumed teaching after his one-week leave in July, 1974 is in turn explained in the certification of his Principal dated March 26, 1975[35] that because of the "demands of the service, he continued to serve as public school teacher, doing all the tasks required of him, making lessons plans, preparing teaching aids and devices, and others." His x-ray of March 19, 1975 simply "verified" previous x-ray and other findings of moderately advanced PTB while still employed as school teacher[36] and therefore, belies respondent Commission's declaration that "the time of his x-ray examination was quite too long to trace his pulmonary tuberculosis during the period of his employment or at the time he retired from service." On the contrary, his medical history shows the gravity of his illness, to the point that he had to apply for optional retirement upon advice of his physician a little over two months from his last hemoptysis on July 5, 1974. Respondents' contention that petitioner-claimant suffered neither loss nor impairment of his earning capacity at the time he retired, is therefore, without merit.

The Workmen's Compensation Act is a social legislation designed to give relief to employees in case of injury or illness and its provisions should be given a liberal interpretation in order to fully carry into effect its beneficial provisions.[37] It should be construed fairly, reasonably, or liberally in favor of and for the benefit of the employees and their dependents and all doubts as to right of compensation should be resolved in their favor.[38]

Finally, Section 23 of R.A. No. 4670 (otherwise known as the Magna Carta of Public School Teachers), specifically provides that –

"Teachers shall be protected against the consequences of employment injury in accordance with existing laws. The effects of the physical and nervous strain on the teacher's health shall be recognized as compensable occupational disease in accordance with existing laws." (Italics supplied.)

ACCORDINGLY, respondent Commission's decision is hereby SET ASIDE, and in lieu thereof, respondent Bureau of Public Schools is hereby ordered to pay to (a) petitioner -claimant the amount of SIX THOUSAND PESOS (P6,000.00) as compensation for permanent total disability; (b) petitioner's counsel the sum of SIX HUNDRED PESOS (P600.00) as and for attorney's fees; and (c) the Workmen's Compensation Commission the sum of SIXTY ONE PESOS (P61.00) as administrative fee.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, Aquino, and Concepcion, Jr., JJ., concur.

[1] Rollo, p. 4.

[2] Id., pp. 20-21 (Annex "B").

[3] Id., p. 59.

[4] Id., pp. 19-20 (Annex "B").

[5] Id., p. 5 (Petition).

[6] L-26077, May 27, 1968, 23 SCRA 820.

[7] L-29634, April 29, 1971, 38 SCRA 495.

[8] L-18146, March 30, 1963, 7 SCRA 576.

[9] Rollo, p. 22 (Annex "C").

[10] Id., p. 5 (Petition).

[11] Id., pp. 15-17 (Annex "A").

[12] Id., p. 6.

[13] Id., p. 50.

[14] Id., pp. 53 -54.

[15] Id., p. 54.

[16] Ibid.

[17] Ibid.

[18] Id., pp. 54-55; Emphasis supplied; See also Memorandum for Respondents, Rollo, p. 74.

[19] Id., p. 56 (Comment).

[20] See Note 18; Emphasis supplied.

[21] Rollo, pp. 56-57.

[22] Id., p. 60.

[23] *Id.*, pp. 60-63.

[24] *Id.*, p. 63.

[25] *Ibid.*

[26] *Id.*, p. 64.

[27] *Id.*, p. 77.

[28] *Id.*, pp. 80-85.

[29] *Murillo v. Mendoza*, 66 Phil. 689 (1938).

[30] *Rollo*, p. 27.

[31] *Id.*, p. 28.

[32] See Error No. II, Motion for Reconsideration, *Rollo*, p. 22.

[33] See *infra*, f.n. 35.

[34] L-42323, April 30, 1976, 70 SCRA 617-618.

[35] *Rollo*, p. 30 (Annex "G"); Emphasis supplied.

[36] See Physician's Report, *Rollo*, p. 28.

[37] See *Batacan v. Workmen's Compensation Commission*, L-23992, Oct. 27, 1975, 67 SCRA 417, citing cases.

[38] *Id.*, citing *Madrigal Shipping Co. vs. Melad*, 7 SCRA 330.

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