

RUSTICO L. CENABRE, PETITIONER, VS. EMPLOYEES COMPENSATION COMMISSION, RESPONDENT.

G.R. No. L-46802. April 28, 1980

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petition for review on certiorari of the decision dated December 10, 1976 of the respondent Employees Compensation Commission in ECC Case No. 0138, dismissing petitioner's claim for compensation under P.D. No. 626, as amended.

Petitioner Rustico Cenabre was a classroom teacher in the Division of Bohol, Department of Education and Culture (now Ministry of Education and Culture) prior to his retirement in 1975. His service record reveals that he entered the government service as a public school teacher on November 23, 1950 and served continuously for 25 years (p. 1, ECC rec.). It appears, however, from his brief, that he actually retired on November 22, 1976 at the age of 51, with exactly 26 years of government service (p. 73-d, rec.).

His medical record shows that for the period from April 1965 to September 1975 (p. 18, ECC rec.), he had a history of peptic ulcer and acute gastritis which forced his several confinements at the Bohol Provincial Hospital and the Inabanga Rural Health Clinic for surgical operation and treatment of both ailments. After his confinement for bleeding peptic ulcer on September 17 to 26, 1975 (the last confinement of petitioner was erroneously noted in ECC Decision [p. 11, rec.] as May 3 to 10, 1975, apparently based on his confinement from May 3 to 10, 1976, after filing his claim [letter dated July 28, 1976, ECC rec.]), his attending physician ordered him to have a complete rest (p. 4, ECC rec.). Because of his worsening physical condition, he could not wait for the compulsory retirement age of 65 (p. 8, ECC rec.), and therefore applied for disability retirement under RA 1616 on October 8, 1975 (pp. 3-6, ECC rec.).

The Local Claim Committee on Compensation favorably recommended applicant's claim for compensation on October 8, 1975 (p. 8, ECC rec.).

On February 18, 1976, petitioner filed a claim for disability benefits under P.D. 626, as amended, with the Government Service Insurance System for bleeding peptic ulcer and acute gastritis (pp. 10-16, ECC rec.). The claim was denied by the GSIS on March 4, 1976 on the ground that the ailment upon which it is based is not an occupational disease (pp. 31-32, ECC rec.). On April 8, 1976, the claimant filed a motion for reconsideration (letter dated March 24, 1976, pp. 25-26, ECC rec.), contending that the nature of his duties as a teacher gives rise to undue stress and emotional strain which could have directly caused his ailments. This was again denied by the GSIS on the ground that the petitioner failed to submit sufficient evidence to show that his ailments directly arose out of or resulted from the nature of his employment (ECC rec., p. 33).

After the filing of petitioner's second motion for reconsideration on August 5, 1976 (p. 29, ECC rec.), the GSIS on September 6, 1976 elevated the entire record of the case to the respondent Employees Compensation Commission (p. 34, ECC rec.). The respondent, relying on the medical etiology of the ailments of petitioner, found that "x x

the predisposing factors (of such ailments) are not inherent to (in) the nature and conditions of his [petitioner's] employment as a schoolteacher, and accordingly, the ailments are not directly traceable to the employment" (Decision, p. 13, rec.). In its decision dated December 10, 1976, the said commission affirmed the denial made by the GSIS of petitioner's claim for disability benefits, reasoning that:

"x x the principal obstacle to the appellant's claim, is his failure or inability to show that his working conditions increased the risk of contracting peptic ulcer and acute gastritis, which proof is a mandatory legal requirement in cases where ailments are not definitely accepted as occupational diseases, as in the case at bar. As correctly ruled by the System, claimant failed to establish the causal relation between his ailments and employment and for this reason compensation cannot be awarded." (P. 13, rec.).

Hence, this petition, which is meritorious.

It is now well-settled that the governing law in the prosecution of a cause of action which has accrued prior to the effectivity of a new law shall be the law enforced at the time of the accrual of said cause of action. In the case at bar, the cause of action existed since 1965. Since the Workmen's Compensation Law was in full force and effect then it should govern the present case, based on the principle that "rights accrued and vested while a statute was in force ordinarily survive its repeal" (Balatero vs. ECC, et al., L-46634, Jan. 28, 1980; De los Angeles vs. ECC, et al., L-47099, November 16, 1979; Villones vs. ECC, et al., L-46200, July 30, 1979; Corales vs. ECC, et al., L-44063, Feb. 27, 1979).

It must be pointed out that as early as April 5 to 19, 1965, the petitioner was already entitled to disability benefits under Section 14 of the Workmen's Compensation Act, as amended, because his illness prevented him from reporting to work for more than three (3) days; and under such a situation, his employer [Department of Education and Culture] was obligated under Section 37 of the same Act to file a notice of illness with the Workmen's Compensation Commission and to manifest its intention of whether or not to controvert his right to compensation within the prescribed period of fourteen (14) days from the occurrence of the disability or death or within ten (10) days from knowledge thereof [Villones vs. ECC, et al., supra].

There is nothing in the records to indicate that the employer has complied with its duty under Sections 37 and 45 of the Workmen's Compensation Act, as amended, of filing with the Workmen's Compensation Commission a notice of the initial and subsequent illnesses of its employee, Rustico Cenabre, other than the controversion dated October 8, 1975 of the claim for the last hospitalization on September 17 to 25, 1975, although all illnesses and hospitalizations of the petitioner were known to said employer "every first day of confinement" (p. 7, ECC rec.). Such failure to comply with the statutory requirement within the prescribed period constitutes a renunciation of the employer's right to controvert the claim, resulting in the waiver of all its non-jurisdictional defenses, such as the non-compensability of the claim (Paraiso vs. Castelo Sotto, 85 SCRA 419 [1978]; Republic vs. WCC, 85 SCRA 107 [1978]; Lamco vs. WCC, 84 SCRA 401 [1978]; and Cañonero vs. WCC, 81 SCRA 712 [1978]).

Thus, We find no merit in the contention of the Solicitor General that although aggravation may have ensued, this claim is not compensable in view of the abrogation under the present law of the theory of aggravation as a ground for compensation. For although the claim was filed after the effectivity of the New Labor Code, the facts of the case call for the application of the Workmen's Compensation Law.

It is undisputed that petitioner's ailments supervened in the course of his employment in the Department of Education and Culture, as he was presumably in good health when he started work as a classroom teacher on November 23, 1950 (p. 1, ECC rec.), and it was only in April, 1965 or after a period of fifteen [15] years that he was found to be suffering from ruptured duo-denal ulcer (p. 18, ECC rec.). Also uncontroverted is the recurrence of his illness for over a period of ten years, while he continued to be employed as a teacher, which caused his

several confinements for treatment and/or operation for the following periods and related illnesses:

April 5 to 19, 1965 - ruptured duodenal ulcer
June 17 to 28, 1971 - intestinal obstruction
March 2 to 19, 1972 - intestinal obstruction
August 4 to 7, 1973 - acute gastritis
August 10 to 25, 1973 - intestinal obstruction
February 15 to 18, 1973 - acute gastritis
September 2 to 5, 1975 - bleeding peptic ulcer
September 10 to 15, 1975 - bleeding peptic ulcer
September 17 to 26, 1975 - acute gastritis
(p. 18, ECC rec.).

Such incontrovertible facts call for the application of the rebuttable presumption that said illnesses arose out of or were at least aggravated by, the nature of petitioner's employment; hence, compensable. Consequently, the employer assumes, by force of this presumption, the burden of establishing the contrary by substantial evidence. As there was no evidence presented by the employer to rebut the presumption, there can therefore be no occasion for respondent Commission to go out of its way to absolve the petitioner's employer. The presumption of compensability becomes conclusive (*Pantoja vs. Republic*, 87 SCRA 443, 447 [1978]; *Cañonero vs. WCC*, 81 SCRA 712, 718 [1978]; *Lorenzo vs. WCC*, 2 PHILAJUR, 425, 430, 81 SCRA 434, 438 [1978]; *Santos vs. WCC*, 75 SCRA 365, 370 [1977]).

However, although the petitioner's cause of action accrued as early as April 1965, his right of action continued to run through all the years of his recurrent illness and periods of temporary disability, until his optional retirement on November 22, 1976 at the age of 51 (p. 73, rec.) when he became "so physically incapacitated to render further efficient service" pursuant to Memorandum Circular No. 133. Hence, his 10-year prescriptive period did not commence until such date, when he became so disabled to pursue his occupation by reason of illness (*Leonardo vs. WCC*, 88 SCRA 59, 63).

Petitioner's claim, therefore, should merit favorable consideration on the bases of the above principles which were conveniently ignored by the respondent Commission.

Moreover, to deny petitioner, who had actually served the government for at least 25 years what is rightfully due him under the facts obtaining, is to emasculate the very objective of the Workmen's Compensation Act, as amended -- a social legislation designed to effectuate and implement the social justice guarantee of the Constitution.

Relatedly, Republic Act No. 4670, otherwise known as the Magna Charta for Public School Teachers, directs 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 diseases in accordance with existing laws."

WHEREFORE, THE DECISION DATED DECEMBER 10, 1976 OF RESPONDENT EMPLOYEES' COMPENSATION COMMISSION IS HEREBY SET ASIDE, AND THE GOVERNMENT SERVICE INSURANCE SYSTEM IS HEREBY ORDERED

- TO PAY PETITIONER THE SUM OF SIX THOUSAND (P6,000.00) PESOS AS DISABILITY COMPENSATION; AND

- TO REIMBURSE PETITIONER HIS MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY RECEIPTS.

SO ORDERED.

Teehankee, Fernandez, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.

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