

MACAPASIR ALONTO, PETITIONER, VS. THE WORKMEN'S COMPENSATION COMMISSION AND THE REPUBLIC OF THE PHILIPPINES (DEPT. OF PUBLIC HIGHWAYS), RESPONDENTS.

G.R. No. L-42776. August 31, 1978

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The twelve workmen's compensation cases at bar are jointly determined in this consolidated decision on the basis of established and controlling jurisprudence and doctrines.

1. In L-42776, respondent commission affirmed the referee's order dismissing the claim of claimant-petitioner MACAPASIR ALONTO for disability compensation for his affliction of pulmonary tuberculosis moderately advanced and rheumatoid arthritis, as certified by the report of his attending physician Dr. Mangontra Macarambon, incurred during the course of his employment in the Bureau of Public Highways as capataz in Marawi City. The Employer's Report of Sickness as accomplished by the highway district engineer, Orlando O. Mancao, admitted that the sickness was contracted in the "work premises"; that the claimant's illness began in 1970; and further expressly stated that the claim would not be controverted. The commission nevertheless sustained the referee's dismissal of the claim ruling that the physician's report alone without an X-ray report was not sufficient and further stating that the reason that claimant stopped working in November, 1973 was not because of his ailments but because of his separation from employment as a result of the reorganization in the Bureau of Public Highways.

2. In L-42280, respondent commission reversed the referee's decision in favor of claimant-petitioner CONCEPCION VDA. DE GASCON, granting her, as the widow of her deceased husband Aguedo Gascon who died on August 20, 1967 due to his affliction of pulmonary tuberculosis contracted in the course of his almost 34 years of employment with respondent Philippine National Railways, the sum of P4,680.00 as death benefit plus reimbursement of P200.00-burial expenses or a total of P4,880.00 and requiring respondent to pay P47.00-administrative fee. The commission set aside the award "although there (was) a failure to file a timely and valid controversion" and the claim was properly treated as an uncontroverted one on the basis of its gratuitous conclusion that "the vital link of causative connection between the deceased's death and his employment is wanting. Actually, there is no showing that the deceased's retirement from the service was caused by his tuberculous condition." The record shows that the deceased was compelled to retire from his employment on September 16, 1966 at the age of 55 years due to his affliction of pulmonary tuberculosis and that within a year thereafter he died on August 20, 1967 of the same affliction of pulmonary tuberculosis.

3. In L-43230, respondent commission affirmed the referee's decision dismissing the claim of claimant-petitioner ROSENDO SATPARAM for disability benefits for his affliction of pulmonary tuberculosis incurred during his employment in the Office of the President for 36 years in various capacities starting from janitor until he was retired at age 63 as Clerk II. The Employer's Report of Sickness as accomplished by Assistant Executive

Secretary Ramon B. Cardenas stated that "Rosendo Satparam started working in this Office on July 2, 1938 and held the different positions of Janitor, Messenger-Janitor, Clerk, Laborer-Messenger and finally Clerk II. For many years prior to his retirement, he was assigned to handle the mails addressed to the officials and employees in this Office, which include accountable as well as ordinary mails. Mr. Satparam applied for retirement effective November 1, 1974, on account of his ailments of several years duration (pulmonary tuberculosis and progressive retinal hemorrhage) which rendered him unfit for efficient service. The nature of his duties could have contributed to the acquisition and aggravation of his ailment,' and further expressly manifested that the claim was not being controverted. The commission nevertheless sustained the dismissal on the basis of its bare conjecture that "the claimant was never sick of a compensable illness. The ailments suffered by the claimant were but the result of degenerative changes of the human anatomy due to old age. The natural consequence of the ageing process sets in gradually but surely. This fact explains why the claimant was not actually physically disabled to perform the duties of his employment. "

4. In L-43843, respondent commission reversed the referee's decision in favor of claimant-petitioner NELIO DE MESA, granting him P4, 502. 01 as disability compensation plus a weekly compensation of P89. 36 beginning October 24, 1974 provided that the total amount of compensation shall not exceed the amount of P6, 000.00 including the first lump sum payment; ordering respondent employer to reimburse the claimant in the sum of P1, 253.95 for medical expenses and to provide him with such services as the nature of his disability and the process of his recovery may require; and requiring respondent employer to pay the corresponding administrative fee (for his ailment of pulmonary tuberculosis, moderately advanced, contracted sometime in 1971 in the course of his employment as bus conductor of respondent Batangas Laguna Tayabas Bus Company where he had been employed since November 6, 1956 until he stopped working on November 5, 1973). The commission apparently rejected the claim on the basis of its speculation that "if claimant was really afflicted with any illness, much less tuberculosis and that the same has rendered him disabled for labor, there is simply no valid reason why he has not filed any claim either for sickness or disability claim with the Social Security System, which is easier to obtain being non-adversary, unlike claim for compensation under Act No. 3428, as amended, which is adversary in nature. Thus, the failure of claimant to have asserted his rights under the said SSS enactment rendered his claim for disability compensation under the Act, a weak one. " Claimant-petitioner duly explained this, however, in that it was only after 17 years of rigorous employment that he was found to be afflicted with pulmonary tuberculosis and that during his employment he could not file any claim for sickness benefits with the SSS for he had continued working until November 4, 1973 when his affliction compelled him to stop working; and submitted a certification of confinement issued by the SSS branch in San Pablo City showing that thereafter he had actually filed his claim for SSS sickness benefits and was granted by the System sickness benefits for several successive periods on six different occasions from November 5, 1973 to April 24, 1974, and that he had been confined due to his affliction for periods ranging from 8 to 10 days on two occasions, and for periods of 30 days on three occasions and for 63 days on another occasion.

5. In L-43484, respondent commission reversed the referee's decision in favor of claimant-petitioner CATALINO GABRIELES, granting him P6, 000.00 as disability compensation and requiring respondent to pay P61.00 -administrative fee (for claimant's illness of pulmonary tuberculosis incurred by him in the course of 35 years of employment as public school teacher some five years before he finally was compelled to apply for optional retirement on March 10, 1973 upon his doctor's advice). The commission based its reversal on the ground that "the absence of an X-ray report upon which to base a finding of claimant's pulmonary tuberculosis is fatal to the claim, " notwithstanding that his illness was duly certified by the Physician's Report of his attending physician, Dr. Rodolfo F. Serrano, municipal health officer of Dulag, Leyte, who had diagnosed and treated him for the said illness and who further confirmed his medical findings when he testified at the hearing of the claim before the

hearing officer.

6. In L-43422, respondent commission likewise reversed the referee's decision in favor of claimant-petitioner CESAR ONG GAKO, granting him P6, 000.00 disability compensation and P5,010.00 as reimbursement for medical expenses, P300.00 - attorney's fee and requiring respondent to pay P61.00 - administrative fee (for his ailments of pulmonary tuberculosis and peptic ulcer, incurred by him in the course of his almost 36 years of employment as public school teacher). The commission set aside the award on the basis of its mere surmise that "A verification of the evidence on record shows that claimant was retired from the service on January 1, 1974 at the age of 62 years and under Republic Act 660 as amended. Obviously, this is an optional retirement. Evidently, therefore, claimant stopped working not by reason of physical disability but due to optional retirement; " further stating that "there is nothing from the records which shows that the medical expenses sought to be reimbursed have been properly evaluated by the Compensation Rating Medical Officer in order to determine the reasonableness of the amount."

7. In L-43056, respondent commission affirmed the referee's order dismissing the claim filed on September 27, 1973 of claimant-petitioner BERNARDINO R. SAUVA for disability compensation (for his affliction of pulmonary tuberculosis, operation for cataract extraction and rectal polypotomy, incurred by him during the course of his employment as disbursing officer of respondent employer as certified by the Physicians' Reports thereto attached). Respondent commission sustained the referee's dismissal of the claim on the ground that "[Although] the records reveal that sometime in July, 1973 claimant underwent cataract extraction, the Evaluation Division of this Commission opined that cataract is not a compensable illness. Cataract is a deterioration of the eye due to old age. It has no causal relation to claimant's employment," and that with respect to claimant-petitioner's affliction of pulmonary tuberculosis, "In support to his allegation that he was afflicted with PTB he submitted the Physician's Report duly accomplished by Dr. Orlino Hosaka. In said Physician's Report the attending physician stated that claimant was suffering from pulmonary tuberculosis. However, no X-ray report was submitted to show that claimant was really afflicted with PTB since November 24, 1974. It is unfair to the respondent for this Commission to give credence to this claim without the necessary X-ray report submitted. "

8. In L-42387, respondent commission reversed the referee's decision in favor of claimant-petitioner MAGNO CADORES, granting him P3,302.26 as disability compensation and requiring respondent employer to pay P165.11 - attorney's fee and P34.00 - administrative fee (for his illness of "Rheumatoid Arthritis, Chronic, Essential Hypertension" incurred by him in the course of his employment with respondent employer since 1938 until his separation from the service on September 30, 1972 [interrupted only during the Japanese occupation] by reason of respondent's retrenchment policy). Respondent commission based its reversal on its observation "that claimant was separated from the service by reason of the company's retrenchment policy and not for his alleged disabling illnesses, " and that "medically, 'rheumatoid arthritis and essential hypertension' are the result of the aging process and said illnesses progress relative to the age of the worker. In the instant case, claimant was already 55 years old when he was separated from the service, hence, his alleged illnesses can only be attributed to his age. At any rate, said illnesses were not the cause of his separation from the service and therefore there is no disability to speak of under the purview of the Act."

9. In L-43334, respondent commission affirmed the referee's order dismissing the claim of claimant-petitioner JOAQUINA OCLARIT, represented herein by her husband Paulino Oclarit, for disability compensation (for her various afflictions incurred during the course of her 34 years of service as a public school teacher since June 5, 1940 until July 1, 1974 when she optionally retired, culminating in a near fatal attack of "CEREBRAL THROMBOSIS WITH HEMIPLEGIA" six months after her retirement which left her almost totally paralyzed). The commission sustained the order of dismissal notwithstanding the strong recommendation of the division

committee of the Butuan City Schools for compensability of the claim since her sickness was contracted during the course of her employment, as endorsed by the superintendent of City Schools who reported that "the sickness was contracted in line of duty and aggravated by the nature of her work. " Notwithstanding the evidence supporting the claim, the commission nevertheless upheld the dismissal on the ground that claimant-petitioner had suffered her last attack of cerebral thrombosis "while at home and six months after she retired from the service" in spite of its express findings that "(T)he evidence on record shows that claimant was a classroom teacher from June 5, 1940 to July 1, 1974 when she retired under the Optional Retirement Law. On November 21, to 29, 1973 she was confined at the Villanueva Polyclinic and Hospital under the care of Dra. Nelda V. Vicuña for diabetes mellitus with severe diabetic neuropathy, hypertension, essential, premature senility, and first degree cystocele. She went on sick leave of absence from November 21, 1973 to March 23, 1974. Again, on May 16, to 18, 1974 she was confined at the City General Hospital, Butuan City, for diabetes mellitus, Pulmonary Tuberculosis, severe leg edema. On December 3, 1974, or six (6) months after she retired from the service, she was attacked of an illness at home when she fell down unconscious. She was brought to Dra. Alicia Lorenzo-Caballero who diagnosed her illness as cerebral thrombosis with hemiplegia, right. Dra. A. Lorenzo-Caballero treated her up to January 13, 1975. After the accident, she filed the instant claim."

10. In L-43551, respondent commission reversed the referee's decision in favor of claimant-petitioner VIVENCIO PANONCILLO, granting him P6,000.00 disability compensation and requiring respondent employer to pay P300.00 attorney's fee and P61.00 administrative fee and further ordering respondent employer to provide claimant with such services as the nature of his disability and the process of his recovery may require (for his affliction of "Rheumatoid Arthritis, Chronic" from May 1, 1970 up to the present, incurred during the course of his employment as laborer in the Bureau of Public Highways since May 1, 1956 until he was phased out on May 15, 1973 with the implementation of the reorganization plan). Respondent commission found that "the claimant had been employed by the respondent since 1956 as a laborer, assigned to the City Engineer's Office. He rendered continuous services until he was phased out on May 15, 1973 due to the implementation of the reorganization plan. As laborer, his duties were to direct the work of a gang of maintenance laborers doing manual work in the maintenance of roads and bridges such as clearing, shouldering, ditching, patching, and riprapping so that he became sick with rheumatoid arthritis which allegedly arose out of and in the course of his employment and had been suffering from the illness since 1965. Due to his sickness he applied for several sick leaves and was confined and was treated by Dr. Teodoro Carpio, who issued a certification that he had treated the claimant of rheumatoid arthritis, chronic, from May 1, 1970 to the present. His physician stated that his sickness was the result of the nature of his employment. Claimant spent the amount of P1,210.00 for his medical expenses," but nevertheless reversed the referee's decision on its bare ruling that "aside from the fact that he had not presented any substantial evidence to prove that his sickness which was rheumatoid arthritis, (sic) his services were terminated because of the reorganization of the office, so that beyond that period, the claimant could no longer be entitled to compensation."

11. In L-43545, respondent commission reversed the referee's decision in favor of claimant-petitioner SALVADORA C. REY granting her P5,408.00 as disability benefits and P1, 270.00 as reimbursement of medical expenses and requiring respondent employer to pay P55. 00-administrative fee (for claimant's ailment of "chronic calculus cholecystitis" [gall bladder inflammation] incurred in the course of her long employment as public school teacher and for which she underwent medical treatment and ultimately was operated on at the Sto. Tomas University Hospital in October, 1970). Despite her notice of illness, the employer did not file the required report, for which reason the claim was considered uncontroverted and the award was issued as "final and unappealable". Respondent commission, however, reversed the decision on the ground that the ailment "has no service connection, nor can it be aggravated by the nature of employment as the etiology is metabolic or has familial

predisposition to the disease (sic)."

12. In L-43722, respondent commission reversed the referee's decision in favor of claimant-petitioner FRANCISCA B. BENITEZ (herein represented by the Citizens' Legal Assistance Office), granting her P3, 646.00 as disability compensation and ordering respondent employer to pay P182.30 - attorney's fee and P37.00 - administrative fee (for her ailments of "loss of vision of her right eye and other ailments such as neuritis, chronic rheumatoid arthritis and anemia-hypertension, alleged to have been contracted during and in the course of her employment and directly caused by or aggravated by the nature and condition of such employment as elementary classroom teacher resulting in disability for labor" after a record of long service as public school teacher from 1937 until she finally stopped working on July 1, 1974. The referee found that the respondent employer failed to file a timely notice of controversion within the statutory period despite actual knowledge and notice of her disabling ailments and therefore deemed the claim to have been constructively admitted by respondent employer as compensable. Respondent commission, however, reversed the decision on the basis of its opinion "that the claim should necessarily fail inasmuch as the above-named claimant has already received her retirement benefits equivalent to compulsory retirement benefits. Immediately before and at the time she retired, she was in the active service of the government while at the age of 62 years, hence, there is no disability for work to compensate under the Act."

The Court sets aside the commission's reversals of the referees' decisions and awards in eight of the above-entitled cases as well as its affirmance of the referees' dismissal of the claims in the four other cases on the basis of established jurisprudence and doctrines which are decisive and controlling.

The right of claimants-petitioners in the first above-entitled seven cases (L-42776, L-42280, L-43230, L-43843, L-43484, L-43422 and L-43056) to compensation benefits arising from the affliction of tuberculosis is well nigh incontrovertible. Section 2 of the Workmen's Compensation Act expressly singles out tuberculosis as a compensable illness (probably due to our people's long history of susceptibility to this disease, specially under conditions of fatigue, stress and tension) and provides that "SEC. 2 Grounds for compensation. - 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. The right to compensation as provided in this Act shall not be defeated or impaired on the ground that the death, injury or disease was due to the negligence of a fellow servant or employee, without prejudice to the right of the employer to proceed against the negligent party." [1]

The right of claimants is further bolstered by the Workmen's Compensation Act's general principle of presumption of compensability in all cases. As reaffirmed in *Talip vs. Workmen's Compensation Commission*, [2] "assuming that the causal link between the nature of (claimant's) employment and his ailment has been insufficiently shown, nevertheless it is to be presumed as mandated by section 44 of the Workmen's Compensation Act that the employee's illness which supervened during his employment, either arose out of, or at least was aggravated by, said employment; and with this legal presumption, the burden of proof shifts to the employer and the employee is relieved of the burden to show causation," since "it is now well-settled that once it is established that the illness supervened during employment, as in this case, there is a rebuttable presumption that such illness arose out of the employment or was at least aggravated by it; and the employer has the burden of proving the contrary by substantial evidence." [3]

The commission's denial of some of the claims on the ground that the physician's diagnosis and report alone without an X-ray report was not sufficient (Cases 1, 5 and 7, L-42776, L-43484 and L-43056) has long been rejected by the Court. We stressed in *Ybañez vs. Workmen's Compensation Commission* [4] that "this is not only

contrary aforequoted ruling of this Court wherein the burden of proof is on the employer but to the well-entrenched and oft-repeated pronouncements of this Tribunal to the effect that an X-ray or some laboratory report is not an indispensable prerequisite to companion. "[5]

The commission's dismissal of the claims in Cases 2 and 3 (42280 and L-43230) on the basis of its mere conjecture in the first opened case (of claimant Gascon) of there being "no showing that deceased [employee's] retirement was caused by his tuberculous condition" when the record shows that the deceased died of his affliction within a year after he had to retire at age 55, and of its gratuitous opinion in the second mentioned case (of claimant Satparam) that "(he) was never sick of a compensable illness" and that his tuberculous ailment was "but the result of degenerative changes of the human anatomy due to old age" as against the employer's own report that "the nature of his duties could have contributed to the acquisition and aggravation of his ailment" is difficult of comprehension.

In the last mentioned case (of claimant Satparam), the commission further disregarded the employer's express manifestation of non-conversion of the claim against the mandate of the Workmen's Compensation Act and its own Rules and the doctrine long established since early 1957 case of *Victorias Milling Co., Inc. vs. Compensation Commission*[6] that "having renounced by operation of law the right to contest the employee's right to compensation [by failure to file timely controversion within the statutory period or by an express statement of non-controversion], the [employer] is deemed also to have waived the right to interpose [any] defenses and hence, there is nothing legally prove in relation thereto." The Court has repeatedly stressed that "It is now an indisputable rule that failure to controvert results in the loss of non-jurisdictional defenses and an ultimate admission of compensability." [7]

The commission's rejection of the claim (of teacher-claimant Ong Gako) in Case 6 (L-43422) that he had availed of optional retirement at age 62 and was therefore not entitled to compensation benefits for his pulmonary tuberculosis ailment, has long been discredited and set aside Court in numerous cases. In *Gomez vs. Workmen's Compensation Commission*, [8] the Court held that "Pursuant to Memorandum Circular No. 133 issued by the Office of the President 'All applications for optional retirement under Commonwealth Act No. 180, as amended by Rep. 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 requirements of its programmed projects and activities and provided any of the following circumstances or conditions are present: (1) x x x; (2) The employee-applicant is below 65 years of age and is physically incapacitated to render further efficient service. ' The fact that the application of petitioner for retirement at the age of 63 was duly approved by the Government Service Insurance System is a clear indication that at the time her application was approved she was below 65 years of age and she was physically incapacitated to render further efficient service."

The cited principles and doctrinal jurisprudence are fully applicable *mutatis mutandis* to the last five above-entitled cases and support the payment of disability benefits to the claimants-petitioners for their respective ailments of rheumatoid arthritis and essential hypertension, [9] diabetes mellitus with hypertension and premature senility followed by an attack of cerebral thrombosis, [10] gall bladder inflammation [11] and loss of vision of the right eye with other complications [12] (in Cases 8 and 10, [L-42387 and L-43551] and 9, 11 and 12 [L-43334, L-43545 and L-43722], respectively). Since the employees' illnesses clearly supervened during their employment, the burden of overthrowing the presumption of compensability shifted to the employers and the records show that the employers failed to discharge such burden by substantial evidence.

Suffice it to finally stress in the case of the claimants-public school teachers that section 23 of the Magna Carta for Public School Teachers, Republic Act No. 4670, mandates that "Teachers shall be protected against the

consequences of employment injuries in accordance with existing laws. The effects of the physical and nervous strain on the teacher's health shall be recognized as a compensable occupational disease in accordance with existing laws." [13] In the case of claimant Oclarit (in Case 9, L-43334), it is evident from the record, as admitted by the school officials themselves, that the near-fatal stroke suffered by her (six months after retirement) which left her almost totally paralyzed was but the consequence of the numerous stresses and ailments which she suffered in the course of her 34 years of service as a public school teacher which were the precipitating factors that triggered the stroke and was therefore attributable to her employment. In the case of claimant Benitez (in Case 12, L-43722), the payment of retirement benefits to her upon her having had to apply for optional retirement and stop working due to her disabling ailments certainly does not bar her right to disability benefits under the Workmen's Compensation Act to which she is separately entitled.

ACCORDINGLY, judgment is rendered in L-42280, L-43843, L-43484, L-43422, L-42387, L-43551, L-43545 and L-43722 (Cases Nos. 2, 4, 5, 6, 8, 10, 11 and 12, respectively), setting aside respondent commission's reversals of the referees' decisions and awards and REINSTATING the same in favor of claimants-petitioners, CONCEPCION VDA. DE GASCON, NELIO DE MESA, CATALINO GABRIELES, CESAR ONG GAKO, MAGNO CADORES, VIVENCIO PANONCILLO, SALVADORA C. REY and FRANCISCA B. BENITEZ, with the following modifications (except in Case 12, L-43722):

(a) In Case 2, L-42280, respondent employer is ordered furthermore to pay 10% attorney's fee in the amount of P468. 00;

(b) In Case 4, L-43843, respondent employer is ordered furthermore to pay 10% attorney's fee in the amount of P450.20 plus 10% of the weekly compensation awarded claimant-petitioner provided that the total amount of attorney's fees shall not exceed P600.00;

(c) In Case 5, L-43484, respondent employer is ordered furthermore to pay 10% attorney's fee in the amount of P600.00;

(d) In Case 6, L-43422, respondent employer is ordered furthermore (1) to pay 10% attorney's fee in the amount of P600. 00 and (2) to reimburse claimant-petitioner ONG GAKO the sum of P5, 010.00 as reim-bursement for medical expenses, as supported by proper receipts therefor;

(e) In Case 8, L-42387, respondent employer is furthermore ordered to pay 10% attorney's fee in the amount of P330. 22;

(f) In Case 10, L-43551, respondent employer is ordered furthermore (1) to pay 10% attorney's fee in the amount of P600.00 and (2) to reimburse claimant-petitioner in the amount of P1,210.00 for his medical expenses; and

(g) In Case 11, L-43545, respondent employer is ordered furthermore to pay 10% attorney's fee in the amount

of P540. 80.

Judgment is rendered in L-42776, L-43230, L-43056 and L-43334 (Cases Nos. 1, 3, 7 and 9, respectively), as follows:

(h) In case 1, L-42776, respondent employer is ordered (1) to pay claimant-petitioner MACAPASIR ALONTO the sum of P6,000.00 as disability compensation and to pay (2) P600.00 as attorney's fee and (3) P61.00 as administrative fee;

(i) In case 3, L-43230, respondent employer is ordered (1) to pay claimant-petitioner ROSENDO SATPARAM the sum of P6, 000. 00 as disability compensation and to pay (2) P600.00 as attorney's fee and (3) P61.00 as administrative fee;

(j) In Case 7, L-43056, respondent employer is ordered (1) to pay claimant-petitioner BERNARDINO R. SAUVA the sum of P6, 000.00 as disability compensation and to pay (2) P600.00 as attorney's fee and (3) P61.00 as administrative fee; and

(k) In Case 9, L-43334, respondent employer is ordered (1) to pay petitioner JOAQUINA OCLARIT, represented by her husband Paulino Oclarit, the sum of P6,000.00 as disability compensation and (2) to pay P61.00 as administrative fee.

SO ORDERED.

Muñoz Palma, Fernandez, and Guerrero, JJ., concur.

Makasiar, J., concurs in a separate opinion in all the cases, except in L-42280 where he concurs in full.

[1] Emphasis supplied.

[2] 71 SCRA 218, 220 (1976); see *Pillsbury Mindanao Flour Milling Co. vs. Murillo* and other cases jointly decided, L-32300, Jan. 31, 1978.

[3] Citing *Maria Cristina Fertilizer Corp. vs. Workmen's Compensation Commission*, 60 SCRA 228, 232 (1974), per Makalintal, then C.J.

[4] 77 SCRA 501 (June 30, 1977), per Makasiar, J.

[5] Citing *Vallo vs. Workmen's Compensation Commission*, 73 SCRA 623 (1976), per Muñoz Palma, J.; and *Jacob vs. Workmen's Compensation Commission*, 72 SCRA 575 (1976), per Martin, J. (retired).

[6] 101 Phil. 1208 (1957), notes in brackets supplied.

[7] *National Housing Corp. vs. Workmen's Compensation Commission*, L-37907, Sept. 30, 1977, per Muñoz Palma, J.

[8] 75 SCRA 395, 399, per Martin, J. (retired); cited in *Ybañez vs. Workmen's Compensation Commission*, 77

SCRA 501; see *Ulibas vs. Workmen's Compensation Commission*, L-43650, June 30, 1978, per Munoz Palma, J.

[9] *Pros vs. Workmen's Compensation Commission*, 73 SCRA 92 (1976), per Martin, J. (retired).

[10] *Mondejar vs. Workmen's Compensation Commission*, L-43154, May 31, 1977.

[11] *National Housing Corp. vs. Workmen's Compensation Commission*, L-37907, *supra*, fn. 7.

[12] *Amador vs. Workmen's Compensation Commission*, L-45399, and other cases jointly decided, June 30, 1978.

[13] Emphasis supplied.

SEPARATE OPINION

MAKASIAR, J.:

I concur with the additional opinion that the respondent employers should likewise be directed to provide the claimants with such medical, surgical and hospital services as well as appliances and supplies as the nature of their disabilities and the progress of their recovery may require and which will promote their early restoration to the maximum level of their physical capacity. It is my consistent view that the provisions of Section 13 of the Workmen's Compensation Act, as amended, and Article 184 of the New Labor Code, as amended, confer such right on the disabled employees, whether their disabilities are temporary or permanent. This is in compliance with the social justice guarantee of both the 1935 and 1973 Constitutions and in obedience to the directive of Article 4 of the New Labor Code that "all doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor", which is a re-statement of existing jurisprudence as well as Article 1702 of the New Civil Code. To limit such right to a temporarily disabled employee would inflict gross injustice on those permanently disabled, who still need to be relieved from the pain, trauma, social ostracism or humiliation generated by such permanent disability.

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