

CORREA A. AJERO, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (BUREAU OF PUBLIC SCHOOLS, ALBAY), RESPONDENTS.

G.R. No. L-44597. December 29, 1980

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition to review the decision of the Employees' Compensation Commission in ECC Case No. 0074, entitled "Correa A. Ajero, Claimant versus Government Service Insurance System, (Bureau of Public Schools, Albay, Respondent)", affirming the decision of the Government Service Insurance System which denied the claim of Correa A. Ajero for total and permanent disability compensation.[1]

The claimant, Correa A. Ajero, was employed for thirty five (35) years as a classroom teacher of the Bureau of Public Schools with assignment at the Homa-pon Elementary School, Albay District II. While still in the employ of the respondent Bureau of Public Schools, she contracted Pulmonary Tuberculosis and Cancer of the Breast, for which she was confined and treated at the Government Service Insurance System Hospital from January 5 to 15, 1976 under the medical care of Dr. Constante N. Firme and Dr. Arturo D. Tolentino, Jr. On account of her worsening physical condition and inability to perform her normal duties as teacher, Correa A. Ajero applied for total and permanent disability under Commonwealth Act No. 186, as amended, which was approved by the Medical Director of the Government Service Insurance System on March 7, 1975.

The claimant also filed a claim for income benefit under Presidential Decree No. 626. On September 16, 1975, her claim was denied by the System on the ground that her ailments were not occupational diseases and, therefore, not compensable. The claimant appealed to the Employees' Compensation Commission which affirmed the decision of the Government Service Insurance System denying the claim.[2]

The Employees' Compensation Commission denied the claim of the petitioner because:

"After a careful perusal of the record of this case, we find no merit on claimant's appeal. The mere fact that claimant's application for disability was approved by the GSIS, does not necessarily mean that claimant-appellant is also entitled to income benefit under Presidential Decree No. 626, which require, for its approval, different conditions and requisites. Section 1(b) of Rule III of the Amended Rules on Employees' Compensation which implement the aforecited law, provides that 'For the sickness and the resulting disability or death to be compensable, the sickness must be the result of an occupational disease listed under Annex "A" of these Rules with the conditions set therein satisfied; otherwise, the employee must prove that the risk of contracting the disease is increased by the working conditions.' In the instant case, appellant's ailment of Cancer of the Breast is neither an occupational disease nor the direct result of her employment. This disease is a malignant tumor common to females over 40 years of age regardless of occupation and the cause of which is unknown. Although in some industries, there are some chemicals believed to be carcinogenic, the record of the case indicates no proofs that claimant was exposed to chemical carcinogens that can cause the malignant

disease. The duties of a teacher do not entail increased risk to such diseases in the working environment to warrant the compensability of said illness.

"The clinical record of the appellant also shows that she is afflicted with Pul-monary Tuberculosis. However, for pulmonary tuberculosis to be compensable, the person thus afflicted must be engaged in an occupation involving close and frequent contact with a source or sources of tuberculosis infection by reason of employment: (a) in the medical treatment or nursing of a person or persons suffering from tuberculosis, (b) as a laboratory worker, pathologist or post-mortem worker, where occupation involves working with material which is a source of tuberculous infection. Apparently appellant's work does not involve the risks above mentioned, hence, appellant's illness of tuberculosis is not an occupational disease within the meaning of Section 2(a) of the Rules, and likewise not compensable. Moreover, claimant has not shown that the risk of contracting the disease is increased by working conditions." [3]

It is generally known that pulmonary tuberculosis is an occupational hazard of the teaching profession. The classroom teacher burns the midnight oil preparing lesson plans. She is in constant contact with students some of them are suffering from communicable diseases such as pulmonary tuberculosis.

With her meager income the classroom teacher barely makes both ends meet. She cannot afford nutritious food and must undergo privation. She is often hungry and physically exhausted. The classroom teacher performs duties outside the classroom. She supervises food production and other vocational projects. She is exposed to the elements and other hazards in the field.

In the instant case, the petitioner was for thirty-five years a classroom teacher of the Bureau of Public Schools with assignment at the Homapon Elementary School, Albay District II. While it is true that she was confined and treated at the GSIS General Hospital only from January 5 to 15, 1976 for pulmonary tuberculosis and cancer of the breast, her illnesses, especially pulmonary tuberculosis, must have supervened several years before when the Workmen's Compensation Act was still in force. Pulmonary tuberculosis does not suddenly develop into a serious disease. It takes years before the person afflicted becomes incapacitated from pulmonary tuberculosis. Having supervened during her employment, the illness of pulmonary tuberculosis is disputably presumed to be compensable. [4]

Even under the Amended Labor Code the illness of the petitioner of pulmonary tuberculosis is compensable because said disease was directly caused by the nature of her duties as classroom teacher.

WHEREFORE, the decision of the Employees' Compensation Commission appealed from is hereby set aside and the Government Service Insurance System is ordered to pay the petitioner, Correa Ajero the sum of SIX THOUSAND PESOS (P6,000.00), as disability benefits and the sum of SIX HUNDRED PESOS (P600.00) as attorneys fees.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero, and De Castro, [*] JJ., concur.

Melencio-Herrera, J., I vote to affirm the decision of the Employees' Compensation Commission considering that neither cancer of the breast nor pulmonary tuberculosis is an occupational disease nor the direct result of petitioner's employment as a teacher.

[*] Justice Pacifico P. de Castro was designated to sit in the First Division.

[1] Rollo, pp. 6-9.

[2] Rollo, pp. 6-7.

[3] Rollo, pp. 7-9.

[4] Section 44, Workmen's Compensation Commission; Justiniano vs. Workmen's Compensation Commission, 18 SCRA 677.

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