

ELENA JACOB, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND REPUBLIC OF THE PHILIPPINES (BUREAU OF PUBLIC SCHOOLS), RESPONDENTS.

G.R. No. L-43302. August 31, 1976

Ponente: MARTIN, J.

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MARTIN, J.:

Petition for review of the decision of the Workmen's Compensation Commission disallowing the claim for disability benefits of the petitioner in Workmen's Compensation RO4-WCC Case No. 164997 filed under the Workmen's Compensation Act.

Petitioner was employed as a classroom teacher by the respondent Bureau of Public Schools in July 1951 and assigned to remote barrios which were practically inaccessible to motor vehicles. To reach her places of assignment she had to travel long and rough roads and cross streams and rivers. On her way, she was often overtaken by the rain. At times she had to miss her meals. After reaching home she had to prepare yet her lesson plans and other paper work late at night. In 1965, she had several asthmatic attacks which forced her to stay in bed. Upon examination, she was found to be afflicted with pulmonary tuberculosis. Because of her illness she was constrained to take frequent sick leaves until she finally decided to retire in June 1974. On March 21, 1975, she filed with the Regional Office No. 4, Department of Labor, Manila, a claim against respondent Bureau of Public Schools, Republic of the Philippines for compensation benefits. In support of her claim she presented the Physician's Report of Sickness or Accident, her Service Records and Affidavit (Annexes B, C and D) stating the circumstances about her illness after which the Acting Referee considered the case submitted for decision. Respondent did not present any evidence. On October 23, 1975 the Acting Referee rendered a decision the pertinent portion of which reads as follows:

"From the records of the case, there is no showing that when the claimant retired at the age of 64, she was already suffering her illness of tuberculosis. No x-ray report was submitted showing that prior to her retirement she was x-rayed and found to be afflicted by tuberculosis and there is also no showing that said illness incapacitated her to continue her work.

Premises considered, this Office is constrained to dismiss the claim for insufficiency of evidence."

A motion for reconsideration of the Acting Referee's decision was denied. On appeal to the Workmen's Compensation Commission the decision was affirmed and the claim of petitioner dismissed for lack of merit.

Petitioner now comes before Us by way of this petition which the Court treats as special civil action charging the respondent Commission with a grave abuse of discretion in deviating from the established doctrine of this Court and rendering a decision contrary to the evidence and the law. In affirming the decision of the Acting Referee the respondent Commission ruled:

"(T)he petitioner's illness allegedly to be PTB, is not supported by any chest x-ray or laboratory findings to

corroborate the Physician's Report and certification attached to the records. While it may be possible that claimant is suffering from PTB allegedly discovered on February 20, 1975, the same could no longer be traceable to her employment with the respondent, since there was no exist-ing employer-employee relationship at the time it was allegedly discovered."

The main objection of respondent Commission to the claim of petitioner is that there was no x-ray report or laboratory findings to corroborate the Physician's Report and certification attached to the records. But according to the petitioner her failure to submit an x-ray report regarding her illness was due to the fact that she had attached the same to her retirement application for retirement benefits with the GSIS because she thought that the Physician's Report (Workmen's Compensation Form No. 4), her service record and affidavit and the clinical history prepared by Dra. Angelita F. Ago were sufficient to support her claim. According to Dra. Ago:

"x x x x Mrs. Elena Jacob was admitted to this hospital from July 21, 1973 to August 5, 1973 with chief complaints of severe chest and back pain with persistent cough with blood streaks in the sputum, body weakness and abdominal discomfort. Laboratory results and x-ray showed PTB Moderately Advanced & Acute Cystitis. Patient was given the following medicines: Halepas, Dinacol, Metropine with Phenobarb, Roniacol timespan, Albamycin G.U., Myambutol, Vistorbin, Ferro-becompar, Thiamine, Calcium Sandoz & Valate.

Final diagnosis were PTB, Advanced, Bilateral with on & off bouts of Hemoptysis; Acute cystitis & Acute Peptic Ulcer."

It is clear from the above certification that the petitioner had an x-ray taken showing "PTB Moderately Advanced and Acute Cystitis and Acute Peptic Ulcer." Respondent has not presented any evidence oral or documentary to dispute the above certification. If the respondent Commission believed that the Physician's Report, the Service Record and the clinical history of the petitioner were not sufficient to prove the illness of petitioner, it should have required the latter to present the x-ray report and not to dismiss the claim outright. Section 49, paragraph 5 thereof of the Workmen's Compensation Act provides:

"Any party in interest who is dissatisfied with the order entered by the referee may petition to review the same and the referee may reopen said case, or may amend or modify said order, and such amended or modified order shall be final award unless objection be made thereto by petition for review. In case said referee does not amend or modify said order, he shall refer the entire case to the Commissioner, who shall thereupon review the entire record in said case, and, in his discretion, may take or order the taking of additional testimony, and shall make his findings of facts and enter his award thereon."

Under the foregoing provision of the Workmen's Compensation Act, the Commissioner to whom the case is referred is empowered to take and order the taking of additional testimony in reviewing the entire record of the case. We find no plausible reason why he did not do so, considering that the Acting Referee dismissed the claim of petitioner for alleged insufficiency of evidence. Even Section 3, Rule 16 of the Rules of the Workmen's Compensation Commission authorizes a member of the Commission to take such other action as the interest of justice may demand. Said section provides:

"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, or 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."

Petitioner's service record shows that she went on frequent sick leaves in 1972 and 1973 almost a year before she finally applied for retirement in June 1974 and that she was even confined in the hospital in August 1973. Respondent has not disputed this. It is therefore safe to deduce that the petitioner must have suffered the illness complained of while she was still in the service. If in 1973 when she was confined in the hospital it was

discovered that her pulmonary tuberculosis was already moderately advanced then it can be safely inferred that even before said date she was already suffering from said illness and therefore it can be assumed that the same had supervened during the course of her employment. It is a well settled doctrine that when illness supervened during the course of employment there is the rebuttable presumption^[1] that the same arose out of or at least aggravated in the course of her employment. With this legal presumption the burden of proving that the illness was not work-connected shifts to the employer and the claimant is relieved of the burden to show causation.^[2] In the case before Us respondent has not discharged such burden. It has not only failed to do so but even failed to disprove the evidence of the petitioner that her illness supervened in the course of her employment or at least was aggravated by it. She should therefore be entitled to the claim or compensation benefits. Considering that her illness is moderately advanced, bilateral, with off and on bouts of hemoptysis, acute cystitis and acute peptic ulcer, she had to apply for retirement a year before her retirement age. This only means that the gravity of her illness was such that it totally disabled her from work. She should therefore be entitled to the maximum amount of P6,000.00 as disability compensation under Section 14 of the Workmen's compensation Act.^[3] In her notice of injury or sickness and claim for compensation (Annex A of the Petition) she alleged that she spent the amount of P900.00 for medical and hospital bills. This has not been disputed. She should therefore be reimbursed of this amount under Section 13 of the same Act.^[4]

IN VIEW OF THE FOREGOING , the decision of the Workmen's Compensation Commission affirming the decision of the Acting Referee is hereby reversed and set aside and a new decision rendered ordering the respondent to pay the petitioner the amount of P6,000.00 as disability compensation benefits and the amount of P900.00 for medical and hospital expenses.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Concepcion, Jr.[*] , JJ., concur.

[1] "SEC. 44. Presumption. - In any proceeding for the enforcement of the claim for compensation under this Act, it shall be presumed in the absence of substantial evidence to the contrary -

1. That the claim comes within the provisions of this Act;
2. That sufficient notice thereof was given;
3. That the injury was not occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another;
4. That the injury did not result solely from the intoxication of the injured employee while on duty; and
5. That the contents of verified medical and surgical reports introduced in evidence by claimants for compensation are correct."

[2] Talip vs. WCC, G.R. No. L-42575, May 31, 1976; Reynaldo vs. Rep., G.R. No. L-43108, June 30, 1976; Maria Cristina Fertilizer Corp. vs. WCC, 60 SCRA 228; Simon vs. Republic (Supreme Court), G.R. No. L-42510, June 30, 1976; Mercado vs. WCC, et al., G.R. No. L-42451; Abana vs. Quisumbing, G.R. No. 21849, March 27, 1968.

[3] "SEC. 14. Total disability. - In case the injury or sickness causes temporary total disability for labor, the employer shall, during such disability, pay to the injured employee a weekly compensation equivalent to sixty per centum of his average weekly wage but not less than fourteen pesos per week, except in the case provided for in the next following paragraph. No compensation shall be allowed for the first three calendar days of incapacity

resulting from an injury except the benefits provided for in the preceding section; but if the incapacity extends beyond that period, compensation shall be allowed from the first day of such incapacity. Such weekly payments shall in no case continue after the disability has ceased, nor shall the aggregate sum paid as compensation exceed in any case six thousand pesos. But no award of permanent disability shall take effect until after two weeks have elapsed from the date of injury.

In the case of an employee whose average weekly wages are less than fourteen pesos per week, the weekly compensation shall be the entire amount of such average weekly wages; but if the disability is permanent, the compensation shall be fourteen pesos in such case. In the event that the total disability begins after a period of partial disability, the amount of compensation due for the latter and for any other disability shall not exceed the maximum amount of six thousand pesos.

[4] "SEC. 13. Services, appliances and supplies. - Immediately after an employee has suffered an injury or contracted sickness and during the subsequent period of disability, the employer or insurance carrier shall provide the employee with such services, appliances and supplies as the nature of his disability and the process of his recovery may require; and that which will promote his early restoration to the maximum level of his physical capacity.

The word "services" used herein shall include medical, surgical, dental, hospital and nursing attendance and treatment as well as the proper fitting and training in the use of appliances and the necessary training for purposes of rehabilitation; "appliances" shall include crutches, artificial members and other devices of the same kind, and the replacements or repairs of such artificial members or such devices unless the replacement or repair is made necessary by the lack of proper care by the employee; and "supplies" shall include medicines, as well as medical, surgical and dental supplies.

In case the employer or insurance carrier cannot furnish the aforementioned services, appliances and supplies promptly, the injured or sick employee may acquire the same at the expense of the employer or insurance carrier.

If it is shown before the Commission or its authorized representative that the injured or sick employee voluntarily refused to accept without justifiable cause, the services, appliances and supplies provided by the employer or insurance carrier or voluntarily obstructed without justifiable cause the giving of such services, appliances and supplies, such refusal or obstruction shall be construed as a waiver of all or part of his rights to the same and in this case the employer or insurance carrier shall be liable only for the disability of any nature that would have ensued if the injured or sick employee has accepted the services, appliances and supplies tendered by the employer as well as the kind of disability that would have been the result of the injury or illness if the injured or sick person had accepted such services, appliances and supplies shall be set forth in an affidavit made within twenty-four hours after such refusal by the physician or other person called to render such services or furnish such appliances or supplies. What shall constitute justifiable cause shall be determined by the representative of the Commission who may, on his own initiative, determine the necessity, character and sufficiency of any service, appliance and supplies furnished by the employer or insurance carrier or acquired by the employee himself at the employer's or insurance carrier's expense, and order a change of such service, appliance and supplies when in his judgment such change is desirable or necessary.

No claim for such services, appliances or supplies shall be valid and enforceable against the employer or insurance carrier unless the attending physician or other person concerned within twenty days following the first treatment, attendance, or furnishing of supplies and thereafter within the same period following every treatment, attendance, or furnishing of supplies, furnish the employer or insurance carrier and the Commission a report of such injury and treatment on a form prescribed by the Commission.

The liability of an employer or insurance carrier for the aforementioned services, appliances and supplies shall not be affected by the fact that his employee was disabled through the fault or negligence of a third party."

[*] Designated to sit in the First Division.

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