

MARIA V. DIMAGIBA, PETITIONER, VS. CENTRAL BANK OF THE PHILIPPINES, AND WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS.

G.R. No. L-43024. October 28, 1977

Ponente: GUERRERO, J.

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GUERRERO, J.:

We reverse the decision of the Workmen's Compensation Commission in RO4-WCC Case No. 12725, entitled "Maria V. Dimagiba, Claimant, versus Central Bank of the Philippines, Respondent" awarding claimant the sum of P6,000.00 as disability compensation bene-fits but, however, cutting the reimbursement of medical expenses from P22,299.65 to P2,154.95, on the ground of lack of jurisdiction in reviewing and disturbing the decision rendered by the Acting Referee in said RO4-WCC Case No. 12725 when said award had already become final and executory.

The undisputed facts of the case are as follows:

Petitioner was a former employee of the Central Bank of the Philippines since September 26, 1955. She started as a Clerk in the Import Department, became a Supervising Clerk assigned in the Loans and Credit Department on March 1, 1966, and finally promoted to Senior Clerk with a salary of P4,980.00 per annum. Sometime in 1964, while engaged in the active pursuit of her employment, she developed an illness diagnosed by her attending physician as "Diabetes Mellitus, Hypercholesterina, GBD." As a result of which, she was forced to go on sick leave every now and then and submit to medical treatment, and upon the advise of her attending physician, she had to tender her resignation from the government service on June 15, 1970. Thereafter, she filed a claim for disability compen-sation under the Workmen's Compensation Act on October 7, 1970. To this claim, respondent Bank filed its controversion on October 12, 1970. After hearing and presentation of evidence by both parties, Acting Referee Vivencio E. Escarcha of the Regional Office No. 4 of the Department of Labor, Manila, rendered a decision on July 17, 1972 ordering respondent Bank to pay disability compensation to petitioner in the total sum of P6,000.00 plus reimbursement of medical expenses in the sum of P22,299.65. The dispositive portion thereof is quoted as follows:

"WHEREFORE, premises considered, judgment is hereby rendered ordering respondent Central Bank of the Philippines to pay, through this Office, and in lump sum:

1. Claimant the compensation for her total permanent disability for labor in the sum of SIX THOUSAND (P6,000.00) PESOS; plus the reimbursement of the medical expenses she incurred in the sum of TWENTY-TWO THOUSAND TWO HUNDRED NINETY NINE and 65/100 (P22,299.65) PESOS;
2. Her counsel, Atty. Ricardo Perez the attorney's fee of THREE HUNDRED (P300.00) PESOS; and
3. This Office the sum of SIXTY-ONE (P61.00) PESOS as fees pursuant to Section 55 of the Act, as amended.

SO ORDERED.

Manila, Philippines, July 17, 1972"

Copy of the above decision of the Acting Referee was received by the respondent Bank on August 7, 1972.

On August 21, 1972, respondent Bank filed by registered mail a "Motion to Extend Time for Filing Petition for Review" praying for ten (10) days from August 22, 1972 within which to file its petition for review, for the reason that it had not been furnished with the transcript of stenographic notes taken during the proceedings of the case. This motion was granted by the Acting Referee in his order dated August 22, 1972, copy of which respondent claims was not received by it.

On September 7, 1972, respondent Bank filed another motion for a second extension of ten (10) days from receipt of the copy of the transcript of stenographic notes, alleging: "1. that respondent has previously filed its motion to extend the filing of its petition for reconsideration in the above-entitled case which, among other things, avers that the reason for the motion is that the transcript of stenographic notes of the hearings, has not been made available to respondent. This situation persists and respondent has been informed by the stenographer that it would take sometime for her to finish the transcription of her notes of the hearings, which date she could not reasonably fix."

Under date of October 13, 1972, respondent Bank filed its "Petition for Reconsideration" of the decision of July 17, 1972.

On October 16, 1972, the Acting Referee issued an order declaring the decision rendered by him to be final and unappealable. His order reads thus:

" O R D E R

On September 7, 1972, respondent, through counsel, filed by registered mail with this Office a Second Motion for Extension of Time to file its petition for review praying that it be granted another ten (10) days within which to file its motion for reconsideration on the Decision issued by this Office in the above-entitled case for the reason that the transcript of stenographic notes of the hearing could not be available to its counsel.

Record shows that the Order of this Office dated August 22, 1972 granted the respondent a period of ten days from August 22, 1972 within which to file its motion for reconsideration and/or petition for review on the Decision issued by this Office in the above-entitled case which period lapsed on or about September 1, 1972. In order that the second motion for extension of time for filing petition for review be validly considered by this Office, the same should be filed within the extended period granted by this Office to the respondent on its Order dated August 22, 1972 allowing respondent a 10-day period within which to file its motion for reconsideration or petition for review. This second motion, however, was filed as stated by registered mail on September 7, 1972 or 6 days period beyond the reglementary period within which respondent may file its motion for reconsideration of a motion for another extension of time in filing the said motion for reconsideration or petition for review. For this reason, it is very apparent that the second motion for extension of time filed by respondent with this Office was filed out of time, hence, the same is hereby denied.

WHEREFORE, premises considered the second motion for extension of time to file petition for review of counsel for the respondent is hereby denied for having been filed out of time and the Decision of this Office in the above-entitled case is now deemed final and unappealable.

SO ORDERED.

Manila, Philippines, October 16, 1972"

Thereupon, respondent Bank filed a "Petition for Review of Order" on November 15, 1972 assailing the order of October 16, 1972, to which petitioner filed her opposition on November 27, 1972 while respondent filed its reply to the aforesaid opposition on November 29, 1972. Thereafter, on March 26, 1974, the Acting Referee issued an

order denying respondent Bank's petition for reconsideration of the order of October 16, 1972, as follows:

" O R D E R

Finding the grounds on the Petition for Reconsideration of the Order of this Office dated October 16, 1972 denying the Second Motion for Extension of Time to File Petition for Review by counsel for the respondent on the ground that the same was filed out of time to be untenable,

WHEREFORE, said petition for review is hereby denied.

SO ORDERED.

Manila, Philippines, March 26, 1974"

From this order of the Acting Referee noted above, respondent Bank filed with the Workmen's Compensation Commission a "Petition for Relief from Order and to Elevate Records" on April 3, 1974. On February 5, 1975, petitioner filed an "Opposition and an Urgent Motion" and on October 17, 1975, the Acting Referee issued an Order elevating the entire records of the case to the Workmen's Compensation Commission. Subsequently, on January 30, 1976, respondent Workmen's Compensation Commission, through Associate Commissioner Eugenio I. Sagmit, Jr. and with the concurrence of Commissioner Severo M. Pucan, rendered the decision now under review. The dispositive portion thereof is quoted hereunder:

"WHEREFORE, with the modification aforementioned, the Decision appealed from is hereby AFFIRMED and respondent ordered to pay thru this Commission:

1. To the claimant, the total sum of EIGHT THOUSAND ONE HUNDRED FIFTY FOUR PESOS AND 95/100 (P8,154.95) as disability compensation and reimbursement of medical expenses;
2. To Atty. Ricardo Perez, the sum of SIX HUNDRED PESOS (P600.00) as attorney's fees pursuant to Section 31 of the Act; and
3. To this Commission, the sum of SIXTY SIX PESOS (P66.00) as administrative fee pursuant to Section 55 of the Act.

SO ORDERED.

Quezon City, Philippines, January 30, 1976"

Petitioner now seeks the review of the Commission's decision on the ground that the respondent Commission abused its authority in reviewing and disturbing the decision rendered by the Acting Referee when the said award had already become final and executory for the respondent's failure to perfect an appeal within the reglementary period.

The issue of finality of a decision of a Referee or a Commissioner upon the lapse of the reglementary period to appeal by petition for review or motion for reconsideration has been resolved by this Court. In *Hoc Huat Trading vs. Santos*, L-22863, July 31, 1968, 24 SCRA 441, this Court held that "decisions in workmen's compensation cases, become, by express statutory prescription, final and executory after fifteen (15) days from notice thereof, 'unless previously appealed;' or a petition for review has been filed within the same period." Then just recently, in *Ramos vs. Republic*, L-41949, February 27, 1976, 69 SCRA 576, this Court held that "the expiration of the reglementary period for reconsideration or review of an award deprives (the Commission) of appellate jurisdiction to review or set aside the award by virtue of its having become final and executory."

In the instant case, the decision of the Acting Referee dated July 17, 1972 having been received by the respondent Bank on August 7, 1972, the same would have become final and executory 15 days thereafter or on August 22,

1972. However, after 14 days had already elapsed of the 15 days period within which to appeal, respondent Bank, on August 21, 1972, filed a "Motion to Extend Time to File Petition for Review," requesting an extension of 10 days from August 22, 1972 to file its petition for review, evidently in pursuance to Section 3, Rule 15 of the defunct Rules of the WCC. The Acting Referee in his order dated August 22, 1972 granted the 10 days extension counted from August 22, 1972 as prayed for by the respondent Bank, which would expire September 1, 1972. When the respondent Bank filed on September 7, 1972 its "Motion to Extend Time for Filing Petition for Reconsideration" requesting another extension of time for at least ten (10) days to be counted from the date of receipt of the transcript of stenographic notes, said motion was already late by 6 days counted from September 1, 1972. Likewise, the petition for reconsideration of the award filed October 13, 1972 was filed beyond the reglementary period to appeal.

It is crystal clear that the decision or award of Acting Referee Vivencio E. Escarcha had already become final and executory. The order of the Acting Referee dated October 16, 1972 declaring his decision of July 17, 1972 as final and executory is proper and correct. His decision may no longer be subject to review by the Workmen's Compensation Commission. The Commission has not properly acquired jurisdiction to review the decision rendered by the Acting Referee and to disturb the findings therein made.

The respondent Bank contends that the grant or approval of its first "Motion for Extension of Time to File the Petition for Review" was not furnished to the respondent; that it was necessary to have the transcription of stenographic notes in order to be able to state in the petition for review or motion for reconsideration the specific details of the issues found in the evidence on record as required by the Rules of the Commission; and that its subsequent motion for a second extension of 10 days to be counted from receipt of the transcript of stenographic notes stopped the running of the prescriptive period.

We find no merit to this contention of the respondent Bank. The unavailability of the transcript of the stenographic notes taken during the proceedings is no valid ground to excuse the late filing of the Motion for Reconsideration or Petition for Review.

As petitioners correctly observed, respondent Bank was able to file its petition for reconsideration on October 13, 1972 without benefit of the transcript. The unavailability of the transcript is a poor excuse for gross unpreparedness and lackadaisical concern of official duties as government lawyers, a lame leg indeed to stand on for respondent's position. To subject the period to appeal of the decision or award to the availability or completion of the transcript of stenographic notes would render such period dependent on the time, the whims and caprice of the stenographer at the hearing, which is intolerable, if not repulsive.

The respondent Commission, for its part, maintains that the 10-day period of extension granted by the Acting Referee in his order dated August 22, 1972 should have commenced to run from the time respondent Bank received a copy thereof. Claiming that the order granting the 10-day extension never left the desk of the Acting Referee as it was found attached to the records after the petition for reconsideration of the decision was filed on October 13, 1972, the Commission contends that in contemplation of law, the period of finality which was stopped by the filing of the first motion for extension of time within which to file petition for review never commenced to run against the Bank, hence the Acting Referee's decision of July 17, 1972 never became final and executory.

This contention is bereft of merit. Respondent Bank having prayed for a 10-day extension after August 22, 1972, it was its duty to prepare and file its petition for review or file another motion for extension within the 10 days it had originally requested. We cannot accept the respondent Commission's stand that the finality of the Acting Referee's decision had not commenced to run because, according to the Commission, the Bank was not notified of

the order granting the extension. This would make the 15-day period of finality flexible and elastic and would result in untold delay and injustice to workmen claiming compensation for disabilities and injuries compensable under the law. Respondent Bank has no right to assume that its motion would be granted; it was duty-bound after filing its motion for extension to check with the Acting Referee and inquire as to the outcome or disposition thereof so that if the same is denied, it could make the necessary motions for extension or file the proper petition itself and thus perfect his appeal within the remaining period. (King vs. Joe, L-23617, August 20, 1967, 20 SCRA 1117).

Respondent Bank seeks reliance and relief on Rule 22, Sections 1 and 2 of the Rules of the Workmen's Compensation Commission published and circulated effective March 8, 1973, to justify the decision of the Workmen's Compensation Commission dated January 30, 1976 reviewing and revising the award of the Acting Referee rendered almost 4 years back, which new rules were adopted during the pendency of this case in the Commission. Under the new rules, the respondent Bank contends that all appeals from the Referee must go to the WCC; that its review power is sufficiently broad as not to be questioned especially under the circumstances of the case; and that the WCC has the jurisdiction to review the order of the Acting Referee declaring his decision final and unappealable.

This stance of the respondent Bank is not meritorious for the same rule relied upon, that is Rule 22, requires and lays down under Section 3 thereof the prescriptive period within which to avail of the petitions under Section 1 and 2, and that is within 30 days after the petitioner learns of the decision, award, or order on the merit or other proceedings sought to be set aside and not more than 3 months after such decision or award was entered or such proceedings were taken (paragraph 1, Sec. 3) or within 30 days after petitioner learns of the order to be reviewed and not more than 3 months after such order was entered (paragraph 2, Sec. 3). In addition, a petition for relief under Section 2 of Rule 22 should contain "a concise statement of facts showing that the denied petition or motion was filed within the reglementary period x x x" (Underscoring supplied)

These periods have not been observed in the present case for respondent Bank first learned of the decision dated July 17, 1972 of the Acting Referee, which is the decision on the merits, on August 7, 1972 while said respondent learned of the order dated October 16, 1972 on November 10, 1972. Thus, when it filed the petition for relief on April 3, 1974, all the periods prescribed in Section 3, Rule 22 have already expired. Hence, respondent Bank cannot avail itself of either Section 1, Petition for Relief from Judgment or Section 2, Petition to Elevate Records for Relief from Order Issued under Rule 19.

We rule that the decision of the Acting Referee in RO4-WCC Case No. 12725, entitled "Maria V. Dimagiba, Claimant, versus Central Bank of the Philippines, Respondent," is final and executory. That "Diabetes Mellitus, Hypercholesterina, GBD" which petitioner suffered and now claims compensation, is a compensable ailment, is conceded by the respondent Commission and not season-ably controverted by the respondent Bank. While the award of medical expenses is claimed to be exorbitant, respondent Bank, through counsel, has foreclosed its right to question the same by neglecting to file the necessary petition for review or motion for reconsideration within the reglementary period which could have been done with a little more fidelity to the lawyer's oath and a little more sense of responsibility to public duty.

As We have ruled that the respondent Commission may not review and revise the award of the Acting Referee which has become final and executory, this Court, for the same reason, is likewise without authority and jurisdiction to disturb and modify the said award, including the medical expenses granted to the petitioner.

WHEREFORE, judgment is hereby rendered reversing and setting aside the decision of the respondent Workmen's Compensation Commission dated January 30, 1976 and reinstating the decision of the Acting Referee

in favor of the petitioner-claimant. We hereby order the respondent Central Bank of the Philippines to pay:

1. Claimant the compensation for her total permanent disability for labor in the sum of SIX THOUSAND (P6,000.00) PESOS; plus the reimbursement of the medical expenses she incurred in the sum of TWENTY-TWO THOUSAND TWO HUNDRED NINETY-NINE and 65/100 (P22,299.65) PESOS;
2. Her counsel, Atty. Ricardo Perez the attorney's fees of SIX HUNDRED (P600.00) PESOS; and
3. The sum of SIXTY-ONE (P61.00) PESOS as fees pursuant to Section 55 of the Act, as amended.

No costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, Martin, and Fernandez, JJ., concur.

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