

LEON MERCADO, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION, C-J YULO AND SONS, ET AL., RESPONDENTS.

G.R. No. L-45834. February 28, 1978

Ponente: GUERRERO, J.

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GUERRERO, J.:

Petition for review of the decision of the Workmen's Compensation Commission in RO-5-WC Case No. C-2683 which reversed the award of P6,000.00 made by Hearing Officer Emiliano B. de Villa of Regional Office No. 5, San Pablo City, in favor of petitioner.

The records disclose that on February 25, 1975, petitioner instituted his claim for compensation benefits for disability resulting from Pulmonary Tuberculosis allegedly due to the nature of his work or aggravated thereby under the Workmen's Compensation Act, as amended, against private respondent Canlubang Sugar Estate (C-J Yulo & Sons). Finding petitioner's claim as falling squarely within the compensatory coverage of the Workmen's Compensation Act, as amended, Hearing Officer Emiliano B. de Villa on July 31, 1975 decided in favor of petitioner and directed private respondent to pay claimant the sum of P6,000.00 representing disability benefits under Section 14 of the Act, attorney's fees in the sum of P300.00 and decision fee in the sum of P61.00.

Upon review of the decision dated July 31, 1975, the Workmen's Compensation Commission on December 16, 1975 ruled against the compensability of petitioner's claim. Anchoring its Decision on claimant's failure to show proof that he was subjected to chest x-ray examination and his inability to submit chest x-ray findings to prove that he was in fact afflicted with PTB, the Commission ruled, thus:

"A careful examination of the records of this case disclosed that claimant was employed as a plowman of the respondent Canlubang Sugar Estate with the duties of plowing the sugar cane plantation of the respondent for which claimant is paid P12.00 for one (1) hectare of land plowed and then planting and weeding at the rate of P3.50 per day, working from 7:00 o'clock in the morning to 4:00 o'clock in the afternoon.

"Claimant allegedly contracted pulmonary tuberculosis while employed as such plowman in the respondent corporation and stopped working due to disability on October 2, 1968. It appears, however, that in the physician's report of Dr. Eusebio Panganiban, which was submitted by the claimant in support of his claim, it is stated that the claimant was first administered treatment on September 2, 1957 and the last administration of treatment was in October, 1960. It does not state that claimant was subjected to chest x-ray examination which could have been the basis for the diagnosis of the claimant's illness of PTB moderately advanced. Neither was chest x-ray findings submitted to prove that claimant was in fact afflicted with PTB, which he claims to be the cause for his stoppage from work on October 2, 1968.

"There is, therefore, no substantial evidence to prove that on October 2, 1968, the claimant herein was incapacitated for work due to his alleged illness of PTB which was contracted during the period of his employment as a result of and aggravated by such employment which would entitle him to compensation benefits under the Workmen's Compensation Act, as amended.

"The failure of respondent to file its controversion on time does not necessarily make the claim compensable. There must be substantial evidence to prove that the claim is compensable.

In deciding adversely against the compensability of petitioner's claim for lack of a showing that he was subjected to x-ray examination and for failure to submit x-ray findings to prove that he was in fact afflicted with moderately advanced PTB, the Workmen's Compensation Commission has committed a grave error. The Commission has, in effect, undermined the efforts of the government to promote and strengthen the social justice program ingrained in the Constitution.

This Court, in a long line of workmen's compensation cases, has continuously underscored and consistently reiterated the well-entrenched doctrine that in case of doubt, the presumption of compensability of illness or injury shall prevail, the Workmen's Compensation Act being a social legislation enacted to alleviate the plight of the workingman, a statute that implements the policy of the State to assure assistance and insure protection to those who have less in life. In the case at bar, it devolved upon respondent employer Canlubang Sugar Estate (C.J. Yulo & Sons) and not upon petitioner, to prove by substantial evidence that petitioner's illness did not or could not have arisen or have been aggravated by his employment. Here, the employer failed to establish such non-work connection or in the very least, non-work aggravation of petitioner's illness. Be that as it may, the position taken by the Commission in reversing the Referee's award in favor of petitioner is patently unmeritorious. Section 2 of the Workmen's Compensation Act emphatically points out 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 person 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."

As reflected in Referee's decision, petitioner was in respondent's employ as plowman from 1940 or a period of 28 years, working from 7:00 a.m. to 4:00 p.m. plowing respondent's sugarcane fields at P12.00 per hectare, receiving an average of P35.00 a week cultivating the soil and weeding the sugarcane field; that beginning August, 1957, he suffered chest pain and bodily weakness which necessitated his treatment as out-patient in the Canlubang Sugar Estate Hospital, the respondent's hospital, which referred him to Pasay Clinic for x-ray and was found to be afflicted with PTB; and that after reviewing his case, he was, at 43 years of age, recommended for retirement by Dr. Zoilo Bunye of the respondent, which was approved in October, 1968; that after retirement, he sought treatment outside the Estate.[1]

The decisive issue is whether the submission of an x-ray finding as proof of a worker's affliction with PTB is an indispensable requisite to compensation. In *Ybañez v. WCC*,^[2] this Court reiterated its oft-repeated pronouncements that an x-ray or some other laboratory report is not an indispensable requisite to compensation; that a report of an attending examining physician may be received as evidence and used as proof of the fact in

dispute; that the nature and condition of work contribute to and aggravate in large measure the employee's ailment and hence, entitles him to compensation; that when an illness supervenes in the course of the employment, there is a presumption that the same arose out of or was at least aggravated in the course of the employment; and that this legal presumption can only be overcome by substantial evidence by the employer.[3]

The fact that private respondent, despite its knowledge of petitioner's illness dating as far back as August, 1957, failed to comply with the provision set forth in Section 37 of Act 3428, as amended, which enjoins each employer to give written notice of accident of its employees and that of Section 45 of the same Act which mandates employer to controvert employee's right to compensation within the prescribed period of 14 days from the date of the disability or illness or within 10 days after knowledge of such illness, strongly militates against the claim of respondent C-J Yulo & Sons. In *Seven-Up Bottling Co. of the Philippines v. Vda. de Tero, et al.*[4] this Court ruled that the failure of the employer to submit a timely report of the accident to the Workmen's Compensation Commission bars it from contesting the compensability thereof.[5]

Likewise, in *National Power Corporation v. WCC*,[6] it was held that the late filing of employer's report of accident is deemed a waiver of defense that claim was not timely filed. Again, in *National Development Corporation v. WCC*,[7] it was likewise held that failure of employer to report employee's condition is deemed a renunciation of right to controvert the claim and renunciation bars all defenses available to the employer. In *Vda. de Calado, et al. v. WCC*,[8] this Court emphatically declared:

"...(T)his Court wants to make it clear now, that in line with the spirit and purpose of the Compensation Act and consistent with the public policy therein voiced that claims for compensable injuries or death are not waivable, any employer who, having actual knowledge or notice, directly or indirectly, of any compensable injury or death suffered by any of his employees or workers, violates Section 37 of the Act by failing to report the same and to controvert its liability therefor within the period stated in said section is under an inescapable obligation to pay the corresponding compensation in full whenever and howsoever a demand therefor is made by the party entitled thereto, the failure of such party to give notice or to file the claim required by Section 24 of the Act notwithstanding. We hold that unless this view is adopted, the public policy declaring claims for compensation non-waivable would be open to facile circumvention and might just as well be cast aside."

"As a matter of fact, failure on the part of the employer to give the notice to the Compensation Commission required by the Act is an offense punishable by fine and according to Section 45, such 'failure... shall constitute a renunciation of his right to controvert the claim ...,' which means that he cannot put up any defense at all, except perhaps that of absence of employer-employee relationship..."

"... (I)t is always important to bear in mind that the obligation of employers to pay the compensation provided in the Act is mandatory and that as a matter of public policy expressed in the Act itself, said compensation cannot be renounced or waived by a laborer or his beneficiary, so much so that, as this Court has already ruled, even if the same has in fact been formally waived already by the claimant, such waiver 'cannot ... exempt (the employer) from liability ... in view of the provisions of Section 7 of Act 3428, as amended, which considers as null and void any contract or device of any sort intended to exempt the employer from all or part of the liability created by said Act.'"

Failing thus to seasonably controvert petitioner's claim for compensation pursuant to Section 45 of Act 3428, as amended, and to strictly comply with the mandatory requirement set forth in Section 37 of the same Act, all defenses of private respondent are now unavailing, the forfeiture and renunciation of employer's rights being

imposed by the statute as a sanction for his failure to punctiliously observe the Act's requirements.

WHEREFORE, We reverse respondent Workmen's Compensation Commission's decision and reinstate the Referee's award of P6,000.00 in favor of petitioner, attorney's fees in the amount of P600.00 and the sum of P61.00 as administration fee.

Private respondent Canlubang Sugar Estate (C-J Yulo and Sons) is also hereby directed to pay claimant's expenses for medical and hospital services duly supported by proper receipts.

SO ORDERED.

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

[1] See records of case, pp. 21-22.

[2] No. L-44123, June 30, 1977.

[3] See *Monsale v. Republic of the Philippines and WCC*, L-40691, November 29, 1977; *Despe v. WCC, et al.*, L-42828, February 28, 1977; *Gomez v. WCC, et al.*, L-43617, February 28, 1977; *Vallo v. WCC and Republic of the Philippines*, L-41816, October 29, 1976; *Ayuso v. WCC*, L-42893, September 30, 1976; *Caparas v. WCC*, L-42450, September 30, 1976; *Leoma v. WCC*, L-42543, September 30, 1976; *Pros v. WCC*, L-43348, September 29, 1976; *Vda. de Leron v. WCC*, L-43344, September 29, 1976; *Jacob v. WCC, et al.*, L-43302, August 31, 1976; *Mercado v. WCC*, L-42451, July 30, 1976; *Valencia v. WCC and City of Manila*, L-41554, July 30, 1976; *Aranzanso v. Asso. Com. Sagmit*, L-46658, June 30, 1976; *Talip v. WCC, et al.*, L-42774, May 31, 1976.

[4] No. L-31995, February 12, 1973.

[5] See also *Atlas Consolidated Mining and Dev. Corp. v. WCC*, L-29439, May 29, 1970.

[6] No. L-19946, February 26, 1965.

[7] No. L-19863, April 29, 1964.

[8] No. L-26149, April 30, 1971.

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