

VICENTE BERENGUEL, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, (BUREAU OF PUBLIC SCHOOLS), RESPONDENT.*G.R. No. L-47175. December 15, 1986*

Ponente: GUTIERREZ, JR., J.

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This is a petition for review on certiorari questioning the decision of the Workmen's Compensation Commission which dismissed the claim for disability benefits of the petitioner-claimant in RO4 W. C. Case No. 166853 and the order of the Compensation Appeals and Review Staff which denied his motion for reconsideration.

Petitioner Berenguel was a teacher with the respondent Bureau of Public Schools since 1946. In the course of his employment, he was confined at the Tuberculosis Sanitarium of Quezon Institute in Quezon City from November 16, 1957 up to April 17, 1958 due to chronic and active pulmonary tuberculosis. Before he retired from the government service at the age of 63 in 1969, he was treated at the St. Luke's Hospital from July 16 to October 25 for his minimal fibrotic lesion and he underwent an operation of his right thyroid lobe due to the presence of nodules.

On March 31, 1975, Berenguel filed a claim for disability benefits for various illnesses, namely, indirect inguinal hernia on the left, varicose veins, minimal pulmonary tuberculosis, atelectasis of the right lung and chronic cholecystitis.

After considering the evidence presented before him, the Acting Referee in the regional office where the claim was filed granted petitioner-claimant the disability benefits corresponding to the actual period he was not able to work on account of his pulmonary tuberculosis, that is, from July 16, 1969 up to October 25, 1969. Petitioner-claimant was also reimbursed his medical expenses in the amount recommended by the Compensation Rating Medical Officer. The dispositive portion of the decision of the Acting Referee reads:

"WHEREFORE, respondent Republic of the Philippines (Bureau of Public Schools) is hereby adjudged:

"1. To pay claimant the sum of EIGHT HUNDRED FIFTY FOUR & 43/100 (P854.43) PESOS, as disability benefits;

"2. To pay claimant the amount of TWO THOUSAND THREE HUNDRED SEVENTY FIVE & 48/100 (P2,375.48) PESOS, as medical expense reimbursement;

"3. To pay this Office the sum of P9.00 as fee pursuant to Section 55 of the Act, as amended."

On appeal to the Workmen's Compensation Commission, the Associate (Medical) Commissioner reversed the above decision of the Acting Referee and dismissed the petitioner's claim for lack of merit. In dismissing the claim for disability benefits, the Commissioner ruled that the chest x-ray presented by the petitioner-claimant was taken only on October 6, 1975 and did not show any illness of pulmonary tuberculosis and that even if it reflected the presence of said illness, the x-ray result that was submitted cannot support the alleged pulmonary tuberculosis in 1969. The Commissioner advised the petitioner-claimant to avail himself of his terminal leave prior to

retirement during the period when he did not actually report for work from July 16, 1969 to October 25, 1969. The grant of medical expense reimbursement was likewise rejected on the ground that the receipts for the medical expenses sought to be reimbursed were all dated after the petitioner-claimant's retirement.

A motion for reconsideration was later denied.

The petitioner-claimant raises two assignments of errors in this petition, namely:

I

THE WORKMEN'S COMPENSATION COMMISSION ERRED IN REVERSING THE FINDINGS OF THE REFEREE OF THE OFFICE A QUO THAT NOTED, FOUND AND RESOLVED THAT CLAIMANT'S PTB IS CAUSALLY RELATED TO HIS EMPLOYMENT AND THE OTHER SICKNESS INCURRED IN THE COURSE OF SAID EMPLOYMENT.

II

THE WORKMEN'S COMPENSATION COMMISSION ERRED IN REVERSING THE GRANT OF REIMBURSEMENT OF MEDICAL EXPENSES BY THE REFEREE OF THE OFFICE A QUO.

On the first assigned error, the petitioner argues that the certificate of confinement and the case record of said confinement at the Tuberculosis Sanitarium of Quezon Institute in 1958 clearly showed that he contracted the pulmonary tuberculosis while he was employed by the respondent. He further alleges that when he retired on October 25, 1969, he was still very sick and was not allowed to return to work so as not to contaminate the school children with the contagious disease that had afflicted him. The application for leave of absence of the petitioner covering the period from July 16, 1969 to October 25, 1969 contained a medical certificate to the effect that he was found suffering from (1) nodules, moderate size, right lobe of the thyroid and (2) minimal fibrotic lesion koch, right apex and that it was advisable that he should have surgery because of the nodule in the right thyroid lobe and he should have medical treatment and rest for his right lung lesion.

It is a well-settled rule under the Workmen's Compensation Act that once the claimant has established the illness as supervening at the time-of his employment, there exists a rebuttable presumption of the illness having arisen out of or at least having been aggravated by his employment. (*Aribon v. Workmen's Compensation Commission*, 139 SCRA 492; *Villavieja v. Marinduque Mining and Industrial Corp.* 132 SCRA 622; *Abcede v. Workmen's Compensation Commission*, 138 SCRA 53; *Labenia v. Workmen's Compensation Commission*, 140 SCRA 437). The claimant, thus, is relieved from the burden of proving causation once the illness is shown to have arisen in the course of employment. The burden to overthrow the presumption and to dislodge, by substantial evidence, the causal relation between the illness and the employment rests on the employer. (*Monsale v. Republic of the Philippines*, 80 SCRA 448; *Ceniza v. Employees Compensation Commission*, 118 SCRA 137; and *Vda. de Tumolva v. Employees' Compensation Commission*, 141 SCRA 78).

The respondent contends that when the petitioner contracted pulmonary tuberculosis in 1957, he was not yet covered by the Workmen's Compensation Commission Act because it was only on June 24, 1964 when public school teachers came within the coverage of said Act by virtue of Republic Act 4119. We find this contention untenable. The fact that the petitioner was not yet within the coverage of the law in order to be compensated does not alter the established fact that his illness was contracted during his employment. The records show no evidence having been presented by the respondent to overcome the presumption of compensability in favor of the petitioner who even presented a medical certificate attesting to the fact that in 1969, he still suffered from the same ailment.

The respondent also maintains that although it was on October 25, 1969 that the petitioner stopped working, he

reached the age of 63 on October 26, 1969 so that his retirement was not because he had a disabling ailment but because he had chosen to retire under the retirement law. It can be gleaned from the records of this case that on October 25, 1969 which was the end of the petitioner's leave of absence, he was still very sick and he was not allowed to return to work. It was in the interest of the school children that the petitioner was required to retire from his employment so as not to contaminate them with his pulmonary tuberculosis. We reiterate our previous ruling in the case of *Galang v. Workmen's Compensation Commission* (72 SCRA 454) wherein we held that:

xxx xxx xxx

"x x x Considering that petitioner was forced to retire from the service due to his disability to continue with his work with private respondent, he should be entitled to disability compensation benefits authorized by the Workmen's Compensation Act for persons suffering from permanent disability. ('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.')

It is also noteworthy to state once again our pronouncement in the recent case of *Buyco v. Hon. Secretary of Labor, et al.* (G. R. No. L-47276, November 10, 1986) citing the case of *Espiritu v. Workmen's Compensation Commission* (84 SCRA 636) that:

"As to petitioner's optional retirement at the age of 63 years, this Court has already ruled that the same does not militate against her claim. x x x."

As regards the respondent's claim that the chest x-ray submitted by the petitioner was taken only on October 6, 1975, six years after his retirement in 1969, we rule that this Court has consistently held that an x-ray result is not an indispensable prerequisite to compensation. (*Fedillo v. Workmen's Compensation Commission*, 134 SCRA 56; *Cañete v. Workmen's Compensation Commission*, 136 SCRA 302; *Jereza v. Mondia*, 138 SCRA 58; and *Bautista v. Workmen's Compensation Commission*, 88 SCRA 121)

On the second assigned error, we find merit in the petitioner's contention that the findings of fact of the Workmen's Compensation Unit of Regional Office No. 4 of the Labor Department are like findings of fact of the lower courts which must be upheld and taken as true and correct and not to be undermined or ignored by the appellate courts in the absence of strong and cogent reasons. The amount of medical benefits as evaluated by the Compensation Rating Medical Officer ought to be upheld. The fact that the medical expenses were all dated after the petitioner's retirement is of no moment because it has been established that the petitioner's illness is compensable for the simple reason that the test of compensability under the old Workmen's Compensation Law is probability and not certainty. (*Matta v. Workmen's Compensation Commission*, 133 SCRA 635). That test has been satisfied here.

WHEREFORE, the decision of the Workmen's Compensation Commission, subject of this petition for review, is

hereby REVERSED and the original award made under the decision of the Acting Referee in R04-WC Case No. 166853, granting disability benefits and medical expense reimbursement to the petitioner herein is reinstated with the modification that the disability benefits should be SIX THOUSAND PESOS (P6,000.00) and that the respondent should now pay the prescribed fees of SIXTY-ONE PESOS (P61.00) to the Ministry of Labor and Employment. Attor-ney's fees are also awarded in the sum of SIX HUNDRED PESOS (P600.00).

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Paras, JJ., concur.

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