

**ANTONIO B. JUSTO, PETITIONER, VS. THE WORKMEN'S
COMPENSATION COMMISSION AND/OR THE HONORABLE
SECRETARY OF LABOR AND THE NATIONAL LIBRARY,
RESPONDENTS.**

G.R. No. L-43681. January 31, 1977

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

The petitioner, Antonio B. Justo, was a Senior Librarian of respondent National Library who on March 31, 1975, filed a claim for compensation with the Workmen's Compensation Commission, Department of Labor, for his illness of pulmonary tuberculosis which caused him to stop working since July 30, 1974. Petitioner's claim was denied by the Regional Office No. 4 in a communication dated August 21, 1975, on the ground that the alleged illness of the claimant was "not directly caused or either aggravated by the nature of your employment with respondent" the National Library. (p. 20, rollo)

A letter dated October 1, 1975, was sent by petitioner praying that his case be reopened and that he be given the opportunity to present his evidence. (p. 21, *ibid.*) The Assistant Chief of Section of Regional Office No. 4 in an order dated March 22, 1976, denied the reconsideration for lack of merit, and elevated the record of the case to the Workmen's Compensation Commission. In a decision dated March 25, 1976, signed by Associate Commissioners Dr. Herminia Castelo-Sotto and Eugenio Sagmit, Jr., the order of dismissal of the claim of petitioner was affirmed. (pp. 25-26, *ibid.*)

Hence this Petition for review.

Admitting that petitioner and respondent employer were not given the opportunity of presenting their respective evidence at a formal hearing, the Solicitor General in his Comment filed for and in behalf of the respondents, recommends that this case be remanded to the Secretary of Labor who took over the functions of the defunct Workmen's Compensation Commission, for further proceedings.

We hold, however, that on the basis of the pleadings before Us the Court can decide on petitioner's claim and terminate the matter here and now. The law being in favor of petitioner, humane reasons aimed at promoting justice and the general welfare of the working man justify the rendition of a decision on the merits at this stage rather than the return of the case to the Secretary of Labor for further proceedings as suggested by the Solicitor General. The niceties and refinements of technical rules on procedure must give way to effect substantial justice to the herein petitioner-claimant.

Respondents admit that petitioner was employed with respondent National Library, Republic of the Philippines, and that he stopped working on July 30, 1974, due to pulmonary tuberculosis. On this, We quote from respondents' Comment:

"The records and personal file of petitioner with respondent-employer National Library are more than

sufficient to establish petitioner's claim that he stopped working on July 30, 1974 due to his ailment. His Daily Time Record shows absence from work at the National Library on July 30, 1974. Certified true copies of petitioner's Daily Time Record are hereto attached as Annex 1 hereof; the precise date of petitioner's absence on July 30, 1974 having been marked as Annex 1-A." (p. 39, *ibid.*)

The nature of the illness of petitioner cannot indeed be disputed as it was diagnosed by Dr. Tomas C. Morales of the Quezon Institute as per Physician's Report to be moderately advanced pulmonary tuberculosis, bilateral. (p. 22, *ibid.*) Petitioner's confinement at the Quezon Institute is likewise confirmed by the "Medicare Benefits Voucher" dated October 15, 1974, covering petitioner's hospitalization from August 3, 1974 to September 17, 1974. (p. 23, *ibid.*) The Physician's Report shows that as of April 11, 1975 petitioner herein was still undergoing treatment for his advanced pulmonary tuberculosis and was incapacitated to return to work.

Having knowledge of the illness of petitioner and of the fact that the latter stopped reporting to the Office as of July 30, 1974, it was incumbent upon respondent employer to file with the Workmen's Compensation Commission a notice of the employee's illness (Sec. 37 of the Workmen's Compensation Act, Act 3428 as amended) and controvert the right to compensation either, on or before the fourteenth day of disability or within ten days after it had knowledge of the alleged illness (Sec. 45, *ibid.*). Failing to comply with the foregoing requirements of the law, respondent employer renounced its right to controvert the claim of petitioner, and perforce is obligated to compensate the latter for his disabling illness.

"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 persons hereinafter specified. x x x" (Workmen's Compensation Act, Act No. 3428, as amended)

"Sec. 45. Compensation, how payable.- x x x If the employer or insurance carrier does not controvert the injured workman's right to compensation, such employer or insurance carrier shall, either on or before the fourteenth day after disability or within five days after the employer first has knowledge of the accident, begin paying compensation x x x ." (Act 3428, as amended)

In a host of cases, among the latest of which are *Arzadon vs. Workmen's Compensation Commission and Republic of the Philippines*, L-42404, December 8, 1976, and *Catibog, et. al. vs. Workmen's Compensation Commission and Republic of the Philippines*, L-43416, December 8, 1976, this Court held that failure to controvert results in the loss of non-jurisdictional defenses and an ultimate admission of compensability.[1]

Respondent employer cannot escape liability by asserting that no notice was given by petitioner of his claim for compensation, for failure to give such notice assuming that there was no such notice, is not a bar to the proceedings for compensation if it is shown that the employer had knowledge of the illness, and such was the case here. (Sec. 27, Workmen's Compensation Act)

Respondent National Library had, at the most, ten days from July 30, 1974, the date when its employee Antonio B. Justo ceased to work, within which to controvert the employee's right to compensation; having neglected to do so, it must suffer the consequences expressly provided for in the law and which time and again have been emphatically stressed by this Court as indicated above.

The finding of Regional Office No. 4, which was affirmed by respondent Workmen's Compensation Commission, that the illness of Antonio B. Justo was not directly caused or aggravated by the nature of the employment with respondent National Library runs counter to the presumption established in Sec. 44 of the Workmen's Compensation Act, that in the absence of substantial evidence to the contrary, a claim comes within the provisions

of the Act.

Tuberculosis is not an instantaneous disease; it is an imperceptible disease caused by a germ which is breathed into and feeds on the lungs or taken with food. It is medically accepted that exposure to dust and dirt is a predisposing cause of tuberculosis and tends to produce fibrosis of the lungs which weakens resistance to any latent tuberculosis infection and reactivates that infection.[2]

The pulmonary tuberculosis of petitioner occurred in the course of his employment and was aggravated by the nature of his work. As a Senior Librarian in the government-owned National Library, the biggest in the country, petitioner had to handle, sort out, stack up volumes and volumes of books and loads of documents, old and new, and in the daily process, he had contact with mold, mildew, and dust-polluted air which, inhaled constantly, necessarily infected his lungs and weakened his bodily resistance to disease more particularly to pulmonary tuberculosis. Undoubtedly, petitioner's ailment is work-connected, work-aggravated and compensable.[3]

PREMISES CONSIDERED, the decision of respondent Workmen's Compensation Commission is set aside and respondent National Library is hereby ordered to pay petitioner, ANTONIO B. JUSTO, the following amounts:

(1) Six Thousand (P6,000.00) Pesos as disability compensation; and

(2) Six Hundred (P600.00) Pesos as attorney's fees.

It shall likewise pay the administrative fee of Sixty-one (P61.00) Pesos.

So Ordered.

Teehankee, (Chairman), Makasiar, Concepcion, Jr., and Martin, JJ., concur.

[1] General Shipping Co., Inc. vs. Workmen's Compensation Commission, et al., 109 Phil. 60, per Labrador, J., citing Victoria's Milling Co., Inc. vs. Workmen's Compensation Commissioner, et al., L-10533, May 13, 1957 and Tan Lim Te vs. Workmen's Compensation Commissioner, et al., 104 Phil. 522; La Mallorca vs. Workmen's Compensation Commission, L-29315, Nov. 28, 1969, 30 SCRA 613, 619 per Fernando, J., citing Bachrach Motor Co. vs. Workmen's Compensation Commission, 99 Phil. 238 and many others; Dangué vs. Franklin Baker Co. of the Philippines, 107 Phil. 1083; Laron vs. Workmen's Compensation Commission and Republic of the Philippines, L-43344, Sept. 29, 1976; Dinero vs. Workmen's Compensation Commission and Republic of the Philippines, L-42457, March 31, 1976, 70 SCRA 292, 295-296; Security Services Unlimited Inc. vs. Workmen's Compensation Commission, et al., 69 SCRA 269; Domingo Vallo vs. Workmen's Compensation Commission and the Republic of the Philippines, L-41816, October 29, 1976.

[2] Gray, Attorney's Textbook of Medicine, 1940 Ed. p. 639; Valencia vs. Workmen's Compensation Commission and the City of Manila, L-41554, July 30, 1976 citing Grain Handling Co., Inc. vs. Sweeney 102 F. (2d) 464, Jour. A.M.A., Vol. 115, No. 23, Dec. 7, 1940, p. 2022.

[3] Blue Bar Coconut Co., et al. vs. Boo, 95 Phil. 867; Blue Bar Coconut Co. vs. Reyes and Braza, 95 Phil. 959; Koppel (Phil.) Inc. vs. Javellana, L-19926, April 30, 1965, 13 SCRA 673; Batangas Transportation Company vs. Perez, L-19522, August 31, 1964, 11 SCRA 793; Manila Railroad Company vs. Vda. de Chavez, L-20103, Sept. 30, 1964, 12 SCRA 142; National Development Company vs. Workmen's Compensation Commission, et al., L-21724, April 27, 1967, 19 SCRA 861; Caltex (Phils.) Inc. vs. Derpo and WCC, L-19698, January 31, 1966, 16 SCRA 77; Manila Railroad Company vs. Perez and WCC, L-20171, June 29, 1965, 14 SCRA 504; Arzadon vs. WCC and Republic of the Philippines, Bureau of Public Schools, supra.

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