

JULIA REYES, PETITIONER, VS. WORKMEN'S COMPENSATION COMMISSION AND REPUBLIC OF THE PHILIPPINES (BICOL UNIVERSITY FORMERLY BICOL TEACHER'S COLLEGE), RESPONDENTS.

G.R. No. L-46579. April 28, 1980

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is a petition to review the decision of the Workmen's Compensation Commission in WCU Case No. 129919 (LSR)-001 entitled "Julia Reyes, Claimant, versus, Bicol University, Respondent" reversing the judgment of the Acting Referee, Workmen's Compensation Unit, Regional Office No. 5, Legazpi City, which awarded to the claimant disability benefit and attorney's fees.[1]

Sometime in 1972, Julia Reyes, a former teacher of the Bicol Teacher's College which was absorbed by the Bicol University, filed a claim for disability benefit with Regional Office No. 5, Department of Labor, Legazpi City, on account of her ailment diagnosed as "polyneuritis error of refraction; labyrinthitis; coronary insufficiency."

The respondent, Bicol University, through its Pre-sident, filed in August 1972 an Employer's Report which did not controvert the claim. On October 4, 1972, the respondent, represented by the same President, submitted an amended Employer's Report which controverted the claim and alleged that the claim does not fall within the coverage of the Workmen's Compensation Act, as amended.[2]

After hearing, the Acting Referee of Regional Office No. 5, Legazpi City, rendered a judgment, the dispositive part of which reads:

"WHEREFORE, premises considered, judgment is rendered in favor of the claimant, ordering the Bicol University:

- To pay the claimant Julia Reyes, thru this office the sum of P6,000.00 as compensation/disability benefits pursuant to Section 15 of the Act, as amended.
- To pay the same claimant, the sum of P3,000.00 as reimbursement of medical expenses, pursuant to Sec. 13 of the same Act;
- To pay Atty. Edgardo Rañeses, counsel for the claimant, the sum of P300.00 as attorney's fee, pursuant to Section 31, of the same Act; and
- To pay this Office, the sum of P61.00 as administrative fee, pursuant to Sec. 55, likewise of the same Act.

SO ORDERED.

Legaspi City, Philippines, November 17, 1975."[3]

The respondent, Bicol University, appealed to the Workmen's Compensation Commission which rendered a

decision dated February 10, 1976 reversing the judgment of the Acting Referee on the ground that the claimant stopped working because of age and not of any disabling sickness and that the claimant was not an employee of the Bicol University as she retired in 1964 long before the regular employees and personnel of the Bicol Teacher's College had been absorbed by said university.[4]

The claimant filed a motion for reconsideration which was denied by the Compensation Appeals and Review Staff of the Office of the Secretary of Labor in an order dated June 1, 1977 on the ground "that the remedy of a party affected adversely by a decision or order of the Commission en banc is to file with the Supreme Court a petition for review within ten (10) days from receipt of said decision or order and not a motion for reconsideration of the same decision with the Commission en banc." [5]

The record shows that the claimant Julia Reyes, petitioner herein, was employed as a public school teacher in June 1920 and served continuously, except during World War II, up to July 1964 when she had to retire because she could no longer perform her duties as an instructor of the Bicol Teacher's College due to an ailment diagnosed as "Polyneuritis, Error of Refraction; Labyrinthitis; Coronary Insufficiency." Her last salary was P328.60 a month. It is also of record that the petitioner first felt the ailment in July 1960. Since then she had been undergoing medical treatment but her ailment became worse to such a degree that she felt dizziness, recurring headache and blurring of vision.

The Acting Referee of Regional Office No. 5 at Legazpi City ruled that the amended Employer's Report which controverted the claim after a lapse of one month and seven days from the filing of the original Employer's Report which did not controvert the claim is void for the following reason:

"This issue was squarely settled in the cases of DBP versus the Heirs of Melchora Britanico, et al. No. L-30428, February 7, 1973; Gentex versus Teofilo Taasay, L-20348, Nov. 29, 1971; Phil. Graphic Arts vs. Marciano et al., No. L-30975, Oct. 26, 1973, wherein an Employer's Report in order to be considered as having been filed validly in consonance with Sections 37 & 45 of Act No. 3428, as amended, should not be more than 10 days from knowledge of the injury or accident or death or 14 days from knowledge of the disability of the employee. It is therefore the considered opinion of this Office that the Amended Employer's Report controverting the claim should not be given due course and therefore is null and void." [6]

It is settled that the failure to controvert a claim constitutes a waiver of all non-jurisdictional defenses.[7]

Moreover, even if the controversion is considered valid, there is sufficient showing that the disability of the petitioner was caused by a compensable disease.

The ailment supervened during the employment of the petitioner with the Bicol Teacher's College which was absorbed by the present respondent, Bicol University. The presumption is that the claim is compensable.[8] The burden is shifted to the employer to adduce evidence to show that the ailment was not caused by the employment of the claimant.[9]

The claimant, petitioner herein, did not rely on the disputable presumption of compensability. She pre-sented substantial evidence that her illness was caused by her employment with the Bicol Teacher's College.

The contention that the petitioner was never an employee of the Bicol University has no merit. On September 22, 1970, all regular employees and personnel of the Bicol Teacher's College were absorbed by the Bicol University.[10] The claimant, petitioner herein, had ten (10) years from the date the right of action accrued within which to file a claim.[11] From the date she retired on August 14, 1964 to the date she filed the claim in 1972, less than ten (10) years had elapsed. When the Bicol University absorbed the Bicol Teacher's College, the right of action of the claimant, petitioner herein, against the Bicol Teacher's College was also deemed included among the obligations assumed by the said Bicol University.

It appears that the petitioner incurred medical expenses. She is entitled to be reimbursed such amount as may be supported by proper receipts.

The contention that the decision of the Workmen's Compensation Commission had become final because the petitioner filed a motion for reconsideration instead of filing this petition for review in the Supreme Court is not meritorious. Substantial justice should not be sacrificed at the altar of sophisticated technicality.

WHEREFORE, the decision sought to be reviewed is hereby set aside and the respondent, Bicol University, is ordered:

- 1) To pay the petitioner the amount of Six Thousand Pesos (P6,000.00) as disability benefit pursuant to Section 15 of the Workmen's Compensation Act, as amended;
- 2) To reimburse the claimant medical expenses in such amount as may be supported by proper receipts;
- 3) To pay the petitioner the amount of Six Hundred Pesos (P600.00) as attorney's fees; and
- 4) To pay the successor of the Workmen's Compensation Commission the sum of Sixty-one Pesos (P61.00) as administrative fee.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.

[1] Annex "C", Rollo, pp. 19-21.

[2] Annex "B", Rollo, p. 14.

[3] Rollo, pp. 17-18.

[4] Rollo, pp. 19-21.

[5] Annex "A", Rollo, pp. 12-13.

[6] Rollo, p. 15.

[7] *Lominog Dinero vs. Workmen's Compensation Commission, et al.*, 70 SCRA 292.

[8] Section 44, Workmen's Compensation Act; *Justiniano vs. Workmen's Compensation Commission*, 18 SCRA 677.

[9] *Balanga vs. Workmen's Compensation Commission, et al.*, 83 SCRA 721.

[10] Rollo, p. 20.

[11] *G.B. Francisco, Inc. vs. Workmen's Compensation Commission, et al.*, 87 SCRA 22, 30.

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