

**VISITACION N. PAJARILLO, PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION, REPUBLIC OF THE PHILIPPINES
(VINZONS PILOT HIGH SCHOOL, DIVISION OF CAMARINES NORTE,
BUREAU OF PUBLIC...**

G.R. No. L-42927. January 28, 1980

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petition for review of the October 9, 1975 decision of the respondent Commission, reversing the August 26, 1974 award of the Chief Referee in RO6-WC Case No. 12502 filed by petitioner with the Workmen's Compensation Unit, Regional Office No. VI, Department of Labor, Naga City.

Petitioner, after serving the government as a school teacher for more than 28 years, retired on July 1, 1973 on which date she also filed with the respondent Commission a claim for compensation by reason of her illnesses of chronic cataract (both eyes) and diabetes mellitus. She made both the Republic of the Philippines and the Province of Camarines Norte as respondents for the reason that the province shouldered two-thirds of her annual salary and the National Government, the remaining one-third. While her retirement was effective July 1, 1973, she actually stopped working on June 4, 1973 when she went on sick leave by reason of her aforesaid illnesses.

Numerous documents were submitted by petitioner to the Commission in support of her compensation claim, the most significant and relevant of which are the

- (1) Physician's Report of accident or sickness, dated April 21, 1973, signed by petitioner's attending physician, Dr. Romeo B. Rufino, EENT specialist of Daet, Camarines Norte;
- (2) Medical Certificate [C.S. Form 41] dated June 26, 1973 accomplished and signed by the same physician, stating that he had been treating petitioner for her chronic cataract of both eyes and diabetes mellitus from October 11, 1963 continuously up to April 16, 1973;
- (3) Application for leave [C.S. Form No. 6] of petitioner for 27 days from June 4 to 30, 1973 by reason of her aforesaid illnesses, duly approved by Division Superintendent F. Burgos;
- (4) A medical certification issued on September 10, 1973 by aforesaid petitioner's physician, stating that examination cannot be done any more on petitioner because of the maturity of her cataract on both eyes; and
- (5) Result of the blood sedimentation or laboratory examination of petitioner's blood by the Regional Health Laboratory [RO4], Naga City, showing that claimant's blood sugar is 300 mgs%, dated September 7, 1973.

On August 24, 1974, the Chief Referee issued an award on the bases of his findings that the illnesses were contracted by petitioner in the long course of her employment and/or aggravated by the nature of her employment, and that furthermore, the claim was uncontroverted, thus:

"It is worthy to note that Division Superintendent Burgos at the outset manifested controversion over the

present claim as may be gleaned from his submitted employer's report of sickness dated August 31, 1973 but such controversion is belated for Supt. Burgos admitted the fact that claimant's illnesses were contracted as early as October 11, 1963 and her disability began on April 14, 1973 (Items 19, 20 and 21 of the same report). Also Supt. Burgos admitted that Principal Emma P. Ferrer was notified by claimant regarding her ailments as early as October 11, 1963. Lastly, he admitted that claimant was injured or contracted her ailments in the performance of her regular occupation (Item 17 of said report). Principal Ferrer's controversion altho seasonable cannot be considered valid controversion for being 'pro-forma' and contrary to the ruling laid down by the Supreme Court in WC case General Textile Inc. vs. Teofilo Taa, L-29348, November 29, 1971.

"On October 23, 1973, Dr. Vicente Ramirez, Compensation Rating Medical Officer of the Regional Office, conducted physical examination on claimant (and) for which she was granted one [1] temporary total disability for labor under Section 14 of Act and stamped his approval of the 80% loss of vision of both eyes as evaluated by EENT specialist, Dr. Romeo B. Rufino (Physician's Report of sickness of April 21, 1973, attached to records).

"On the basis of all the foregoing facts and circumstances, we feel and so hold that claimant contracted the aforesaid ailments in the long course of her employment and/or the same could have been aggravated by the nature of employment. Our conclusion finds support in the doctrine laid down by the Supreme Court, to wit:

'While we do not discount the possibility that factors other than the employment of the claimant may also have contributed to the cause or acceleration of claimant's illness, this circumstance alone cannot affect the compensability of this case. Under the law, it is not required that the employment be the sole factor in the growth, development or acceleration of his illness to entitle him to the benefits provided therein. It is enough if his employment had contributed, even in a small degree, to the development or acceleration of the disease' (MRR vs. WCC & Crispin Pineda, G.R. No. L-19773, promulgated on May 30, 1964).

"Finally, we hold that the instant claim is (hereby declared an) uncontroverted (case) and award may be issued under Section 1, Rule 11 of the New Rules of the Workmen's Compensation Commission. Award issued under this Section is final and unappealable.

"Under Section 17 of the WC Act, as amended, claimant is entitled to receive full compensation computed as follows: based on her annual salary of P4,404.00 divided by 52 weeks = P84.69; 50% of P84.69 - P42.34 and for 160 weeks (80% N.S.D. for loss of vision of both eyes) would be P6,774.40, reduced to P6,000.00 maximum compensation allowable by law.

"Under Section 14 of the said Act, no compensation benefits can be granted in favor of claimant for obvious reasons.

"Since her ailments continue to subsist even after her retirement she is still entitled to receive further medical services until the same are medically pronounced cured by competent physician or physicians" (pp. 38-37, WCC rec.; underscoring supplied).

A copy of the aforesaid award was received on September 16, 1974 by the Solicitor General (p. 43, WCC rec.), who filed on October 3, 1974 a motion for extension of ten [10] days from October 1, 1974 to file his motion for reconsideration (pp. 44-45, WCC rec.); and the same was granted by the Chief Referee on December 2, 1974 [p. 46, WCC rec.].

On December 4, 1974, the Solicitor General filed his motion to set aside award on the grounds that there was denial of due process as his Office and respondent employer were never served with notice of hearing of the claim; and that the claim was not compensable (pp. 73-74, WCC rec.).

Acting upon the aforesaid motion, the Chief Referee denied the same in an order dated January 8, 1975 (p. 75, WCC rec.); but directed the elevation of the entire records of the case to the respondent Commission for its

review.

On October 9, 1975, the respondent Commission reversed the award, thus:

"The respondent Republic of the Philippines appeals from the award thus entered on the principal ground that 'the claim itself is not compensable.'

"xx xx xx

"It is true that the claimant, during her employment with the respondents, had contracted cataract of both eyes and that she was suffering from diabetes mellitus. But her service record (p. 45 of the rec.) does not show that the claimant was ever prevented from performing her work on account of these illnesses. It was only natural for the claimant to suffer or contract cataract on account of her age, she being 64 years old already. Cataract, medically speaking, is brought about by the process of degeneration. As to claimant's diabetes, the same has no causal relation with her employment. Diabetes mellitus, as rightly opined by respondent's medical staff, is caused by a metabolic disorder due to inadequate production of insulin. This ailment is not job-connected and, therefore, is not traceable to claimant's work as such public school teacher. Besides that, she was not disabled to work by reason thereof.

"The claimant had retired because she was qualified under the law to do so on the basis of her age and length of service, but definitely not on account of her cataract and/or her diabetes.

"The causal and preliminary connection of claimant's ailment and her work is not obtaining in this case" (pp. 82-81, WCC rec.).

After receipt on October 31, 1975 (p. 85, WCC rec.) of the October 9, 1975 order of reversal, petitioner filed on November 3, 1975 (p. 86, WCC rec.) a motion for reconsideration with respondent Commission. Thereafter, (date of receipt not disclosed by petitioner nor by the records) petitioner received a notice dated December 1, 1975 from the Workmen's Compensation Commission informing her that "pursuant to Letter of Instruction No. 190 dated June 3, 1974, as implemented by Department Order No. 3 dated July 17, 1974 of the Secretary of Labor, any decision or order on the merit of the Commission En Banc shall become final and executory if no appeal is taken to the Supreme Court within ten (10) days from notice in accordance with law. Obviously, your motion is addressed to the wrong forum. You are, therefore, advised to avail yourself of the remedy provided under the aforestated Department Order No. 3."

On December 12, 1975, petitioner thus filed this petition.

On January 1, 1976, the Court denied the petition for lack of (a) payment of the legal fees; and (2) statement of material dates to determine the timeliness of the filing of the petition [p. 27, rec.]. Upon a motion for reconsideration filed on February 1, 1976 by petitioner's counsel, the Court resolved on February 20, 1976 to require petitioner to pay the docket fee and the legal research fund fee; and counsel for petitioner to show cause why he should not be subjected to administrative action for ignorance of the basic rules for docketing petitions through payment of corresponding fees and thereby prejudicing the orderly administration of justice and the cause of his client (p. 32, rec.).

On February 23, 1976, petitioner paid to the Court the total amount of fifty-three pesos (P53.00) under O.R. Nos. 6191184 and 1390166 [p. 33, rec.].

On March 8, 1976, the Court resolved to require the respondents to comment on the petition (p. 34, rec.).

On March 24, 1976, the Court received petitioner's compliance with the February 20, 1976 resolution of the Court (posted on March 6, 1976), remitting the sum of forty-eight pesos [P48.00], in money order form, for docket fee and another sum of five pesos (P5.00), in money order form, for legal research fund fee, all payable to the Clerk

of Court of the Supreme Court [O.R. Nos. 6192592 and 1392592 were issued by the Court's cashier] (pp. 39-41, rec.). Petitioner's counsel explains the late payment of docketing fee in this wise:

"The undersigned counsel was misled to believe that the Petition for Review must first be given due course before payment of legal fees could be made within three (3) days from notice by the clerk of court, pursuant to the provisions of Sec. 7, Rule 43, Rules of Court.

"Besides, your petitioner-appellant was in the hospital at the time of the filing of the Petition for Review undergoing operation, and she needs all her money for her medical treatment, and considering that there was very limited time to file the same, the undersigned counsel deemed it wise to forward the pleadings despite lack of corresponding fees. With all humility and candor, there was no intention on the part of the under signed counsel to prejudice the orderly administration of justice nor the cause of his client. In short, what was done was the best under the circumstances."

and below counsel's signature appears petitioner's apologies for her failure to pay docket fees on time. (pp. 39-41, rec.).

Petitioner's counsel's above compliance was noted in Our resolution of March 31, 1976 (p. 44, rec.).

On May 25, 1976, the Solicitor General filed his comment on the petition pointing out, inter alia, that the petition was filed out of time; hence, subject decision of the respondent Commission has become final and executory (pp. 53-60, rec.).

On June 7, 1976, the Court resolved to treat the petition for review as a special civil action and required both parties to submit simultaneous memoranda within thirty (30) days from notice.

With the submission by the parties of the required memoranda, the case was submitted for decision.

I

WE deal first with the procedural issue.

1. Any question on the timeliness of the instant petition has been foreclosed by Our June 7, 1976 resolution treating the petition, *motu proprio*, as a special civil action (p. 62, rec.). The insistence of the Solicitor General that despite the aforesaid resolution, the petition is still without merit as the decision subject thereof had become final by reason of the belated appeal of petitioner which cannot be cured by availing of the remedy of special civil action, overlooks the significant fact that the aforesaid June 7, 1976 resolution was issued by US precisely by reason of the nullity of the questioned decision of the respondent Commission which was, as will be shown hereinafter, issued without jurisdiction. Consequently, as the proper remedy of petitioner under the premises is a special civil action, WE treated his petition for review as such. Thus, in *Malijan vs. WCC*, which was jointly decided with *Soliven vs. WCC* (77 SCRA 518, 522), We declared as of no moment the fact that therein petitioner filed her petition almost a year after she was notified of the Commission's decision of reversal since "said decision was null and void as the commission had no jurisdiction to set aside the referee's decision that had already long become final and executory. Petitioner x x x could properly come to this Court by way of special civil action of certiorari within the prescriptive period x x x to have the commission's decision set aside as null and void for lack of jurisdiction to render the same."

II

Consequently, the issue to be resolved is whether or not respondent Commission gravely abused its discretion when it reversed the award of the Chief Referee.

WE rule in the affirmative.

Respondent Commission was on October 9, 1975 already without jurisdiction to pass upon and reverse the August 26, 1974 award of the Chief Referee, for the reason that the same had become final and executory; because of the failure of the Solicitor General to interpose an appeal (motion for reconsideration) therefrom or to timely file a motion to set aside the award.

1. The records reveal that the Solicitor General received a copy of the award on September 16, 1974. Hence, when he filed on October 3, 1974 (the 17th day from receipt of the copy of the award), his motion for extension of time to file a motion for reconsideration of the August 26, 1974 award, the 15-day period for filing said motion for reconsideration had already elapsed (Sec. 1, Rule 19, Rules of the Workmen's Compensation Commission), thus rendering the subject award final and executory. The order of the Chief Referee issued on December 2, 1974 granting the extension prayed for did not cure the lapse as the 15-day period for filing the said motion for reconsideration can only be extended if the motion for extension were filed before the lapse of the period sought to be extended. Thus, the pertinent portion of Section 49 of the Workmen's Compensation Act, as amended, commands that "such petition must be filed within fifteen days after the entry of any referee's order or award of the Commissioner unless further time is granted by the referee or the Commissioner within said fifteen days (emphasis supplied). Hence, as aforestated, the August 26, 1974 award was already beyond review by reason of the lapse of the reglementary period of 15 days without any motion for reconsideration/appeal filed within said period.

2. Besides, the Solicitor General did not file the motion for reconsideration, subject of his belated motion for extension; but instead filed on December 4, 1974, or after a period of 99 days from receipt on September 16, 1974 of the August 26, 1974 award, a motion to set aside award. Again, said motion to set aside award was clearly filed out of time as such motion (properly a petition for relief from judgment) must be filed within thirty (30) days after the aggrieved party learns of the award sought to be set aside and not more than three [3] months after such award was entered (Sec. 3, Rule 22, Rules of the Workmen's Compensation Commission).

It is therefore clear that the Chief Referee had no more authority after denying on January 8, 1975 the aforesaid motion to set aside award to still order the elevation of the records of the claim to the respondent Commission; or that the latter had no authority, as it was already without jurisdiction, to review the August 26, 1974 award for the reason that, as aforestated, the award had already passed into finality (*Ramos vs. Republic*, 69 SCRA 576, 579-581 [1976]).

In *Soliven vs. Workmen's Compensation Commission* (77 SCRA 518-519, 521-522 [1977]), We restated the principles herein applicable, thus:

"In *Carreon vs. WCC* and *Regala vs. WCC*, WE reaffirmed the settled doctrine that '(t)he basic rule of finality of judgments is applicable indiscriminately to one and all regardless of whether respondent employer be a public or private employer, since the rule is grounded on fundamental considerations of public policy and sound practice at the risk of occasional error, the judgment of courts and award of quasi-judicial agencies must become final at some definite date fixed by law.'

"WE again stressed therein that '(i)t is of course beyond question that the perfection of an appeal within the statutory or reglementary period is mandatory and jurisdictional and that failure to so perfect an appeal renders final and executory the questioned decision and deprives the appellate court of jurisdiction to entertain the appeal. The lapse of an appeal period deprives the courts of jurisdiction to alter the final judgment.'

"As to the exception or 'last chance' of a timely petition for relief from judgment within the reglementary period (within 30 days from knowledge/notice of the decision-award and within three [3] months from entry

thereof) first granted expressly in workmen's compensation cases by the 1973 Commission Rules, the Court stated in *Luzon Stevedoring Corp. vs. Reyes*, prescinding from the validity or non-validity of the justification advanced for seeking such relief, that considering the underlying purpose of the Workmen's Compensation Act to promote expeditious disposition of workmen's compensation claims, the grace period granted for seeking relief from judgment must be taken as 'absolutely fixed, inextendible, never interrupted and cannot be subjected to any condition or contingency. Because the period fixed is itself devised to meet a condition or contingency, the equitable remedy is an act of grace, as it were, designed to give the aggrieved party another and last chance' and reaffirmed the established rule that failure to avail of such last chance within the grace period fixed is fatal."

It is therefore patent that the respondent Commission gravely abused its discretion in issuing the October 9, 1975 decision reversing the already final and executory August 26, 1974 award of the Chief Referee.

III

Even on the issue of the compensability of the ailment of petitioner, respondent employers' negative stand as sustained by the respondent Commission in its questioned October 9, 1975 decision, openly disregarded, as it is patently contrary to, the established jurisprudence on the matter.

It is unquestionable that even at this late stage of the proceeding, respondent employers have not successfully discharged their burden of overthrowing the presumption of compensability enjoyed by petitioner arising from the incontrovertible fact that petitioner's ailment and consequent disability all supervened in the course of her employment. Hence, said presumption was thereby rendered conclusive.

Moreover, the right of petitioner to compensation was not effectively controverted by respondent employers. It is now well-settled that such failure is fatal to any defense that respondent employers can interpose against the claim; hence, its compensability, as well as its reasonableness and validity is placed beyond challenge. Neither can the respondent employers under such a situation, complain that they were denied their day in court, because an award can be issued in an uncontroverted claim without the necessity of a formal hearing. Thus, it has been said that the language of Section 45 of the Workmen's Compensation Act, as amended, on controversion, may appear very sweeping and perhaps arbitrary to those who do not get the idea behind it. The provision proceeds from the assumption that as the employer has all the facilities which enable him, better than the injured, to determine whether a claim against him would lie under the circumstances attending any accident or ailment befalling the worker, it is his obligation to apprise the Commission of his determination, whether to contest or not the injured worker's right to receive the benefits of the Act. If he sleeps on his right, he cannot subsequently be heard to complain that the law is hard against him (*Delos Santos vs. WCC*, 88 SCRA, 134, 142 [1979]).

Finally, it must be noted that the "Report of the Division of Camarines Norte Committee on Workmen's Compensation Cases" which was concurred in by the Division Superintendent of Schools (p. 21, WCC rec.); contained the following findings and recommendation, thus:

"Mrs. Visitacion N. Pajarillo was a permanent Provincial Secondary School Teacher of Vinzons High School, Vinzons, Camarines Norte, for more than 28 years until July 1, 1973 when she was forced to retire at age 64 due to blurring of vision. The medical certificate issued by her attending physician, Dr. Romeo Rufino, showed that the said teacher contracted Cataract Senile Bilateral while she was still in the service.

"Upon careful evaluation, the committee believes that the claimant's ailment was aggravated by the nature of her work as a classroom teacher. The instant claim of the teacher referred to above is, therefore, meritorious and justifiable."

Even before her retirement on July 1, 1973, she was already disabled by reason of her illnesses as she went on

sick leave from June 4 to 30, 1973 or for a period of twenty-seven days.

Indeed, in *Reynaldo vs. Republic* (71 SCRA 650, 653 [1976]), We treated as occupational therein petitioner's eye ailment diagnosed as "aphakia, bilateral" for the reason that when she "x x x entered the service of the respondent as a public school teacher she was in perfect health. It was only later when it was discovered that she was suffering from the illness abovementioned. It must be borne in mind that the very nature of her work which requires most of the time the use of her eyes in reading, checking test papers and preparing lesson plans, predisposes her to the ailment of the eyes. It is not surprising that she would succumb to the illness that has befallen her in the course of employment x xx" (emphasis supplied). Relatedly, it must be stated that the Magna Charta for Public School Teachers mandates that "the effects of the physical and nervous strain on the teacher's health shall be recognized as a compensable occupational disease in accordance with existing laws" (Sec. 23, R.A. 4670).

IV

With respect to petitioner's counsel's compliance with Our February 20, 1976 resolution, We find the same satisfactory. However, counsel is hereby reminded to exercise reasonable care, skill and diligence in the prosecution of his cases so as to avoid prejudicing the orderly administration of justice and the cause of his client. Indeed, "(t)he lawyer owes it to his clients to exercise his utmost learning and ability in maintaining causes. A license to practice law is a guarantee by the courts to the public that the licensee possesses sufficient skill and knowledge to manage their causes" (Martin, *Legal and Judicial Ethics* 102 [11th ed.]). That portion of his proffered explanation that he "x x was misled to believe that the petition for review must first be given due course before payment of legal fees could be made within three (3) days from notice by the clerk of court, pursuant to the provisions of Section 7, Rule 43, Rules of Court, x x" betrays his lack of usual diligence commonly possessed and exercised by legal practitioners of ordinary skill and capacity. The aforesaid section clearly refers to costs; not docketing fee, which under Section 5 of the same Rule must be paid to the clerk of court "upon the filing of the petition."

WHEREFORE, THE DECISION OF THE RESPONDENT COMMISSION IS HEREBY REVERSED AND SET ASIDE AND RESPONDENT EMPLOYERS ARE HEREBY ORDERED

1. TO PAY PETITIONER

A. THE AMOUNT OF SIX THOUSAND (P6,000.00) PESOS AS DISABILITY BENEFITS;

B. HER MEDICAL EXPENSES DULY SUPPORTED BY PROPER RECEIPTS; AND

C. ATTORNEY'S FEES EQUIVALENT TO FIVE (5) PERCENT[*] OF THE TOTAL AWARD; AND TO PAY

2. THE SUCCESSOR OF THE DEFUNCT RESPONDENT COMMISSION ADMINISTRATIVE FEES.

SO ORDERED.

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

[*] Petitioner was not represented by counsel before the respondent Commission.

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