

ANTONIO GALLEMIT, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, (BOARD OF LIQUIDATORS), RESPONDENT.

G.R. No. L-43390. February 28, 1977

Ponente: MARTIN, J.

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MARTIN, J.:

This is a petition for review^[1] of the decision of the respondent. Commission setting aside the decision of the Workmen's Compensation Section, Regional Office No. 4, Manila awarding to petitioner the sum of P6,000.00 for his disability benefits and the sum of P61.00 as decisional fees pursuant to Section 55 of the Workmen's Compensation Act.

Petitioner Antonio Gallemmit was first employed with the respondent Republic of the Philippines (Board of Liquidators) on June 30, 1955 as clerk-helper. From said position he was promoted to typist-clerk I, bookkeeper and Accountant I. In the course of his employment with respondent Republic (Board of Liquidators), he was afflicted with monary tuberculosis which constrained him to apply for frequent sick leaves until such time that his rapidly deteriorating health forced him to retire on September 15, 1972 at the age of 51 years old. His physician, Dr. Magdalena Reyes diagnosed his illness as moderately advanced PTB. His salary when he retired was P494.00 a month.

On March 12, 1974 petitioner filed a claim for compensation benefits with the Workmen's Compensation Section, Regional Office No. 4 (W.C.C. Case No. R04 150223). The claim was set for hearing and based on the evidence presented, the hearing officer of the Regional Office rendered a decision on October 14, 1975 ordering the respondent Republic (Board of Liquidators) to pay petitioner the sum of P6,000.00 as disability benefits and the sum of P61.00 as administrative fees. The Solicitor General did not move to reconsider the decision of the hearing officer of the Regional Office. In fact on November 7, 1975, the Assistant Solicitor General recommended payment of the disability benefits to petitioner as ordered in the aforesaid decision.

Later on December 10, 1975, the Office of the Solicitor General filed a Petition for Relief from Judgment stating that since the Office of the Solicitor General was not furnished a copy of the Notice of Sickness and Claim for Compensation, the Regional Office did not acquire jurisdiction over the respondent Republic (Board of Liquidators). It therefore prayed that the decision of the Regional Office On October 14, 1975 be set aside for having been rendered without jurisdiction properly acquired over the respondent Republic (Board of Liquidators).

On February 19, 1976, a decision of the respondent Commission was rendered setting aside the decision of the Regional Office of October 14, 1975 and dismissing the claim of petitioner on the ground that the Notice of Sickness and Claim for Compensation filed with the Regional Office was not transmitted to the Board of Liquidators and to the Office of the Solicitor General.

Not satisfied with the ruling of the respondent Commission, petitioner has come to this Court raising the issue as to whether or not the respondent Commission has committed a grave abuse of discretion in dismissing the claim of petitioner for alleged lack of jurisdiction due to the failure of the Regional Office to transmit to the respondent

Board of Liquidators a copy of the Notice of Sickness and Claim for Compensation and to furnish the Solicitor General a copy of the said Notice of Sickness and Claim for Compensation.

It is true that under Section 24 of the Workmen's Compensation Act[2] it is required that the Notice of Sickness and Claim for Compensation be given to the employer but according to Section 27 of the same Act,[3] there is already sufficient notice so as not to bar the proceeding even if there was a failure or delay in giving such notice to the employer provided it is shown that the employer, his agent or representative had knowledge of the illness of the employee. In the case before Us, there can be no dispute that the respondent has knowledge of the illness of the petitioner or that it was fully aware of the poor condition of his health, because for several times petitioner had applied for sick leaves due to illness. Certainly, when the head of the respondent office acted on his application for sick leaves, he must have been duly informed, and therefore, has knowledge of the illness of the petitioner. There is here, no doubt, sufficient compliance with the requirements of Section 27 of the Workmen's Compensation Act regarding the giving of Notice of Sickness and Claim for Compensation to the employer.

But what is objected to is the fact that the Regional Office with whom petitioner has filed his claim for compensation did not furnish a copy of the Notice of Claim to the respondent Republic (Board of Liquidators). It will be noted from Section 1, Rule 8 of the Rules of the Workmen's Compensation Commission that: -

"Upon the filing of the claim, the unit shall immediately transmit a copy thereof by personal delivery or by registered mail to the employer who shall in a letter of transmittal be required to submit within ten (10) days from notice, the report of the accident or illness of the claimant employee or the deceased laborer, if no such report has as yet been submitted in accordance with the provisions of Sections 37 and 47 of the Act."

Then pursuant to a circular issued by the Workmen's Compensation Commission on January 22, 1973, it is so provided that "In all claims for compensation against the Republic of the Philippines, the Chief of the Workmen's Compensation Section or Unit shall see to it that a copy of the Notice and Claim for Compensation is transmitted to the Office of the Solicitor General in his capacity as counsel for the National Government even if the claim is uncontroverted. Violation of this mandatory requirement may subject the offices to administrative action as hinted in the case of Republic of the Philippines (Department of Justice vs. WCC & Cleofe R. Azaña, G.R. No. 29019, May 18, 1972). From the wordings of both Section 1, Rule 8 of the Workmen's Compensation Commission and its Circular of January 22, 1973, what is required is that a copy of the Notice of Sickness and Claim for Compensation be sent to the Solicitor General by the Unit or Section. It is doubted whether the failure of the Unit or Section to comply with this requirement will render its decision invalid. At most, it will subject the head of the unit or section to administrative action but it can't nullify its decision. To hold that failure to send a copy of the Notice of Sickness and Claim for Compensation to the Solicitor General will render the decision of the Regional Office null and void, will place the laborer at a disadvantage contrary to the avowed objectives of Act 3428, as amended. As held in the Azaña case, disregard by the officer concerned of the provisions of law governing the transmittal of claims against the government shall not prejudice the claimant worker or employee.[4]

IN VIEW OF THE FOREGOING, the judgment of the respondent Commission is hereby reversed and set aside and a new one rendered ordering respondent Republic (Board of Liquidators) -

- (1) To pay petitioner the sum of P6,000.00 as disability compensation benefits;
- (2) To reimburse petitioner of her medical and hospital expenses which are supported by receipts of payment;
- (3) To pay petitioner's lawyer the amount of P600.00 as attorney's fees; and
- (4) To pay the amount of P61.00 as administrative fees.

Without pronouncement as to cost.

SO ORDERED.

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

[1] Treated as a Special Civil Action

[2] Sec. 24. Notice of the injury and claim for compensation. - No Compensation proceeding under this Act shall prosper unless the employer has been given notice of the injury as soon as possible after the same was received, and unless a claim for compensation was made not later than two months after the date of the injury, or in case of death, not later than three months after death, regardless of whether or not compensation was claimed by the employee himself. Such notice may be given and such claim made by any person considering himself entitled to the compensation or by any other person in his behalf. In case medical, surgical and hospital services and supplies have been furnished voluntarily by the employer, notice of the injury within the time limit above mentioned shall not be necessary, and if the employer has voluntarily made the compensation payments, the claim for compensation to be made within the time limits above established shall no longer be necessary.

[3] Sec. 27. Sufficient notice. - Any notice given in accordance with the provisions of section twenty-five of this Act shall not be considered as invalid or insufficient by reason of any incorrectness in the statement of time, place, nature or cause of the injury or of anything else, unless it be shown that the employer has been actually misinformed respecting the injury. Failure to or delay in giving notice shall not be a bar to the proceeding herein provided for, if it is shown that the employer, his agent or representative had knowledge of the accident or that (the employer did not suffer by such delay or failure.

[4] Wilfredo Bael, etc. et al. vs. Workmen's Compensation Commission, (Republic of the Philippines) G.R. No. L-42255, January 31, 1977.

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