

**BALDOMERO ARIBON, PETITIONER, VS. WORKMEN'S
COMPENSATION COMMISSION AND CANLUBANG SUGAR ESTATE,
C.J. YULO AND SONS, RESPONDENTS.**

G.R. No. L-45906. November 07, 1985

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition to review the decision of the Workmen's Compensation Commission which reversed the decision of the Workmen's Compensation Unit of Lucena City awarding benefits and dismissed the petitioner's claim.

The factual background as found by Acting Referee Salvador C. Guevarra is as follows:

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"Claimant Baldomero Aribon, 39 years of age, is a field worker of the respondent having started as such in 1957. He works from 7:00 o'clock in the morning up to 4:00 o'clock in the afternoon seven days a week, plowing the fields, planting sugar cane and cutting the grass and receiving daily wage of P4.50 or P32.62 a week. Sometime in 1967, he experienced stomach pains and after consultation in respondent's Canlubang Hospital, was found to be suffering from peptic ulcer. He was extended treatment and continued his work but with medication. After a few months, his ailment recurred so he stopped working for the respondent on November 15, 1967, and then retired upon the recommendation of Dr. Bunye."

On March 10, 1975, the petitioner filed a claim against the respondent company, Canlubang Sugar Estate/C.J. Yulo & Sons, for disability benefits under the Workmen's Compensation Act, as amended, alleging that he contracted his illness as a result of his employment.

Acting Referee Esguerra rendered a decision granting disability benefits. The dispositive portion of the decision reads as follows:

"WHEREFORE, finding the above claim to be meritorious, judgment is entered for the claimant and the respondent is directed:

"1. To pay claimant, thru this Office, the sum of Six Thousand Pesos (P6,000.00) as compensation benefits, computed as follows:

"Under Section 14 of the Act, as amended, claimant is entitled to 60% of his average weekly wage from November 15, 1967 up to October 22, 1975 (date of decision), a period of 2,896 days or 412-5/7 weeks. Sixty per cent (60%) of his average weekly wage of P32.62, is P19.57 and for 412-5/7 weeks equals P8,076 but reduced to the maximum compensation of P6,000.00.

"2. To pay this Unit, the sum of P61.00 as fee, (Sec. 55)

"3. To pay Mr. Feliciano Reyes, claimant's counsel of record, the sum of Three Hundred Pesos (P300.00) or 5% of the compensation due, as attorney's fees. (Sec. 1, Rule 27 of the WCC)."

The respondent company appealed to the Workmen's Compensation Commission which reversed the decision of Acting Referee Guevarra for the following reason:

"The evaluation of Dra. Sanchez show (sic) that claimant is 'OK na' and was extended Temporary Total Disability from March 15, 1967 to June 15, 1968, or a period of 65.1 weeks, while the medical certificate issued by Dr. Teodoro Alpasan show (sic) that claimant was extended medical treatment from August 15, 1967 to November 15, 1967.

"It is noted that in both cases no GI Series was conducted to support the findings of peptic ulcer. In the absence of a showing of peptic ulcer, for failure to submit GI Series test, this claim must fail."

The petitioner went to this Court in a petition for review on certiorari.

In resisting the petitioner's claim, the respondent company alleges that the decision appealed from is already final having been promulgated on January 28, 1976 and terminated as of December 21, 1976. It avers that this fact was known to the petitioner because copies of the Commission's decision were sent to the petitioner himself and to his counsel of record. The respondent company furthermore alleges that assuming that the petition is proper, the Commission committed no reversible error and, therefore, the decision should be upheld. It contends that the petitioner's failure to submit the result of GI series test amounts to a failure to substantiate his claim and that the results of GI series examinations constitute a requirement for the existence of the legal presumption of compensability. The respondent company also assails the Acting Referee's award of P6,000.00. According to the respondent company, since the alleged disability was for 65.1 weeks only and that 60% of the average weekly wage of the petitioner amounts to P19.07, the petitioner would at most be entitled to only P1,291.60.

We are constrained to rule in favor of petitioner.

A perusal of the records of the case discloses that there is no clear proof to show proper notice of the Commission's decision to the petitioner or his counsel.

The respondent company submitted in evidence a notice of decision issued by the Workmen's Compensation Commission wherein the parties entitled to receive such notice are listed. Nowhere from said document, however, can it be inferred that the proper notices were actually sent out to the parties involved. Another document proffered by the respondent company is a certification from the Department of Labor, San Pablo District Office. It attests that the case under appeal had already been terminated and closed as of December 21, 1976. Nothing material can be gathered from this certification because the district office could have considered the case closed because of the petitioner's failure to appeal from the Commission's decision without any inquiry into the steps taken with regard to service of notices. What could have been the strongest evidence for the respondent are the registry return receipts, but these tend to support the petitioner's claims. We note that while the registry return receipt addressed to the respondent's counsel was numbered and postmarked, the registry return receipt for the petitioner's counsel has no number and postmark. (See pages 37 and 38 of the original records). The same discrepancy is found in the other registry return receipts attached to the records of the case. (See pages 28 and 29, original records). Moreover, a comparison of the different registry return receipts shows that the addressee's signature inscribed on the registry return receipt of the petitioner's counsel (p. 37, original record) is strikingly similar to the handwriting of the Commission's filing clerk who was responsible for the mailing of notices.

In finding these circumstances rather unusual we do not by any means conclude that there was any irregularity or perpetration of fraud in the service of said notices. We note these facts only insofar as they support the petitioner's claim that the decision did not become final before he could appeal it.

It is a fundamental consideration of public policy and sound practice that at the risk of occasional error, the

judgments of courts and awards of quasi-judicial agencies must become final at some definite date fixed by law (Andres, Sr. v. Republic, 103 SCRA 623). However, the application of this rule is subject to the premise of regularity in the service of notices.

The need for proper notice of any material action taken in all cases is fundamental to due process.

In the case of Carbonel v. Padilla (75 Phil. 95, 101), this Court ruled:

"It is essential to the administration of justice that proper notice shall be given of steps proposed to be taken. (Sterret v. Shoemaker, 47 App. [D. C.], 455; Turner v. Jones, 67 Fla., 121; 64 S., 502.) Where an order of the court requires notice before specified action to be taken, the parties have a right to rely upon the giving of that notice, and are not bound by such action taken without notice and without their actual knowledge. (Smith v. Apple, 6 F. [2d], 559; 46 C. J., 552.)"

In another case, Cayetano v. Cequerra (13 SCRA 73, 79), this Court held:

"It is conceded that defendants received a first registry notice on January 13, 1961, but they did not claim the letter, thereby giving rise to the presumption that five (5) days after receipt of the first notice, the defendants were deemed to have received the letter. This Court, however, cannot justly attribute upon defendants actual knowledge of the decision, because there is no showing that the registry notice itself contained any indication that the registered letter was a copy of the decision, or that the registry notice referred to the case being ventilated. We cannot exact a strict accounting of the rules from ordinary mortals, like the defendants."

This claim was processed during the period when the Workmen's Compensation Commission was winding up its functions and preparing for the complete turnover of functions to the new Employees Compensation and State Insurance scheme. Due to a heavy backlog of claims being processed and decided, this period was marked by confusion in the matter of notices and other procedural requirements. But even if we assume a delay in the filing of an appeal, we must disregard it in the exercise of our equity jurisdiction.

Having retired from his employment and having no means of income, the petitioner came to us as a pauper litigant. His case was brought to us on appeal through the free services of the Citizen's Legal Assistance Office. Because of his poverty and inability to afford the services of a private lawyer, the petitioner lost contact with his counsel who was not even a member of the bar. He was not informed of the outcome of his case below.

Considering the circumstances and the basic merits of the case, we give due course to this petition in order to promote substantial justice.

We find that the petitioner is entitled to disability benefits.

In this case, there is no dispute that the claim is covered by the former Workmen's Compensation Act and not the new Labor Code provisions. There is also no question that the claim was filed within the required time.

The circumstances being so, there is no bar to the application of the well-entrenched rule under the old law that once an illness supervened at the time of the employment, there is a rebuttable presumption that such illness arose out of the employment or was at least aggravated by such employment.

The burden to overthrow the presumption and to dis-connect by substantial evidence, the injury or sickness from the employment, is laid by the statute at the door of the employer. (Magalona v. Workmen's Compensation Commission and NASSCO, 21 SCRA 1199).

As the Acting Referee correctly ruled, "where, no evidence was introduced by the respondent to offset the legal presumption, we are left with no alternative but to rule in favor of compensability."

The Workmen's Compensation Commission erred when it dismissed the petitioner's claim due to his failure to submit the results of a GI series test.

A GI series test is an examination of the upper gastrointestinal tract using barium as the contrast medium for a series of x-ray films. This is also called a barium meal. (Miller and Keane, Encyclopedia and Dictionary of Medicine and Nursing, 1972, p. 381) Such conditions as peptic ulcer, benign or malignant tumors, colitis or enlargement of organs that might be causing pressure on the stomach may be readily identified with the use of barium tests (*supra*, p. 108 under Barium test).

In this case, however, it is patent from the records that the diagnosis of the petitioner's illness was clinically obvious. The petitioner had undergone examination by three doctors who uniformly attested to the fact that his ailment was peptic ulcer. The petitioner was initially treated by the respondent company's Canlubang Hospital and no less than its own company doctor diagnosed his ailment as peptic ulcer and recommended him for retirement. There was no need, therefore, for the petitioner to produce any GI series test results.

Since the case of *Vallo v. Workmen's Compensation Commission* (73 SCRA 623 [1976]) this Court has categorically ruled in an unbroken line of cases, the most recent of which is *Donato Jereza v. Workmen's Compensation Commission* (G.R. No. L-42916, August 7, 1985) that a medical report of an attending physician may be received as evidence and used as proof of the fact in dispute and that an x-ray or some other laboratory report may sometimes be dispensed with.

We do not find merit in the respondent company's contention that the petitioner is not entitled to the maximum benefits allowed under the old law.

The petitioner was forced to retire at an early age due to his illness. His illness persisted even after retirement resulting to his present unemployment. This condition amounts to total disability which should entitle him to the maximum benefits allowed by law. (*Jacob v. Workmen's Compensation Commission*, 72 SCRA 575).

We have also ruled in *Galang v. Workmen's Compensation Commission* (72 SCRA 454) that one who is compelled to retire from employment due to his disability is entitled to disability compensation benefits authorized by the Workmen's Compensation Act for persons suffering from permanent disability.

WHEREFORE, the decision of the respondent Workmen's Compensation Commission is REVERSED. The award made by Acting Referee Guevarra is REINSTATED with the MODIFICATION that no attorney's fees shall be paid for the petitioner's former counsel and that the administrative fee shall be paid to the Ministry of Labor and Employment.

SO ORDERED.

Makasiar, C.J., Teehankee, Abad Santos, Plana, Escolin, De la Fuente, Cuevas, Alampay, and Patajo, JJ., concur.
Aquino and Melencio-Herrera, JJ., no part.
Concepcion, Jr., and Relova, JJ., on leave.

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