GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS. MELVIN I. PALMA, RESPONDENT.

G.R. NO. 167572. July 27, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court assailing the Decision[1] of the Court of Appeals dated 28 March 2005, which reversed the Decision[2] of the Employees' Compensation Commission (ECC) denying respondent Melvin I. Palma's claim for permanent disability benefits in ECC Case No. GM-16302-0323-04.

Respondent Melvin I. Palma started his teaching vocation in the government as a Practical Arts teacher in Zamboanga City High School from 17 July 1967 until 2 December 1970. Later on, he became an English teacher at Jose Abad Santos High School in Manila from 3 December 1970 until 16 December 1997.

On 15 to 18 April 1980, respondent underwent surgical excision of the cervical lymph node at the Jose Reyes Memorial Hospital, Sta. Cruz, Manila, for thyroid carcinoma which was diagnosed as papillary cancer of the thyroid. Not long after, on 22 to 30 April 1980, respondent went through a radical neck dissection with Total Thyroidectomy at the Ospital ng Maynila. Respondent's travail continued as two years later, or on 24 to 27 May 1982, he was made to undergo another surgical excision of the cervical lymph node at the Medical City General Hospital in Mandaluyong City.

On 3 March 1984, respondent filed with petitioner Government Service Insurance System (GSIS) a claim for compensation benefits under Presidential Decree No. 626, as amended, otherwise known as the Employees Compensation Act. Petitioner denied the said claim in its letter dated 3 May 1984, the relevant portion of which reads:

> Please be advised that on the basis of the proofs and evidences submitted to this Office, your ailment "Total Thyroidectomy", is not considered an occupational disease as that your position as High School Teacher, Division of City Schools, Manila, had increased the risk of contracting said ailment.[3]

Respondent requested petitioner to reconsider its decision, but the latter stood firm in denying his claim reasoning that:

> We regret to inform the claimant that we reiterate the disapproval of his claim under P.D. 626, as amended because there is no concrete and substantial proof to show that the illness was brought about by the performance of his duties while still in the service.[4]

Then, in September 1997, he was subjected to Tracheostomy. This operation worsened respondent's condition which forced him to retire in December of 1997.

On 24 November 2003, respondent sent a letter to the GSIS General Manager and requested that his partial disability be converted to total and permanent disability. Respondent also wrote a letter dated 30 January 2004,

which contained the same request, to the ECC Executive Director.

In a letter dated 14 February 2004, the ECC Director requested the GSIS to elevate the records of respondent's case to the ECC for review.

In a Decision dated 24 June 2004, the ECC affirmed the decision of the GSIS denying respondent's claim for disability benefits. It stated:

> Medical science relative to the claimed ailments provides that:
>
> "Thyroid cancer is the most common endocrine-related cancer. The outlook for patients with thyroid cancer is excellent in that safe and effective therapy is available in most cases. A lump (nodule) in the thyroid is the key sign of its presence. Most thyroid cancers do not cause any symptoms, and only rarely do they cause pain, difficulty in swallowing, or hoarseness."
>
> Thyroid cancer is more common in people who have a history of exposure of the thyroid gland to radiation, have a family history of thyroid cancer, and are older than 40 years old."
>
> To warrant compensability of an ailment and its resulting disability, sickness, or death under P.D. 626, as amended, Rule III, Section 1(b) thereof, specifically provides that: (1) The ailment must be listed by the ECC as an occupational disease. (2) There must be a showing by substantial evidence that the risk of contracting the ailment is caused or increased by the employees' work and working conditions.
>
> Appellant's ailment, Thyroid cancer is not an occupational disease under Annex "A" of the aforementioned rule. Under the increased risk theory, compensation may still be had, provided substantial proof is shown that the risk of contracting the ailment was caused or increased by the nature of his work and working conditions.
>
> In the case at bar, there is no indication that the ailment was brought largely by the conditions present in the nature of his job. In fact, the records of his case merely asserted that it was his work as a Teacher that caused him to contract the ailment. However, appellant offered no evidence that would establish a causal link between the ailment and his work. Such allegations of appellant would not constitute work-connection. There must be some real and concrete evidence that would link the ailment to appellant's nature of work and working conditions, which appellant however, failed to satisfy with.
>
> Based on medical science, the ailment, Thyroid cancer is more common in people who have a history of exposure of the thyroid gland to radiation, have a family history of thyroid and are older than 40 years of age. These are the factors that medical authorities of this Commission believed have caused appellant's ailment and the same cannot be connected with his employment. Thus, the action taken by the respondent System is well taken.[5]

On 3 September 2004, respondent filed before the Court of Appeals a petition for review under Rule 43 of the Rules of Court.

In a Decision dated 28 March 2005, the Court of Appeals reversed the decision of the ECC.

The Court of Appeals did not agree with the ECC's opinion stating that respondent's ailment was caused by the following factors: family history of thyroid cancer; a history of exposure of the thyroid gland to radiation; the victim is older than 40 years old. According to the Court of Appeals, these factors just enumerated are merely the specific situations or "risk factors" that increase an individual's chance of developing said ailment. Even as respondent's age is a risk factor, as he was 43 years old during his first operation, still the ECC erred in surmising that his ailment is attributable to his age, and not to his work. The appellate court also cited an authority stating that some persons exposed to the said risk factors do not get thyroid cancer and that other persons who get the disease have none of the said risk factors. In other words, persons exposed to the risk factors react differently. It

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concluded that respondent's illness could have been brought about by a combination of causes including that to which respondent was exposed, i.e., the strenuous use of his vocal cords when he trained his students for declamation and his exposures to chemicals such as muriatic acid and paints when respondent supervised the cleaning of the comfort rooms and when he painted the classrooms every summer vacation.

Hence, the instant recourse.

Petitioner maintains that the Court of Appeals decided the case based on the principles of aggravation and presumption of compensability, which principles have been abandoned by the passage of Presidential Decree No. 626, as amended, thus, deciding the same contrary to law and jurisprudence. It argues that the intention of the law is that the work or working condition itself should cause the disease and not merely aggravated what was already being suffered by the claimant.

Petitioner also posits that the assailed decision of the Court of Appeals was not supported by positive evidence proving that the claimant's working conditions caused his ailment, there being none presented by respondent, except his bare allegations to support his claim.

Furthermore, petitioner maintains that respondent's exposure to paints and muriatic acid could not have caused his disease as exposure to radiation, which is one of the risk factors in contracting thyroid cancer, is not the same as exposure to paints and muriatic acid.

There is no merit in the petition.

Section 1(b) of Rule III of the Implementing Rules of Presidential Decree No. 626, as amended, provides:

> For the sickness and the resulting disability or death to be compensable, the sickness must be the result of an occupational disease listed under Annex "A" of these Rules with the conditions set therein satisfied; otherwise, proof must be shown that the risk of contracting the disease is increased by the working conditions.

Based on the foregoing Rule, for the sickness and the resulting disability or death to be compensable, the claimant must prove that (a) his/her sickness was the result of an occupation disease listed under Annex "A" of the Rules of Employees Compensation, or (b) the risk of contracting the disease was increased by his/her working conditions.

This increased risk theory can be made applicable in compensation cases, when the claimant can adduce reasonable proof of the connection between his work and the cause of the disease, or that that the risk of contracting the disease was increased by the claimant's working conditions.[6] Strict rules of evidence are not applicable to claims for compensation.[7] The degree of proof required under Presidential Decree No. 626 is merely substantial evidence, which means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."[8] What the law requires is a reasonable work-connection and not a direct causal relation.[9] Medical opinion to the contrary can be disregarded, especially where there is some basis in the facts for inferring a work connection.[10] It is sufficient that the hypothesis on which the workmen's claim is based is probable since probability, not certainty, is the touchstone.[11]

Respondent was diagnosed as having thyroid cancer. Although this disease is not one of those listed as Occupational Diseases under Annex "A" of the ECC Rules, respondent may nonetheless be entitled to compensation if he can prove that the risk of contracting thyroid cancer was increased by his working conditions.

While medical research has pinpointed the risk factors which increase an individual's chance of acquiring thyroid cancer, namely: (1) exposure of the thyroid gland to radiation; (2) family history of thyroid cancer; and (3) advanced age, which ECC claims to be the sole risk factors that cause thyroid cancer, medical experts, however, have admitted that the exact causes of this disease escape their scrutiny, thus:

> No one knows the exact causes of thyroid cancer. Doctors can seldom explain why one person gets this disease and another does not. x x x. (NATIONAL CANCER INSTITUTE, U.S. NATIONAL INSTITUTE OF HEALTH, www.cancer.gov.)[12]

In fact, some experts are bewildered by the phenomenon that there are individuals who have these risk factors yet do not develop thyroid cancer. Thus, the following observations:

> Many patients naturally want to know "Why did I get thyroid cancer?" Most patients have no known risk factors or family history and were often previously in good health. Scientists and physicians do not have good answers to this question yet, but many research programs are looking into this issue. A substantial number of thyroid cancers appear to exhibit genetic abnormalities in one or more chromosomes, but the reason for these types of chromosomal abnormalities remains obscure. (www.mythroid.com.)[13]

It is further observed:

> Most people who have known risk factors do not get thyroid cancer. On the other hand, many who do not get the disease have none of these risk factors. (NATIONAL CANCER INSTITUTE, U.S. NATIONAL INSTITUTE OF HEALTH, www.cancer.gov.)[14]

From the foregoing disquisitions, it is notable that experts are open to the probability that development of thyroid cancer may be increased largely by any other causes such as that to which respondent was exposed while carrying out his duties, such as: (1) his constant involvement in the training of his students in declamation and oratory contests wherein his vocal cords were extremely utilized; (2) painting the classrooms during vacation; and (3) long exposure to and frequent inhalation of muriatic acid while supervising the cleaning of the school comfort rooms. With these special tasks being performed by respondent and his continued exposure to a detrimental work environment and the constant fatigue that his body accumulated, the strong probability that respondent's thyroid cancer developed in the process is not far-fetched. We thus find that the probability of petitioner contracting the disease in his workstation has been substantiated. As correctly observed by the Court of Appeals:

> We find it probable that [respondent], indeed, develop thyroid cancer through strenuous use of his vocal chords like when he trained his students for local and division-wide declamation and oratorical competitions.
>
> x x x We find it also probable that [respondent's] chances of developing thyroid cancer was aggravated when he was regularly exposed to chemicals such as muriatic acid and paints which, in turn, caused the constant irritation of his throat.[15]

There is no dispute that Presidential Decree No. 626, as amended, abandoned the presumption of compensability and the theory of aggravation prevalent under the Workmen's Compensation Act. Despite such abandonment, however, the present law has not ceased to be an employees' compensation law or a social legislation; hence, the liberality of the law in favor of the working man and woman still prevails, and the official agency charged by law to implement the constitutional guarantee of social justice should adopt a liberal attitude in favor of the employee in deciding claims for compensability, especially in light of the compassionate policy towards labor which the 1987 Constitution vivifies and enhances.[16] Moreover, we are not talking here of mere presumption or theory, but probabilities based on substantial proofs.

Respondent merits this compassion considering that he has been suffering and incurring medical expenses since 1980; and after having been forced to give up his teaching vocation, he is now totally dependent upon his children for meager support. Now, he totally depends on a tube inserted in his esophagus for normal breathing. After 30 years of dedicated public service, respondent deserves the compassion that the fundamental law extends to the working class, especially to disabled public servants.

WHEREFORE, the petition for review is DENIED. The decision of the Court of Appeals dated 28 March 2005 is

AFFIRMED. Petioner Government Service Insurance System is hereby ORDERED to pay respondent Melvin I. Palma the compensation benefits due him under Presidential Decree No. 626, as amended. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Nachura, JJ., concur.

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[1] Penned by Associate Justice Jose L. Sabio, Jr. with Associate Justices Noel G. Tijam and Mariflor P. Punzalan Castillo, concurring; rollo, pp. 36-49.

[2] Rollo, pp. 51-54.

[3] CA rollo, p. 31.

[4] Rollo, p. 52.

[5] Id. at 52-54.

[6] Gau Sheng Phils., Inc. v. Joaquin, G.R. No. 144665, 8 September 2004, 437 SCRA 608, 618.

[7] Bonilla v. Court of Appeals, 395 Phil. 162, 168 (2000).

[8] Castor-Garupa v. Employees Compensation Commission, G.R. No. 158268, 12 April 2006, 487 SCRA 171, 180.

[9] Id.

[10] Government Service Insurance System v. Valenciano, G.R. No. 168821, 10 April 2006, 487 SCRA 109, 117.

[11] Castor-Garupa v. Employees Compensation Commission, supra note 8 at 180.

[12] Rollo, p. 42.

[13] Id. at 43.

[14] Id.

[15] Id. at 45.

[16] GSIS v. Cuanang, G.R. No. 158846, 3 June 2004, 430 SCRA 639, 648-649.

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