

NATIONAL DEVELOPMENT COMPANY, PETITIONER VS. WORKMEN'S COMPENSATION COMMISSION AND JUAN TIVAR, RESPONDENTS.

G. R. No. 18922. November 27, 1964

Ponente: DIZON, J.

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DIZON, J.:

Petitioner National Development Company took this appeal by certiorari from the decision of the Workmen's Compensation Commission in W. C. Case No. 789 ordering it to pay Juan Tivar as compensation for total disability under Act No. 3428, as amended, the sum of P3,744.00, and further sums of P800.00 and P280.00 representing medical expenses incurred by the latter and attorney's fees respectively, and from its resolution en bane denying petitioner's motion for reconsideration.

Juan Tivar was employed by petitioner as carpenter on April 5, 1948 with a daily wage of P5.00. Due to a failing health, he was laid off on March 31, 1950 and received from petitioner a so called gratuity in the amount of P250.00 including the money value of his accrued leave.

On August 14 of the same year, Tivar was re-employed as carpenter after having been x-rayed at the instance of petitioner and found to be physically fit for work.

Sometime in November or December, 1952, while Tivar and a fellow worker were setting up a large wooden post in connection with the construction of an annex of the company's carpentry shop, the former slipped and the foot of the post which he was carrying upon his shoulder clipped him on the back, causing him to feel dizzy and fall on his knees. Fifteen days later he spat blood, but this notwithstanding, he continued to work until March 31, 1953 when he was laid-off after an X-ray examination had revealed that he was suffering from a "lung lesion (P.T.B.), bilateral, active and in its moderately advanced stage."

One month thereafter, he made a verbal demand for compensation but petitioner refused to pay alleging that he had already received compensation in 1950. On January 31, 1957, he filed a formal claim with the Workmen's Compensation Commission, which was duly controverted by petitioner. For unexplained reasons, however, the claim was not adjudicated. In view of this, on February 15, 1960, Tivar filed another formal claim for compensation with the Regional Office No. 3 of the Department of Labor, Manila (VV. C. Case No. 789). Petitioner moved to dismiss it on the ground that the claim was already barred pursuant to the provisions of Sec. 24 of Act No. 3428, as amended. The hearing officer having denied the motion, on March 15, 1960, petitioner filed its answer controverting the material allegations of the claim.

After due trial, the hearing officer awarded compensation to Tivar in the sum of P3,744.00. On appeal, the Workmen's Compensation Commission rendered the decision appealed from affirming the award and granting Tivar reimbursement for medical expenses.

Petitioner's claim that Tivar's right has already pre-scribed is untenable. The facts stated heretofore clearly show

that the provisions of Section 24, Act 3428 have been substantially complied with. The oral demand for compensation made by Tivar sometime in April 1953 hardly a month after he was laid off constitutes such substantial compliance. It is, therefore, of little consequence in connection with petitioner's defense of prescription that the written claims for compensation were filed much later, the first on January 31, 1967 (the one that was never adjudicated by the Commission), and the second on February 15, 1960.

Moreover, considering that the reason for his being laid off for the first time on March 31, 1950 was virtually the same for his being laid off on March 31, 1953, it would not be unreasonable to consider the so-called gratuity in the amount of P250.00 paid to Tivar, in the light of the provisions of the law invoked by petitioner itself, providing for cases where it is unnecessary for the employee to file a formal claim for compensation within the prescribed period.

The second contention of petitioner, namely, that Tivar is not entitled to compensation for total disability is likewise without merit. The hearing officer and the Workmen's Compensation Commission found as a fact that Tivar was totally disabled for the kind of work that he did for petitioner for many years. Such finding is binding upon petitioner. That subsequent to his being laid off, Tivar was still able to undertake "contracting carpentry jobs" does not argue at all against the finding aforesaid, such work being entirely different from doing actual carpentry work.

The hearing officer disallowed Tivar's claim for medical expenses on the ground of insufficiency of evidence to justify an award in his favor. This finding was expressly reversed on appeal, the Commission holding that such an error could "not be allowed to pass uncorrected if we were to render or promulgate a fair judgment in this case," This means that the Commission found as a fact that Tivar was justified in submitting himself to treatment by private practitioners.

Wherefore, the appealed decision is affirmed, with costs.

Bautista Angelo, Concepcion, Barrera, Paredes, Regala, Makalintal, Bengzon, J.P. and Zaldivar, JJ., concur.

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