

MANILA RAILROAD COMPANY, PETITIONER, VS. THE WORKMEN'S COMPENSATION COMMISSION AND RICARDO BALMEO, RESPONDENTS.

G.R. No. 21902. August 10, 1967

Ponente: ZALDIVAR, J.

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ZALDIVAR, J.:

This is a petition for review, filed by petitioner Manila Railroad Company, hereinafter referred to as company, by way of an appeal from the decision rendered on July 15, 1963 by the Workmen's Compensation Commission in WC Case No. 1839 and from the resolution of the said Commission en banc, dated August 23, 1963, denying the company's motion for reconsideration.

The pertinent facts as found by the Workmen's Compensation Commission are, as follows:

Respondent Ricardo Balmeo, hereinafter referred to as employee, started working with the company as a temporary trackman on July 1, 1958, after having been subjected to a pre-employment physical examination. On August 16, 1960, he was appointed permanent track man, with a salary of P1,500.00 per annum. As a track-man the employee's work included the lifting or carrying of iron rails and "traviezas", loading and unloading them, and making repairs on damaged or broken rail-ways. In the performance of his work the employee was exposed to rain or to the heat of the sun. The nature of employee's work was strenuous and tiresome. On January 11, 1961, after working for about two years, the employee was subjected to an X-ray examination, and was found to be afflicted with pulmonary tuberculosis. Despite the fact that the employee was found to have pulmonary infection he was left to do the same kind of work that he had been doing until June 16, 1961, when he was dismissed from the service due to pulmonary tuberculosis.

On October 10, 1961, almost four months after he was dismissed from the service, the employee filed with the Department of Labor Regional Office No. 4 a claim for disability compensation against the company. On November 10, 1961, the company filed its employer's report of accident or sickness, and manifestation that it was going to controvert the employee's right to compensation.

On August 28, 1962, after due trial, the hearing officer of Regional Office No. 4 rendered a decision, declaring the claim of the employee meritorious and compensable, thereby awarding compensation benefits to the employee.

Subsequently, the company filed before the Workmen's Compensation Commission a petition for review of the decision of the hearing officer, upon the grounds that the said decision is contrary to law, that there was no aggravation of the sickness of the employee, and that the findings in the decision are not supported by the evidence.

Upon review, in a decision rendered on July 15, 1963 for the Workmen's Compensation Commission, Commissioner Cesareo Perez affirmed the decision of the hearing officer. Commissioner Perez found, that the company failed to show the absence of causal relation between the employment and the illness that caused the

employee's disability for labor; that there is basis for the conclusion that the employee's illness was aggravated by the nature of his work; and the company had not controverted the employee's claim on time as required in section 45 of the Workmen's Compensation Act (Act 3428), as amended, it appearing that the employee was disabled for labor on June 16, 1961, the day when he was dismissed from the service due to pulmonary tuberculosis, and it was only on November 10, 1961 when the company submitted to the Workmen's Compensation Commission its employer's report of accident or sickness with manifestation of its intention to controvert the claim, and neither did the company seek the reinstatement of its rights of controversion. Commissioner Perez held that the failure of the company to file a timely controversion of the claim constitutes a constructive recognition of the compensability of the claim. The dispositive portion of the decision reads as follows:

"RESPONSIVE TO THE FOREGOING, the appealed decision should be, as it is hereby, AFFIRMED and the respondent ordered:

"(1) To pay to the claimant, thru this Commission, the amount of ONE THOUSAND EIGHT HUNDRED SIXTY EIGHT and 40/100 PESOS (P1,868.40) as compensation under Section 14 of the Act, as amended, computed as follows: 60% of his average weekly wage of P28.84 (P1,500.00 divided by 52 weeks) equals P17.30 x 108 weeks (from June 16, 1961 to July 14, 1963, there are 759 days less the 3-day waiting period leaves 756 days or 108 weeks equals P1,868.40;

"(2) To pay the claimant, a weekly compensation of P17.30 starting July 15, 1963 until his pulmonary tuberculosis is pronounced cured or arrested but the total amount of compensation not to exceed P4,000.00;

"(3) To reimburse the claimant the sum of SEVEN HUNDRED FIFTY PESOS (P750.00) as medical expenses;

"(4) To provide the claimant with further medical, surgical, and hospital services and supplies as the nature of his illness may require until the same is cured or arrested;

"(5) To pay the sum of P140.13 as attorney's fee; and

"(6) To pay to this Commission the sum of P24.00 as partial cost."

Not satisfied with the decision rendered by Commissioner Cesareo Perez, the company filed a motion for reconsideration of said decision, but the Workmen's Compensation Commission en banc denied the motion, in a resolution dated August 23, 1963.

In its appeal, now before this Court, the company does not question the findings of the Workmen's Compensation Commission regarding the compensability of the employee's disability. The issue raised by the company refers simply to the jurisdiction of the Workmen's Compensation Commission to hear and decide the employee's claim for compensation. The company contends that the Workmen's Compensation Commission had not acquired jurisdiction over this case because the claimant-employee had not complied with the requirements of Section 24 of Act 3428, in that said employee had not given a timely notice of his sickness to his employer and had not filed his claim for compensation within two months after the date of his sickness. In other words, the company contends that the giving of notice and the filing of the claim for compensation within the period prescribed in Section 24 of Act 3428 are conditions precedent and jurisdictional requirements which must be complied with before the Workmen's Compensation Commission may hear and determine claims for disability compensation.

The contention of the company has no merit. It is now a very well settled rule in this jurisdiction that failure on the part of the employee to comply with the requirements of Section 24 of Act 3428--that is, the giving of notice

and the filing of claim within the time prescribed in said section--is non-jurisdictional.[1] It is also a settled rule that failure or delay in giving notice, as provided in Section 24 of the law, shall not be a bar to the proceeding in the claim for compensation if it is shown that the employer, his agent or representative, has knowledge of the injury, sickness, or death, or that the employer did not suffer by such delay or failure.[2] And then, it is likewise a settled rule that even if a claim for compensation is filed beyond the period prescribed in Section 24 of Act 3428 when it is shown that the employer has not manifested to the Workmen's Compensation Commission his intention to controvert the right to compensation, either on or before the fourteenth day of disability or within ten days after he has knowledge of the accident, the Workmen's Compensation Commission can proceed to determine and decide the claim for compensation.[3]

The record shows that the company, since January 11, 1961, had knowledge of the disease suffered by the employee, and the employee was left to continue working, and the company never bothered to comply with the law by serving notice of such illness or disease with the Workmen's Compensation Commission, nor by filing the employer's report of accident or sickness, as required under Section 37 of Act 3428 (Workmen's Compensation Act), as amended. Likewise, the record shows that the employee was disabled for labor on June 16, 1961 when he was dismissed from the service due to pulmonary tuberculosis, in which case the company had up to June 30, 1961--the fourteenth day from the date of claimant's disability--within which to file the notice of controversion as required by Section 45 of Act 3428, as amended. The employee filed his claim for disability compensation with the Workmen's Compensation Commission on October 10, 1961. It was only on November 10, 1961, a month after the employee had filed his claim, that the company filed its employer's report of accident or sickness, with a manifestation to contest the claim of the employee. When the company filed its employer's report on November 10, 1961 it did not accompany it with a petition for the reinstatement of its right for controversion nor did it submit reasonable grounds to justify its failure to make the necessary report and controversion on time.

It is clear, therefore, that for having failed to controvert the claim of the employee within the period of fourteen days from June 16, 1961, the day when it dismissed the employee because of disability to work due to pulmonary tuberculosis, and because the company did not seek for reinstatement of its right to controvert the claim, the company is thereby considered, under the law, as having renounced its right to controvert the compensability of the employee's disability, and it can-not now contest the employee's claim upon the ground of the employee's failure to comply with the requirement of Section 24 of Act 3428, as amended.

Under the law, and pursuant to the rulings of this Court in many decided cases, it is the employer that must comply strictly with the requirements of the law regarding the giving of notice, of the accident, injury or sickness of its employee, to the Workmen's Compensation Commission, and the employer must give notice to the Workmen's Compensation Commission of its decision to controvert the right of the injured or disabled employee to compensation within fourteen days after its knowledge of the employee's disability, or within ten days after its knowledge of any accident that caused injury to the employee; and failure of the employer or the insurance carrier to comply with this requirements of the law shall constitute a renunciation of his/its right to controvert the claim unless he/it submits reasonable grounds for the failure to make the required report and notice of controversion to the Workmen's Compensation Commission, on the basis of which grounds the Workmen's Compensation Commission may reinstate his/its right to controvert.[4]

It appearing, in the present case, that the Company has not complied with its obligations under the law, as pointed out in the preceding paragraph, the Workmen's Compensation Commission did not err in entertaining and deciding the claim for compensation filed by the employee. The fact that the employee filed his claim beyond the period of two months after his disability is not a bar to the award of compensation if the claim is found to be meritorious, as in fact the Workmen's Compensation Commission has found said claim meritorious in the present

case.

WHEREFORE, the instant petition for review should be, as it is hereby, dismissed, and the decision and resolution of the respondent Workmen's Compensation Commission appealed from are affirmed, with costs against petitioner Manila Railroad Company.

IT IS SO ORDERED.

Reyes, J.B.L., Makalintal, Bengzon, Sanchez, Castro, Angeles, and Fernando, JJ., concur.
Concepcion, C.J., Dizon, J., took no part.

[1] Victorias Milling Co., Inc. v. Villanueva, et al., G. R. No.L-10533, May 13, 1957; Century Insurance Co., Inc. v. Fuentes, et al., G. R. No. L-16039, August 31, 1961.

[2] Section 27, Act 3428; Paez v. Workmen's Compensation Commission, et al., G.R. No. L-18438, March 30, 1963; Pangasinan Transportation Co., Inc. v. Workmen's Compensation Commission, et al., G.R. No. L-16490, June 29, 1963.

[3] Section 45, Act 3428; Martha Lumber Mill Inc. v. Workmen's Compensation Commission, G. R. No. L-7599, June 27, 1956; Tan Lim Te v. Workmen's Compensation Commission, et al., G. R. No. L-12324, August 30, 1958; Iloilo Dock and Engineering Co. v. Workmen's Compensation Commission, et al., G. R. No.L-17283, July 31, 1962; National Power Corporation v. Workmen's Compensation Commission, et al., G. R. No. L-19843, January 30, 1965; National Development Co. v. Workmen's Compensation Commission, et al., G. R. No. L-20504, March 31, 1965.

[4] Sections 37 and 45, Act 3428; See cases cited in footnotes 1, 2 and 3.

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