

**EPIFANIA V. LAVILLA, PETITIONER, VS. SECRETARY OF LABOR
(WORKMEN'S COMPENSATION COMMISSION) AND REPUBLIC
OF THE PHILIPPINES (BUREAU OF PUBLIC SCHOOLS),
RESPONDENTS.**

G.R. No. 46131. June 22, 1983

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This is a petition to review a Workmen's Compensation Commission decision (R04-WC Case No. 154653) absolving the Republic of the Philippines (Bureau of Public Schools) from liability under the Workmen's Compensation Act (Act No. 3428 as amended), and reversing the award of disability compensation in favor of petitioner, Epifania V. Lavilla, given by Acting Referee Estratonico S. Añano.

The petitioner was employed by the Bureau of Public Schools since October 8, 1945 as a classroom teacher in Balangiga Central Elementary School, Division of Eastern Samar. Her duties were to teach academic subjects and participate in extra-curricular activities, such as food production, home beautification and community development.

On December 23, 1972, she complained of recurrent dizziness, throat irritation and hoarseness of voice, and sought medical treatment for her ailments diagnosed by Dra. Catalina Camenforte, Municipal Health Officer, as hypertension and chronic laryngitis. On February 26 to March 3, 1973 she was treated for hypertension and peripheral neuritis. On April 22, 1973 after 28 years of service, she stopped working, on the advice of her physician that she had to rest and undergo continuous medical attendance for her ailment, giving notice thereof to her superior. She was then 63 years old, two years short of the compulsory retirement age of 65, a widow with three grandchildren as dependents, receiving P316.00 monthly as salary, and had not been engaged in any other gainful occupation.

On June 25, 1974, she filed with the WCC, Region IV Office, a Notice of Injury or Sickness and Claim for Compensation (Exhibit "A") accompanied by a Physician's Report by her attending physician (Exhibit "B"), and an Employer's Report of Accident or Sickness (Exhibit "C"), seeking disability benefits for ailments caused, aggravated or contracted during her employment, hindering her from further work. The Physician's Report expressed the opinion that the illnesses were the result of the nature of her employment because, as a public school teacher, she was "subject to exposure to adverse climatic change resulting in her chronic long standing laryngitis" and was also "exposed to stress and tension of her work which may have resulted in hypertension." (Exhibit "B")

The record shows that the Solicitor General and the Director of Public Schools were furnished and received copies of the Notice and Claim. However, no answer or notice of controversion was filed. In fact, the Employer's Report of Accident or Sickness signed by the District Supervisor indicated that the employer was not controverting the claim (Exhibit "C").

After due hearing, the Acting Referee of the defunct Workmen's Compensation Commission rendered a decision, dated August 9, 1975, granting petitioner temporary total disability benefits from April 22, 1973 to April 22, 1975 (2 years), even as he denied the claim for reimbursement of medical expenses for lack of supporting receipts, thus:

"WHEREFORE, premises considered, judgment is rendered in favor of the claimant and ordering the Bureau of Public Schools:

- To pay the claimant, Epifania V. Lavilla, thru this Office, the sum of FOUR THOUSAND FIVE HUNDRED FIFTY (P4,550.00) Pesos, as disability compensation benefits;
- To pay Atty. Panfilo Pabelonia, Jr. the sum of P227.50 as attorney's fees; and
- To pay this Office the sum of P46.00 as decision fees pursuant to Section 55 of the Act."

No appeal was perfected within the reglementary period. However, on October 21, 1975, or 43 days after it received the decision, the Solicitor General filed a Petition to Elevate Records for Relief From Judgment averring that due to pressure of work the decision in question was not acted upon immediately, and that there was no substantial evidence to prove the causal relation between the hypertension and chronic laryngitis to her employment, and that the ailments have not been shown to disable the petitioner from working. On February 13, 1976, the WCC sustained the Solicitor General and denied the award. Petitioner prays for reversal.

We accede.

The WCC ruled that there can be no compensation award in the absence of substantial evidence to prove that the petitioner's ailments are work connected. That was error. There is no question that the illnesses upon which petitioner's claim is premised supervened during the time of her employment or in 1972, prior to the effectivity of the new Labor Code. She was not suffering from any illness upon entering the employ of respondent Bureau of Public Schools in 1945. It was only after 28 years of service as a classroom teacher that the symptoms appeared. The illnesses having arisen in the course of employment there is a rebuttable presumption that the illnesses arose out of or were aggravated by petitioner's employment.[1] With this presumption, the burden of proof shifts to the employer to establish non-compensability.[2] In the case at bar, the presumption stands, there being no evidence presented to overcome it.

On the contrary, according to the attending physician's statement, the hypertension and chronic laryngitis were work connected (Exhibit "B"). As a school teacher, the petitioner was compelled to speak/lecture for long hours usually rendering her hoarse at the end of the day. In fact, throat irritations are very common with teachers. Too, the nature of petitioner's work of teaching children of tender age subjected her to considerable stress and strain. The physician's report is the best evidence that a claimant can present and may be the basis for the award even if the physician himself was not presented as a witness.[3]

"Finally as a school teacher, petitioner has to commute daily from her house to the school located in the barrio, braving all kinds of weather, has to undergo the strenuous work of teaching school children of tender age and likewise engage in extra-curricular activities like scouting, conducting demonstrations in different barrios and attending conferences. Undoubtedly, these factors brought about her illnesses which sapped her physically and ultimately forced her to retire at the early age of fifty-two (52). In this connection, it must be pointed out that R.A. 4670, otherwise known as the Magna Charta for Public School Teachers directs that—

"Teachers shall be protected against the consequences of employment injury in accordance with existing laws. The effects of the physical and nervous strain on the teacher's health shall be recognized as compensable occupational diseases in accordance with existing laws."[4]

The Employer's Report of Accident or Sickness (Exhibit "C") also conceded that the sickness was incurred while

the petitioner was engaged in her regular occupation. There can be no other conclusion then but that petitioner's claim is compensable.[5]

There is no merit to the contention that petitioner's ailments have not been shown to disable petitioner from working. The attending physician's statement (Exhibit "B") contained the admonition that "she must be confined at home and must not go on (with) her occupation so as not to risk her life. Her condition demands rest, many restrictions and long-continuous medical attendance" and that the temporary total disability for labor is for an "indefinite period". Disability, as a basis for compensation, is the combination of partial or total physical incapacity and of inability to work, or inability to work with the same ease and competency as before the injury, or the loss, total or partial, of earning power from the injury.[6] Adverting to the attending physician's statement again "the permanency of her dizziness due to hypertension and the hoarseness of her voice and long standing throat irritation bothers her so much and hampers her work as a teacher." (Exhibit "B")

For that temporary total disability the law grants petitioner compensation under Section 14 of R.A. No. 3428.[7]

It should also be recalled that petitioner's claim was not controverted. Accordingly, for failure to controvert, the employer is deemed to have renounced the right to challenge the claim and to have waived all non-jurisdictional defenses.[8]

With the foregoing conclusion, the procedural aspect raised, as to whether respondents' Petition for Relief of Judgment was timely filed, becomes inconsequential and need no longer be resolved.

WHEREFORE, the judgment appealed from should be as it is hereby reversed. The decision of the Acting Referee of the former Regional Office No. 4, Workmen's Compensation Section, dated August 9, 1975, is reinstated.

No costs.

SO ORDERED.

Teehankee (Chairman), Plana, Vasquez, Relova and Gutierrez, Jr., JJ., concur.

[1] Sec. 44[1]. Workmen's Compensation Act; Justiniano vs. Workmen's Compensation Commission 18 SCRA 677, 680 (1966).

[2] Villasana vs. Republic, 104 SCRA 102 (1981).

[3] Evangelista vs. Workmen's Compensation Commission, 77 SCRA 497 (1977); Aguilar vs. Workmen's Compensation Commission, 83 SCRA 102 (1978).

[4] Romero vs. Workmen's Compensation Commission, 77 SCRA 482, 490 (1977).

[5] SEC. 2. Grounds for compensation.— When an employee suffers personal injury from any accident arising out of and in the course of his employment, or contracts tuberculosis or other illness directly caused by such employment, or either aggravated by or the result of the nature of such employment, his employer shall pay compensation in the sums and to the person hereinafter specified. . . . (Sec. 2, R.A. No. 3428)

[6] Gonzales vs. Workmen's Compensation Commission, 81 SCRA 703 (1978).

[7] SEC. 14. Total disability.— In case the injury or sickness causes temporary total disability for labor, the employer shall, during such disability, pay to the injured employee a weekly compensation equivalent to sixty per centum of his average weekly wage but not less than fourteen pesos per week, except in the case provided for in

the next following paragraph. No compensation shall be allowed for the first three calendar days of incapacity resulting from an injury except the benefits provided for in the preceding section; but if the incapacity extends beyond that period, compensation shall be allowed from the first day of such incapacity. Such weekly payments shall in no case continue after the disability has ceased, nor shall the aggregate sum paid as compensation exceed in any case six thousand pesos. But no award of permanent disability shall take effect until after two weeks have elapsed from the date of the injury.

[8] *Romero vs. Workmen's Compensation Commission*, supra; *Lopez vs. Workmen's Compensation Commission*, 79 SCRA 551 (1977).

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