

JOSE E. BARRAMEDA, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (PHILIPPINE NATIONAL BANK), RESPONDENTS.

G.R. No. 50142. August 17, 1981

Ponente: GUERRERO, J.

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GUERRERO, J.:

This is a petition to review the decision of the Employees' Compensation Commission dated February 15, 1979 in ECC Case No. 1098 entitled "Jose E. Barrameda, appellant, vs. Government Service Insurance System (Philippine National Bank), respondent," affirming the Government Service Insurance System's denial of petitioner's claim for income benefits for disability under Presidential Decree No. 626, as amended.

Petitioner is a 58-year old former Branch Manager of the Philippine National Bank's Daet, Camarines Norte branch. Until his disability retirement on March 8, 1976 under Republic Act No. 1616, as amended, he served the government for a little over twenty-seven (27) years, his service with the Philippine National Bank being exactly twenty-six (26) years, nine (9) months, and twenty (20) days. At the time of retirement, he was already receiving a monthly salary of P2,500.00.

Petitioner's illness which compelled him to retire sooner than the compulsory retirement age was diagnosed by Dr. Jose E. Moraleda, M.D. as Dx Tumor, LLL Benign. He was treated for his lung tumor affliction from June 1, 1974 to March 1, 1976. His medical history as recounted on Part III of the Government Service Insurance Form (Attending Physician's Certification) is as follows:

"Patient first consulted on June 1, 1974 for a chronic cough of 2 mos., not relieved by usual medications. On June 21, 1974 to July 3, 1974, was admitted at UE Hospital for work-up-Dx Tumor LLL; underwent left lower lobectomy at ABM Sison Hospital on 7-4-74, discharged improved. He was back to work one year after surgery but was unable to cope up with his usual job - gets tired easily general body weakness and he retired on 3-8-76." [1]

On December 14, 1977, petitioner filed a claim for income benefits with the Government Service Insurance System (GSIS) under the provisions of the New Labor Code, as amended. The GSIS denied the claim on the ground that petitioner's ailment (tumor of the lungs, left lower lobe, benign) is not an occupational disease taking into consideration the nature of his employment; further, that his claim for hospitalization benefits could not be favorably acted upon since the medical treatment was rendered one year prior to the effectivity of Presidential Decree No. 626, as amended. Petitioner protested the GSIS' ruling insisting that his ailment was directly caused by his employment particularly during the period when he held the post of cashier where he had to handle bundles of dusty mutilated bills specially small denomination bills, exposing him to inhale the dust circulating inside the cash vault, but to no avail.

Petitioner's motion for reconsideration having failed, the case was elevated for review to the Employee's Compensation Commission which affirmed the denial of the claim by the GSIS, asserting that there is no cogent

reason to disturb the GSIS' decision. The ECC's findings and conclusion state:

"A cursory examination of the evidence on record discloses that there is no justifiable reason to deviate from the conclusion arrived at by the respondent System. Nothing in the record supports the contention of the appellant, except the conjectural statement of his co-employees that the aforementioned ailment may have been contracted by him through inhalation of dust and dirt inside the Bank vault through exposure to old bills. These environmental conditions, even if true, are not medically considered as predisposing factors to the contraction of appellant's "lung tumor." A closer study of the appellant's ailment revealed that the same is in no way traceable to his employment. As averred by the Medical Division of the respondent System, "tumor of the lungs" is a malignant newgrowth of the said organ. This disease has become more common in recent years. The report from the Royal College of Physicians and others have emphasized the importance of cigarette smoking as the cause of tumor of the lungs. An increased incidence is reported in miners exposed to dust from chromium, nickel, radioactive ores and asbestos.

In the case at bar, there is no proof that a causal relationship exists between the subject disease and the appellant's occupation as branch manager of the Philippine National Bank, neither was appellant exposed to the aforementioned chemical substances.

Moreover, records show that his ailment was contracted on June 1, 1974 prior to the effectivity of the new compensation program (P.D. 626, as amended). This is shown in the affidavits of the appellant's co-employees as well as in his letter addressed to the GSIS. We quote 'It will please be recalled that on July, 1974, I was operated on for a "Lobectomy" where I almost lost my life.' In other words, Presidential Decree No. 626, as amended, cannot be applied to the case at bar, inasmuch as the sickness of the appellant was contracted prior to its effectivity on January 1, 1975. This is mandated by Article 208 of said Presidential Decree, which states 'x x x shall apply only to injury, sickness disability or death occurring on or after January 1, 1975.'

Thus, the conclusion arrived at by the respondent System is supported by law and evidence; hence, there is no cogent reason to disturb the same. While we are not unmindful of the fact that Presidential Decree No. 626, as amended, is a social legislation designed for the protection of the workingman, we believe that the same law may not be so stretched as to embrace within its compensable purview, cases outside its jurisdiction or protective realm." [2]

Respondent ECC's affirmation of the GSIS' denial of petitioner's claim is patently erroneous. The manifest flaw in ECC's stance is clearly demonstrated in the comment submitted by respondent GSIS to this Court on April 25, 1979 and in its Manifestation/Motion dated September 18, 1979 when it made a volte-face on its former position, this time positing with clarity that it admits the validity of petitioner's claim. Respondent GSIS' comment reads thus:

"At the outset, the GSIS respectfully manifests that, after an assiduous study of the law and current jurisprudence, and in the interest of justice and the compassionate objectives of the New Society, petitioner's employees' compensation claim is valid and should be paid.

In a nutshell, this is a claim for employees' compensation, filed by a former PNB branch manager who contracted lung tumor on June 1, 1974 and retired by reason of disability on March 8, 1976.

Going by *Corales vs. Employees' Compensation Commission* (en banc resolution), L-44063, February 27, 1979, cited by petitioner, the cause of action in this case accrued as early as June 1, 1974. Hence, applicable are the provisions of the old Workmen's Compensation Act, not the provisions of the New Labor Code, which became effective only on January 1, 1975, as well as the well-entrenched and oft-reiterated doctrines thereunder on presumptions of compensability and disability retirement, the principles of aggravation and non-controversion, and the liberal construction in favor of the workingman of socio-labor legislation.

In *Corales*, supra, this Honorable Court emphasized that Article 292 of the New Labor Code, which requires

that workmen's compensation claims accruing prior to the New Labor Code shall be filed with the appropriate regional offices of the Department of Labor not later than March 31, 1975, or they shall be forever barred, does not apply to petitioner therein who filed his claim on August 4, 1975 with the GSIS because the prescriptive period for claims which accrued under the Workmen's Compensation Act, as amended, is ten (10) years, it being a right founded on statute and petitioner has a vested right which cannot be impaired by the repealing Labor Code.

Here, the present claim was filed with the GSIS on December 14, 1977 or within the ten-year prescriptive period counted from accrual of the cause of action on June 1, 1974. x x x"[3]

Buttressing the stand taken by respondent GSIS is the case of *Balatero v. ECC and GSIS* (Department [now Ministry] of Education and Culture, L-46634, January 28, 1980, 95 SCRA 609-611, where We found as unmeritorious the ECC's considered opinion that it could not rely on the petitioner's naked verbal assertion to support his contention that his ailments were the result of the nature of his employment and the working conditions obtaining therefrom for under the Workmen's Compensation Law, where there is a showing that the ailment was contracted and/or aggravated in the course of one's employment, the presumption of compensability arises and the burden of proof is shifted to the employer to show by substantial evidence that although the illness supervened in the course of employment, it does not necessarily follow that it also arose from such employment or was at least aggravated by it.

The *Balatero* case also brought to the fore the same objection raised in the case at bar - that the ailment of petitioner falls outside the compensable ambit of Presidential Decree No. 626 because said Decree, particularly Sec. 1, par. (c) of the Implementing Rules, covers only injury or sickness that occurred on or after January 1, 1975. We ruled then and We adhere to the same ruling - that the governing law in the prosecution of the cause of action which has accrued prior to the effectivity of a new law shall be the law enforced at the time of the accrual of the said action. In the *Balatero* case, the cause of action existed as early as 1972; in the present case, on June 1, 1974. Since the Workmen's Compensation Law was then in full force and effect, then it should be the governing law, based on the principle that "rights accrued and vested" while a statute was in force ordinarily survives its appeal. (Case cited in *Corrales v. ECC, et al.*, L-44063, February 27, 1979; *Villones v. ECC, et al.*, L-46200, July 30, 1979; *De los Angeles v. ECC, et al.*, L-47099, November 16, 1979).

Another decision of this Court lending support to the petitioner's claim for compensation is that of *Cañeja v. ECC and GSIS*, L-46992, March 31, 1980, which ruled thus:

"In any case, whether his claim was based on his first illness in 1959 or the last hospitalization in 1973, it is not disputed that his illness supervened in the course of employment and the same was never controverted by his employer. Hence, under the Workmen's Compensation Act, petitioner is freed from the burden of proving that his illness or injury was caused or aggravated by the nature of his work. In fact, the cause of his ailment is immaterial; what is important is that it occurred or was aggravated in the course of employment and disabled the workingman from pursuing his ordinary occupation (*G.B. Francisco, Inc. v. WCC*, 87 SCRA 23, 30). The presumption of compensability had already set in 'x x x Because once an illness, subject matter of a compensation claim is shown to have supervened in the course of employment, there arises in favor of the claimant the rebuttable presumption that the said illness either arose out of, or at least was aggravated by, the nature of claimant's employment; and consequently, the burden to show by substantial evidence the contrary lies with the employer. And the ultimate result of that principle is that the presumption, rebuttable at its inception, becomes conclusive upon the failure of the respondent employer to destroy the same (*Enriquez v. WCC, et al.*, L-42640, September 28, 1979)."

It is succinctly clear that as borne by the facts of record, there is but one ineluctable recourse - to award the claim for income benefits for disability prayed for by herein petitioner.

It must be underscored that herein petitioner was compelled to apply for retirement ahead of schedule, at age fifty-eight (58) which is way ahead the compulsory retirement enjoyed by government employees like him. The approval of his optional retirement clearly demonstrates the fact of his physical incapacity to render further efficient service. For his optional retirement would not have received the stamp of *impri-matur* unless he could comply with the two requisite conditions called for in Memorandum Circular No. 133 issued by the Office of the President on October 19, 1967, to wit: (1) That he had not reached the compulsory age of 65 years; and (2) That he was physically incapacitated to render further efficient service. Petitioner could not have given up the high and prestigious position he was actually holding at the time of his retirement and the equally high remuneration attached to his position unless he were really incapacitated to render further efficient service. In *Valencia v. Republic*, L-43060, June 22, 1978, 83 SCRA 714, 719, this Court emphatically reiterated its consistent ruling to allow and grant claims for compensation benefits under the Workmen's Compensation Act even though the claimants retired under the government Optional Retirement Law.

How much income benefits for disability shall be awarded to herein petitioner?

The case of *Cayaba v. WCC, et al.*, L-43649, January 27, 1981 may serve as a guide in the determination of the compensation to be awarded to petitioner. In the *Cayaba* case, this Court in awarding the maximum sum of P6,000.00 to petitioner who at the time of his optional retirement was also 58 years of age as in the case at bar, held:

"An employee forced to ask for retirement ahead of schedule not because of old age but principally because of his weakened bodily condition due to illness contracted in the course of his employment should be given compensation for his inability to work during the remaining days of his scheduled compulsory retirement, aside from the retirement benefits received by him. (Citing *Hernandez v. WCC, et al.*, 14 SCRA 219)

Had petitioner not been forced to retire because of his illnesses he could have continued to work for seven years more until he reached the age of 65 years. Under the circumstances he is entitled to disability compensation in the amount of P6,000.00 and to be reimbursed the medical expenses incurred by him upon presentation of supporting receipts." (Note that petitioner in this *Cayaba* case was receiving an annual salary of P3,000.00 immediately preceding his last day of service in 1975.)

A more recent case, *Republic of the Philippines v. Follosco & WCC*, L-29540, March 27, 1981, is equally in point and will serve to illuminate the determination of compensation in cases of optional retirement. This Court affirmed the Acting Referee's computation of award to claimant in this wise:

"The claimant having been shown to have been disabled for labor as a result of his illness and was by reason thereof compelled to retire prematurely at the age of 63 years, 2 years away from the compulsory retirement age of 65 years, he is entitled to disability compensation for two (2) years and reimbursement of expense for medical supplies and services since the requirements of notice of the illness and corresponding treatment has been substantially complied with."

We, therefore, find the petition for review to be impressed with merit.

WHEREFORE, the decision of the Employees' Compensation Commission sought to be reviewed is hereby set aside and the Government Service Insurance System is ordered:

1. To pay the petitioner the amount of SIX THOUSAND PESOS (P6,000.00) as disability benefits;
2. To pay the petitioner the amount of SIX HUNDRED PESOS (P600.00) as attorney's fees;
3. To reimburse the petitioner expenses incurred for medical services, hospitalization and medicines, duly supported by receipts; and

4. To pay the administrative fees.

SO ORDERED.

Teehankee, Acting C.J., Makasiar, Fernandez, and Melencio-Herrera, JJ., concur.

[1] Records, pp. 15-16.

[2] Records, pp. 17-18.

[3] Records, pp. 35-36.

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