

BAYANI V. SEGISMUNDO, PETITIONER, VS. GOVERNMENT SERVICE INSURANCE SYSTEM (PHILIP-PINE NATIONAL RAILWAYS), RESPONDENT.

G.R. No. 50941. March 28, 1983

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition for review filed by Bayani V. Segismundo against the respondent Government Service Insurance System (Philippine National Railways), seeking to reverse the decision dated May 3, 1979 (pp. 12-17, rec.) of the Employees Compensation Commission (referred to in the petition as Workmen's Compensation Commission), which affirmed respondent's denial (p. 25, rec.) of petitioner's claim for benefits under Presidential decree 626, as amended.

[Please note that the Employees Compensation Commission was not included as a party respondent in the petition. However, the Solicitor General, in his comments filed on behalf of said Commission (pp. 80-90, rec.), included the ECC as party respondent.]

The antecedent facts are not disputed. In fact, the allegations of petitioner-claimant in his affidavit of February 8, 1979 were quoted and adopted by respondent Commission in its narration of facts, as follows:

"1. That I was first employed in the Transportation Department of the Philippine National Railways on September 1, 1931 as Station Helper;

"2. That from September 1, 1931, I steadily rose in rank and position with corresponding increase in remuneration having held responsible positions such as Telegraph Operator, Ticket Seller, Train Dispatcher and finally as Chief Train Dispatcher with an annual salary of P11,700.00;

"3. That as Chief Train Dispatcher, rendered services beyond the official time of 50 hours a week period in the performance of the assigned duties, to wit:

"a) When assigned in the night shift, I worked from 4 o'clock P.M. to midnight and from midnight to 8 o'clock A.M. continuously every other day. Oftentimes I accompanied extra and inspection trains. In cases of emergency like typhoons when derailment occurred along the railroad tracks in the provinces, I have to stay awake the whole day and night to help train crews and laborers in the restoration of the derailed train.

"4. That the most important duties of the Chief Train Dispatches and Train Dispatcher for that matter are as follows:

"a) To report and receive instructions from the Superintendent of Transportation;

"b) To keep the time of Telegraph Operators and to certify to the correctness of the time reported;

"c) To be responsible for the prompt and economical movement of traffic. To keep the time of train crews.

"5. That after almost 12 years of continuous overtime work especially during night time, I have observed that my eyesight was defective and could hardly see and read" (p. 2 of Decision, quoting petitioner's affidavit, pp. 12-13, rec.).

The following findings concluded the narration of facts by respondent Commission:

"Due to his worsening eyesight, he submitted to a thorough examination by Dr. Jose Chan, his attending physician, who diagnosed his ailment as 'glaucoma, narrow angle, bilateral'" (p. 13, rec.).

Petitioner retired from the service on April 1, 1977 (p. 20, rec.) on account of his physical disability, after which he applied for employee's compensation with the respondent System.

Respondent GSIS denied the claim on March 30, 1978 on the ground that petitioner's illness, glaucoma, narrow angle, bilateral, is not an occupational disease, taking into consideration the nature of his work. The letter of denial is partly quoted thus—

"Please be advised that the same cannot be given due course on the ground that your ailment, Glaucoma, narrow angle, bilateral, is not an occupational disease taking into consideration the nature of your particular work.

"An occupational disease is one which is characteristic of or peculiar to a particular trade, occupation, process or employment and to exclude all diseases of life to which the general public is exposed (to).

"Glaucoma is a common disease of middle and advanced life occurring generally between 40 and 70 years of age. It has for its characteristic sign an increase in intraocular pressure. Predisposing factors are arteriosclerosis (an aging process), and hereditary characteristics such as hyperopic eyes, small eyeballs with large lenses, and those in which the cornea is small in size.

"Upon evaluation based on generally accepted medical authorities, your ailment is found not to be in the least causally related to your duties and conditions of work. We believe that your ailment is principally traceable to factors which are definitely not work-connected. Moreover the evidences you submitted have not shown that the said ailment is the direct result of your occupation or employment as Chief Train Dispatcher in the Philippine National Railways, Manila. . . ." (p. 25, rec.).

Petitioner's request for reconsideration (p. 26, rec.) dated April 28, 1978 was likewise denied by respondent GSIS on May 1, 1978 (p. 27, rec.). He then filed on July 2, 1978 a notice of appeal (p. 28, rec.) with respondent Commission, which issued its decision on May 3, 1979, affirming the GSIS's decision and dismissing petitioner's claim (p. 17, rec.).

Petitioner now comes before this Court, pointing out the following errors:

"1. That the ailment was contracted by the Petitioner-Appellant in the course of employment and therefore, is compensable.

"2. That the opinion of the Medical Division of the Workmen's Compensation Commission to the effect that the ailment was not work-connected cannot prevail against the statutory presumption that the claim is compensable" (p. 4, rec.).

The respondent Commission argues that these principles were available under the Workmen's Compensation Law but not any more under the present Labor Code which is the one applicable in this case. To this allegation, petitioner counters in his memorandum:

"The conclusion, we submit, is too sweeping. The fact alone that it was in 1975 when petitioner observed that his eyesight was defective, does not necessarily mean that the ailment had its onset in 1975. Just at what point

in time the ailment supervened is certainly not determined by the time of its manifestation as when the pain begins to be felt which almost always occurs when the disease is already in its advanced stage. It is significant to mention at this point that it was during his term as Train Dispatcher (a position which petitioner held for ten years), that he was assigned to midnight shifts from 12:00 to 8:00 a.m., continuously every other day, working at times from two to three nights without sleep, particularly during washouts and line constructions occasioned by typhoons, floods and other calamities. To conclude, therefore that the claim falls under the New Labor Code and thus deny petitioner's right to compensation on the assumption that his ailment had its onset in 1975, is certainly the height of injustice" (p. 2 of Memorandum for Petitioner, p. 115, rec.).

Petitioner's illness does not come as a sudden attack; but develops gradually through the years. In fact, medical science recognizes that this type of disease, acute congestive glaucoma, has three stages, namely: (1) the Prodromal stage, (2) the Stage of Acute Glaucoma, and (3) the Stage of Absolute Glaucoma (May's Manual of the Diseases of the Eye, by Charles A. Perrera, 1953, p. 232). At its earliest stage, the prodromal stage, the symptoms are diminution of vision, a rainbow of tints around the eyes, a feeling of dullness or slight pain in the eye or head, and a slight or moderate increase in the visual tension. "These symptoms last for a number of hours and then disappear entirely; the eye returns to a normal condition, except that there is often a diminution in the power of accommodation, so that the patient requires stronger glasses than are natural at his age. Hence, a rapid increase of presbyopia should always excite suspicion of glaucoma. Such prodromal attacks are often excited by insomnia, worry, emotional excitement or some condition which causes venous congestion, and sometimes by over-eating, indigestion, or the local use of mydriatics. They are in many cases relieved by sleep. At first the attacks are separated by intervals of weeks, or months, but they soon become more frequent . . ." (p. 232, *supra*, italic supplied).

A perusal of petitioner's medical records reveals that petitioner has been found afflicted with the illness for three (3) years prior to January 7, 1978. His attending physician, Dr. Jose O. Chan, who diagnosed his illness as glaucoma, narrow angle, bilateral, has also traced the history of said illness as follows:

"Progressive dimness of vision of both eyes for 3 years. He was first seen on 5-1-76 with ocular tension of:

OD 72 mms

OS 57.5 mms

with diamox p.r. _____ (illegible) 4% it is reduced to normal but the tension increases every time the diamox is removed.

"The tension fluctuates from 27 mms to 48 mms on both sides.

"NOTE: Normal tension is 16-26 mms." (p. 22, rec.).

From this history it may be concluded that when the petitioner consulted the doctor on May 1, 1976, his illness was already past the initial stage. The ocular tensions of 72 and 57.5 mms for the right and left eyes, respectively, are certainly not "a moderate increase in the visual tension" which is characteristic of the first or prodromal stage of the illness. It is more likely that petitioner's glaucoma was already at a very acute stage when he first consulted the doctor.

People do not usually consult a physician at the first sign of illness, especially the petitioner who cannot afford medical fees because of his meager income. They would usually put off consultation as long as they can endure the pain or discomfort.

In the case of glaucoma, its symptoms during the initial stages (diminution of vision, a rainbow of tints around the eyes, a feeling of dullness or slight pain in the eye or head, and a slight or moderate increase in the visual tension)

last only for a number of hours and disappear entirely; then the eye returns to normal. These attacks are separated by intervals of weeks or months. These conditions are what we describe as "bearable" and do not make the visit to a physician imperative specially between attacks. Hence, it is more likely that the petitioner did not consult a physician during the early stages of his illness.

For, had he done so, and had his illness been treated early enough, it should not have led to his disability which forced his retirement.

"Treatment for glaucoma varies with the type and severity of the case. If it is detected early, it can generally be treated satisfactorily with miotics and other drugs that help reduce the pressure inside the eye. In some advanced cases, relatively simple surgery may be necessary to provide the fluid with a new outflow channel.

"The effects of untreated glaucoma cannot be remedied. If the condition is neglected until partial or total blindness sets in, the retina or optic nerve cannot be repaired to restore sight" (Encyclopedia and Dictionary of Medicine and Nursing, by Benjamin F. Miller and Claire Brackman Keane, 1972, p. 390).

In view of all the foregoing, the point raised by petitioner's counsel, i.e., that petitioner's illness had its onset earlier than 1975 is well-taken. It must have been during the time when he was train (dispatcher) in-charge, that he contracted the illness. For, as attested by Jose G. Nuguid, the Superintendent of Trains who had supervision of all train dispatchers, "when petitioner was train dispatcher-in-charge (obviously referring to the period from July 1, 1963 to February 11, 1975 when petitioner was 'train in charge', per Service Record, p. 20, rec.) he was assigned on shifts 4:00 p.m. to 12:00 midnight and from 12:00 midnight to 8:00 a.m. continuous every other day" (p. 24, rec.). As train dispatcher-in-charge, he not only had to miss sleep during the nocturnal shifts but he also had to worry about train schedules and movements, as well as derailments during typhoons. Since according to the above-quoted medical authorities, the prodromal attacks of glaucoma are often excited by insomnia, worry and emotional excitement, there can be no doubt that the nature of petitioner's duties as early as 1963 and up to the early 1975 must have precipitated his illness. In any case, the 3-year period certified to by Dr. Chan is only an estimated period and could not have been exactly 365 days multiplied by three (3) years, prior to the date of certification (January 7, 1978), so as to pin-point January 6, 1975 as the precise time when the petitioner became afflicted. Said illness must have had its onset in the late sixties, at which time the petitioner has had about five (5) to seven (7) years' service as train dispatcher-in-charge—with all those nocturnal duties, worries and excitement which are precipitative factors to glaucoma.

This leads to the conclusion that petitioner's illness supervened in the course of his employment prior to January 1, 1975, when the Workmen's Compensation Act was still the law governing claims for compensation.

Consequently, all the provisions of the Workmen's Compensation Act, as amended, as well as the decisions affirming (1) the presumption of compensability, or presumption of work-connection or work-aggravation, (2) waiver of non-jurisdictional defenses due to non-controversion, and (3) the ten-year prescriptive period still apply to the case at bar (*Cañeja vs. ECC, et al.*, 96 SCRA 896; *Landicho vs. WCC, et al.*, 89 SCRA 150).

The presumption of compensability places upon the employer the burden of establishing the contrary by substantial evidence. As there was no evidence presented by the employer to rebut the presumption, there can therefore be no occasion for respondent Commission to absolve the deceased's employer. The presumption of compensability becomes conclusive (*Pantoja vs. Republic*, 87 SCRA 443; *Cañonero vs. WCC*, 81 SCRA 712; *Lorenzo vs. WCC*, 81 SCRA 434; *Santos vs. WCC* 75 SCRA 365).

Moreover, as WE held in the case of *Cenabre vs. ECC* (97 SCRA 338), "to deny petitioner, who had actually served the government for at least 25 years what is rightfully due him under the facts obtaining, is to emasculate the very objective of the Workmen's Compensation Act, as amended—a social legislation designed to effectuate

and implement the social justice guarantee of the Constitution."

In the instant case, the petitioner had served the government for more than forty years prior to his disability retirement. He deserves to be compensated if only to give meaning and substance to the constitutional social justice guarantee in favor of the workingman (*Abadiano vs. GSIS, et al.*, 111 SCRA 509; *Santos vs. WCC*, 75 SCRA 371).

WHEREFORE, THE DECISION OF THE EMPLOYEES' COMPENSATION COMMISSION DATED MAY 3, 1979 IS HEREBY SET ASIDE AND THE RESPONDENT PHILIPPINE NATIONAL RAILWAYS IS HEREBY DIRECTED

- TO PAY THE PETITIONER THE SUM OF SIX THOUSAND (P6,000.00) PESOS AS INCOME BENEFITS;
- TO REIMBURSE PETITIONER'S MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY RECEIPTS; AND

- TO PAY ATTORNEY'S FEES.

SO ORDERED.

Fernando, C.J., Teehankee, Concepcion Jr., Guerrero, Abad Santos, De Castro, Plana, Escolin, Vasquez, and Relova, JJ., concur.

Aquino, J., is on leave.

Melencio-Herrera and Gutierrez, Jr., JJ., in the result.

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