

PERFECTO JARILLO, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION, GOVERNMENT SERVICE INSURANCE SYSTEM (DEPARTMENT OF ENGINEERING, QUEZON CITY), RESPONDENTS.

G.R. No. 52058. February 25, 1982

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition for review on certiorari of the decision dated September 27, 1979 of respondent Employees' Compensation Commission, which affirmed the decision of respondent Government Service Insurance System denying the claim of herein petitioner for disability benefits on the ground that his ailment -- senile cataract -- is not an occupational disease taking into consideration the nature of his particular work (p. 25, rec.).

The following facts are not disputed:

Petitioner Perfecto Jarillo -- born on February 27, 1916 -- entered government service on January 1, 1955 as a temporary laborer in the Department of Engineering, Quezon City. On July 1, he was designated as construction worker in the same office, and it was the same position he held until his retirement on August 31, 1977 (pp. 61-62, rec.). He received pension benefits under Republic Act No. 660 in the total sum of P5,229.97 (p. 3, NLRC rec.).

On January 24, 1975, he was admitted to the UST Hospital under the care of Dr. Jose L. Duran, who performed a cataract operation on his right eye on January 30, 1975 (p. 23, rec.). On September 13 to 28, 1977, petitioner was again hospitalized at the Jose R. Reyes Memorial Hospital where he was operated on for lens extraction, intracapsular with peripheral iridectomy, this time on his left eye (p. 24, rec.).

Prior to this second operation or on April 15, 1977 (p. 9, ECC rec.), petitioner filed a claim for disability benefits under P.D. No. 626. This claim was denied on April 18, 1977 by means of a letter signed by Daniel N. Mijares, Manager of the Employees' Compensation Department of respondent GSIS. Said letter-denial is quoted hereunder:

"xx xx xx.

"Please be advised that the same cannot be given due course on the ground that your ailment, Senile Cataract, 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 grade, occupation, process or employment and to exclude all diseases of life to which the general public is exposed.

"Senile Cataract is opacity of the lens resulting from degenerative changes, an aging process. Under the aforesaid decree, only the following types are considered occupational: (a) Cataract produced by frequent exposure to the glare of, or rays from molten glass or red hot metal (b) Cataract due to ionizing radiations, and (c) Cataract due to trauma.

"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 have submitted are not sufficient for us to establish that this ailment is the direct result of your occupation or employment as a Construction Helper in the Department of Engineering, Diliman, Quezon City x x x" (p. 25, rec.).

Petitioner sought a reconsideration of the above letter-denial on November 14, 1978, which was likewise denied by the respondent GSIS on December 14, 1978 (p. 12, ECC rec.).

On appeal to respondent ECC, the latter rendered a decision dated September 27, 1979, affirming the opinion of Manager Mijares, pertinent portions of which read as follows:

"Senile cataract does not fall under the list of occupational diseases. Only the following types of cataract are considered occupational: (1) cataract produced by frequent exposure to the glare of, or rays from molten glass or red hot metal (2) cataract due to ionizing radiation and (3) cataract due to trauma. There is no proof presented by claimant to show that a direct causal relationship exists between the above disease and the employee's occupation as Construction helper in the Department of Engineering, Diliman, Quezon City.

"This case is not compensable and it is therefore recommended that the decision of the GSIS denying the claim be affirmed.

"Environmental facts of the case considered, we find no cogent reason to disturb the conclusion arrived at by the respondent System that appellant's senile cataract, although it supervened in the course of his employment, developed independently from his employment and therefore the disability arising from the same falls outside the scope of the compensatory purview of Presidential Decree No. 626, as amended" (pp. 31-32, rec.).

Hence, this petition for review.

Petitioner argues that the possible cause of his illness is the condition of the place of his work and the construction material he is exposed to while working as a construction worker, such as the hot asphalt and the heat of the sun. He also claims that the blurring of his vision started when, on one occasion in January 1975 - while he was lifting a bag of cement - the bag gave way and particles of cement lodged in his two eyes; that after such incident, his right eye was operated on for acute glaucoma or cataract; and that since then, he felt that his left eye had a gradual blurring of vision which became severe prior to his confinement and operation in September 1977 (pp. 15-16, rec.).

On the other hand, respondent insists that petitioner's ailment is not compensable because it is neither an occupational disease listed by the commission nor work-connected. "Under the Labor Code, cataract to be compensable must result from frequent and prolonged exposure to the glare of, or rays from molten glass or red hot metal" (Please see p. 3 of respondent's memorandum quoting paragraph 3 of the listing of Occupational Disease, p. 63, rec.).

Respondent further argues:

"Senile cataract, which is petitioner's ailment is not a listed occupational disease pursuant to Annex 'A' of the Rules on Employees' Compensation.

"Senile cataract, as defined, is the most common form of cataract occurring after the age of fifty (50) due to aging or degenerative changes [Adler's Textbook of Ophthalmology by Schele and Albert, 8th Edition, 1968, pp. 281-282]. It is a risk or hazard to which all persons are exposed regardless of whether they are employed or not, the same (Senile Cataract) being attributed to degenerative changes or to aging process.

"Petitioner makes an attempt to show that his illness is 'Traumatic Cataract' and, therefore, compensable by

claiming that on one occasion, a bag of cement broke and his face and eyes were covered with cement -- that the cement that got into his eyes was the cause of his cataract.

"Petitioner's posture, however, is belied by the finding of his physician that petitioner's cataract ailment is 'senile and mature' which by its terms, implies that the same is due to degenerative process" (p. 64, rec.).

The only issue presented for resolution is whether or not petitioner's illness -- cataract -- is compensable under the provisions of P.D. No. 626, as amended.

The Rules on Employees' Compensation, Annex A -- Listing of Occupational Diseases -- mentions only one kind of cataract as compensable, i.e., cataract produced by exposure to the glare of, or rays from molten or red hot metal (par. 3, Occupational Diseases, Annex "A" to Rules on Employees' Compensation which took effect on January 1, 1975). The said list is, however, not exclusive, as borne by the provisions of 167(1) of P.D. No. 442, as amended by P.D. 626 [amendment as of August 31, 1977, the date of disability retirement of petitioner], which reads: "Sickness means any illness definitely accepted as an occupational disease listed by the Commission, or any illness caused by employment subject to proof by the employee that the risk of contracting the same is increased by working conditions."

The administrative officer of the Department of Engineering of Quezon City, Mr. Paterno S. Lopez, has issued a certification (p. 13, ECC rec.) to the effect that petitioner's actual duties as construction helper are as follows:

- "(a) asphaltting of roads - 40%;
- (b) spot patching of roads - 30%;
- (c) cutting grass - 15%;
- (d) cleaning of clogged canals - 10%;
- (e) other duties - 5%."

As found by respondent Commission, petitioner's medical records reveal that his ailment of mature senile cataract, bilateral, started as blurring of vision of both eyes. This blurring of vision subsequently became progressive accompanied by occasional lacrimation, and on June 30, 1975, petitioner underwent "cataract operation O.D." at the UST Hospital under the professional care of Dr. Jose L. Duran. After about two years, on September 13, 1977, petitioner's left eye also underwent cataract operation medically known as "lens extraction, intracapsular with peripheral iridectomy, O.S." at the Jose R. Reyes Memorial Hospital under the able hands of Dr. Herbert Barrios (p. 27, rec.).

From the nature of petitioner's duties, there is no doubt that the risk of contracting cataract was increased by his working conditions. His duties as construction worker keeps him on the road seventy percent (70%) of his working time, and ninety-five percent (95%) outdoors. This must have exposed him to the sun's glare and heat, as well as to excessive dirt and dust.

The appealed decision of respondent Commission presents an etiological classification of cataract, as follows:

"x x x (1) Congenital cataract --- the most common cause of which is heredity; (2) Secondary or after-cataract [one which occurs after certain forms of cataract extractions]; (3) complicated cataract -- one caused by disease of the uveal tract, pigmentary retinal degeneration, absolute glaucoma, retinal detachment and old injuries; (4) traumatic cataract -- caused by blunt or penetrating injuries to the eye, intraocular foreign bodies, radiation and high voltage electricity; (5) toxic cataract -- brought about by certain drugs such as ergot, dinetrophenol, naphthalene, phenothiazines, and triparanol; (6) senile cataract -- -the most common form of cataract occurring after the age of fifty due to aging or degenerative changes" (p. 5 of Decision citing Adler's Textbook of

Ophthalmology by H. Schele and Albert, 8th edition, 1968, pp. 281-282; underscoring supplied [p. 30, rec.].

Lightning, electric and heat ray cataracts are explained in a medical manual, as follows:

"Lightning, electric and heat ray cataracts -- Persons struck by lightning or shocked by a high voltage electric current may develop bilateral lens opacities beginning in the posterior and anterior cortex of the lens. These opacities become visible more rapidly than those of radiation cataract. Operation is indicated by linear extraction in young individuals and combined extraction in persons over thirty-five years of age. Long continued exposure to high temperatures in the glass-blowing and iron-puddling industries may give rise to slowly progressing posterior cortical lens opacities which require the same treatment" (Charles A. Perrera, Diseases of the Eye, 1953, p. 272).

Petitioner's cataract could also be traumatic cataract caused by cement that entered his eyes when a bag of cement broke. Cement is so caustic that it can easily irritate the skin and even destroy rubber or leather.

In the case of Cerezo vs. ECC, et al. (93 SCRA 680, 684 [1979]), this Court through Mr. Justice Vicente Abad Santos upheld the claim of Alberto Cerezo whose illness -- osteoarthritis -- was likewise not listed as an occupational disease in Annex "A" of the Rules on Employees' Compensation, as amended, under the theory of increased risk.

"Petitioner's work experience as narrated above justifies the same conclusion which was reached in ECC Case No. 0571 (Fortunata Cadangog vs. GSIS, decided on May 10, 1978). In making this conclusion, We have kept in mind that the social and humane character of the law leans towards compassion and compensability. Advancing age, as in this case, may have caused or contributed to the development of the ailment but it is not a drawback for what is material and decisive is that the employment contributed even in a small degree in aggravating the ailment (see Natividad vs. Workmen's Compensation Commission, No. L-42340, August 31, 1978, 85 SCRA 115).

In the light of the foregoing, petitioner is entitled to income benefits for disability pursuant to Section 192 of Presidential Decree No. 626, as amended.

Since he was not represented by a private counsel, no award for attorney's fees is made herein.

WHEREFORE, THE DECISION APPEALED FROM IS HEREBY REVERSED AND THE RESPONDENT GOVERNMENT SERVICE INSURANCE SYSTEM IS HEREBY ORDERED

1. TO PAY HEREIN PETITIONER THE SUM OF TWELVE THOUSAND (P12,000.00) PESOS AS INCOME BENEFITS; AND
2. TO REFUND PETITIONER'S MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY PROPER RECEIPTS.

SO ORDERED.

Fernandez, Guerrero, and Plana, JJ., concur.

Teehankee, J., (Chairman), in the result.

Melencio-Herrera, J., see attached dissent.

DISSENTING OPINION

MELENCIO-HERRERA, J.:

Consistent with my dissent in other cases, my view is that the present claim is not compensable.

The ailment of petitioner - "senile cataract" - not being causally connected with his work as a construction worker in the Department of Engineering, Diliman, Quezon City, nor was the risk of contracting it aggravated by the nature of his duties, I vote to affirm the Decision of respondent Commission.

"Hot asphalt" and the "heat of the sun" can by no means be likened to the "glare of, or rays from molten glass or red hot metal", cataract due to which is considered as an occupational disease. The claim that petitioner's cataract may be considered as "traumatic cataract," and, therefore, legally compensable, because it was caused by particles of cement, which is caustic in nature, that entered his eyes when a bag of cement he was carrying broke, has not been proven. His own physician characterized his cataract as "senile and mature". Besides, particles of cement entering the eye would cause "corneal opacity" rather than lens injury or cataract development.

In other words, whether as a construction worker or not, petitioner would have developed "senile cataract", due to aging. The ailment is not labor connected.

Until "senile cataract" is included in the list of occupational diseases, I firmly believe that we should not substitute our judgment for that of respondent Commission, which acted within the purview of its jurisdiction.

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