

**SPOUSES LUCIANA DALIDA AND PEDRO DALIDA, PETITIONERS, VS.
COURT OF APPEALS, HON. JESUS P. ARLEGUI, PRESIDING JUDGE,
CFI, 8TH JUDICIAL DISTRICT, BRANCH VII, BALAYAN, BATANGAS
AND...**

G.R. No. 53983. September 30, 1982

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

This is a petition for review on certiorari of the decision of the Employees' Compensation Commission rendered on October 25, 1979 affirming the decision of the Government Service Insurance System dated March 28, 1978, which denied the claim of herein petitioner Bonifacia M. Calvero for disability benefits under Presidential Decree No. 626, as amended.

The facts as found by the Employees' Compensation Commission show that:

"x x x Bonifacia M. Calvero, appellant herein, prior to her promotion to the position of District Supervisor in the District of Dagupan, was a classroom teacher. She started her government stint on July 28, 1941 as teacher in the said district on a temporary basis. Apparently due to her satisfactory service, she was given a permanent appointment on July 1, 1947. Later, she was promoted to elementary school principal, thereafter principal II, until finally she was designated district supervisor. As such, appellant's duties were purely administrative and supervisory in nature.

"Her medical records show that her ailment of multiple sclerosis was first noted on June 12, 1971 as 'hotness and heaviness in the sole of her feet' after appellant's participation in the Independence Day Parade in Dagupan City. This 'heaviness' experienced by appellant in her lower extremities continued on and off until, on March 14, 1974, appellant's predicament was accompanied by 'difficulty of locomotion, with stiffness, numbness, tingling and continuous hot sensation from the soles up to the waist.' She was attended to by Dr. Feliciano M. Padlan for three days. On December 19, 1974, she sought admission at the Manila Medical Center on the same complaint, this time under the care of Dr. Julita Ramoso-Jalbuena. Thereafter, she was treated by one physician after another on different occasions, the doctors making separate findings and diagnoses, until appellant's case was referred to a neurologist, Dr. Luz Pulmano Mabanag, who finally confirmed appellant's ailment to be 'multiple sclerosis'. Due to this ailment, appellant was forced to retire on November 1, 1977 at age 55 (pp. 8-9, ECC rec., underscoring supplied).

Subsequent to her retirement, petitioner herein filed sometime in the latter part of January, 1978 a claim for disability benefits under Presidential Decree No. 626, as amended, with the Government Service Insurance System, attaching thereto copies of relevant document and receipt of medical and related expenses incurred up to said date to support her claim.

On March 28, 1978, the Government Service Insurance System denied the claim on the ground that her ailment, multiple sclerosis, is not an occupational disease, taking into consideration the nature of her work, stating further that:

"Multiple sclerosis is a very slowly developing degenerative disease of the central nervous system. Its essential pathology is the development in the white matter of the brain and spinal cord of multiple scattered patches called plaques, in each of which the myelin sheaths of all the individual nerve fibers have disappeared" (p. 9, ECC rec.).

Petitioner sought reconsideration of the afore-said denial in a letter dated April 12, 1978 but the same was likewise denied on December 30, 1978 by the respondent GSIS.

On March 26, 1979, petitioner brought her case on appeal to the respondent Employees' Compensation Commission which rendered a decision on October 25, 1979 sustaining the respondent GSIS order denying petitioner's claim for compensation, pertinent portions thereof read as follows:

"In this case, the ailment is not listed as an occupational disease under Annex 'A' of the Rules, hence, substantial evidence is required to show that appellant's multiple sclerosis was caused by her employment and the risk of its contraction was increased by her working conditions as District Supervisor in the Department (now Ministry) of Education and Culture.

"The records, however, are bereft of proofs that would substantially relate appellant's employment with the contraction of her ailment. To justify compensation of this case, the evidence presented must substantially establish that the nature and the working conditions of appellant's employment increased her risk of contracting her ailment. However, proofs adduced by appellant herein showed nothing more than a showing that her ailment occurred during her employment as a classroom teacher. We believe this alone will not suffice to render a favorable judgment on this case.

"The medical etiology of this ailment as stated by medical authorities does not substantially support appellant's claim. Multiple sclerosis is a chronic, slowly progressive disease of the central nervous system characterized pathologically by disseminated patches of demyelination in the brain and spinal cord, and clinically by multiple symptoms and signs and by remissions and exacerbations. The cause is unknown. The disease has been attributed variously to infection by a spirochete or a virus; toxic factors, such as myelin-splitting ferment in the blood; trauma; allergy, and vascular lesions as a result of an abnormal blood-clotting mechanism. The sexes are affected about equally. In 2/3 of cases onset of symptoms occurs between ages 20 and 40. Multiple sclerosis is rare in warm climates (Lyght, E.C: The Merck Manual of Diagnosis and Therapy: N.J.; 11th edition, pp. 1072-1073" [pp. 11 & 12, ECC rec., underscoring supplier].

The aforequoted ruling was based on the recommendation of the ECC medical officer which states that:

"Multiple sclerosis does not fall under the list of occupational disease. There is no proof to show that a direct causal relationship exist between the above disease and the employee's occupation as District Supervisor in the Department of Education and Culture. Neither was there an increased risk of contracting the above disease in the working conditions. This case is not compensable and it is therefore recommended that the decision of the GSIS denying the claim be affirmed" (p. 15, ECC rec.).

Hence, on January 7, 1980, petitioner, assisted by counsel, filed the instant petition.

There is no question that petitioner's ailment diagnosed as multiple sclerosis supervened in the course of her employment as she was presumably in good health when she entered the government service on July 28, 1941; and it was only on June 12, 1971, or after a period of almost thirty (30) years, that the symptoms of petitioner's ailment became manifest for the first time. According to herein petitioner, as a teacher, her teaching assignment also included physical education for a period of ten years. When she was promoted to principal, her task involved the administration and supervision of the school where she was assigned. When she was appointed as district supervisor, her work required her to make periodic visitations to five elementary schools under her supervision located in distant barrios within her district, and doing these visitations even during inclement weather and

sometimes even walking to her destination. In support of her claim, petitioner states:

" xx xx xx.

"We quote Prof. Helmut J. Bauer of Sweden on page 8 of his 'Manual on Multiple Sclerosis' published under the auspices of the Medical Advisory Board of the International Federation of Multiple Sclerosis Societies (IFMSS) January 1977 edition, on the diagnostic problem re M.S. '... In many if not most cases an unequivocal yes or no verdict with respect to the diagnosis of M.S. is not possible. It is not yet possible to say whether a test of diagnostic significance will ultimately evolve.' Re-quoting further from an excerpt from the American Medical Journal 'Neurology' (September 1978 issue) published by the National Multiple Sclerosis Society based in New York City, in which, among others, was stated on page 1 of petitioner's Annex 'B' as attached in her petition for review '.... There is one undeniable fact which medical science agrees that M.S. to date remains a mystery disease; that its cause and cure has so far eluded medical science; that throughout the years, many theories about its cause were advanced: a constitutional peculiarity or congenital predisposition, heredity, injury, exposure to heat or cold [underscoring ours], a spirochete or a virus, toxic, vitamin deficiencies, allergy, spasm of blood vessels, even psychological factors. None of these has been proved; nor have scientists who have turned from the pathology of M.S. to its epidemiology -- who gets it, when, where, how and why, been any more successful in deciphering the many clues turned up since 1868.'

"Elaborating further on the question of compensability for patients with multiple sclerosis may we again quote from Prof. Bauer's 'Manual on Multiple Sclerosis' on pages 75 and 76 thereof: ' ... The question of compensation for patients with MS arises especially due to the fact that persons subjected to extreme conditions of physical and emotional stress, injuries, deprivation, exposure to climatic conditions, over-fatigue and other strain becomes ill with manifest MS. The evident time-relationship between such exogenic influences and the manifestation of a bout or acute exacerbation was considered indicative of a causal relationship, although this could not be proved in view of the fact that the cause of MS is still undetermined or unknown (underscoring ours). With respect to compensation, it should be remembered, however, that absolute proof is not required; a reasonable degree of probability is sufficient for the recommendation of compensation. The question of compensation remains an enigma as long as the etiology and pathogenesis of MS is not definitely clarified. The system of compensation in the various countries - - as in many other diseases - - present problems generated by and dependent on the socio-political background, especially governmental policies on labor.' x x x" [pp. 4 & 5 Petitioner's Memorandum, pp. 121-122, rec., underscoring supplied].

It is indubitable that by the very nature of her work, she was easily subjected to physical, mental and emotional strains, not to mention her occasional exposure to the natural element as rain, dust, cold and heat of the sun, especially during her visitations of five elementary schools under her jurisdiction as district school supervisor, thus making her susceptible to contracting her ailment.

And as noted in the decision of the Employees' Compensation Commission:

"x x x Multiple sclerosis is a chronic, slowly progressive disease of the central nervous system characterized pathologically by disseminated patches of demyelination in the brain and spinal cord, and clinically by multiple symptoms and signs and by remissions and exacerbations. The cause is unknown. The disease has been attributed variously to infection by a spirochete or a virus; toxic factors, such as myelin-splitting ferment in the blood; trauma; allergy; and vascular lesions as a result of an abnormal blood-clotting mechanism. The sexes are affected about equally. In 2/3 of cases onset of symptoms occurs between age 20 and 40. Multiple sclerosis is rare in warm climates (Lyght, C.E.: The Merck Manual of Diagnosis and Therapy; N.J.; 11th edition, pp. 1072-1073)" [p. 12, ECC rec., underscoring supplied].

Indeed, from the time the symptoms of petitioner's ailment appeared for the first time on June 12, 1971, as "hotness and heaviness in the sole of her feet", her ailment slowly progressed because on March 14, 1974 she complained of "difficulty of locomotion, with stiffness, numbness, tingling and continuous hot sensation from the

soles up to waist" when examined by Dr. Feliciano M. Padlan for about three days. Then on December 19, 1974, she was confined at the Manila Medical Center for the same complaints where she was treated for "spinal cord lesion with cortico; spinal and dorsal and column involvement by Dr. Julita R. Jalbuena. And because of the progressive development of her ailment, she became unable to walk on or about August 5, 1977, for which reason she had to retire on November 1, 1977 at the age of 55, ten years short of the compulsory retirement age of 65. With the approval of her optional retirement, the question as to petitioner's disability is thus foreclosed. Under Memorandum Circular No. 133 of October 19, 1967 issued by the Office of the President, optional retirement may be allowed before reaching the compulsory age of retirement only upon proof that the employee is already physically incapacitated to render sound and efficient service (*Meñez vs. ECC*, et al., 97 SCRA 87, 97 [1980]; *De los Angeles vs. ECC*, et al., 94 SCRA 308, 312 [1979]; *Faicol vs. WCC*, et al., 93 SCRA 811, 818 [1979]; *Cañonero vs. WCC*, 81 SCRA 712, 720 [1978]; *Romero vs. WCC*, 77 SCRA 482, 490 [1977].

Moreover, even respondent GSIS itself admitted that "petitioner's ailment was aggravated by the employment" (pp. 7 and 9, Comment of Respondent GSIS; pp. 49 and 51, rec.).

The foregoing fact undoubtedly show that the ailment of petitioner was contracted and aggravated in the course of her employment with the Ministry of Education and Culture.

While it is true that the petitioner filed the instant claim in the latter part of January, 1978, after the effectivity of the New Labor Code, the cause of action in the case at bar accrued as early as June 12, 1971 when petitioner contracted her ailment and which slowly progressed until she became unable to walk on or about August 5, 1977. Hence, the cause of action accrued before the effectivity of the New Labor Code. Time and again, this Court has declared that the governing law in the prosecution of a cause of action which accrued prior to the effectivity of a new law on the same subject matter, shall be the law enforced at the time of the accrual of said cause of action. Since the Workmen's Compensation Act was then in full force and effect, then it should govern in the case at bar (*Lao vs. ECC*, et al., 97 SCRA 780, 789 [1980]; *Balatero vs. ECC*, et al., 95 SCRA 608, 612 [1980]; *De los Angeles vs. ECC*, et al., 94 SCRA 308, 312 [1979]; *Villones vs. ECC*, et al., 92 SCRA 320, 327 [1979]; *Corales vs. ECC*, et al., 88 SCRA 547 [1979].

Under the Workmen's Compensation Law, when 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 employer assumes, by force of this presumption, the burden of establishing the contrary by substantial evidence. It does not appear that the employer, Ministry of Education and Culture, adduced any evidence to rebut the presumption that the ailment of the petitioner was compensable; hence, the presumption of compensability becomes thereby conclusive (*Lacson vs. The Secretary of Labor*, et al., 99 SCRA 225, 233 [1980] citing several cases).

Furthermore, the fact that the cause of multiple sclerosis is unknown, as admitted by respondent ECC and GSIS, is of no moment and will not impair the grant of disability benefit to herein petitioner because even when the cause of the ailment is unknown, as long as it occurs during employment, the presumption of compensability subsists. Thus, WE held that "the exact cause of the ailment suffered by a claimant is not significant, and the possibility that factors other than the employment, such as advancing age, may have caused or contributed to the development of the ailment, is not a drawback; for what is material and decisive is that the employment contributed even in a small degree in aggravating the ailment" (*Balatero vs. ECC*, et al., 95 SCRA 608, 614 [1980] citing several cases, underscoring supplied). In the recent case of *Evangelista vs. ECC*, et al., (G.R. No. L-46661, January 18, 1982) citing *G.B. Francisco, Inc. vs. WCC* [87 SCRA 22, 30 (1978)], this Court said that "(U) nder Section 44 of the Workmen's Compensation Act, which covers the present situation, in the absence of substantial evidence to the contrary it is presumed that when the illness supervened during the employment, the claim is compensable. An employee 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 the ailment is immaterial; what is important is that it occurred or was aggravated in the course of employment" (underscoring supplied).

Moreover, the opinion of the ECC Medical Officer that there was no causal connection between the ailment, multiple sclerosis, and claimant's employment nor was the risk of contracting it increased by the working conditions, cannot overthrow the presumption of compensability established by law. In *Lao vs. ECC, et al.* (97 SCRA 780, 791 [1980]), WE ruled that "x x x where the cause of the illness of the claimant or of the death of the deceased is not definitely determinable, the medical report of findings presented by respondent employer [the ECC or GSIS] does not or cannot constitute substantial evidence to prevail over the presumption of compensability and aggravation and thus defeat the compensability of the claim".

Significantly, even Republic Act No. 4670, otherwise known as the Magna Carta for Public School Teachers, mandates in one of its provisions 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" (underscoring supplied).

Respondent GSIS argued that the ECC and the GSIS have no jurisdiction over the instant claim on the assumption that petitioner's cause of action accrued in 1971, hence, under the old Workmen's Compensation Law, and should be referred to the Workmen's Appeal and Review Staff at the Ministry of Labor. This contention is without merit. It has been repeatedly held that:

"x x x the fact that the claim was filed with the GSIS instead of with the appropriate regional office of the Department of Labor does not militate against the claim. For the filing of a claim in an office that has no authority to act on it can be treated as having been filed with the appropriate agency as long as it is filed within the period allowed by law" (*Balatero vs. ECC, et al.*, supra; *Corales vs. ECC, et al.*, supra; *Pobre vs. WCC*, 77 SCRA 315, 320 [1977]).

It must be noted that the claim for disability benefit of herein petitioner was filed with the GSIS in January, 1978. Her cause of action accrued as early as June 12, 1971 when she first experienced the symptoms of her ailment. Hence, it is a vested right falling under the protective mantle of the Workmen's Compensation Act. Well-settled is the rule that 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 (*Corales vs. ECC, et al.*, supra). Clearly, the instant claim was filed within the prescriptive period.

Relatedly, respondent ECC raised the issue regarding the legal implications of the applicability of the afore-said ten (10) year prescriptive period. This question, however, has been resolved in *Corales vs. ECC, et al.*, G.R. No. L-44063 and related cases, promulgated on March 15, 1982, thus:

"With respect to the second and third point of clarification of the respondent ECC on the legal implications of the application by this Honorable Court of the ten (10) year prescriptive period to the claim filed in the present case (*Corales*) on claims filed under similar circumstances in relation to the provision in the New Labor Code on prescription of actions whereby all workmen's compensation claims accruing prior to January 1, 1975 are required to be filed not later than March 31, 1975, otherwise they shall be forever barred and the legal basis for the Employees' Compensation Commission to assume jurisdiction over and apply the provisions of the repealed Workmen's Compensation Act to compensation cases involving causes of action accruing prior to January 1, 1975, the subject point of clarification sought for are clear from OUR pronouncement that the vested rights of claimants, whose causes of action accrued before the regime of the new compensation scheme, over the more favorable and compassionate provisions of the previous compensation statute, including the right to file their claims during the ten-year prescriptive period, should be recognized and respected. Consequently, respondent GSIS and ECC have juris-diction over claims the causes of action of which arose

during the effectivity of the old workmen's compensation law which is more sympathetic to the plight of the working man as it is more expressive of the social justice guarantee of the supreme law of the land.

" xx xx xx.

Moreover, in the same case, this Court said:

" xx xx xx.

"x x x A vested right rooted from a social legislation enacted pursuant to the social justice provision of the Constitution may not be rendered worthless by a literal construction of the pertinent provisions of the New Labor Code, which would thus inflict upon the petitioner and those equally situated the harshness of the arbitrary and constricted time limitation set forth in its Article 292.

"The President-Prime Minister, in promulgating the New Labor Code, did not deliberately intend to inflict such injustice on claimant employees and thereby deny them the social justice guaranteed by the Constitution he swore to uphold and defend.

"As long as this Supreme Tribunal exists and functions as the vital instrument of social justice, the aforesaid situation will never be countenanced."

It is further contended by respondent GSIS that the employer (Ministry of Education and Culture), not the State Insurance Fund, should be held liable for the payment of the disability benefit of herein petitioner, and that if the GSIS is made to pay petitioner's claim, it should have a right of reimbursement against petitioner's employer. From the aforesaid Corales and related cases, WE have already recognized the right of the GSIS to seek reimbursement from the employers concerned for any amount that it may pay to the claimants, thus:

" xx xx xx.

"As already noted, the stand of the respondent ECC is that the respective employers of the petitioners are the ones liable to pay the awarded benefits in these compensation claims; respondent GSIS, however, is willing to pay the awarded compensation benefits on the condition that its right of reimbursement from the aforesaid employers of petitioners is recognized. Only petitioner Felixberto Villones does not entirely agree with the concession offered by the respondent GSIS.

"Respondent ECC is silent on the said offer of respondent GSIS.

"Under the New Labor Code, it is the ECC which is empowered to initiate, rationalize and coordinate the policies of the employees' compensation program (Article 176[a]), while the general conduct of operations and management functions of the GSIS is vested in its chief executive officer, who shall be responsible for carrying out the policies of the Commission [Art. 176(c)]. Under Article 177, the Commission approves rules and regulations governing the processing of claims and other settlement of disputes arising therefrom as prescribed by the System (paragraph c); and may perform such other act as it may deem appropriate for the attainment of the purposes of the Commission and proper enforcement of the provisions of this Title (paragraph L). And Article 178 provides that all revenues collected by the System under this Title shall be deposited, invested, administered and disbursed in the same manner and under the same conditions, requirements and safeguards as provided by Republic Act Numbered Eleven Hundred Sixty-One as amended, with regard to such other funds as are thereunder being paid to or collected by the SSS and GSIS, respectively: Provided, That the Commission, SSS and GSIS may disburse each year not more than twelve percent (12%) of the contributions and investment earnings collected for operational expenses, including occupational health and safety programs, incidental to the carrying out of this Title.

"Respondent ECC's silence on the posture of respondent GSIS could be construed as acquiescence thereto.

"It must be noted that GSIS seeks to pursue its claims for reimbursement against the employers of petitioners before the respondent ECC which, according to respondent GSIS, may take cognizance thereof by ordering the respective employers of the petitioners to reimburse whatever payments may be made by the respondent GSIS to the petitioners, but only after the employers are afforded a hearing in which they may plead any defense to defeat the right of reimbursement of respondent GSIS.

"Under the premises, respondent GSIS' offered solution merits OUR approval. The reimbursement aspect will not be tainted with arbitrariness as due process is assured by affording the respective employers of petitioners in these cases opportunity to be heard" (underscoring supplied).

There is likewise no merit in the assertion of respondent GSIS that petitioner has no cause of action against it because its decision is not under judicial review. WE pointed out in *Lao vs. ECC, et al.* (97 SCRA 780, 793 [1980]), and reiterated in *Cabañero vs. ECC, et al.* (G.R. No. 50255, January 30, 1982) that:

"x x x, this Court is of the opinion that respondent System, as the ultimate implementing agency of the ECC's decision, is a proper party in this case. The fact that this Court chose to require the respondent GSIS to comment is an indication that it is a necessary party. It must be noted that the law and the rules refer to the said System in all aspect of employee compensation, including enforcement of decisions (Article 182 of Implementing Rules)."

Finally, it must be stressed that in case of doubt in the implementation and interpretation of the provisions of the Labor Code, including its implementing rules and regulations, the same shall be resolved in favor of the laborer (Article 4, New Labor Code, Art. 1702, New Civil Code).

WHEREFORE, THE DECISION OF THE EMPLOYEES' COMPENSATION COMMISSION IS HEREBY SET ASIDE AND THE GOVERNMENT SERVICE INSURANCE SYSTEM IS HEREBY ORDERED

1. TO PAY PETITIONER THE SUM OF SIX THOUSAND (P6 ,000.00) PESOS AS DISABILITY COMPENSATION BENEFITS;
2. TO REIMBURSE PETITIONER HER MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY PROPER RECEIPTS;
3. TO FURNISH PETITIONER REHABILITATION SERVICES INCLUDING MEDICAL, SURGICAL OR HOSPITAL TREATMENT AS WELL AS APPLIANCES TO HELP HER BECOME PHYSICALLY INDEPENDENT; AND
4. TO PAY PETITIONER A SUM EQUIVALENT TO FIVE PERCENT (5%) OF THE AWARD AS ATTORNEY'S FEES.

SO ORDERED.

Plana, Vasquez, Relova, and Gutierrez, JJ., concur.

Teehankee, J., (Chairman), concurs, subject to the same qualification made by Mme. Justice Herrera and to the other considerations stated in my separate opinions in *Biscarra vs. Republic and WCC*, 95 SCRA 248 (1980) and *Basa vs. WCC*, 103 SCRA 542 (1981).

Melencio-Herrera, J., concurs, with the reservation that under the Workmen's Compensation Act, lifelong hospital, medical, and surgical services have not been envisioned.

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