

RICARDO CENIZA, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND THE GOVERNMENT SERVICE INSURANCE SYSTEM (MINISTRY OF EDUCATION & CULTURE), RESPONDENTS.

G.R. No. 55645. November 02, 1982

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petition for review on certiorari of the decision dated October 30, 1980 of the Employees' Compensation Commission in ECC Case No. 1434, affirming the decision of respondent GSIS which denied petitioner's claim for death benefits under P.D. No. 626, as amended, for the death of his wife, Perpetua Ceniza.

On September 12, 1947, the deceased entered government service as a public school teacher of Tagbas Community School, District of Albura South, Division of Leyte, under the Ministry of Education and Culture (p. 28, ECC rec.). In the course of her employment, she contracted chronic pyelonephritis and uremia for which she was treated and confined in December, 1977 at a hospital in Baybay, Leyte, then at the OSPA Hospital in Ormoc City, and the Cebu Doctors' Hospital, Cebu City (p. 26, ECC rec.). She succumbed to her ailment on January 30, 1979 at the age of 49 (p. 14, ECC rec.).

On November 14, 1979, her widowed husband, petitioner herein, filed with respondent system a claim for compensation benefits under P.D. 626, as amended, on account of her death (p. 34, ECC rec.). His claim was disapproved on December 10, 1979 on the ground that uremia, the ailment of the deceased, is principally traceable to factors which are definitely not work-connected (p. 35, ECC rec.). This was predicated on the findings and recommendation of the Medical Evaluation and Underwriting Group, Disability Medical Evaluation Group of the respondent System, thus:

"Uremia -- A toxic clinical condition associated with renal insufficiency and retention in the blood of nitrogenous urinary waste products (azotemia). Kidney insufficiency is due to nephritis, bilateral pyelonephritis, polycystic kidney disease, complete ureteral obstruction, bilateral cortical necrosis (generally associated with debilitating diseases such as PTB or puerperium), congestive heart failure, extensive burns, poisons or sulfonamide poisoning.

"Azotemia may be caused also by reduced renal flow leading to nitrogen retention as in dehydration or shock. These infectious processes produce damage to kidneys precipitating uremia.

"From the above factors causing uremia, the ailment of the deceased, are principally traceable to factors which are definitely not work-connected, hence, the above claim is therefore recommended for disapproval" (pp. 35-36, ECC rec.).

On December 27, 1977, the claimant appealed to the respondent Commission (p. 38, ECC rec.), which rendered its decision on October 30, 1980 (pp. 41-46, ECC rec.), affirming the disapproval of the claim by respondent

System and dismissing the instant case. Such action is based on the following ground:

"Definitely, decedent's ailments of uremia and chronic pyelo-nephritis are not occupational diseases considering the decedent's employment. It is therefore unjustified to attribute the subject ailments to the decedent's conditions of work as teacher considering that the development of uremia and chronic pyelonephritis is traceable to factors unrelated to employment. We also observed that even the deceased's attending physician at the OSPA-Farmer's Medical Center in Ormoc City, Dr. Anselmo P. Malazarte, could not attribute the decedent's ailments to her employment. Thus, the doctor certified that subject ailments were not caused by his patient's duties. A glimpse of the certification executed by Dr. Ophelia Completo-Buot of the Cebu Doctors' Hospital also failed to buttress appellant's claim. Thus, when confronted with the query, 'was the injury or illness directly caused by the employee's duties' (Attending Physician's Certification, Part III, GSIS Form), Dr. Buot answered in the negative" (p. 43, ECC rec.).

Hence, this petition.

The employment record of the deceased teacher shows that she was in good health and very young (about 17 years old) when she first joined the public service, and that even during the many years thereafter, she was still in good health and fine condition. After thirty (30) years of devoted, faithful and continuous service to the government, she was found to have chronic pyelonephritis and uremia which caused her death (p. 52, rec.).

Respondent Commission, on the other hand, maintains that the ailments of the decedent are not listed as occupational diseases in the amended rules of employees compensation, New Labor Code, and that petitioner has not proven that such ailments are work-connected (p. 67, rec.). Thus, the claim cannot be compensable under the New Labor Code.

Dr. Mercia C. Abrenica, Medical Officer of the respondent Commission describes the fatal illnesses of the deceased as follows:

"Findings:

"Chronic pyelonephritis is that variety of chronic interstitial nephritis resulting from bacterial infection of the kidney. The bacteria may reach the kidney by way of the blood stream or by way of the ureter (ascending infection). Coliform bacteria are responsible for most cases although other types of bacilli are also found.

"Reference: Textbook of Medicine by Cecil & Loeb, 10th edition, p. 1076.

"The infection may last for months or years. During this period, acute recurrences of the infection may take place. With each attempt of the kidney to heal, more scar tissue forms, eventually leading to impairment of renal function. The symptoms are those of recurrent infection and pyemia.

"The process of recurrent exacerbations of infection, followed by recession and the laying down of scar tissues, may eventually produce a small contracted kidney referred to as pyelonephritic atrophy. Renal function may be so impaired by the large amount of scar tissue present that renal failure ensues. The condition may be unilateral or bilateral.

"Reference: Textbook of Surgery, 3rd Edition, edited by Moseley, pp. 865-867.

"Uremia is a term applied to the clinical condition resulting from severe reduction in the excretory function of both kidneys. The commonest cause is kidney disease with extensive destruction of renal parenchyma.

"Reference: Textbook of Medicine by Cecil & Loeb, 10th edition, p. 1055.

"Hydronephrosis is dilatation of the pelvis and calyces of the kidney with pressure atrophy of its substance. Obstruction of the urinary tract causes the greatest degree of hydronephrosis when it is partial, gradual or intermittent. The obstruction may be anywhere in the urinary tract. The common causes of acquired

obstruction within the urinary tract are stone, stricture, spasm, foreign body and tumor.

"Reference: Textbook of Medicine by Cecil & Loeb, p. 1074.

"Recommendation:

"The cause of death in the instant case is uremia due to chronic pyelo-nephritis.

"From the above-mentioned discussion of the nature and cause of the disease there are no indications whatsoever that same could be causally traced to the former employment and working conditions of the deceased as elementary school teacher; neither were there increased risks of contracting same in her working conditions.

"The decision, therefore, of the GSIS denying the instant claim should be affirmed" (pp. 39-40, ECC rec.).

According to the above authorities, the infection may last for months or years (please see paragraph 2 of the above-quoted medical discussion). Thus, it will be noted that the medical certifications of the various physicians who attended the deceased during the advanced stages of her illnesses indicate that she was already afflicted as early as 1970 or 1971. Her medical history may be traced from the various medical certificates, as follows:

Certifying Physician --

a) Dr. Ophelia Completo Buot -- Cebu Doctors' Hospital:

"1970 -- Hospitalized Miller Hospital for Urinary Tract In-fec-tion" (p. 26, ECC rec.);

b) Dr. Manuel J. Tornilla -- Medical Director of the H.W. Miller Hos-pital & Sanitarium:

"Confined for similar condi-tion (pyelonephritis) on December 23-27, 1970" (p. 17, ECC rec.);

c) Dr. Anselmo Malazarte -- Ospa--Farmers' Medical Center, Ormoc City:

"Has been diagnosed and managed as a case of urinary tract infection since 1971" (p. 23, ECC rec.).

d) Dr. Ophelia C. Buot:

"December, 1977 -- hospitalized in Baybay for fever, chills, vomitting, weakness. Transferred to Ospa Hosp. semi-conscious and treated for chronic kidney failure. Transferred to Cebu Doctors' Hospital Jan. 11, 1978 for further treatment.

"Final Diagnosis:

"1st Admission (January 11: February 4, 1978): [1] acute or chronic uremia with high output renal failure; [2] non-functioning atrophic R kidney; [3] left ure-teral stone with L Hydronephrosis.

"2nd Admission (May 11, 1978 - May 15, 1978): /1/ chronic uremia due to chronic obstructive Uropathy with chronic Pyelonephritis due to L ureteral stone and non-functioning R kidney" (p. 26, ECC rec.).

e) Dr. Anselmo R. Malazarte:

"December, 1977 -- Hospitalized in Baybay for fever, chills and vomitting. Was transferred to Ospa Hosp. on December 27, 1977 and managed as /1/ azotemia due to chronic pyelonephritis -- transferred to Cebu Doctors' Hospital Dec. 3, 1978. Re-admitted to Ospa Hospital and managed as chronic pyelonephritis and hyperuricemia. Jan. 17, 1979 -- -Re-admitted to Ospa Hospital and managed as a case of uremia sec. to chronic pyelonephritis.

"Admission Diagnosis: Azotemia due to chronic pyelonephritis.

"Final Diagnosis: Uremia sec. to Chronic Pyelonephritis" (p. 23, ECC rec.).

f) Dr. Manuel Tornilla:

"September 30 - October 10, 1978 -- -Chronic Azotemia with severe anemia due to renal insufficiency (pyelo-nephritis, bilateral) Left ureteral calculus.

"November 10-11, 1978 -- Chronic Renal Failure with Azotemia, severe anemia and renal Hypertension secon-dary to Chronic Pyelonephritis" (p. 18, ECC rec.).

g) Gregorio A. Yrastorza -- Ormoc City:

"Death (on January 30, 1979) due to uremia due to Chronic Pyelonephritis" (Death Certificate, p. 14, ECC rec.).

From the foregoing medical history, it is obvious that decedent's illness fdid not have its onset in 1977. In fact, when she was brought to the hospital in 1977, her illness was already at the advanced stages.

Urinary tract infection and pyelonephritis are related diseases. They belong to the same group under the general classification "Diseases of the Kidneys and Urinary Tract," and discussed under the sub-group "Urinary Tract Infection, Pyelonephritis, and Related Conditions" (please see Harrison's Principles of Internal Medicine, Eighth Edition [1978], pp. 1419 and 1460-1467).

"The interaction between the tissues and the urine itself is important in the pathogenesis of urinary tract infection, and it seems clear that infection begin-ning in one can spread to the other. The pathogenesis of chronic non-obstructive pyelonephritis is not well understood. Chronic pye-lonephritis may be an indolent process consisting of many isolated microabscesses some of them within single tubules. Here bacterial growth may be slow, phagocytosis inefficient, and anti-bacterial drugs incapable of acting optimally. Yet such areas may, from time to time, discharge their contents into the urinary passages, affording opportunity for rapid bacterial multiplication and spread to other part of the system. xx x" (p. 1462, supra).

Moreover, medical authorities indicate that pyelonephritis may last for years.

"Most persons recover completely and permanently after an attack of acute pyelonephritis, but in a considerable proportion of cases there are repeated attacks, at irregular intervals, sometimes over a period of many years; between these attacks the patient may be symptom free. Bacteriuria and pyuria are often demonstrable during these symptom free intervals. Infection in any part of the urinary tract is capable of subclinical continuation for months or years, during which a patient may have no symptoms and may live an apparently normal life, even though urine cultures provide continuing evidence of active in-fection (p. 1463, supra , Italics supplied)."

Considered in the light of the foregoing medical discussions, the medical history of the deceased indubitably show that her illness had its inception in 1970 and had gradually and imperceptively progressed to its serious stage in 1977, thence to its fatal stage in 1979. Consequently, her cause of action accrued as early as 1970, during which period the Work-men's Compensation Act was still in effect. This being so, the provisions of the New Labor Code as amended, which took effect on January 1, 1977, are not applicable in this case.

As We have consistently held in a long line of cases, "the governing law in the prosecution of a 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 said cause of action. xx x Rights accrued and vested while a statute was in force ordinarily survive its repeal" (Barrameda vs. ECC, 106 SCRA 621; Cenabre vs. ECC, 97 SCRA 338; Balatero vs. ECC, et al., 95 SCRA 608; Delos Angeles vs. ECC, et al., 94 SCRA 308; Villones vs. ECC, et al., 92 SCRA 320; Corales vs. ECC, et al., 88 SCRA 547).

Corollarily, 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 service record of the decedent (p. 30, ECC rec.) shows that she was first appointed as an emergency teacher on September 12, 1947, a position she held until June 30, 1949. Then from August 22, 1952, she had served continuously until her fatal illness overtook her in 1979. During the almost thirty years of her faithful and active service, the last four of which was as head of a 4-teacher community school, she had no recorded sick leave earlier than October 24, 1970. Thus it could be deduced that she was in good health for the first twenty years of her service.

It is undisputed that the decedent's illness supervened in the course of her employment as teacher in the Department, now Ministry of Education and Culture. Also undisputed is the recurrence of said ailment in 1977, 1978 and 1979 at which time it had become so gravely serious -- and fatal. Such incontrovertible facts call for the application of the rebuttable presumption that said illness arose out of or was at least aggravated by the nature of the decedent's employment; hence, compensable. Consequently, the employer assumes, by force of this presumption, 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).

The point raised by respondent Commission that even the attending physicians of the deceased, Drs. Malazarte and Buot certified that her illness was not directly caused by the performance of her duties, is of no consequence. As We have consistently ruled, the mere opinion of doctors cannot prevail over the presumption established by law (*LaO vs. ECC*, 97 SCRA 780; *Maria Cristina Fertilizer Corp. vs. WCC*, 60 SCRA 228; *Abaña vs. Quisumbing*, 22 SCRA 1278).

It may be added that teachers have a tendency to sit for hours on end, and to put off or postpone emptying their bladders when it interferes with their teaching hours or preparation of lesson plans. From human experience, prolonged sitting down and putting off urination result in stagnation of the urine. This encourages the growth of bacteria in the urine, and affects the delicate balance between bacterial multiplication rates and the host defense mechanisms. Delayed excretion may permit the retention and survival of micro-organisms which multiply rapidly, and infect the urinary tract. These are predisposing factors to pyelonephritis and uremia. Thus, while We may concede that these illnesses are not directly caused by the nature of the duties of a teacher, the risk of contracting the same is certainly aggravated by their working habits necessitated by demands of job efficiency.

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 deceased had served the government for about 30 years. Her meager salary as a teacher and the corresponding inability to obtain needed nourishment, as well as her assignment in a 4-teacher community school which certainly could not be expected to have A-1 facilities, must have adversely affected her physical condition towards the fatal illness that claimed her life at the early age of 49.

This is amplified in the discussion of Urinary Tract Infection, Pyelonephritis and Related Conditions, wherein medical authorities Lawrence R. Treedman and Franklin H. Epstein point the following:

"Associated Conditions: Age and Sex. Urinary Infections are found in about 1 to 4 percent of females from childhood to the child-bearing age. The prevalence of infection then rises, with the greatest increment occurring at about age sixty, beyond which age infections are detected in 2 to 10 percent of women. In men, on the other hand, urinary infections are rare below age fifty, and even in older age groups are considerably less common than in women. There is evidence that race and socio-economic status also influence the rates of infection" (p. 1460, Harri-son's Principles of Internal Medi-cine, 8th Ed., 1978, underscoring supplied).

One other thing that We should not overlook is the provision of Republic Act No. 4670, otherwise known as the Magna Carta for Public School Teachers, thus --

"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 compen-sable occupational diseases in accordance with existing laws."

WHEREFORE, THE DECISION DATED OCTOBER 30, 1980 OF RESPONDENT EMPLOYEES COMPENSATION COMMISSION IS HEREBY SET ASIDE AND RESPONDENT GOVERNMENT SERVICE INSURANCE SYSTEM IS HEREBY ORDERED

1. TO PAY PETITIONER THE SUM OF SIX THOUSAND PESOS (P6,000.00) AS DEATH BENEFITS;
2. TO REIMBURSE THE DECEDENT'S MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY RECEIPTS;
3. TO PAY PETITIONER BURIAL EXPENSES IN THE AMOUNT OF TWO HUNDRED PESOS (P200.00); AND
4. TO PAY PETITIONER SIX HUNDRED PESOS (P600.00) AS ATTORNEY'S FEES.

SO ORDERED.

Concepcion, Jr., Guerrero, Abad Santos, De Castro, and Escolin, JJ., concur.

Aquino, J., no part.

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