

**ESTRELLA A. VDA. DE SILENCIO, FOR HERSELF AND FOR AND IN
BEHALF OF THE MINORS, NAMELY: SUSAN, JOVENCIO, JR., ET AL.,
ALL SURNAMED SILENCIO, PETITIONER, VS. THE EMPLOYEES
COMPENS...**

G.R. No. 58303. July 31, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

Appeal from the decisions of the Government Service Insurance System and Employees Compensation Commission denying the claim for death compensation benefits of herein petitioner on the ground that "the cause of death of the late Jovencio A. Silencio was attributed to cardio-respiratory arrest due to lymphosarcoma with multiple metastasis which was not shown to be work-oriented and, therefore, not compensable under P.D. No. 626, as amended."

Jovencio A. Silencio was an enlisted man of the Armed Forces of the Philippines (Philippine Army) starting as a private in February 1950 at the age of 24. He was a master sergeant at the time of his death on May 27, 1980, after several promotions in the course of his continued service. In 1950, he married Estrella Silencio with whom he had six (6) children, namely: Jovencio, Jr., Susan, Rolando, Romel, Nora and Maritess, all surnamed Silencio.

When he was in the service, Sgt. Silencio was assigned as driver of his military unit from June 1977 to August 1979, aside from his regular duties as a soldier. Later, he felt bodily pains and was confined at the AFP Medical Center where he was treated of an "on and off productive cough with hemoptysis", and a mass of flesh was also noted over his "left scapular area". Further examination shows that he was suffering from pulmonary tuberculosis and he was given anti-TB therapy. Later, because of his frequent coughing and complaints of pain on his left upper extremity, it was found that Silencio was afflicted with an ailment called "lymphosarcoma" with multiple metastasis. Despite medication and proper medical care, the condition of Silencio turned for the worst and, on May 27, 1980, he died.

His death was attributed to cardio-respiratory arrest due to lymphosarcoma with multiple metastasis.

His widow, herein petitioner Estrella A. Vda. de Silencio filed a claim for death compensation benefits under PD No. 626, as amended, with respondent Government Service Insurance System (GSIS). Respondent GSIS denied the claim on the ground that "lymphosarcoma" is not an occupational disease and the decedent's risk of contracting the illness was not increased by his working condition as a soldier. Likewise, respondent GSIS denied petitioner's motion for reconsideration.

Appeal to respondent Employees Compensation Commission was dismissed and the decision of the GSIS was affirmed.

The issue in this case is whether or not the death of Jovencio A. Silencio due to lymphosarcoma with multiple metastasis is compensable under PD No. 626, as amended.

We find no merit in the petition. The late Jovencio A. Silencio died of "cardio-respiratory arrest due to lymphosarcoma with multiple metastasis", not of pulmonary tuberculosis. While it is true that earlier he was treated at the military hospital of pulmonary tuberculosis he recovered from said ailment after he had been given anti-TB therapy. In his death certificate and/or in his medical records it was not shown that pulmonary tuberculosis has something to do with or contributed to his death.

Under paragraph 1 of PD No. 626, as amended, a compensable sickness or disease is defined, as follows:

"(1) 'Sickness' means any illness definitely accepted as an occupational disease listed by the Commission, or any illness caused by employment, subject to proof that the risk of contracting the same is increased by the working conditions" (*Italics ours for emphasis*).

And, Section 1 (b), Rule III of the Rules of Employees Compensation Commission, provides:

"Sec. 1 (b). For the sickness and the resulting disability or death to be compensable, the sick-ness must be the result of an occupational disease listed under Annex 'A' of these Rules with the conditions set therein satisfied; otherwise, the employee must prove that the risk of contracting the disease is increased by the working conditions" (*Emphasis through Italics ours*).

It is clear that the illnesses or the diseases which are not listed as compensable diseases by the Employees Compensation Commission, are, nevertheless, recoverable provided that the employee submits proof that the risk of contracting the same is increased by his working conditions. In the case at bar, petitioner failed to present evidence to sustain her claim that decedent's working conditions resulted, directly or indirectly, in getting the ailment which finally led to his death.

Thus, respondents are justified in rejecting the claim of petitioner because lymphosarcoma with multiple metastasis is not an occupational disease since it does not usually and directly result from the occupation or profession of a soldier. In short, it is not service-connected; the risk of contracting said disease was not increased by the working conditions concomitant with the decedent's' employment.

ACCORDINGLY, the petition is DISMISSED and the decisions of the Government Service Insurance System and the Employees Compensation Commission denying the claim are affirmed. No costs. SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Gutierrez, Jr., and De La Fuente, JJ., concur.

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