

JESUS CHAVEZ, PETITIONER, VS. THE EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (BUREAU OF POSTS), RESPONDENTS.

G.R. No. 61931. March 31, 1987

Ponente: PARAS, J.

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PARAS, J.:

This is a Petition to Review by Certiorari the decision of the Employees' Compensation Commission affirming the findings of the Government Service Insurance System that petitioner's ailments are not work-connected and hence not compensable as required by law.

The undisputed facts of the case are briefly summarized by respondent Government Service Insurance System in its Comment as follows:

"Petitioner was born on February 22, 1920 in Baleno, Masbate. Effective January 1, 1981, after 24.36347 years of creditable government service and at the age of 60 years, 10 months and 8 days, he retired as Postmaster I, Bureau of Posts, Region V, with station at Baleno, Masbate. His service in the government, which started on July 5, 1949 as a public school teacher and later on as a municipal councilor, was interrupted twice as reflected in his service record, first from July 1, 1952 up to December 31, 1955 and second, from June 16, 1956 up to January 31, 1960.

"On December 4, 1980, petitioner Chavez applied for retirement benefits under the provisions of PD No. 1146. He has already received a gross 5-year lump sum annuity of P24,598.80 and will receive a monthly pension of P409.98 starting in 1986.

"Petitioner Chavez alleges that he first complained of frequent urination and irregular bowel movement sometime in October 1972. In 1974, he underwent surgery for removal of renal stones. In 1976, he experienced hypochondriac pains because of kidney stones. And, in July 1982, or one year and a half (1 1/2) after his retirement, he submitted himself to surgery for removal of a right urethral stone.

"Thereafter, on January 4, 1982, he filed the present claim. On February 10, 1982, the GSIS denied it on the ground that petitioner's ailments are not work-connected, as required by law. The GSIS also evaluated petitioner's claim under the provisions of PD No. 1146 for possible non-work connected benefits, particularly the sickness income benefit, but the same could not be granted because he was enjoying sick leave with pay at the time (Sec. 20, P.d. No. 1146). The GSIS reiterated its decision on May 3, 1982. Later, on September 2, 1982, respondent ECC affirmed the action by the GSIS (ECC Case No. 1985)." (pp. 74-75, Rollo)

Hence, this Petition for Review, claimant assigning several errors which can be narrowed down into the determinative issue of whether petitioner's compensation claim for ailments contracted by him prior to the effectivity of the New Labor Code on November 1, 1974 but filed after said date should be adjudicated under the old Workmen's Compensation Law (Act No. 3428 as amended) or under the New Labor Code. We rule that the Labor Code as amended applies, for what is important is when compensation is sought. Petitioner's assignments

of errors are listed down as follows:

I

THE RESPONDENTS COMMITTED GRAVE ABUSE OF DISCRETION IN HOLDING THAT THE AILMENTS OF PETITIONER ARE NOT OCCUPATIONAL DISEASES AS CONTEMPLATED BY LAW

II

THE RESPONDENTS COMMITTED GRAVE ABUSE OF DISCRETION IN HOLDING THAT THE AILMENTS OF THE PETITIONER ARE NOT WORK-CONNECTED ALLEGEDLY BECAUSE THE PETITIONER'S CLAIM OF STRENUOUS WORKING CONDITIONS AND EXPOSURE TO INCLEMENT WEATHER IN THE COURSE OF HIS EMPLOYMENT COULD NOT HAVE LED TO THE CONTRACTION OF HIS AILMENTS

III

THE RESPONDENTS COMMITTED GRAVE ABUSE OF DISCRETION IN NOT HOLDING AND FINDING THAT THE PETITIONER'S RISK OF CONTRACTING HIS AILMENTS HAD BEEN INCREASED BY HIS WORK OR BY HIS WORKING CONDITIONS TO WHICH HE HAD BEEN SO CONSTANTLY EXPOSED AS SUCH POSTMASTER OF THE BALENO POST OFFICE IN MASBATE

IV

THE RESPONDENTS COMMITTED GRAVE ABUSE OF DISCRETION IN NOT APPLYING THE LAW LIBERALLY IN FAVOR OF COMPENSABILITY ESPECIALLY WHEN THE RIGORS AND STRESSES OF PETITIONER'S EMPLOYMENT HAVE CONTRIBUTED HEAVILY IF NOT FURTHER INCREASED THE RISK OF CONTRACTING THE AFORESAID AILMENTS

V

THE RESPONDENTS COMMITTED GRAVE ABUSE OF DISCRETION IN DENYING COMPENSABILITY TO THE PETITIONER DESPITE THE CLEAR AND UNMISTAKABLE INTENT AND POLICY OF THE LAW TO AFFORD PROTECTION TO LABOR

The petition is patently meritorious and must be granted.

Petitioner is found to have chronic pyelonephritis, ureterolithiasis and ascariasis, which were defined by respondents as follows:

"Chronic pyelonephritis is a slowly progressive infection of a renal pelvis and parenchyma, frequently bilateral. Factors such as stones, strictures and tumors cause obstruction to the flow of urine and predispose to infection.

"Ureterolithiasis is the presence of stone in the ureter. This stone originates from the kidney and are carried down to the ureter by urine flow.

"Ascariasis is infestation with ascaris lumbricoides. Its vehicles for transmission are the fecally contaminated food and drinks. Portal of entry is through the oral route." (Letter-denial-decision, dated February 10, 1982, paragraphs 3, 4, 5, underscoring supplied for emphasis, p. 33, Rollo)

It is petitioner's contention that his ailments are compensable under the provisions of the New Labor Code. Under Art. 1167 paragraph 1 of P.D. 626 as amended a compensable sickness is defined as (1) any illness definitely accepted as an occupational disease listed by the Commission or (2) any illness caused by employment, subject to

proof that the risk of contracting the same is increased by the working conditions. Since petitioner's ailments are not listed as occupational diseases, petitioner must perforce present proofs and evidence that these ailments were work-related and that the risk of contracting the same was aggravated by the working conditions of his employment as postmaster and/or mail carrier.

There is no question that petitioner was presumably in good health when he started working as postmaster. To substantiate his claim, herein petitioner recalls the stress and rigors he allegedly encountered as a mail carrier wherein he had to walk the whole day to deliver all kinds of mail matters under inclement weather or intense heat; that in order to carry out said duties effectively, he had to sail on an open motor boat which passes through shallow coastal barrios and flooded rivers or rivulets and then had to walk to several adjacent in-land barrios which resulted often in his acquiring bodily ailments. In September of 1961, upon his assignment as a postmaster in Baleno, Masbate, he had to perform the additional task of cleaning the said post office, because that was a one-man post office. So for some nineteen (19) years, he held the unenviable job of a postmaster, letter-carrier and janitor all at the same time. He had to negotiate a distance of 40 miles while sailing on an open boat, which fact often hampered relief of his personal necessities. Petitioner further narrates the following facts:

"14. Thus, in 1972, while petitioner was already undergoing treatment for a kidney ailment, diagnosed medically as 'pyelonephritis and Uretrolithiasis' he was unmindful of the ill-effects of his work to his ailment, such that he went on performing the very same functions he had done for the last twelve (12) or so years then, with the same zeal and enthusiasm. He was in fact, admitted at the UST Hospital in October 1972 on complaint of frequent urination and irregular bowel movement. (Decision of respondent ECC, on page 1, paragraph 2, Annex "C" hereof) Despite that however, upon his discharge from the UST Hospital, he continued on with his usual duties, sailing on in an open motor boat and walking great distances thus encountering the very same elements of nature. He had remitted postal funds during his tenure of office as he did in the years 1973 and 1974 and until 1980. As a matter of fact, in 1974, he underwent surgery for the removal of renal stones at the Masbate Provincial Hospital. Thus, during his confinement and recuperation, he was unable to perform his duties. But immediately after his discharge from the said hospital, he re-sumed performing his regular duties until in 1976 he developed intermittent right hypochondriac pain and during the ensuing examination at the Nicanor Reyes Memorial Hospital the presence of stones in his right kidney was discovered. (Pls. see Decision, supra on page 1) But, he went on with his regular duties and in order not to prejudice his duties and responsibilities he merely took 'Uretricin 0-P' and other drugs which temporarily relieved him of pains enabling him to go on with his work.

"15. Because of his said ailments, herein petitioner frequently went on leave of absence to be able to submit himself to medication. In one of his several visits to the UST Hospital, his attending physician had advised him to retire from his employment for the reason that his health would no longer warrant a prolonged performance of the said work. He, therefore, wishing to stay alive a little more eventually was forced to retire effective January 1, 1981 at the early age of only 61 years after having rendered a continuous and dedicated public service for twenty (20) years.

"16. But, even after his forced retirement in January 1981, he submitted himself for sustained treatment of the aforesaid ailments which he had contracted in the course of his employment as such postmaster with varied duties. He finally was operated on for the removal of a right urethral stone by cystoscopy and was discharged therefrom last July 7, 1982.

"17. Retired due to a disabling disease and knowing that his ailments had been due to his employment he contracted during his tenure with the Bureau of Posts as such post-master at Baleno, Masbate, he filed the instant complaint for disability compensation benefits under Presidential Decree 626, as amended, which had been rejected by the respondent System and which decision had been affirmed by the respondent Commission.

"18. Thus, the present petition, to reiterate, for review on certiorari, of the said adverse decisions of the

respondents including his claim for reimbursement of medical expenses in the amount of P11,850.80 duly supported by official receipts OR Nos. 38382, 39815 and 50091, herein marked and attached as Annex "D" and also made part hereof.

"19. Petitioner was attended by Dr. Pasion last June 24, 1981 and by Dr. Lantin on June 27, 1981 of the St. Luke's Hospital and copy of the examination - results is hereto marked and attached as Annexes "E" and "F", respectively and likewise further made integral part hereof." (pp. 15-17, Rollo)

This Court takes judicial notice of the strenuous nature of the work of a letter-carrier. We cannot disregard the fact that petitioner's employment brought him to places not common to the ordinary public nor to a clerical employee in an air-conditioned office. Petitioner in the execution of his duties had to go to far-flung barrios braving or indifferent to all kinds of weather. He had to walk or cross flooded places, and in the course of his travel, he had to partake of food bought or taken from unsanitary places where he found himself situated, be it in the barrio, the town or the market sites. His nature of work made him thirsty most of the time forcing him or leaving him no choice except to drink water from sources unknown and uncertain as to its cleanliness. In remote barrios and villages, the common source of potable water would be the ordinary artesian well or if there is none, from the rivers and places which city folks and employees would not even dare to consider. In such a situation, it would not be difficult to conclude that petitioner contracted his ailments more particularly ascariasis since this disease is transmitted from contaminated food and/or water.

Petitioner also invites Our attention to the fact that his ailments could also be due to slowly progressing infections which take time to attack the human body. It is undisputed that petitioner in the course of his employment had constant exposure to the elements such as the heat of the sun, sudden rain, wind, floods, and similar conditions. The discomfort attendant to the inconvenient relief of personal necessities, the long hours of travel on land and sea - all these contributed to his ailments, resulting in his incapacity to continue working. Undoubtedly, therefore petitioner's ailments are work-connected, work-aggravated and hence compensable.

Respondents argue that petitioner's action has already prescribed as it was filed beyond the 3-year prescriptive period provided for under Art. 292 of the New Labor Code. A perusal of the record shows that petitioner filed this case on January 4, 1982 for disability benefits. Petitioner was afflicted with the disease in 1972 or 1974, yet he continued to go on with his regular work as postmaster. In 1976, when he was operated on for removal of kidney stones, he was just on sick leave with pay. Immediately after his discharge from the hospital, he continued to work as postmaster. He was thus not disabled yet to discharge his work. His incapacity to work began when his doctors advised him to quit working to be able to live longer, and this was in January 1981 when he filed his forced retirement papers at the age of 61 years. The determining point of the accrual of the cause of action is the time the complainant-employee becomes disabled or incapacitated to do his regular work because that is the time when the benevolent mantle of the Law commences to cover and protect him. Thus when petitioner filed his complaint on January 4, 1982, the 3-year prescriptive period had not yet lapsed.

However, We find merit in respondent GSIS' contention that under the "exclusivity of benefit" doctrine provided for under the provisions of P.D. 626 as amended by P.D. 1641 (New Labor Code) and CA 186 as amended by P.D. 1146 (GSIS Act), petitioner, since he already availed himself of his sick leave with pay benefits and retirement benefits, is entitled only to benefits, the formula for the computation of which shall be that provided for under CA 186 (as amended by P.D. 1146) plus 20% thereof. The record shows that petitioner has already received his gross 5-year lump sum annuity retirement of P24,598.80 and a monthly pension of P409.98 starting 1986. He is therefore entitled only to 20% of P24,598.80 as disability benefits. Petitioner is likewise entitled to the reimbursement of his medical and hospital expenses duly supported by proper receipts, it appearing that his operation in 1982, one year after his retirement, was for the removal of a right urethral stone.

Noteworthy at this juncture is the contention of respondent GSIS that if petitioner is found to be entitled to benefits, the employer Bureau of Posts of petitioner should ultimately pay, not the State Insurance Fund which is administered by the GSIS. The State Insurance Fund is composed of funds coming from employers' contributions under the New Labor Code which took effect on November 1, 1974. Petitioner retired in January 1981. After payment by the GSIS, it can seek reimbursement from the Bureau of Posts which shall be heard thereon pursuant to the requirement of due process. Additionally, it appearing that herein petitioner had availed himself of the services of a lawyer, petitioner is entitled to recover attorney's fees.

WHEREFORE, the assailed decision of respondent Employees' Compensation Commission is hereby SET ASIDE and a new one is hereby rendered, ordering the Government Service Insurance System (1) to pay petitioner's disability benefits, (2) to refund his medical and hospital expenses duly supported by proper receipts, (3) to pay attorney's fees, and (4) to pay administrative costs.

SO ORDERED.

Fernan, (Chairman), Gutierrez, Jr., Padilla, Bidin, and Cortes, JJ., concur.

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