

FELICIDAD F. GONZAGA, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.*G.R. No. 62287. January 31, 1984*

Ponente: MAKASIAR, J.

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This is a petition for review on certiorari to modify and/or set aside the decision of respondent Employees' Compensation Commission (ECC) dated July 1, 1982 (Annex "D", Decision, pp. 22-25, rec.) in ECC Case No. 1425, affirming the decision of the Government Service Insurance System (GSIS) [the respondent GSIS was dropped as a party in this case as per resolution of the Supreme Court dated February 17, 1983] denying permanent total disability benefits under P.D. 626, as amended, to claimant Felicidad F. Gonzaga, who is assisted by the Citizens Legal Assistance Office.

Petitioner Felicidad F. Gonzaga was a public school teacher since 1952. In June, 1973, after 21 years of teaching, the petitioner, who was then assigned to a remote barrio school in Northern Samar, contracted dimness of vision, later on diagnosed as ametropia (ametropia is an error of refraction. The images are not brought to a proper focus in the retina producing hypermetropia [farsightedness], myopia [nearsightedness] or astigmatism in which a variable degree of refraction exists in different meridians of the eyeball. [This was the definition provided by the Medical Services Center in its Summary of Findings, p. 30, rec.]), attributed to hypertension, sufficient enough to interfere with the normal discharge of her duties as elementary grade school teacher. On January 31, 1976, she was forced to retire from her work, at the age of 49, as a direct consequence of her hypertension and ametropia.

On January 19, 1978, after receipt of the favorable report by the Division Superintendent of Schools stating that petitioner "contracted dimness of vision in the course of her employment, directly caused by, the result of and/or aggravated by the nature of her work, rendering her physically disabled and to stop working and finally causing her to retire" (Annex "B", p. 15, rec.), the GSIS denied the petitioner's claim for disability benefits under P. D. 626, as amended, and the pertinent portion of said decision reads:

"x x x x x x x x .

"Upon evaluation based on generally accepted medical authorities, your ailments are found not to be in the least causally related to your duties and conditions of work. We believe that your ailments are principally traceable to factors which are definitely not work-connected. Moreover, the evidences you have submitted have not shown that the said ailments are the direct results of your occupation or employment as a Teacher of San Jose Central School, Northern Samar" (Italics supplied, p. 41, rec.).

On October 5, 1978, the ECC reversed the aforementioned GSIS' decision after fully appreciating the employment and working conditions of petitioner, and held:

"x x x x x x x x .

" the crucial issue to be resolved is whether or not her ailments of hypertension and ametropia are work-connected, at least, under the theory of increased risk. We believe it is.

"Hypertension, one of the ailments of appellant herein, is a pathological change in the arteries involving elevated blood pressure. Stress ... has always been considered as one of the risk factors that could induce the elevation of the blood pressure of an individual. x x x x stress is 'any stimulus on the external environment that the organism or employee is subjected to over and above what he was ordinarily required to do' (underlining supplied). School teachers branded as 'factotums of society' are prone to such stress. The Supreme Court stated 'school teachers . . . are underpaid but overworked' (Arzadon vs. WCC, L-42404, December 8, 1976). Similarly, 'heart disease, hyper-tension and tuberculosis may be aggravated by one's work as a school teacher which involved emotional strain' (Legason vs. WCC, L-43089, January 31, 1977).

"x x x x x x x x .

"x x x x. In fact, appellant was exposed comparatively to more hazards than the ordinary classroom teacher as more often than not, she was the only teacher in her place of assignment. She had to singlehandedly attend to a considerable number of students and numerous community activities.

"xx xx xx" (Annex "C", ECC decision dated October 5, 1978, pp. 18-19, 20-21, rec.).

The ECC further ordered that the case be remanded to the GSIS "for proper computation and payment of the benefits provided for by P. D. 626, as amended, to the appellant" (ECC decision, p. 21, rec.).

The GSIS, in compliance with the order of herein respondent, awarded permanent partial dis-ability benefits for five (5) months and paid her the amount of P952.40 (p. 43, rec.).

On January 28, 1979, the petitioner requested for a re-evaluation of her award, claiming that it was only her hypertension which was considered while ametropia which she claimed was secondary to her hypertension, was not evaluated (p. 42, rec.).

After defining what ametropia is, the Medical Service Center concluded that ametropia is not at all secondary to the claimant's hypertension and such being the case, there is no medical basis for granting additional benefits to claimant (p. 30, rec.).

On January 30, 1979, the petitioner then requested for additional benefits, arguing that under P. D. 626, as amended, the maximum compensation for her case is P12,000.00.

Acting on the petitioner's request for further compensation benefits, the GSIS subjected the petitioner to electrocardiogram. On October 18, 1979, the GSIS declared that inasmuch as her hypertension is 'moderate in degree' her case "falls under permanent partial disability only and as such it is given a non-scheduled disability benefits of five (5) months with no more forthcoming benefits" (Annex "E", p. 26, rec.).

On July 1, 1982, on appeal, the ECC affirmed the decision of the GSIS ruling thus:

"x x x x x x x x .

"We have thoroughly reviewed the evidences submitted in this case and we found that the respondent system's decision is in harmony with the law. Appellant's disability benefits is based on moderate hyper-tension and the respondent system, after evaluating the merits, found it to command a maximum benefit equivalent to only five (5) months. We have perused over the record carefully and noted nothing at all to indicate that the respondent system's evaluation was tainted with error or abuse of discretion. Finding nothing irregular, we are not inclined to disturb their findings. The Employees' Compen-sation Commission under Presidential Decree No. 626, as amended, confers the Government Service Insurance System, the ECC's administering agency for the government sector the power to determine the degree of disability in cases of work-connected injuries or

illnesses resulting in permanent partial disability not embraced in the schedule of disability set forth in Article 193 paragraph (b) of PD 626, as amended. This authority is embodied in paragraph (f) of the above law which declares that: 'In cases of injuries or illnesses resulting in permanent partial disability not listed in the pre-ceding schedule, the benefits shall be an income benefit equivalent to the percentage of the permanent loss of the capacity to work.' As earlier intimated, we directed the respondent GSIS in our Decision dated October 5, 1978, to undertake a 'proper computation and payment of the benefits provided for by PD 626, as amended, to the appellant.' This order of ours was properly complied with by the respondent System which, after a meticulous scrutiny of the medical records submitted and related tests and examination conducted on appellant, found appellant's case to be meritorious for only five months permanent partial disability benefits. Needless to state, appellant's cause of action being permanent but partial disability in nature, it is not eligible for the maximum benefit of P12,000.00.

"xx xx xx" Annex "D", ECC decision dated July 1, 1982, pp. 23-25, rec.).

On October 27, 1982, the petitioner, with the assistance of her counsel, filed the instant petition. The sole issue to be resolved is whether or not petitioner is entitled to permanent total disability benefits in the amount of P12,000.00 under P. D. 626, as amended.

1. To forestall further confusion, it is high time to stress that in employees' compensation cases, the time of inception of the illness or injury is crucial. An injury or illness which has its inception prior to January 1, 1975 shall be governed by the provisions of the Workmen's Compensation Act (*Najera v. ECC*, 122 SCRA 697 [1983]; *Segismundo v. GSIS*, 121 SCRA 304 [1983]; *Delegente v. ECC*, 118 SCRA 67 [1982]; *Ceniza v. ECC*, 118 SCRA 137 [1982]; *Evangelista v. ECC*, 111 SCRA [1982]; *Corales v. ECC*, 88 SCRA 547 [1979]).

As early as 1979, in the *Corales v. ECC*, et al. supra case and in a long line of cases which followed thereafter, this Court consistently ruled that "the governing law in prosecution of cause of action which has accrued prior to effectivity of a new law shall be the law enforced at the time of accrual of the said action" (*Ceniza v. ECC*, supra; *Barrameda v. ECC*, 106 SCRA 621 [1981]; *Cenabre v. ECC*, 97 SCRA 338 [1980]; *Balatero v. ECC*, et al., 95 SCRA 608 [1980]; *Delos Angeles v. ECC*, et al., 94 SCRA 308 [1979]; *Villones v. ECC*, et al., 92 SCRA 320 [1979]).

2. It follows then that inasmuch as herein petitioner's claim accrued in 1973, prior to the effectivity of the New Labor Code, the presumption of compensability, presumption of work-connection or work-aggravation, award of attorney's fees and payment of administrative fees must be observed and applied (*Cañeja v. ECC*, et al., 96 SCRA 896 [1980]; *Landicho v. WCC*, et al., 89 SCRA 150, [1979]; *Santos v. WCC*, 75 SCRA 364 [1977]).

The Employees' Compensation Commission was correct when it concluded that the petitioner's illness or hypertension is compensable. In the case at bar, the presumption of compensability should have been applied even at the outset by the GSIS; hence, the latter was clearly in error when it ruled that the "evidence you have submitted have not shown that the said ailments are the direct results of your occupation or employment ..." (p. 41, rec.). However, the presumption of compensability is rendered conclusive by a consideration of the petitioner's employment as a barrio school teacher and working conditions which increased the risk of contracting her illness. More-over, no evidence was produced to rebut said presumption.

It is the duty of the employer to overcome with substantial evidence the presumption of compensability unequivocally established by Section 44 of the Work-men's Compensation Act. This being so, the presumption of compensability becomes conclusive upon failure on the part of the employer to establish the contrary by substantial evidence (*Panangui v. ECC*, 121 SCRA 65 [1983]; *Villasan v. Republic*, 104 SCRA 102 [1981]).

3. It is not sufficient that an injury or illness is compensable. It is further required by the Workmen's Compensation Act that the compensable injury or illness resulted in a disability recognized by the Act.

Disability refers to the loss or impairment of earning capacity. The Act observes the wage-loss factor as basis of the granting of disability benefits (*Corales v. ECC*, 88 SCRA 547 [1979]).

Disability, as a basis for compensation, is the combination of partial or total physical incapacity and of inability to work, or inability to work with the same ease and competence as before the injury, or the loss, total or partial, of earning power from the injury (*Corpus Juris*, Section 535, p. 813 cited in *Lavilla v. Secretary of Labor*, 122 SCRA 657 [1983]; *Corales v. ECC*, supra; *Gonzales v. WCC*, 81 SCRA 703 [1978]; *Romero v. WCC*, et al., 77 SCRA 480 [1977]).

When petitioner contracted her illness or hyper-tension and ametropia, she was forced to resign from teaching. Her illness rendered her incapable of further performing or pursuing the work which she had loyally performed for 24 long and arduous years. She then deemed to be entitled to permanent total disability benefits.

The Workmen's Compensation Act classifies various disabilities as follows: a) according to the extent - total or partial, and b) according to duration - temporary or permanent [*Landicho v. WCC*, et al., 89 SCRA 150 (1979)].

Permanent total disability means disablement of an employee to earn wages in the same kind of work, or work of a similar nature that she was trained for, or accustomed to perform, or any kind of work which a person of her mentality and attainment could do (*Landicho v. WCC*, et al., supra; *Marcelino v. 7-Up Bottling Co. of the Philippines*, et al., 47 SCRA 343 [1972]). It does not mean an absolute helplessness but rather an incapacity to perform gainful work which is expected to be permanent (*Landicho v. WCC*, et al., supra). Total disability does not require that the employee be absolutely disabled, or totally paralyzed. What is necessary is that the injury must be such that she cannot pursue her usual work and earn therefrom [*Tenasas v. WCC*, 80 SCRA 464 (1977)]. It is not the injury which is compensated but the incapacity to work resulting in the impairment of one's earning capacity (*Herrera v. Republic and WCC*, 85 SCRA 713 [1978]; *Natividad v. WCC and Republic*, 85 SCRA 115 [1978]).

And in *Lavilla v. Secretary of Labor* (supra), a very recent case decided by this Court, hypertension was considered as a total disability although in this particular case, the disability was a temporary one. Here, the petitioner is likewise a teacher who had permanent dizziness due to hypertension which, coupled with her long-standing throat irritation, prevented her from her usual work of teaching.

In allowing compensation during temporary disability, the law aims to compensate the laborer for what he may have earned during the treatment of his injury. On the other hand, in granting permanent disability, the law aims to compensate the injured laborer for the actual and permanent loss of a member of the body (*Central Azucarera Don Pedro v. De Leon*, et al., L-10036, December 28, 1957; *Cañete v. Insular Lumber Co., Inc.* No. 42175, July 10, 1935, 33 O.G. 2544). In awarding permanent disability to petitioner, although this was limited to partial disability, the respondent then impliedly admitted "the actual and permanent loss of a member of the body" of herein petitioner which could be read to be specifically enumerated in paragraph (a) of Section 15 of the Workmen's Compensation Act which provides: "the total and permanent loss of the sight of both eyes shall be considered total and permanent disability." This should not be construed literally but instead should be considered in the sense that both eyes are rendered functionally useless for they are incapable of the usual work they have been accustomed to. Where the disability is merely functional, whether physical or psychic, there is disability under the Act (*Marcelino v. 7-Up Bottling Co. of the Philippines*, 47 SCRA 350, [1972]). Under the Act, there is no difference between "loss of a member" and the "loss of the use thereof" (*Yu Dee Kim v. Zamora*, G.R. No. L-6731, June 16, 1953). In *Romero v. WCC*, et al., 77 SCRA 480 (1977) and *Gonzales v. WCC*, et al., 81 SCRA 709 (1978), this Court declared that "disability is used either in the medical or physical sense, as evidenced by obvious loss of member or by medical testimony that the claimant simply cannot make the necessary muscular movements and exertions; it is used to mean de facto inability to earn wages, as evidenced by proof that claimant

has not in fact earned anything."

Section 15 of the Workmen's Compensation Act is not exclusive for in the said provision it is stated that "the enumeration above made shall not be considered as exclusive." Hence, notwithstanding that "ametropia is not considered secondary to hypertension", the latter alone is still sufficient for petitioner to be covered by Section 15 by virtue of said qualifying pro-vision.

Petitioner could not in all honesty be deemed entitled to merely partial disability benefit; because she has been forced out of work and has been rendered incapable of further pursuing her usual job which is teaching. It was not only her "ability to perform her usual task" which was impaired, and her "efficiency and competence for work as well as earning capacity" which was reduced; but ultimately, herein petitioner had to let go of her job as a teacher. She was forced to retire because her illness rendered her incapable of teaching (*Landicho v. WCC, et al., supra*; *Marcelino v. 7-Up Bottling CO. of the Philippines, supra*).

4. Furthermore, the fact of an employee's disability is placed beyond question with the approval of the employee's optional retirement for such is authorized only when the employee is "physically incapable to render sound and efficient service" under C.A. 186, as amended by Republic Act 4968 in conjunction with Memorandum Circular No. 133 of the Office of the President on October 19, 1967 (*Faicol v. WCC and Republic of the Philippines, 93 SCRA 811 [1979]*, *Roma v. WCC and Bureau of Public Schools, 80 SCRA 170 [1977]*; *Romero v. WCC and Bureau of Public Schools, 77 SCRA 842 [1977]*).

When an employee is forced to ask for retirement ahead of schedule, not because of old age, but primarily of his weakened bodily condition due to illness contracted in the course of her employment, she should be given compensation for her inability to work during the remaining days before her scheduled retirement, aside from the benefits received by her (*Villaflor v. Republic of the Philippines, 98 SCRA 383 [1989]*; *Almaiz v. WCC, 85 SCRA 144 [1978]*; *Bello v. WCC, 80 SCRA 153 [1977]*; *Marcelino v. 7-Up Bottling Co. of the Philippines, supra*).

The contention then of the respondent Employees' Compensation Commission that "the retirement of petitioner does not necessarily prove that she is entitled to permanent total disability benefits since the approval of her application for retirement was made for the reason mainly that she was already physically incapable to render further efficient service," is without merit.

5. Finally, this Court feels that to deny permanent total disability benefits to herein petitioner, a teacher who for 24 years of dedicated service, was forced to retire due to illness contracted in the course of her employment, would render inutile and meaningless the social justice precept guaranteed by the Constitution (*Abadiano v. GSIS, 111 SCRA 509 [1982]*; *Cenabre v. ECC, 97 SCRA 338 [1980]*).

WHEREFORE, THE DECISION DATED JULY 1, 1982 OF RESPONDENT EMPLOYEES' COMPENSATION COMMISSION IS HEREBY SET ASIDE AND THE BUREAU OF PUBLIC SCHOOLS IS HEREBY ORDERED

1. TO PAY PETITIONER THE SUM OF SIX THOUSAND (P6,000.00) PESOS AS MAXIMUM PERMANENT TOTAL DISABILITY BENEFITS UNDER THE WORKMEN'S COMPENSATION ACT;

2. TO REIMBURSE THE PETITIONER'S MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY RECEIPTS; AND

3. TO PAY ADMINISTRATIVE COSTS.

SO ORDERED.

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

Aquino, J., no part.

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