

CASIANO MAGISTRADO, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (PHILIPPINE NAVY), RESPONDENTS.*G.R. No. 62641. June 30, 1989*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-62641/>**FERNAN, C.J.:**

In this petition for review on certiorari, petitioner seeks to reverse and set aside the decision of the Employees' Compensation Commission which affirmed the denial by the Government Service Insurance System (GSIS) of petitioner's claim for compensation benefits for permanent total disability.

Petitioner Casiano Magistrado spent thirty (30) years of his life in the Philippine Navy first as a Serviceman and later on as Chief Petty Officer. He retired on February 21, 1979 at the age of 51 due to illness.

Symptoms of his renal ailment first appeared five (5) years after his enlistment in the Navy. He experienced a burning sensation and dysuria while urinating. Later on, corn-sized stones and whitish discharges were found present in his urine. These symptoms recurred through the years and came to a point when he had to undergo nephrectomy of the right kidney. To make matters worse, a stone 0.05 cm. in diameter was detected over the lower pole of the left kidney.

In 1978, on complaints of lumbar pains, frequency of urination, persistent pyria and terminal dysuria, petitioner sought confinement in the AFP Medical Center in Quezon City. Tests (KUB IVP) revealed that the stone over the lower pole of the left kidney had increased in size to about 3.0 cms. in diameter. His right kidney was no longer functioning. He was diagnosed as suffering from chronic pyelonephritis (L) with Status Post Nephrectomy (R).

Due to this malady, he sought retirement from the service. He filed a claim for compensation benefits for permanent total disability with the Government Service Insurance System (GSIS). The same was denied on the ground that his ailment was not an occupational disease and neither was the risk of contracting the same increased by his employment conditions. An appeal to the Employees' Compensation Commission yielded the same result for the decision of the GSIS was affirmed by the former. Hence the instant appeal, raising the following issues:

I

WHETHER OR NOT THE ILLNESS OF CHRONIC PYELONEPHRITIS WHICH CAUSED THE PERMANENT TOTAL DIABILITY OF PETITIONER, CASIANO MAGISTRADO, IS COMPENSABLE UNDER THE THEORY OF INCREASED RISK AS PROVIDED IN P.D. 626, AS AMENDED

II

WHETHER OR NOT SAID PETITIONER'S AILMENTS IS ALSO COMPENSABLE UNDER THE WORKMEN'S COMPENSATION ACT (ACT 3428) CONSIDERING THAT THE ONSET OF SAID ILLNESS OCCURRED PRIOR TO JANUARY 1, 1975 BEFORE THE EFFECTIVITY OF THE LABOR CODE OF THE PHILIPPINES

Petitioner alleges among others that during his stint as a serviceman in the Philippine Navy, he was assigned to some of the remotest islands of the Philippines. While stationed in the southernmost island of Tawi-Tawi to monitor the reported smuggling in the area, he and the other members of his navy group had to survive on water derived from the wells. They also had to bear the sweltering heat of the islands during the day due to scant vegetation and the biting cold during the night. On several occasions, his team had to be on board a vessel for weeks where the food and water supply had to be rationed. Since he was not in a position to choose his place of assignment, petitioner suffered untold hardships during his term as a serviceman.

Lt. Colonel Eugenio Batalla, the attending physician of the petitioner certified that since stone diseases along geneto-urinary tract could be influenced by food and water, members of the AFP are predisposed to this because of their assignment and mission to anywhere in the Philippines or even abroad.

We find these pieces of evidence sufficient to support compensability of pyelonephritis.

Under P.D. No. 626 as amended, there are two grounds for the compensability of an illness, namely: [1] that the sickness must be the result of an occupational disease listed under Annex "A" of the rules and regulations implementing said decree, with the conditions set therein satisfied; and [2] that the risk of contracting the disease is increased by the working conditions. Petitioner posits his claim under the second ground, that is, the theory of increased risk wherein to establish compensability, the claimant must show proof of work connection.[1]

The degree of proof required under P.D. 626 is merely substantial evidence, which means, "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." [2] The claimant must show, at least, by substantial evidence that the development of the disease is brought largely by the conditions present in the nature of the job. "What the law requires is a reasonable work connection and not a direct causal relation." [3] From the foregoing discussion and the evidence presented, we find sufficient ground to support compensability of pyelonephritis under P.D. No. 626.

Moreover, it will be noted that petitioner's illness had its onset prior to January 1, 1975 or before the effectivity of the Labor Code.

"It is now well-settled that 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." [4] Symptoms of petitioner's pyelonephritis manifested themselves as early as 1954. Since the Workmen's Compensation Law was then in full force and effect then, it should govern the present case based on the principle that "rights accrued and vested while a statute was in force ordinarily survive its repeal." [5]

It is the finding of respondent ECC itself that the ailment of the petitioner supervened during his employment with the Philippine Navy, "Under the W.C.A. when there is a showing . that the ailment was contracted in the course of his employment, the presumption of compensability arises and the burden of proof is shifted to the employer to prove by substantial evidence that the illness did not arise from such employment or was at least aggravated by it." [6] Respondent GSIS did not rebut the presumption that petitioner's claim is compensable. [7]

Neither is the allegation of public respondent that the action has prescribed, tenable. In *Corales v. ECC*, L-44063, February 27, 1979, the Supreme Court held:

"x x x Article 292 of the New Labor Code which requires that workmen's compensation claims accruing prior to the New Labor Code shall be filed with the appropriate regional offices of the Department of Labor not later than March 31, 1975 otherwise they shall forever be barred does not apply to petitioner who filed his claim on August 4, 1975 with GSIS: because we have repeatedly held 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. Petitioner's right accrued as early as September 1965 and hence is a vested right."

It is not disputed that the petitioner's illness supervened in the course of his service in the Philippine Navy, His illness manifested itself in 1954 and gradually recurred through the years until his retirement. Such incontrovertible facts call for the application of the presumption that the illness arose out of or was at least aggravated by the nature of the decedent's employment, hence, compensable.

As held in the case of *Cenabe v. 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 case at bar the petitioner had served the government for at least 30 years under such working conditions which could easily disturb the equilibrium of his bodily defenses against diseases. To deny him what is due him would be blatantly unfair and unjust.

WHEREFORE, the decision appealed from is reversed and respondent ECC is hereby ordered to pay petitioner the benefits allowed him by the Workmen's Compensation Law.

SO ORDERED.

Bidin and Cortes, JJ., concur.

Gutierrez, Jr. J., The GSIS should pay the WCC benefits subject to reimbursement by the Phil. Navy.

Feliciano, J., concurs in the result.

[1] *Cristobal v. ECC*, 103 SCRA 329 (1981).

[2] *Cristobal v. ECC*, *supra*.

[3] *Sarmiento v. ECC*, 144 SCRA 421 (1986); *Cristobal v. ECC*, *supra*.

[4] *Cenabe v. ECC*, 97 SCRA 338, April 28, 1980, L-46802; Article 294, Labor Code of the Philippines.

[5] *Balatero v. ECC*, et al., L-46634, Jan. 28, 1980; *De los Angeles v. ECC*, et al, L-47099, Nov. 16, 1979; *Villones v. ECC*, et al, L-46200, July 30, 1979; *Corales v. ECC*, et al, L-44063, Feb. 27, 1979.

[6] *Balatero v. ECC*, 95 SCRA 608.

[7] *Rollo*, p. 13.

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