

EVARISTO ABAYA, JR., PETITIONER, VS. EMPLOYEES COMPENSATION COMMISSION, RESPONDENT.

G.R. No. 64255. August 16, 1989

Ponente: CRUZ, J.

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CRUZ, J.:

After serving the government in various capacities for 38-1/2 years, Evaristo Abaya, Jr. retired as a principal teacher at the age of 60 on October 15, 1975. Thereafter, pursuant to PD No. 626, he applied with the Government Service Insurance System for medical services, appliance and supplies and permanent total disability benefits. The basis of his application was his claimed service-connected ailment, initially diagnosed as cardio-vascular disease and aggravating later to cerebral encephalopathy secondary to hypertension.

On June 3, 1976, the GSIS rejected his application on the ground that his ailment was not an occupational disease. Upon appeal to the Employees' Compensation Commission, the case was on April 19, 1978, remanded to the GSIS for reception of additional evidence showing that the applicant's illness was work-connected. On June 17, 1979, the GSIS delivered to the petitioner a check in the amount of P1,218.25, representing his permanent partial disability benefits for the period from October 15, 1975, to March 1976.

His motion for reconsideration having been denied, the petitioner appealed once again to the ECC, which this time sustained the GSIS. He then sought assistance from this Court in a lengthy letter where he explained his claim and bolstered it with citations of case digests reported in various issues of the Manila Daily Bulletin. Realizing his need for professional assistance, we referred him to the Citizens Legal Assistance Office, which thereafter prepared and submitted the herein petition for him.

The only issue before us is whether the petitioner's ailment is permanent total or permanent partial.

Permanent total disability was described by the Court in *Landicho v. Workmen's Compensation Commission*[1] as follows:

Other authoritative comments on the coverage of the term 'permanent total disability' as used in the Workmen's Compensation Act, are (a) Comments and Annotations on the Workmen's Compensation Act by Severo M. Pucan and Cornelio R. Besinga, that 'total disability does not mean a state of absolute helplessness, but means disablement of an employee to earn wages in the same kind of work, or a work of similar nature, that he was trained for or accustomed to perform, or any kind of work which a person of his mentality and attainment could do;' (b) Philippine Labor and Social Legislation by Justice Ruperto Martin, that 'permanent total disability means disablement of an employee to earn wages in the same kind of work, or work of a similar nature that he was trained for, or accustomed to perform, or any other kind of work which a person of his mentality and attainment could do x x x;' and (c) Labor Standards and Welfare Legislation by Perfecto Fernandez and Camilo Quiason that 'permanent total disability means an incapacity to perform gainful work which is expected to be permanent. This status does not require a condition of complete helplessness. Nor is it affected by the performance of occasional odd jobs' (cited in *Marcelino vs. Seven-up Bottling Co. of the Philippines*, 47 SCRA 343).

Permanent partial disability, on the other hand, is defined as follows:

A disability is partial permanent if as a result of the injury or sickness the employee suffers a permanent partial loss of the use of any part of his body.[2]

It is important to consider that the petitioner opted to retire when he was only 60 years of age although he was entitled to continue during good behavior for five more years. This fact, it is urged, should indicate that he was no longer able to cope with his work because of his illness.

It is also noted that the GSIS paid him what it called his partial permanent benefits for a total of 150 days. Our attention is called to Section 2, Rule 7 of the Amended Rules on Employees' Compensation, providing that "a total disability is permanent if as a result of the injury or sickness the employee is unable to perform any gainful occupation for a continuous period exceeding 120 days."

In his Comment, the Solicitor General contends that the description of the petitioner's ailment does not by itself prove that he has been permanently and totally disabled. He also argues that the evaluation of the nature and duration of the employee's illness is vested solely in the GSIS whose findings should be respected. Dismissing the certification made by the petitioner's attending physician, he contends that "a mere general statement by his physician that he has been rendered permanently and totally disabled by his illness is not sufficient to serve as a basis for granting him permanent and total disability benefits under Art. 192."

The public respondent has apparently forgotten that in *Bello v. Workmen's Compensation Commission*,^[3] we held that "the doctor's certification as to the nature of the claimant's disability may be given credence as he normally would not make a false certification." This ruling was a reiteration of *Marte v. Employees Compensation Commission*,^[4] where the Court said:

No physician in his right mind and who is aware of the far-reaching and serious effect that his statements would cause on a money claim filed with a government agency, would issue certifications indiscriminately without even minding his own interests and protection. x x x Under normal circumstances, he would not sacrifice his medical career for the sake of a lowly public school teacher.

We find that this case is similar to *Gonzaga v. Employees' Compensation Commission*,^[5] where the petitioner was forced to retire from her work as a teacher, at the age of 49, "as a direct consequence of her hypertension and ametropia," or dimness of vision. The Court, in reversing the public respondent there, held inter alia:

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).

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 [1980]; *Almaiz v. WCC*, 85 SCRA 144 [1978]; *Bello v. WCC*, 80 SCRA 153 [1977]; *Marcelino v. 7-Up Bottling Co. of the Philippines*, *supra*).

There is no reason to digress from this ruling. In fact, the herein petitioner's ailments are even more serious than in *Gonzaga*, and he has even worked longer for the government.

We hold, therefore, that the petitioner is entitled to permanent total compensation benefits to be determined in accordance with Section 5, Rule XI of the Amended Rules on Employees' Compensation providing as follows:

For contingencies which occurred before May 1, 1979, the limitation of P12,000.00 or 5 years, whichever comes first, shall be enforced.

And as the record is silent as to the petitioner's monthly salary, we hereby fix the said compensation in the maximum amount of P12,000.00.

We also hold that the petitioner is entitled to reimbursement for his expenses incurred for medical services, appliances and other supplies in connection with his ailment, conformably to Section 4, Rule VII of the Amended Rules on Employees' Compensation.

This is the least we can do for this faithful civil servant who was disabled in line of duty and deserves the recognition and assistance of a grateful government.

WHEREFORE, the appealed decision is REVERSED and the public respondent is ORDERED:

- (1) to pay petitioner disability compensation benefits in the amount of P12,000.00; and
- (2) to re-imburse petitioner his expenses incurred for medical services, hospitalization, medicines, appliances and other supplies, as supported by the proper receipts.

SO ORDERED.

Narvasa, Acting C.J., (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] 89 SCRA 147.

[2] Section 2, Rule VII of the Amended Rules on Employees' Compensation.

[3] 148 SCRA 619.

[4] 96 SCRA 884.

[5] 127 SCRA 443.

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