

CIRIACO HINOGUIN, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (ARMED FORCES OF THE PHILIPPINES), RESPONDENTS.

G.R. No. 84307. April 17, 1989

Ponente: FELICIANO, J.

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FELICIANO, J.:

This Petition for Review is directed against the Decision of the Employees' Compensation Commission ("ECC") in ECC Case No. 3275 (Ciriaco Hinoguin v. Government Service Insurance System [Armed Forces of the Philippines]) which affirmed the decision of the Government Service Insurance System ("GSIS") denying petitioner's claim for compensation benefit on account of the death of petitioner's son, Sgt. Lemick G. Hinoguin.

The deceased, Sgt. Hinoguin started his military service in 1974, when he was called to military training by the Philippine Army. He later on enlisted in the Philippine Army as a private first class. At the time of his death on 7 August 1985, he was holding the rank of Sergeant per Special Order P-4200, HPA, dated 15 October 1985, in "A" Company, 14[th] Infantry Battalion, 5[th] Infantry Division, PA. The Headquarters of the 14th Infantry Battalion was located at Bical, Muñoz, Nueva Ecija. Sgt. Hinoguin was Detachment Non-Commissioned Officer at Capintalan, Carranglan, Nueva Ecija, "A" Company being stationed at Carranglan, Nueva Ecija.

On 1 August 1985, Sgt. Hinoguin and two (2) members of his Detachment, Cpl. Rogelio Clavo and Dft. Nicomedes Alibuyog, sought permission from Captain Frankie Z. Besas, Commanding Officer of "A" Company to go on overnight pass to Aritao, Nueva Vizcaya, "to settle [an] important matter thereat." [1] Captain Besas orally granted them permission to go to Aritao and to take their issued firearms with them, considering that Aritao was regarded as "a critical place," [2] that is, it had peace and order problems due to the presence of elements of the New People's Army ("NPA") in or in the vicinity of Aritao.

Sgt. Hinoguin, Cpl. Clavo and Dft. Alibuyog left Carranglan, Nueva Ecija, about noon on 1 August 1985 and arrived in Aritao, Nueva Vizcaya, about 1:30 o'clock P.M. on the same day. [3] They proceeded to the home of Dft. Alibuyog's parents where they had lunch. About 4:00 o'clock P.M., the three (3) soldiers with a fourth man, a civilian and relative of Dft. Alibuyog, had some gin and beer, finishing a bottle of gin and two (2) large bottles of beer. Three hours later, at about 7:00 o'clock P.M., the soldiers left the Alibuyog home to return to their Company Headquarters. They boarded a tricycle, presumably a motor-driven one, Sgt. Hinoguin and Cpl. Clavo seating themselves in the tricycle cab while Dft. Alibuyog occupied the seat behind the driver. Upon reaching the poblacion of Aritao, Dft. Alibuyog dismounted, walked towards and in front of the tricycle cab, holding his M-16 rifle in his right hand, not noticing that the rifle's safety lever was on "semi-automatic" (and not on "safety"). He accidentally touched the trigger, firing a single shot in the process and hitting Sgt. Hinoguin, then still sitting in the cab, in the left lower abdomen. The Sergeant did not apparently realize immediately that he had been hit; he took three (3) steps forward, cried that he had been hit and fell to the ground.

His companions rushed Sgt. Hinoguin to a hospital in Bayombong, Nueva Vizcaya, for treatment. Their Company

Commander, Capt. Besas, hurried to the hospital upon being notified of the shooting and there talked with the wounded Sergeant. The latter confirmed to Capt. Besas that he had indeed been accidentally shot by Dft. Alibuyog. Sgt. Hinoguín was later moved to the AFP Medical Center in Quezon City and there he died on 7 August 1985. The Death Certificate lists "septic shock" as immediate cause of death, and "generalized septicemia of peritonitis" as antecedent cause, following his sustaining a gunshot wound.

An investigation conducted by H.Q., 14[th] Infantry Battalion on 11 August 1985 concluded that the shooting of Sgt. Hinoguín was "purely accidental in nature." [4] On 19 November 1985, a "Line of Duty Board of Officers" was convened by H.Q., 14[th] Infantry Battalion, "to determine Line of Duty Status of [the] late Sgt. Lemick Hinoguín 640407 (Inf.) PA, a member of "A" Co., 14IB, 5ID, PA who died x x x due to Gun Shot Wound as a result of an accidental fire (sic) committed by Dft. Nicomedes Alibuyog 085-5009 (Inf) PA x x x." After receiving and deliberating on the Investigation Report dated 11 August 1985 together with the sworn statements of witnesses Alibuyog, Clavo and Besas, and after some further questioning of Capt. Besas, the Line of Duty Board reached the following conclusion and recommendation:

"Sgt. Hinoguín was then the designated Detachment Commander of Capintalan detachment. On or about 011300H August 1985 Dft Alibuyog invited Sgt. Hinoguín and Cpl. Clavo to his home to celebrate at Aritao, Nueva Vizcaya. They asked permission to go on overnight and to allow them to carry their firearms with them because the place where they were going is critical. They were given such permission verbally by their Commanding Officer. The death of Sgt. Hinoguín was purely accidental as the Investigation Report presented here proved beyond reasonable [doubt] the fact that Dft. Alibuyog had no grudge either [against] Cpl. Clavo or Sgt. Hinoguín.

RECOMMENDATION:

The recommendation written by the Chairman and unanimously voted for by the members contain the following:

The Board after a thorough deliberation on presented evidences declares that the Death of Sgt. Lemick Hinoguín 640407 (Inf) PA is in Line of Duty.

The Board recommend further that all benefits due the legal dependents of the late Sgt. Lemick Hinoguín be given." [5] (Underscoring supplied)

Sometime in March 1986, petitioner filed his claim for compensation benefits under P.D. No. 626 (as amended), claiming that the death of his son was work-connected and therefore compensable. This was denied [6] by the GSIS on the ground that petitioner's son was not at his work place nor performing his duty as a soldier of the Philippine Army at the time of his death.

Petitioner filed a Motion for Reconsideration which Motion was, however, denied by the GSIS. This denial was confirmed by the Workmen's Compensation Commission ("WCC") in a Decision dated 24 May 1988 which stated that:

"[F]rom the recital of the facts therein [we found it] very difficult for us to perceive where the work-connection of the events that led to appellant's son's death lies. Under the law, death resulting from injury is considered compensable if it arise out of and in the course of employment. Definitely, the death of Hinoguín did not arise out of employment. Clearly, the facts showed that he was not on his place of work, nor was he performing official functions. On the contrary, he was on pass and had just came from a merrymaking when accidentally shot by his companion." [7] (Underscoring supplied)

The sole issue to be resolved in this case is whether or not the death of Sgt. Lemick Hinoguín is compensable under the applicable statute and regulations.

Considering that Sgt. Hinoguin died on 7 August 1985, the applicable law is to be found in Book Four, Title III of the Labor Code, as amended. It may be noted at the outset that under Article 167 (g) of the Labor Code, as amended and Section 4 (b) (1) of Rule I of the Amended (Implementing) Rules on Employees' Compensation, the term "employee" includes a "member of the Armed Forces of the Philippines." Rule XIII entitled "Death", of the Amended (Implementing) Rules provides in part as follows:

"SECTION 1. Conditions to Entitlement. -- (a) The beneficiaries of a deceased employee shall be entitled to an income benefit if all of the following conditions are satisfied:

- (1) The employee had been duly reported to the System;
- (2) He died as a result of injury or sickness; and
- (3) The System has been duly notified of his death, as well as the injury or sickness which caused his death.

His employer shall be liable for the benefit if such death occurred before the employee is duly reported for coverage of the System.

x x x x x x x x"

Article 167 (k) of the Labor Code as amended defines a compensable "injury" quite simply as "any harmful change in the human organism from any accident arising out of and in the course of the employment." The Amended (Implementing) Rules have, however, elaborated considerably on the simple and succinct statutory provision. Rule III, Section 1 (a) reads:

"SECTION 1. Grounds. -- (a) For the injury and the resulting disability or death to be compensable, the injury must be the result of an employment accident satisfying all of the following grounds:

- (1) The employee must have been injured at the place where his work requires him to be;
- (2) The employee must have been performing his official functions; and
- (3) If the injury is sustained elsewhere, the employee must have been executing an order for the employer.

x x x x x x x x"

(Underscoring supplied)

It will be seen that because the Amended (Implementing) Rules are intended to apply to all kinds of employment, such rules must be read and applied with reasonable flexibility and comprehensiveness. The concept of a "work place" referred to in Ground 1, for instance, cannot always be literally applied to a soldier on active duty status, as if he were a machine operator or a worker in an assembly line in a factory or a clerk in a particular fixed office. Obviously, a soldier must go where his company is stationed. In the instant case, Aritao, Nueva Vizcaya was not, of course, Carranglan, Nueva Ecija, Aritao being approximately 1-1/2 hours away from the latter by public transportation. But Sgt. Hinoguin, Cpl. Clavo and Dft. Alibuyog had permission from their Commanding Officer to proceed to Aritao, and it appears to us that a place which soldiers have secured lawful permission to be at cannot be very different, legally speaking, from a place where they are required to go by their commanding officer. We note that the three (3) soldiers were on an overnight pass which, notably, they did not utilize in full. They were not on vacation leave. Moreover, they were required or authorized to carry their firearms with which presumably they were to defend themselves if NPA elements happened to attack them while en route to and from Aritao or with which to attack and seek to capture such NPA elements as they might encounter. Indeed, if the three (3) soldiers had in fact encountered NPAs while on their way to or from Aritao and been fired upon by them and if Sgt. Hinoguin had been killed by an NPA bullet, we do not believe that respondent GSIS would have had

any difficulty in holding the death a compensable one.

Turning to the question of whether Sgt. Hinoguin was performing official functions at the time he sustained the gunshot wound, it has already been pointed out above that the Line of Duty Board of Officers of the 14[th] Infantry Battalion Headquarters had already determined that the death of Sgt. Hinoguin had occurred "in line of duty." It may be noted in this connection that a soldier on active duty status is really on 24 hours a day official duty status and is subject to military discipline and military law 24 hours a day. He is subject to call and to the orders of his superior officers at all times, 7 days a week, except, of course, when he is on vacation leave status (which Sgt. Hinoguin was not). Thus, we think that the work-connected character of Sgt. Hinoguin's injury and death was not effectively precluded by the simple circumstance that he was on an overnight pass to go to the home of Dft. Alibuyog, a soldier under his own command. Sgt. Hinoguin did not effectively cease performing "official functions" because he was granted a pass. While going to a fellow soldier's home for a few hours for a meal and some drinks was not a specific military duty, he was nonetheless in the course of performance of official functions. Indeed, it appears to us that a soldier should be presumed to be on official duty unless he is shown to have clearly and unequivocally put aside that status or condition temporarily by, e.g., going on an approved vacation leave.⁷ Even vacation leave may, it should be remembered, be preterminated by superior orders.

More generally, a soldier in the Armed Forces must accept certain risks, for instance, that he will be fired upon by forces hostile to the State or the Government. That is not, of course, the only risk that he is compelled to accept by the very nature of his occupation or profession as a soldier. Most of the persons around him are necessarily also members of the Armed Forces who carry firearms, too. In other words, a soldier must also assume the risk of being accidentally fired upon by his fellow soldiers. This is reasonably regarded as a hazard or risk inherent in his employment as a soldier.

We hold, therefore, that the death of Sgt. Hinoguin that resulted from his being hit by an accidental discharge of the M-16 of Dft. Alibuyog, in the circumstances of this case, arose out of and in the course of his employment as a soldier on active duty status in the Armed Forces of the Philippines and hence compensable.

It may be well to add that what we have written above in respect of performance of official functions of members of the Armed Forces must be understood in the context of the specific purpose at hand, that is, the interpretation and application of the compensation provisions of the Labor Code and applicable related regulations. It is commonplace that those provisions should, to the extent possible, be given the interpretation most likely to effectuate the beneficent and humanitarian purposes infusing the Labor Code.

ACCORDINGLY, the Decision of the GSIS taken through its Claim Review Committee dated 20 November 1986 and the Decision dated 24 May 1988 of the Employees' Compensation Commission in ECC Case No. 3275, are hereby REVERSED and the GSIS is hereby DIRECTED to award all applicable benefits in respect of the death of Sgt. Lemick G. Hinoguin, to petitioner. No pronouncement as to costs.

SO ORDERED.

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

[1] Affidavit of Capt. F.Z. Besas, dated 27 June 1986; Records of ECC Case No. 3275 (Ciriaco Hinoguin vs. ECC, et al.), p. 8. In a sworn "question and answer" statement given by Draftee N.C. Alibuyog on 4 August 1985 at Battalion H.Q., he said, among other things:

"5. T: Saang lugar ng maganap ang mga pangyayari?"

S: Sa bayan po ng Aritao, Nueva Vizcaya, Sir.

6. T: Sino sino ang iyong mga kasama ng maganap ang mga pangyayari?

S: Sina Cpl. Clavo at Sgt. Limec Hinugen po sir.

7. T: Bakit kayo nakarating sa Aritao, Nueva Vizcaya at ano ang inyong ginagawa doon?

S: Kami po ay may mahalagang bagay na kukunin at tuloy ay mamamasyal sa amin sir.

8. T: Kayo ba ay nagpaalam?

S: Opo sir.

9. T: Kangino kayo nagpaalam?

S: Sa aming CO Sir na si CAPT. FRANKIE BESAS sir.

10. T: Ano ang inyong paalam?

S: Na kami po ay pupunta sa Aritao, Nueva Vizcaya, sir.

x x x x x x x x"

(Underscoring supplied)

[2] Affidavit of Capt. F.Z. Besas, *ibid*.

[3] See sworn statement of Cpl. Rogelio Clavo, Records of ECC Case No. 3275, p. 2.

[4] Records of ECC Case No. 3275, p. 11

[5] *Ibid*.

[6] *Id.*, p. 17.

[7] Annex "A" of Petition, Rollo, pp. 11-14.

7 *Dela Rea v. Employees' Compensation Commission, et al.*, 141 SCRA 128 (1986) may be distinguished on this ground, among others.

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