

JOSE A. BEJERANO, PETITIONER, VS. EMPLOYEES COMPENSATION COMMISSION, RESPONDENT.

G.R. No. 84777. January 30, 1992

Ponente: PADILLA, J.

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PADILLA, J.:

Assailed in this petition for review on certiorari is the decision of respondent Employees Compensation Commission (ECC) affirming the award of the Government Service Insurance System (GSIS) to petitioner Jose Bejerano of temporary total disability benefits for the period of 6-9 December 1985 and permanent partial disability benefits for nineteen (19) months corresponding to the period from January 1986 to July 1987.[*]

Petitioner Jose Bejerano was a cash supervisor of the Development Bank of the Philippines, Zamboanga City Branch Office. He retired at the age of sixty-two (62), after having served the bank for almost twenty-nine (29) years.[1] Medical records disclose that sometime in 1985, petitioner complained of dyspnea or shortness of breath accompanied by productive cough. He was admitted to the Brent Hospital, where he was attended to by Dr. Arcadio Salazar, who medically diagnosed his illness as Chronic Obstructive Lung Disease Emphysema with severe asthmatic component. The medical certificate issued by Dr. Salazar states that petitioner was admitted three (3) times to Brent Hospital in the year 1985, not including the petitioner's confinement at Brent Hospital on 6-9 December 1985, for treatment of chronic obstructive lung disease. Dr. Salazar, in the same medical certificate, classified petitioner's disability as permanent total.[2]

Due to his disability, petitioner was forced to retire at the age of sixty-two (62) on 31 December 1985 and received the sum of P60,890.57 corresponding to five (5) years lump sum of his annuity.[3]

In the year 1987, petitioner was again confined at the Zamboanga Regional Hospital on the following dates:

- 27 February 1987 up to 2 March 1987;
- 23 April 1987 up to 26 April 1987;
- 5 May 1987 up to 18 May 1987;[4]

Subsequently, petitioner filed a claim for compensation benefits with the Government Service Insurance System (GSIS), which was favorably acted upon. The GSIS awarded petitioner Bejerano benefits for temporary total disability for the period of 6-9 December 1985 and permanent partial disability from January 1986 to July 1987.[5]

Not satisfied with the award, petitioner in a letter dated 17 March 1987 requested the GSIS for a change of the classification of his disability benefits from permanent partial to permanent total. Such request was denied by the GSIS, which prompted petitioner to file, on 13 July 1987, a request for reconsideration of the earlier denial of his request for the conversion of his disability benefits from permanent partial to permanent total.[6]

On 29 September 1987, the GSIS again denied petitioner's request.[7] This denial was appealed by the petitioner

to the Employees Compensation Commission (ECC) in a letter dated 8 October 1987. On 5 July 1988, the ECC ruled that the disability benefits previously awarded to the petitioner were already commensurate to the degree of the petitioner's disability. In affirming the GSIS decision, the ECC declared, in part, that:

"x x x Appellant's disability could not be considered permanent total disability in the sense that he is not completely incapable of engaging in gainful occupation. x x x." [8]

Hence, this petition.

The only issue to be resolved is whether petitioner's disability would entitle him to compensation benefits corresponding to permanent total disability.

Petitioner contends that there is substantial evidence showing that his disability is permanent and total. On the other hand, respondent ECC argues that the petitioner's disability was classified by respondent as permanent partial because the criteria for permanent total disability, as laid down by the medical guidelines of the Commission, were not satisfied. Respondent maintains that "disability should be understood more on its medical significance rather than loss of earning capacity." [9]

We find for petitioner.

Respondent ECC's contention that "disability should be understood more on its medical significance rather than loss of earning capacity" is without basis in jurisprudence. Precedents in earlier cases show that disability is intimately related to one's earning capacity.

It has been repeatedly held by this Court 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 she was trained for or accustomed to perform, or any kind of work which a person of her mentality and attainment could do." [10]

It does not mean state of absolute helplessness, but inability to do substantially all material acts necessary to prosecution of an occupation for remuneration or profit in substantially customary and usual manner. [11]

Permanent total disability is the lack of ability to follow continuously some substantially gainful occupation without serious discomfort or pain and without material injury or danger to life. [12]

It is therefore clear from the aforecited rulings that the loss of one's earning capacity determines the disability compensation one is entitled to. Thus, this Court ruled:

"In disability compensation, it is not the injury which is compensated, but rather it is the incapacity to work resulting in the impairment of one's earning capacity (*Ulibas vs. Republic*, 83 SCRA 819; *Roma vs. WCC*, 80 SCRA 1270)." [13]

A thorough examination of the records convinces us that petitioner's claim is substantiated with enough evidence to show that his disability is permanent and total.

First, the attending physician during the petitioner's treatment on 6-9 December 1985 at Brent Hospital, Zamboanga Branch, Dr. Arcadio Salazar, diagnosed petitioner's condition as Chronic Obstructive Lung Disease and classified petitioner's disability as permanent and total. [14] Second, the Medical Examiner's report on Claim for Disability Benefits dated 26 August 1987 prepared by Medical Examiner Silvester L. Martinez also classified petitioner's disability as total and permanent and described the symptoms of petitioner's illness as follows:

"Shortness of breath, difficulty of walking distances longer than ten (10) meters without having respiratory problems; inability to walk a flights of stairs without intervals of rest." [15]

Again, in another medical certificate dated 8 June 1988 issued by Dr. Arcadio Salazar, the petitioner's disability was classified as total and permanent for the following reasons:

- The patient has a tendency to develop acute exacerbation of his ailment resulting in frequent hospitalizations (1985 to 1987);
- The patient's condition stabilizes only on strict confinement at home;
- The physical capacity of the patient has deteriorated markedly. He could walk a distance of only 10 meters before dyspnea develops;
- The patient is confined at home and under continuous medication.[16]

It is evident from the foregoing that, as per his physician's opinion, petitioner is totally incapacitated from engaging in any gainful occupation, and that therefore his disability is permanent and total.

In earlier cases, this Court ruled that the physician's report of sickness or accident substantiates the disability claim.[17]

In one case, this Court ruled, that a doctor's certification as to the nature of claimant's disability may be given credence as he would not normally make a false certification for the sake of a lowly school teacher.[18] According to this Court:

"x x x 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. In fact, if he were not sure of what he was certifying to, then he would not have issued the second certification on July 12, 1979, knowing fully well that he would be perpetuating an erroneous or false report. Under normal circumstances, he would not sacrifice his medical career for the sake of a lowly public school teacher."[19]

It is also of importance to note that petitioner was forced to retire at the age of 62 because of his physical condition. This, again, is another indication that petitioner's disability is permanent and total. As held by this Court, "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' xxx." [20]

"Finally, denying petitioner's permanent total disability benefit, who for more than twenty (20) years had rendered his best service unblemished and only because his ailments forced him to retire, would subvert the very essence of the Workmen's Compensation Act to implement the social justice provision of the Constitution." [21]

WHEREFORE, the decision of the Employees' Compensation Commission is MODIFIED and the GSIS is hereby ordered to pay petitioner compensation benefits for permanent total disability effective January 1986, which is the start of the period when his earning capacity was impaired due to his disability.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Regalado, and Nocon, JJ., concur.

[*] Penned by Jorge B. Contreras, Executive Director, ECC, Rollo, pp. 5-7.

[1] ECC Decision, Rollo, p. 5.

- [2] Attending Physician's Certification, Rollo, p. 21.
- [3] ECC Decision, Rollo, pp. 5-6.
- [4] Record of Confinement, Rollo, p. 69.
- [5] ECC Decision, Rollo, p. 6.
- [6] Rollo, p. 18.
- [7] Rollo, p. 20.
- [8] Rollo, p. 79.
- [9] Respondent's Comment, Rollo, p. 120.
- [10] Tolosa vs. ECC, G.R. No. 60509, May 8, 1985, 136 SCRA 335, 340 citing Landicho vs. WCC, et al., Marcelino v. 7-Up Bottling Co. of the Phils., et al., G.R. No. L-30443, October 31, 1972, 47 SCRA 343.
- [11] Philippine Law Dictionary, 3rd ed. (1988) citing Salonga vs. GSIS, 57 OG 5722.
- [12] Medina vs. ECC, G.R. No. 62406, March 22, 1984, 128 SCRA 349, 356.
- [13] Medina vs. ECC, *ibid.*, p. 355.
- [14] Attending Physician's Certification, Rollo, p. 21.
- [15] Rollo, p. 20.
- [16] Rollo, p. 67.
- [17] Medina vs. ECC, *supra*.
- [18] Morte vs. ECC, G.R. No. L-46362, March 31, 1980, 96 SCRA 884.
- [19] *Ibid.*
- [20] Tolosa vs. ECC, *supra*, 342.
- [21] Tolosa vs. ECC, citing Gonzaga vs. ECC, 127 SCRA 443 (1984).

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