

DOMINGO VICENTE, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION, RESPONDENT.

G.R. No. 85024. January 23, 1991

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

Central to this petition for certiorari which assails the decision[1] dated August 24, 1988 of the Employees' Compensation Commission (ECC) in ECC Case No. 3764, affirming the decision of the Government Service Insurance System (GSIS), is the question on whether the petitioner suffers from permanent total disability as he claims, or from permanent partial disability as held by the respondent Commission.

The undisputed facts of the case are as follows:

The petitioner, Domingo Vicente, was formerly employed as a nursing attendant at the Veterans Memorial Medical Center in Quezon City. On August 5, 1981, at the age of forty-five, and after having rendered more than twenty-five years of government service, he applied for optional retirement (effective August 16, 1981) under the provisions of Section 12(c) of Republic Act No. 1616, giving as reason therefor his inability to continue working as a result of his physical disability.[2] The petitioner likewise filed with the Government Service Insurance System (GSIS) an application for "income benefits claim for payment" under Presidential Decree (PD) No. 626, as amended. Both applications were accompanied by the necessary supporting papers, among them being a "Physician's Certification" issued by the petitioner's attending doctor at the Veterans Memorial Medical Center, Dr. Avelino A. Lopez, M.D., F.P.C.S.,[*] F.I.C.S.[**] (Section Chief, General, Thoracic & Peripheral Surgery, Surgical Department, Veterans Medical Center, Hilaga Avenue, Quezon City), who had diagnosed the petitioner as suffering from:

Osteoarthritis, multiple;
Hypertensive Cardiovascular Disease;
Cardiomegaly; and
Left Ventricular hypertrophy;

and classified him as being under "permanent total disability." [3]

The petitioner's application for income benefits claim payment was granted but only for permanent partial disability (PPD) compensation or for a period of nineteen months starting from August 16, 1981 up to March 1983.[4]

On March 14, 1983, the petitioner requested the General Manager of the GSIS to reconsider the award given him and prayed that the same be extended beyond nineteen months invoking the findings of his attending physician, as indicated in the latter's Certification.[5] As a consequence of his motion for reconsideration, and on the basis of the "Summary of Findings and Recommendation"[6] of the Medical Services Center of the GSIS, the petitioner was granted the equivalent of an additional four (4) months benefits.[7] Still unsatisfied, the petitioner again sent a letter to the GSIS Disability Compensation Department Manager on November 6, 1986, insisting the he

(petitioner) should be compensated no less than for "permanent total disability." On June 30, 1987, the said manager informed the petitioner that his request had been denied. Undaunted, the petitioner sought reconsideration and as a result of which, on September 10, 1987, his case was elevated to the respondent Employees Compensation Commission (ECC). Later, on October 1, 1987, the petitioner notified the respondent Commission that he was confined at the Veterans Memorial Medical Center for "CVA probably thrombosis of the left middle cerebral artery." [8]

There was nothing he could do but wait and hope.

Finally, on August 24, 1988, the respondent rendered a decision affirming the ruling of the GSIS Employees' Disability Compensation Department and dismissed the petitioner's appeal.

Hence, this recourse.

Before us, the petitioner maintains that his disability is "permanent total" and not "permanent partial" as classified by the respondent Commission. In support of his position, the petitioner points to the clinical evaluation and certification earlier adverted to issued by his attending physicians at the Veterans Memorial Medical Center. He likewise contends that contrary to the respondent's ruling, his subsequent confinement in the hospital from August 31, 1987 to September 6, 1987, when he was found suffering from "CVA probably thrombosis," was a direct result of his other ailments as previously diagnosed (before his retirement) by his attending physician and the Personnel Physician of the Center, Dr. Salud C. Palattao.

On the other hand, the respondent Commission argues that the petitioner only suffers from "permanent partial disability" and not from "permanent total disability." The findings of the petitioner's attending physician is not binding on the GSIS, nor on the Commission, as the proper evaluation of an employee's degree of disability exclusively belongs to the GSIS medical experts who have specialized on the subject.

The petition is impressed with merit.

Employee's disability under the Labor Code is classified into three distinct categories: (a) temporary total disability; [9] (b) permanent total disability; [10] and (c) permanent partial disability. [11] Likewise, in Section 2, Rule VII of the Amended Rules on Employees Compensation, it is provided that:

SEC. 2. Disability -- (a) A total disability is temporary if as a result of the injury or sickness the employee is unable to perform any gainful occupation for a continuous period not exceeding 120 days, except as otherwise provided in Rule X of these Rules.

(b) A disability is total and 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 except as otherwise provided for in Rule X of these Rules.

(c) 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.

Here, there is no question that the petitioner is not under "temporary total disability" as defined by law. The respondent Commission's decision classifying the petitioner's disability as "permanent partial" attests, albeit indirectly, to this fact. Our focus therefore, as stated earlier, is only in resolving out whether the petitioner suffers from "permanent total disability" as he claims, or from "permanent partial disability" as the respondent Commission would have us believe.

On the subject of "permanent total disability," the Court has stated, on several occasions, that:

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 the 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 xxx;" 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).[12]

It may therefore be inferred from the Court's pronouncements that while "permanent total disability" invariably results in an employee's loss of work or inability to perform his usual work, "permanent partial disability," on the other hand, occurs when an employee loses the use of any particular anatomical part of his body which disables him to continue with his former work. Stated otherwise, the test of whether or not an employee suffers from "permanent total disability" is a showing of the capacity of the employee to continue performing his work notwithstanding the disability he incurred. Thus, it by reason of the injury or sickness he sustained, the employee is unable to perform his customary job for more than 120 days and he does not come within the coverage of Rule X of the Amended Rules on Employees Compensability (which, in a more detailed manner, describes what constitutes temporary total disability), then the said employee undoubtedly suffers from "permanent total disability" regardless of whether or not he loses the use of any part of his body.

In the case at bar, the petitioner's permanent total disability is established beyond doubt by several factors and circumstances. Noteworthy the fact that from all available indications, it appears that the petitioner's application for optional retirement on the basis of his ailments had been approved. The decision of the respondent Commission even admits that the petitioner "retired from government service at the age of 45." [13] Considering that the petitioner was only 45 years old when he retired and still entitled, under good behavior, to 20 more years in service, the approval of his optional retirement application proves that he was no longer fit to continue in his employment. [14] For optional retirement is allowed only upon proof that the employee-applicant is already physically incapacitated to render sound and efficient service. [15]

Further, the appropriate physicians of the petitioner's employer, the Veterans Memorial Medical Center, categorically certified that the petitioner was classified under permanent total disability. On this score, "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." [16] And, "[N]o 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." [17]

The fact that the petitioner was granted benefits amounting to the equivalent of twenty-three months shows that the petitioner was unable to perform any gainful occupation for a continuous period exceeding 120 days. This kind of disability is precisely covered by Section 2(b), Rule VII of the Amended Rules on Employees' Compensability which we again quote, to wit:

SEC. 2. Disability -- a) x x x

(b) A disability is total and 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 except as otherwise provided for in Rule X of those Rules.

XXX XXX XXX

There being no showing, as we mentioned earlier, that the petitioner's disability is "temporary total" as defined by the law, the inescapable conclusion is that he suffers from permanent total disability.

The court takes this occasion to stress once more its abiding concern for the welfare of government workers, especially the humble rank and file, whose patience, industry, and dedication to duty have often gone unheralded, but who, in spite of very little recognition, plod on dutifully to perform their appointed tasks. It is for this reason that the sympathy of the law on social security is toward its beneficiaries, and the law, by its own terms,[18] requires a construction of utmost liberality in their favor. It is likewise for this reason that the Court disposes of this case and ends a workingman's struggle for his just dues.

WHEREFORE, the decision of the respondent Employees' Compensation Commission is SET ASIDE and another one is hereby ENTERED declaring the petitioner to be suffering from permanent total disability. Respondent Employees' Compensation Commission is accordingly ORDERED to award the petitioner the benefits corresponding to his permanent total disability.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

[1] Penned by Executive Director Jorge B. Contreras, rollo, 38-41.

[2] Rollo, id., 5-6; see also rollo, 38-39.

[*] Fellow Philippine College of Surgeons.

[**] Fellow International College of Surgeons.

[3] Id., 20.

[4] Id., 22, 39.

[5] Id., 6.

[6] Id., 24.

[7] Id., 39.

[8] Id., 41.

[9] Pres. Decree No. 442, art. 191.

[10] Supra., Article 192.

[11] Supra., Article 193.

[12] Evaristo Abaya, Jr. vs. Employees' Compensation Commission, G.R. No. 64255, August 16, 1989; Landicho vs. Workmen's Compensation Commission, No. L-45996, March 26, 1979, 89 SCRA 147.

[13] Rollo, id., 38.

[14] Evaristo Abaya, Jr. vs. Employees' Compensation Commission, supra; Laginlin vs. Workmen's Compensation Commission, L-45785, March 4, 1988, 159 SCRA 91; Gonzaga vs. Employees' Compensation

Commission, No. 62287, January 31, 1984, 127 SCRA 443.

[15] *Parages vs. Employee's Compensation Commission*, No. L-46775, January 17, 1985, 134 SCRA, 73.

[16] *Bello vs. Workmen's Compensation Commission*, No. L-43292, March 18, 1987, 148 SCRA 619, 621-622.

[17] *Marte vs. Employees' Compensation Commission*, No. L-46362, March 31, 1980, 96 SCRA 884, 890.

[18] Pres. Decree No. 442, *supra*, art. 4, see also CONST., art. XIII, secs. 3, 12.

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