

FLORITA E. DALUYON, PETITIONER, VS. EMPLOYEES COMPENSATION COMMISSION, RESPONDENT.

G.R. No. 85133. October 15, 1991

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review to modify and/or set aside the decision of the Employees Compensation Commission (ECC) which affirmed the decision of the Government Service Insurance System (GSIS) denying permanent total disability benefits to the petitioner's deceased husband, Venancio Daluyon.

The late Venancio Daluyon had been a security guard at the Philippine National Railways (PNR) in Manila since 1960. During the course of his employment, he developed cerebrovascular accident and pulmonary tuberculosis. Unable to work efficiently due to the said ailments, he retired from his work on July 3, 1982 at the age of fifty (50).

Finding his ailments service-connected (which at the time of his retirement were diagnosed as PTB moderately advanced, right and CVA thrombosis hemiparesis left), the GSIS awarded Venancio Daluyon temporary disability benefits for a period of thirty eight (38) months and reimbursed the medical expenses he had incurred in connection with his ailments.

Not finding any sign of improvement in his physical condition, Venancio Daluyon wrote a letter dated August 7, 1985 to the GSIS, requesting the latter for a conversion of his disability benefits from permanent partial to permanent total. The GSIS denied his request. Said decision was affirmed by the ECC on July 7, 1987 which found that the maximum benefits commensurate to the degree of his disability had already been awarded to him.

On January 6, 1988, Venancio Daluyon died of cardio vascular arrest.

Herein petitioner, the widowed spouse of the late Venancio Daluyon, filed the instant petition claiming that her husband's ailments could not have been only permanent partial because they resulted in his death.

We agree with the petitioner.

In an unbroken line of cases, this Court has categorically ruled that the early retirement of an employee due to work-related ailment proves that indeed the employee was disabled totally to further perform his assigned task, and to deny permanent total disability benefits when he was forced to retire would render inutile and meaningless the social justice precept guaranteed by the Constitution. Where an employee was forced to retire at an early age due to his illness, and illness persisted even after retirement, resulting in his present unemployment, such condition amounts to total disability which should entitle him to the maximum benefits allowed by law. (*Abaya vs. ECC*, 176 SCRA 511; *Laginlin vs. WCC*, 159 SCRA 99).

There is no reason to digress from this ruling. In fact, Venancio Daluyon's disability should have been evaluated as permanent total since the benefits previously awarded to him in the form of permanent partial disability were

for a period of thirty eight (38) months. Section 2 Rule 7 of the Amended Rules on Employees' Compensation provides 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."

Finally, the lone fact that Venancio Daluyon died as a result of the ailments suffered by him only shows that he never recovered from the same. Public respondent evidently erred in denying him permanent total disability benefits.

WHEREFORE, the appealed decision is hereby SET ASIDE and the public respondent is ORDERED to pay the petitioner, the surviving spouse, of the late Venancio Daluyon, permanent total (instead of permanent partial) disability benefits to be determined in accordance with Section 5 Rule XI of the Amended Rules on Employees' Compensation.

SO ORDERED.

Fernan, C.J., Narvasa, Gutierrez, Jr., Cruz, Feliciano, Padilla, Bidin, Grino-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

Melencio-Herrera, J., on leave.

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