

CARMELITA REYES, PETITIONER, VS. EMPLOYEES COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

G.R. No. 93003, March 03, 1992

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This petition for review on certiorari seeks the reversal of the decision of public respondent Government Service Insurance System (GSIS) which was affirmed by the Employees Compensation Commission (ECC) on January 17, 1990, denying death compensation benefits to herein claimant-petitioner.

The antecedent facts are as follows:

Petitioner's late husband, Ernesto Reyes was a public school teacher since 1967. He first taught in the towns of Taal and Tanawan, Batangas. In 1973, he was transferred to Pinamalayan, Mindoro and to Calapan Mindoro in 1974 where he taught until 1987 (Annex "A," Petition).

On May 11, 1987, Ernesto was hospitalized at San Antonio General Hospital in Lipa, Batangas. He was discharged on May 19, 1987. On May 25, 1987, he died. His death certificate showed that he died of "aplastic anemia, complications, genito-urinary tract infection, acute renal failure, acute pulmonary insufficiency."

Petitioner filed a claim for death benefit under PD 626, as amended, with the GSIS but the same was denied on July 28, 1987 on the ground that the cause of his death was not considered an occupational disease nor was there any showing that his position as teacher had increased the risk of contracting such ailment (p. 24, Rollo). The GSIS stood pat on its decision and denied the reconsideration sought by petitioner.

The petitioner appealed to the Employees Compensation Commission. From the records submitted by her, it was revealed that Ernesto Reyes was confined at the Oriental Mindoro General Hospital on March 19, 1987 for dry cough, easy fatigability and headache. It was also revealed from a chest x-ray film taken on March 6, 1987 that the late Ernesto Reyes had pulmonary tuberculosis. Hence, the ECC ordered the remanding of the appeal to the GSIS with a favorable recommendation, thus:

"x x x

"We hereby recommend that this new evidence (Chest x-ray film) in support of appellant's claim be remanded to the system together with the records for appropriate study and interpretation by their radiologist. If the radiologist findings is positive for pulmonary tuberculosis, the case is considered compensable as we believe the ailment, which is compensable under P.D. 626, as amended, is a contributory factor, if not the main factor of the pulmonary insufficiency, which is listed as one of the causes of his death. As per Cecil and Loeb's Textbook of Medicine, pulmonary tuberculosis among other conditions, may cause pulmonary insufficiency.

"x x x." (pp. 28-29, Rollo).

Upon re-evaluation of the new evidence (Chest x-ray film), the GSIS found that the deceased suffered "minimal PTB, right lower lobe," and considered the illness compensable but only for permanent partial disability for nine (9) months starting from March 6, 1987, the date the chest x-ray was taken (p. 9, Rollo).

Petitioner sought reconsideration of the decision awarding her permanent partial disability only, relying on the Order of the Commission recommending the granting of death benefits if the chest x-ray film would show that the deceased was positive for pulmonary tuberculosis. No reconsideration was granted. The petitioner again appealed the denial of the reconsideration to the Employees Compensation Commission and the case was docketed as ECC Case No. 4855.

In a decision dated January 17, 1990, the ECC affirmed the decision of the GSIS. It held therein that:

"Medical research show that aplastic anemia is a normochromic normocytic anemia, usually with associated leukopenia and thrombopenia, resistant to treatment and almost always fatal. Certain chemical and physical agents cause refractory anemia by toxic depression of blood formation. The chief toxic agents are benzal, gold, arsenic, dinitrophenol, trinitrophenol, radium and x-rays.

"The causative factors in the development of aplastic anemia is the exposure to chemical and physical agents as stated in the medical findings. Since the deceased was working in an environment where exposure to chemical and physical agents are almost nil, we consider the said ailment as non-work-connected, and not compensable." (pp. 34-35, Rollo).

In this petition, the only issue presented for the resolution by this Court is whether or not public respondents committed grave abuse of discretion in holding that the cause of death of petitioner's husband is not work connected and therefore not compensable under PD 626, as amended.

Petitioner, through counsel, argued that respondents confined the teaching profession simply to the discharge of the teacher's duty within the four walls of the classroom. They allegedly failed to consider that the duties of a teacher do not start nor end within the school premises. The going to and coming from the place of work must still be considered as working time as this Court did in *Alano v. ECC*, 158 SCRA 669. Petitioner seeks to prove in this petition that the deceased's illness was work-connected because as a teacher.

"x x x (her) husband was teaching in one of the remote barrios of Pinamalayan, Mindoro. He stayed in said place during weekdays and went home only during week(ends). On the next school year, he was transferred to Calapan, Mindoro. He was assigned in Bo. Parang and later at Bo. Palhi, both situated in the hinterlands of Calapan, Mindoro. The deceased had to walk about 2 to 3 kms. everyday from the highway in going to these places exposing himself to the heat of the sun, rain, flood and other climatic changes.

"Likewise, in going to these barrios, the deceased had to pass (through) ricefields and vast plantations of native citrus fruits locally known as 'dalandan' or 'sintores.' It is of common knowledge in ricefields or in big plantations, the palay or the fruits are being sprayed with certain chemicals. Thus, the deceased must have inhaled or exposed (himself) to these chemicals which are health hazard(s).

"Records further show that the deceased was assigned as an industrial art teacher. Being as such, his activities involved teaching gardening, woodcraft or furniture making and other carpentry jobs. Thus, he came in contact with paints, varnish, thinner or rugby and pesticides in discharging this activities.

"x x x." (pp. 7-8, Petition)

The allegation regarding the work conditions of the deceased, specifically the polluted environment in going to and coming from work, was supported by a sworn statement of the deceased's co-teacher in Mindoro, dated May 23, 1990 (p. 20, Rollo).

Public respondents, on the other hand resisted the claim of petitioner on the ground that the cause of death of the deceased is not an occupational disease listed in Annex "A" of the rules implementing P.D. 626, as amended. And, contrary to petitioner's claim, aplastic anemia, the cause of the deceased's death was not work-connected. The alleged exposure of the deceased to chemicals from pesticides sprayed on ricefields and fruits where he used to pass in going to and from work is not sufficient to cause aplastic anemia. Moreover, there is no showing that the farmers in the fields where pesticides were sprayed contracted aplastic anemia. Likewise, the alleged exposure of the deceased to chemicals as Industrial Arts Teacher is insignificant to acquire aplastic anemia as there is no showing that any of his pupils died of aplastic anemia. In sum, the petitioner failed to prove that her husband's working condition as a public school teacher increased the risk of contracting aplastic anemia.

It is true that aplastic anemia is not an occupational disease for public school teachers as listed under Annex "A" of the amended rules implementing PD 626. The list states that aplastic anemia is contracted when an employee is exposed to x-rays, ionizing particles of radium or other radioactive substances or other forms of radiant energy. Thus,

Occupational Disease

Nature of Employment

"8. Ionizing radiation disease, inflammation ulceration or malignant disease of the skin or subcutaneous tissues of the bones of leukemia, or anemia of the aplastic type due to x-rays, ionizing particle radium or other radioactive substances."

Exposure to x-rays, ionizing particles of radium or other radioactive substance or other forms of radiant energy.

(Annex "A," Amended Rules on Employees' Compensation)

This fact however, does not totally preclude the petitioner from claiming death benefits for the death of her husband. If the cause of death is not listed as an occupational disease, recovery or compensation may still be had upon satisfactory proof that the risk of contracting the disease was increased by his working condition (*Narazo v. ECC*, G.R. 80157, February 6, 1990, 181 SCRA 874, *Magistrado v. ECC*, et al., G.R. No. 62641, June 30, 1989, 174 SCRA 605).

It should be emphasized at the outset that the evidence submitted by petitioner which consisted only of an affidavit executed by an alleged co-teacher of the deceased, tending to show that the risk of contracting aplastic anemia was increased by the deceased's working conditions was attached only to his petition before this Court. There is therefore no basis to charge public respondents of having acted with grave abuse of discretion in denying petitioner's claim for death compensation benefits. It cannot be expected to engage in guesswork and render judgment on the basis of evidence not submitted to it nor brought to its attention.

At the administrative level, the petitioner relied solely on the favorable recommendation of the ECC that if the chest x-ray taken on the deceased is positive for pulmonary tuberculosis, his death case is compensable. When remanded to the GSIS, the x-ray film showed that the deceased was positive for minimal PTB. The GSIS then correctly awarded partial disability benefits only. Since the petitioner was not satisfied with the decision, she now comes to Us on a different theory. The problem however, is that this Court is not in the position to determine the authority of the affiant to make those statements and the veracity thereof.

While insecticide is listed as a possible cause of the disease (T.R. Harrison, *Principles of Internal Medicine*, 7th ed., p. 1533) there was no showing that affiant Mrs. Lourdes Agua, allegedly a co-teacher of the deceased, had the personal knowledge to attest to the facts stated in her affidavit. She stated in her affidavit that:

"This is to certify that Mr. Ernesto I. Reyes, an Elementary Grades Teacher at Calapan East District, Division of Oriental Mindoro was assigned as Intermediate teacher at Maxima M. Kalaw Memorial School at barrio Palhi which is eight kilometers from his residence. It is further certified that during the SY 1974-1977 he used to walk everyday morning and afternoon from his residence to his assignment passing along the ricefield and fruit trees and of course could not avoid the pollution brought about by insecticides and fertilizers used by farmers like malathion, urea and ammonium sulfate. After these years of exposure to such chemicals he was then transferred to Calapan Central School where he was assigned as Practical Arts Teacher and was again exposed to other sorts of chemicals like thinner and paint which later on developed sickness (sic) as dizziness and vomiting. He didn't bother going to the doctor thinking that it was just an ordinary thing because as a teacher and father of four children, he must think of earning additional amount aside from his meager salary as teacher in order to give his children better education and future.

"Because of the above activities of Mr. Ernesto I. Reyes as teacher who devoted his time, talents and efforts to serve the school children he was without his knowing developed (sic) such illness which later on became so serious causing his death and leaving his wife to work alone so their four children could be given what their father dreamed of."

SGD.

Mrs. Lourdes Agua

(p. 20, Rollo)

In claims for compensability under P.D. 626, as amended, the claimant must show at least, by substantial evidence that the development of the disease was brought largely by the conditions present in the nature of the job. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion (*Magistrado v. ECC*, supra). The affidavit of Mrs. Agua is, to Our mind, not substantial to support petitioner's claim. It is doubtful whether the alleged exposure of the deceased to insecticides in going to and from school during the period from 1974-1977 was the immediate cause of his illness. We cannot pretend to be experts in this field and rule that indeed, his exposure to these substances caused his illness almost ten years later. This matter should have been resolved at the administrative level which had the expertise to determine the validity of the claims of petitioner.

While this Court sympathizes with the plight of petitioner who is now saddled with the burden of raising and sending her children to school on her own. We cannot grant her prayer. As a rule, administrative proceedings are not bound by rigid rules of procedure, however, total disregard of basic procedures cannot be countenanced. Claims cannot be raised for the first time at this very late stage in a petition for certiorari.

Lastly, it should be emphasized that the immediate cause of the death of Ernesto Reyes was aplastic anemia. That he also had genito-urinary tract infection, renal failure and acute pulmonary insufficiency do not detract from the fact that these latter disorders were merely the complications of the main culprit which is aplastic anemia.

ACCORDINGLY, the petition is DENIED. The questioned decision of the ECC is AFFIRMED.

SO ORDERED.

Narvasa, C.J., (Chairman), Cruz, and Griño-Aquino, JJ., concur.

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