

CANDIDO A. DALUPE, PETITIONER, VS. EMPLOYEES COMPENSATION COMMISSION/GOVERNMENT SERVICEE INSURANCE SYSTEM, RESPONDENTS.

G.R. No. 93561. May 06, 1991

Ponente: CRUZ, J.

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CRUZ, J.:

The petitioner was appointed patrolman in the Manila Police Department on June 1, 1948. He was in the service until January 1, 1980, when he reached the compulsory retirement age.

During his incumbency, he contracted malignant hypertension, hypertensive cardio-vascular disease with premature ventricular and atrial contraction, and cystitis.

On September 25, 1985, he filed a claim for compensation benefits for his ailments with the GSIS. His claim was approved upon a finding that his illnesses were service-connected and therefore compensable. He was awarded the corresponding benefits for 8 months under the category rated as Permanent Partial Disability.

Later, he requested conversion of the category to Permanent Total Disability. This request was denied on the ground that he had already been awarded the maximum benefits commensurate with the degree of his disability.

The denial was elevated on March 7, 1988, to the Employees' Compensation Commission, which found the appeal devoid of merit. Hence, this petition for review on certiorari, on the sole issue of whether or not the disability caused by the petitioner's ailments may be classified as permanent and total.

The petitioner bases his appeal upon the opinion of his attending physician, Major Felix M. Reyes, Jr., that his disability is total and permanent. In fact, such disability was described as merely "total" in the GSIS Certification of Attending Physician and in the Adjudication dated August 22, 1980, of the National Police Commission for his claims.

As the GSIS correctly observes, the petitioner has not even submitted the certification of the other physicians who attended him when he was hospitalized on November 6, 1979, at the PCH/MPF Hospital at Camp Panopio, Quezon City, and on November 13, 1979, at the AFP Medical Center, Quezon City. No corroboration of Major Reyes's findings was offered to bolster the petitioner's claim of "total" disability.

At any rate, the GSIS is not bound by such findings as it is its own Medical Director who is authorized by law to determine the nature and degree of a claimant's ailments, subject to the approval of the Commission.

Dalupe also argues that the benefits awarded him for permanent partial disability is grossly insufficient and not commensurate with the degree of his disability. Hence, conversion of his disability rating to permanent and total would only be just and equitable.

This argument cannot stand because the award of his benefits was determined on the basis of his disability at the time of his separation from government service and in accordance with the ECC Schedule of Compensation.

As noted by the Solicitor General:

Appendix "E" of the ECC Schedule of Compensation provides the criteria and rating for said ailment, thus:

"CRITERIA FOR HYPERTENSIVE CARDIO-VASCULAR DISEASE: All the following conditions must be satisfied:

"(a) There must be a history, which should be proved, of trauma at work (to the head especially), or trauma unusual and extra-ordinary strain or event, or undue exposure to noxious gases in industry.

"(b) There must be a direct connection between the trauma of exertion in the course of the employment of the worker's collapse.

"(c) If the trauma or exertion then and there caused a brain hemorrhage which would not have happened, an injury may be considered as arising from the work.

"RATING FOR PERMANENT PARTIAL DISABILITY

"Patients without any cardiovascular changes but whose blood pressure rises under conditions of stress and strain to well above normal range but promptly falls down to normal under resting conditions within twenty-four hours and able to perform ordinary physical activity 10%

"Patients with or without cardiovascular changes whose elevated blood pressure requires longer rest periods for its return to normal and whose ordinary physical activity is slightly limited 25%

"Patients with continued hypertension which no longer falls to normal even at rest and with demonstrable evidence of cardiovascular disease and whose physical activity is greatly limited - P.T.D."

We find, therefore, that respondents ECC and GSIS committed no abuse of discretion in not converting the petitioner's disability rating from permanent and partial to permanent and total.

While as a matter of policy, we incline in case of doubt to sustain the worker's claim consistently with the mandate of the Constitution, we can do so only when the provisions of the applicable law and the facts as established by the evidence justify such conclusion. Unfortunately, they do not in the case at bar.

ACCORDINGLY, the petition is DENIED, with costs against the petitioner.

SO ORDERED.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

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