

PEDRO TRIA, PETITIONER, VS. EMPLOYEES' COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENTS.

G.R. No. 96787, May 08, 1992

Ponente: PARAS, J.

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PARAS, J.:

This petition seeks to annul and set aside the decision dated September 13, 1990 of the respondent Employees' Compensation Commission in ECC Case No. 4661, entitled "Pedro Tria vs. Government Service Insurance System (Bureau of Posts)" which affirmed the decision of the respondent Government Service Insurance System, hereinafter referred to as GSIS, denying petitioner's request for conversion of his disability benefits from Permanent Partial Disability (PPD) to Permanent Total Disability (PTD) under Presidential Decree (P.D.) No. 626, as amended.

The undisputed facts of the case are as follows:

Petitioner entered the Bureau of Posts as a letter carrier in August, 1964. He was promoted to the rank of Postmaster I in November, 1987 and served said government entity for almost twenty (20) years until his retirement on October 1, 1984.

Medical records showed that several months before his retirement, petitioner began to experience recurring attacks of fainting accompanied by headache, occasional loss of consciousness and amnesia. Upon consultation with a private medical practitioner, petitioner's ailment was diagnosed as Ischemic Heart Disease. The electrocardiogram (ECG) subsequently taken of petitioner by the GSIS' medical clinic showed a tracing of non-specific ST-R changes.

Consequently, petitioner filed on April 26, 1985, a claim for compensation benefits under P.D. No. 626, as amended, and was awarded permanent partial disability benefits for a period of eight (8) months from October, 1984 up to May, 1985. Not satisfied with such award, petitioner sent a series of letters to the GSIS claiming additional benefits. The GSIS denied his requests.

Thereafter, in a letter dated April 10, 1987 and addressed to the Regional Director, Postal Region IV, San Pablo City, petitioner sought to re-enter the postal service. Said letter reads:

"After my retirement, I undertook a thorough medical treatment and I am happy to report to you that I fully recovered last 1985. Since then I have been engaged in farming and poultry but now that I am fully recovered I have decided to go back to government service and dedicated (sic) the rest of my life to the Postal Service, my first love."

The above-quoted request for reemployment was however denied due to lack of a vacancy.

On February 25, 1988 or about four (4) years after his retirement, petitioner wrote the GSIS another letter asking

for a conversion of his disability benefits from permanent partial to permanent total, on the ground that he still had recurrent attacks of fainting, accompanied by headache and occasional loss of consciousness, amnesia and his consequential inability to perform his official duties. Petitioner supported this claim with two medical certificates attesting that there is a recurrence of petitioner's ailment.

In a letter dated April 22, 1988, the GSIS denied the request of petitioner on the ground that his case does not satisfy the criteria for permanent total disability. Two subsequent letters of reconsideration of the denial of his claim were sent by petitioner to the GSIS but were likewise denied with the explanation that "the amount of benefit granted to petitioner is already commensurate to the degree of his disability at the time he was separated from the service based on the evidences submitted and physical examination administered on him" and that "petitioner's disability benefit was based on his physical condition at the time he was separated from the service and not from contingencies that arose after he was separated from the service." (Comment of respondent GSIS, p. 4)

Upon his request, petitioner's case was elevated for review to the Employees' Compensation Commission (ECC) which affirmed the decision of the GSIS.

Aggrieved, petitioner instituted the present petition for certiorari.

It is admitted that the GSIS found the Ischemic Heart Disease suffered by petitioner to be compensable, as in fact he was awarded permanent partial disability benefits equivalent to eight (8) months salary beginning October 1, 1984. Thus, there is no more question as to whether or not the cause of the disability is work or service-connected. Thus, the issues left for Us to resolve are the following: 1) whether or not petitioner's disability benefits may be converted from permanent partial to permanent total, and 2) whether or not the Workmen's Compensation Law must be liberally construed in his favor.

Petitioner's case is covered by Sec. 2, Rule VII of the Amended Rules on Employees' Compensation, which provides that "a disability is permanent partial 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."

Based on the aforecited rule, petitioner's ailment was classified as permanent partial disability and not a temporary total disability since his ailment did not result in total loss or impairment of his physical or mental functions as a result of his illness. Thus, granting that he had recovered, that is, that his partial disability was only temporary and not permanent, any recurrence meant that his original condition of permanent partial disability merely recurred. Therefore, his ailment cannot be reclassified as permanent total disability if it merely recurred. Besides, Ischemic Heart Disease, the disability for which petitioner has already been compensated and which he claims to have recurred, is a partial and not a total disability.

Petitioner cannot take comfort under the second rule laid down in Sec. 2 of Rule X of the Amended Rules on Employees' Compensation that at any time after 120 days, as may be warranted by the degree of actual loss or impairment of physical or mental functions to be determined by the GSIS, the GSIS may declare a disability total and permanent, because (1) the provision specifically refers to a "continuous temporary total disability," and (2) the GSIS has made no declaration finding petitioner's disability to be total.

The disability allegedly suffered by petitioner after he was already granted benefits and after he had left the service cannot be regarded as a total disability, whether temporary or permanent. "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 period exceeding 120 days except as provided for in Rule X of these Rules." (underscoring supplied) (Sec. 2, Rule VII, Amended Rules on Employees' Compensation)

Section 2 of Rule X of the same rules reads:

"Sec. 2. xxx xxx xxx

xxx xxx xxx xxx.

However, the System may declare the total and permanent status at any time after 120 days of continuous temporary total disability as may be warranted by the degree of actual loss or impairment of physical or mental functions as determined by the System." (underscoring supplied)

Viewed in the light of the aforequoted rules, petitioner's ailment could not have been classified as temporary total disability which could be converted to permanent total disability. The claimed conversion is thus untenable and cannot be granted.

Moreover, it will be recalled that when petitioner sought his re-employment with the Bureau of Posts in April, 1987, he categorically stated in his letter to the Regional Director, Postal Region IV that he has "fully recovered" from his ailment as of 1985 and he had been engaged in farming and poultry-raising. It must be stressed, however, that after petitioner was denied re-entry in the service due to lack of a vacancy, he requested the GSIS for a conversion of his disability benefits from permanent partial to permanent total. To support this claim, petitioner presented two medical certificates, one dated February 15, 1988 and the other dated January 23, 1991, issued by the Municipal Health Officer of Roxas, Oriental Mindoro, both of which certify that petitioner had a recurrence of his ailment in 1985 and recommend that he be granted total disability benefits.

It must be emphasized that the contents of the medical certificate directly and flatly contradict the allegations made by petitioner in his letter for re-employment. While petitioner admits having "fully recovered" for the period beginning the year 1985 up to at least April 10, 1987, the doctor certifies that petitioner's illness has continued unabated since 1984 and the same totally incapacitated him from gainful occupation. The doctor certifies that petitioner had a recurrence of the heart ailment from 1984 to 1988.

While normally the courts give credence to a doctor's certification as to the nature of a claimant's disability, We are hesitant to do the same in this case where petitioner himself submits an absolutely contradictory evidence. Certainly, the inconsistent evidence presented by petitioner is detrimental to his cause.

Also, petitioner stated in the same letter for re-employment that he has since 1985 been engaged in farming and raising poultry, which are apparently more taxing than being postmaster. These circumstances would show that his ailment resulted merely in partial disability, not in temporary total disability if the inability to perform gainful employment exceeds 120 days. It may not be amiss to stress too that petitioner's inability to get re-employed was not due to any ailment but due to lack of a job vacancy.

Even assuming that petitioner's ailment had indeed recurred, it must be pointed out that such a recurrence must have been caused by new and distinct attendant conditions and not on account of circumstances related to his previous employment. Petitioner can no longer be compensated for these new and distinct causes which are not work-connected. The causes are not work-connected but may be precipitated by his inability to find employment due to lack of job availability.

Thus, Sec. 2(b), Rule X of the Amended Rules on Employees' Compensation, which covers the rules on temporary total disability, provides that:

"After an employee has fully recovered from an illness as duly certified to by the attending physician, the period covered by any relapse he suffers, or recurrence of his illness, which results in disability and is determined to be compensable, shall be considered independent of, and separate from, the period covered by the original disability in the computation of his income benefit for temporary total disability."

The recurring ailment is thus considered a separate illness from the original one. And as aptly argued by the Solicitor General, the statement in the above-said rule that "the recurrence of his illness, xxx is determined to be compensable" could only mean that a separate determination must be made whether the recurring ailment is compensable or not.

In the case at bar, petitioner has already been awarded permanent partial disability benefits while being employed as postmaster of the Bureau of Posts. The recurrence, if any, of his ailment many years after his retirement (particularly after the rejection of his April 10, 1987 letter for re-employment), would be considered a completely new illness which arose long after his service and was caused by circumstances not connected with his previous employment, and, therefore, could not have been brought about as a result of unusual strain or fatigue by reason of the nature or quality of his work.

The case of *Vicente vs. ECC*, 193 SCRA 190 cannot be squarely applied here because in said case it was held that petitioner Vicente's disability should have been classified as permanent total and not permanent partial based on clear findings that the illness suffered by petitioner after he was already granted partial disability benefits "was a direct result of his other ailments as previously diagnosed (before his retirement)". In the present case, however, the alleged recurrence of petitioner's illness has not been established by clear and convincing evidence. His application for re-entry in the service casts serious doubts on, if not wholly discredited the medical certificates attesting to the alleged recurrence of his ailment. Further, petitioner has, by his own admission, gainfully engaged himself in industrial activity during the period he was allegedly suffering from ailment, as he stated that he was engaged in farming and raising poultry. Such allegation negates petitioner's claim that he was or is suffering from permanent total disability.

Finally, while the Court has consistently ruled that labor, social and welfare legislation should be liberally construed in favor of the applicant. We cannot do the same in the present case. The GSIS very clearly ruled that the ailment suffered by petitioner merely falls under the category of permanent partial disability. Besides, with petitioner's admission, there is no recurrence of any disability to speak of which can be the basis of any conversion of disability benefits.

After a careful review of the records of the case, it seems clear to Us and We quite agree with the Solicitor General that what prompted petitioner to ask for a conversion of his disability benefits was "not a perennial heart ailment but the grim prospect of losing a source of income, the limited disability pension, and the rejection of his application." The medical certificate was an afterthought intended to legitimize petitioner's request for conversion. (Rejoinder of respondent GSIS, p. 9)

Likewise, on January 1, 1975, the former law on compensation, the Workmen's Compensation Act, was replaced by a novel scheme in the New Labor Code under the title "Employees' Compensation and State Insurance Fund." The new law discarded among others, the concept of 'presumption of compensability and aggravation' and substituted one based on social security principles. The new system is administered by social insurance agencies - the GSIS and the SSS - under the ECC. The purpose was to restore a sensible equilibrium between the employer's obligation to pay workmen's compensation and employee's right to receive reparation for work-connected death or disability. (*Sulit v. Employees' Compensation Commission*, 98 SCRA 483 [1980]; *Raro vs. ECC*, 172 SCRA 845; and *Sante vs. ECC*, 174 SCRA 557).

WHEREFORE, the petition is DISMISSED for lack of merit. No costs.

SO ORDERED.

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

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