

REMUS A. DIOPENES, PETITIONER, VS. GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS) (DEVELOPMENT BANK OF THE PHILIPPINES) AND THE EMPLOYEES COMPENSATION COMMISSION (ECC), RESPONDENTS.

G.R. No. 96844. January 23, 1992

Ponente: CRUZ, J.

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CRUZ, J.:

Two years after his retirement, Remus A. Diopenes filed an application for the conversion of his compensation benefits from permanent partial disability to permanent total disability. The application was rejected by the Government Service Insurance System, which held that it had no more jurisdiction over the matter because the applicant was no longer in the service.[1] On appeal, this decision was affirmed by the Employees' Compensation Commission on the ground that the alleged permanent total disability was not service-connected.[2] Dissatisfied, the petitioner has come to this Court for relief.

Diopenes joined the government service in 1959 as a clerk and eventually rose to Branch Attorney of the Development Bank of the Philippines Catarman, Northern Samar. On April 5, 1978, he suffered a stroke and was found to have sustained a cardio-vascular accident (CVA) with light hemiparesis. He was hospitalized from May 8 to June 15, 1978, and went on sick leave of absence from February 28 to March 1, 1979.

As a result of the CVA, the GSIS granted the petitioner compensation for temporary total disability for 240 days from May 1 to December 26, 1978,[3] and permanent partial disability for 19 months beginning January 1, 1986, until July 1, 1987.[4]

On December 28, 1985, the petitioner retired.

When on November 23, 1986, he requested the change in his compensation benefits, he was required by the GSIS to undergo not only one but three medical examinations.

The first examination was conducted by Dr. Victor L. Cortez, Chief of the Gov. Valeriano M. Gatuslao Memorial Hospital, who diagnosed the petitioner's ailment as "post CVA with residual left hemiplegia," referring to the earlier stroke in 1978. The medical report described as total and permanent the patient's "left hemiparesis (which) has persisted since then up to the present." [5]

The second examination was conducted by Dr. Felix Jardenico, GSIS medical officer for its branches in Iloilo and Bacolod, who found that the left side of the petitioner's body had been paralyzed since 1978 and recommended that "the claim of Atty. Remus A. Diopenes, former Branch Attorney, DBP, Catarman Branch, Northern Samar, be given preferential and favorable consideration and the action thereat be done soonest." [6]

The third examination was conducted by Dr. Lucila Lazaro, resident physician of the Corazon Locsin Montelibano Memorial Hospital, who reported that the petitioner started his illness as early as "April 1978 as high

blood pressure with left hemiplegia which persisted up to the present" and said that the degree of disability was "total and permanent." [7]

Despite these reports, the GSIS denied the petitioner's request, holding that since the hemiplegia was contracted after his retirement, he was not entitled to the benefits claimed. Echoing this finding, the ECC stressed that the petitioner's "hemiplegia occurred two years after he retired from the service" and thus could not be considered service-connected under the Employees' Compensation Law.

There is no evidence that the hemiplegia occurred two years after the petitioner's retirement, as concluded by the respondents. On the contrary, the three doctors who examined the petitioner were one in the finding that the disability began in 1978 and continued even after the petitioner's retirement in 1985. Significantly, one of these doctors was the medical officer of the GSIS itself in Bacolod and Iloilo.

All of these doctors actually examined the petitioner. By contrast, the conclusion of the GSIS medical staff in Manila was based on an arm-chair evaluation by doctors who had not personally examined the petitioner.

Even if the petitioner did suffer a second attack after his retirement, as the respondents contend, this supervening event would not defeat his claim. The reason is that the second stroke was only be the consequence of the first stroke which he suffered in 1978, when he was still in the service. There is no question that that first stroke was service-connected as categorically admitted in the Employees Report made by the GSIS thus:

Immediately prior to his CVA attack on April 8, 1978, employee was supervising court cases of DBP, he being on special detail at Catarman DBP, Northern Samar, from his regular position as Assistant Branch Attorney, DBP Dumaguete Branch. He was in his office preparing pleadings to be filed in court in order to meet the deadline set by the Rules of Court in the numerous court collection cases of the DBP Catarman, which prior to and during the attack of his CVA, employee was working overtime to beat the prescriptive period of filing same in court; the tension thereof triggered his CVA on April 8, 1978. [8]

The following ruling in *Mondejar v. Workmen's Compensation Commission* [9] is applicable to the case at bar:

It is also noteworthy as stated in the referee's decision that because of his illnesses brought about by his work and his first attack in 1972, petitioner's condition had worsened to such an extent that he was constrained to retire at age 60 on August 13, 1974, soon after which he suffered in January, 1973 his second and near-fatal attack which "reduced him to a complete wreck" - in the commission's own language. This second attack was but the consequence of the illnesses which he suffered in the course of his employment. It is patent, therefore, that contrary to the commission's speculation, these illnesses were the "precipitating factors that triggered the stroke" which were "attributable to his employment" and consequently petitioner's claim to compensation under the Act must be upheld, in accordance with the law and settled jurisprudence.

Furthermore, it should be noted that the GSIS had earlier granted the petitioner temporary total disability benefits for 240 days and permanent partial disability for nineteen months, thus in effect acknowledging that he was suffering from permanent total disability. Under Section 192 of the Labor Code, "(1) Temporary total disability lasting continuously for more than one hundred twenty days" shall be deemed "total and permanent."

We agree with the Solicitor General that the petitioner's request should not have been denied by the respondents. Their posture cannot be sustained against the uncontroverted medical evidence that the petitioner's incipient permanent and total disability was incurred during his incumbency in the government service and merely continued and aggravated after his retirement.

The GSIS and the ECC should be commended for their vigilance against unjustified claims that will only deplete

the funds intended to be disbursed for the benefit only of deserving disabled employees. Nevertheless, we should caution against a too-strict interpretation of the rules lest it result in the withholding of full assistance from those whose capabilities have been diminished if not completely impaired as a consequence of their service in the government. A humanitarian impulse, dictated by no less than the Constitution itself under the social justice policy, calls for a liberal and sympathetic approach to the legitimate appeals of disabled public servants like the herein petitioner. Compassion for them is not a dole but a right.

WHEREFORE, the petition is GRANTED. The challenged decisions of the Government Service Insurance System and the Employees' Compensation Commission are SET ASIDE and petitioner Remus A. Diopenes is declared to be entitled to permanent total disability benefits under Article 192 of the Labor Code and shall be compensated accordingly. It is so ordered.

Narvasa, C.J., Griño-Aquino, and Medialdea, JJ., concur.

[1] Rollo, pp. 3-4.

[2] Ibid., pp. 6-9.

[3] Id., p. 46, Annex C of Petition.

[4] Rollo, p. 60.

[5] Ibid., p. 53.

[6] Id., pp. 63-64.

[7] Id., pp. 55-56.

[8] I-d., p. 29.

[9] 77 SCRA 301.

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