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C. TO PAY THE SUCCESSOR OF THE WORKMEN'S COMPENSATION COMMISSION THE SUM OF SIXTY-ONE PESOS AS ADMINISTRATIVE FEES.

SO ORDERED.

Fernandez, Guerrero, De Castro, and *Melencio-Herrera, JJ.*, concur.

Teehankee, (Chairman), J., took no part.

FIRST DIVISION

[G.R. No. L-43048. December 18, 1979]

ANTONIO DELA PEÑA, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and PHILIPPINE LONG DISTANCE TELEPHONE COMPANY,** *respondents.*

SYLLABUS

LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION ACT; PRESUMPTION OF COMPENSABILITY APPLIED IN CASE AT BAR; EFFECT.— It is clear, therefore, that the illness of the claimant supervened during his employment with the Philippine Long Distance Telephone Company. Hence, there is a disputable presumption that the claim is compensable. The burden of proof is shifted to the employer, Philippine Long Distance Telephone Company, to prove that the claim is not compensable. Said private respondent has failed to overcome the presumption of compensability and the evidence of the petitioner that his illness was caused and aggravated by his work.

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DECISION

FERNANDEZ, *J.*:

This is a petition for review of the decision dated January 19, 1976 of the Workmen's Compensation Commission in RO4-WC Case No. 165067 entitled "*Antonio dela Peña, Claimant, versus, Philippine Long Distance Telephone Co., Respondent*" affirming the order of the Acting Referee of Regional Office No. 4 of the Department of Labor in Manila, dismissing the claim for disability benefits.[1]

On March 21, 1975, Antonio dela Peña filed a compensation claim with the Workmen's Compensation Section, Regional Office No. 4, for reimbursement of medical expenses and recovery of disability benefits against the Philippine Long Distance Telephone Company. After the claimant had adduced his evidence, he received on October 23, 1975 at about 11:00 o'clock in the morning a telegram from Acting Referee Danilo Bolos asking him to report to the Medical Rating Officer of the regional office for the purpose of determining the extent of his disability; that allegedly because the claimant was still bedridden at that time, he was not able to report for physical examination; that, however, the claimant reported on the following day, October 24, 1975 for the physical examination but he was informed by Acting Referee Bolos that his case would be dismissed for lack of interest and that his only recourse would be to file a motion for reconsideration; that on November 14, 1975, the claimant filed with the regional office his motion for reconsideration dated November 7, 1975; that claimant actually received a copy of the order of dismissal dated October 27, 1975 of Acting Referee Bolos only on December 16, 1975; and that on January 19, 1975, the Workmen's Compensation Commission rendered its decision affirming the order of dismissal.[2]

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[1] Annex "A", *Rollo*, pp. 21-24.

[2] Petition for Review, *Rollo*, pp. 12-14.

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The Workmen's Compensation Commission found that the claimant, now petitioner, was formerly employed with the Philippine Long Distance Telephone Company from February 28, 1959 starting as laborer, then as lineman in 1961, and lastly as line foreman on May 1, 1970, the last position he held at the time he ceased employment on January 31, 1975; that sometime on August 31, 1961 while allegedly installing telephone cables, the petitioner sustained injuries when he fell from a telephone post of the Philippine Long Distance Telephone Company; and that he was confined at the Waterous Hospital for "contusion, severe, lumbo-sacral region, right" under the medical care of Dr. Benito Dungo.

The record shows that the petitioner claimed for disability compensation due to an illness diagnosed as "Potts Disease 4th and 3rd LV (TB of Spine) and old compression fracture mild, 11th Dorsal Vertebra" for which he was treated on February 18, 1975 by Dr. Eugenio Inocentes, Jr.

The private respondent, Philippine Long Distance Telephone Company, claims that the petitioner resigned on January 31, 1975. However, the petitioner contends that it was only on May 21, 1975 when he resigned due to his illness of "Potts Disease 4th and 3rd LV (TB of Spine) and old compression fracture, mild, 11th Dorsal Vertebra," which resignation was imposed as a condition by the Philippine Long Distance Telephone Company for the amicable settlement of the case he filed against it for reinstatement with back wages. Attached to the memorandum for the petitioner is a xerox copy which reads:

"May 21, 1975

The Phil. Long Distance
Telephone Co.
PLDT Bldg., Ayala Avenue
Makati, Rizal

Sirs:

I hereby tender my voluntary resignation from the Company. I wish to inform your goodselves that I am presently confined in the hospital and scheduled to be operated upon due to an accident or injuries contracted as a Line Foreman. Thus, I request that all

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monetary benefits due me be given the soonest because I need cash with which to advance my hospitalization and other medical expenses.

Should I discover in the future that I am still entitled to more benefits than those to be given me, I hereby reserve my right to collect them in due course.

Thank you.

Very truly yours,

(SGD) ANTONIO DELA PEÑA.

Witness:

(SGD) ROGELIO M. DIZON.

Recd:

(SGD) ILLEGIBLE
5/22"[3]

The Workmen's Compensation Commission affirmed the order of the Acting Referee dismissing the claim on the finding that the illness for which the petitioner is claiming disability benefits took place after his resignation on January 31, 1975.

Apart from the fact that there is a dispute as to when and how the petitioner resigned from the Philippine Long Distance Telephone Company, the preponderance of the evidence is that the disease for which the petitioner was treated on February 17, 1975 was the direct effect of the injuries he sustained on August 31, 1961 when he fell from a PLDT post in the course of his employment with the private respondent. Dr. Inocentes declared that TB of the spine is a progressive disease and that the old compression fracture could have been caused by the fall on August 31, 1961.[4] Indeed, the "old compression fracture" could not have suddenly developed only on February 17, 1975.

It is clear, therefore, that the illness of the claimant supervened during his employment with the Philippine Long Distance Telephone Company.

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[3] *Rollo*, p. 58.

[4] *Rollo*, pp. 52-54.

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Hence, there is a disputable presumption that the claim is compensable.[5] The burden of proof is shifted to the employer, Philippine Long Distance Telephone Company, to prove that the claim is not compensable.[6] Said private respondent has filed to overcome the presumption of compensability and the evidence of the petitioner that his illness was caused and aggravated by his work.

Considering the nature of TB of the spine, the petitioner is entitled to maximum disability benefits of ₱6,000.00. He is also entitled to be reimbursed of medical expenses if established by proper receipts.

WHEREFORE, the decision of the Workmen's Compensation Commission sought to be reviewed is hereby set aside and The Philippine Long Distance Telephone Company is ordered:

1) To pay the petitioner the sum of Six Thousand Pesos (₱6,000.00) for disability benefits;

2) To reimburse the petitioner of medical expenses supported by proper receipts;

3) To pay the petitioner the amount of Six Hundred Pesos (₱600.00) as attorney's fees; and

4) To pay the successor of the Workmen's Compensation Commission the sum of Sixty-one Pesos (₱61.00) as administrative fee.

SO ORDERED.

Teehankee (Chairman), Makasiar, Guerrero, De Castro, and *Melencio-Herrera, JJ.*, concur.

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[5] Section 44. Workmen's Compensation Act; *Justiniano vs. Workmen's Compensation Commission*, 18 SCRA 677.

[6] *Balanga vs. Workmen's Compensation Commission, et al.*, 83 SCRA 721.