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(2) Claimant's counsel the amount of Six Hundred (₱600.00) Pesos as attorney's fees; and

(3) The respondent Commission the sum of Sixty-One (₱61.00) Pesos as administrative fee.

SO ORDERED.

Teehankee (Chairman), Makasiar, Santos, and *Fernandez JJ.*, concur.

FIRST DIVISION

[G.R. No. L-43628. June 22, 1978]

ESTRELLA B. FERRER, *petitioner, vs.* **THE WORKMEN'S COMPENSATION COMMISSION AND REPUBLIC OF THE PHILIPPINES (Bureau of Public Schools),** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION ACT; WHEN THE ILLNESS SUPERVENED DURING EMPLOYMENT, THE PRESUMPTION OF WORK CAUSATION OR AGGRAVATION ARISES; EFFECT THEREOF.**— It is to be presumed as mandated by Section 44 of the Workmen's Compensation Act that the employee's illness which supervened during her employment either arose out of, or at least was aggravated by said employment. With this presumption, the burden of proof shifts to the employer and the employee is relieved of the burden to show causation.

2. **ID.; ID.; EFFECT OF EMPLOYER'S FAILURE TO CONTROVERT EMPLOYEE'S CLAIM.**— In a line of decisions, this Court has ruled that failure on the part of the employer to file a seasonable notice of controversion of the right of employees to compensation

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as required by Section 45 of the Workmen's Compensation Act, as amended, constitutes a waiver by operation of law of his right to controvert the employee's claim for compensation on non-jurisdictional grounds. The failure to controvert the claim within the prescribed period and to submit the report required by Section 37 of the Workmen's Compensation Act, as amended, amounts to a waiver of the right to controvert and a renunciation of all defenses, like the defense that the claim is not compensable.

DECISION

FERNANDEZ, *J.*:

This is a petition to review the decision of the Workmen's Compensation Commission in SRO7-W. C. Case No. 305 entitled "*Estrella Vda. de Ferrer, Claimant, vs. Republic of the Philippines (Department of Education), Respondent*" reversing the decision of the Acting Referee of Sub-Regional Office No. VII, Bacolod City, and absolving the respondent Republic of the Philippines (Bureau of Public Schools) from liability under the Workmen's Compensation Law.[1]

The petitioner filed a claim with Sub-Regional Office No. VII, Bacolod City, for Workmen's Compensation benefits by reason of illness of coronary insufficiency, PTB, moderately advanced, and chronic mastoiditis, allegedly suffered by claimant in the course of employment as a direct result of the nature of her job or aggravated thereby.

The respondent did not controvert the claim.

The Referee, Rodolfo L. Legaspi, rendered his decision, the dispositive part of which reads:

"WHEREFORE, decision is hereby rendered in favor of claimant, ordering respondent to do the following:

1. To reimburse claimant of her medical and hospitalization expenses incurred in the amount of TWO HUNDRED FIFTY-ONE

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[1] *Rollo*, pp. 19-20.

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PESOS AND 60/100 (₱251.60) per supporting receipts subject to proper auditing requirements and to continue to provide claimant with such supplies, services and appliances as the nature of her disability and the process of her recovery may require and that which will promote her early restoration to the maximum level of her physical capacity, pursuant to Section 13 of the Act;

2. To pay to claimant compensation for her go N.S.D., in the amount of SIX THOUSAND PESOS (₱6,000.00) the maximum amount allowed by law, pursuant to Section 18 of the Act;

3. To pay to claimant's counsel, Atty. Pelicisimo Divino, attorney's fee, in the amount of THREE HUNDRED PESOS (₱300.00), pursuant to Section 31 of the Act; and,

4. To pay to the Workmen's Compensation Fund care of this Office, decision fee, in the amount of P61.00, pursuant to Section 55 of the Act.

SO ORDERED.

Bacolod City, Philippines, October 14, 1975.

RODOLFO L. LEGASPI
Referee"[2]

The respondent appealed to the Workmen's Compensation Commission which reversed the decision of the Referee.

The evidence on record shows that the claimant entered the service of the respondent on September 22, 1939 as classroom teacher and rendered continuous service up to her retirement on May 24, 1973; that at the time of her retirement, claimant was receiving an annual salary of ₱4,188.00; that sometime in 1968, the claimant was operated on for ovarian cyst, after which her sense of hearing became defective; that she was under the medical care of Dr. Ptolomeo Medalla who, on October 29, 1971, diagnosed her illness as mastoiditis. chronic, bilateral; that subsequently. she lost her sense of hearing of both ears; that during the period from March 13 to April 14, 1973, the claimant was on sick leave and she applied for optional retirement

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[2] *Rollo*, pp. 17-18.

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after 32 years of service; that her application was approved on May 24, 1973; that during her employment with the respondent, the claimant was also treated for coronary insufficiency and bronchitis; and that claimant retired from the service because of her total loss of hearing as a result of the ailment known as mastoidities, chronic, bilateral.[3]

The Workmen's Compensation Commission declared that the claimant is not entitled to an award because it was not proven that her ailment was caused by her employment or otherwise service aggravated. The Commission concluded that "for failure of the claimant to establish that her illness is casually connected with the nature of her employment, she is not entitled to the claim."[4]

The claim of the petitioner is meritorious.

It is undisputed that the illness of the claimant occurred during her employment with the respondent. It is to be presumed as mandated by Section 44 of the Workmen's Compensation Act that the employee's illness which supervened during her employment either arose out of, or at least was aggravated by said employment. With this presumption, the burden of proof shifts to the employer and the employee is relieved of the burden to show causation.[5] In the instant case, the respondent has failed to discharge the burden.

Moreover, it is a fact that the respondent has failed to controvert the claim of the petitioner. In a line of decisions, this Court has ruled that failure on the part of the employer to file a seasonable notice of controversion of the right of employees to compensation as required by Section 45 of the Workmen's Compensation Act, as amended, constitutes a waiver by operation of law of his right to controvert the employee's claim for compensation on non-jurisdictional grounds.[6] The failure to controvert the

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[3] *Rollo*, pp. 19-20.

[4] *Rollo*, p. 20.

[5] *Talip vs. Workmen's Compensation Commission*, 71 SCRA, p. 218.

[6] *Carlos vs. De la Rosa*, 5 SCRA 262.

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claim within the prescribed period and to submit the report required by Section 37 of the Workmen's Compensation Act, as amended, amounts to a waiver of the right to controvert and a renunciation of all defenses, like the defense that the claim is not compensable.[7]

Moreover, the petitioner has established by competent evidence that her illness was directly caused by her employment. The Physician's Report submitted by Dr. Roberto Alba, Exhibit "B", diagnoses the illness of the claimant as "coronary insufficiency" and states that treatment was first administered on April 1, 1973 continuing up to the date of the issuance of the report. Said doctor avers that the illness of the claimant was directly caused by her employment or was a result of the nature of such employment. Dr. Roberto Alba also certified that the claimant has permanent deafness, bilateral, due to recurrent mastoiditis. Dr. Antonio M. Habana, Compensation Rating Medical Officer, gave the claimant a disability evaluation of 90% N.S.D., Exhibit "F".[8]

Part of the duties of a teacher involves the discipline of students. This produces emotional strain that can give rise to high blood pressure for, as stated by Dr. Alba in his Physician's Report, emotional strain can be one of the causative factors that could give rise to coronary insufficiency.

The Referee found that the various receipts of payment of claimant for medical and hospitalization expenses relating to coronary insufficiency and chromic bronchitis amounted to a total of ₱251.60.

WHEREFORE, the decision of the Workmen's Compensation Commission is hereby set aside and the respondent is ordered:

1) To reimburse claimant of her medical and hospitalization expenses in the amount of Two Hundred Fifty One Pesos and 60/100 (₱251.60), subject to proper auditing requirements;

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[7] *Development Bank of the Philippines vs. Workmen's Compensation Commission*. 49 SCRA 365.

[8] *Rollo*. pp. 15-16.

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2) To pay claimant compensation for her 90-N.S.D. disability in the amount of Six Thousand Pesos (₱6,000.00);

3) To pay the claimant's counsel attorney's fees in the amount of Six Hundred Pesos (₱1,600.00); and

4) To pay the successor of the Workmen's Compensation the amount of Sixty One Pesos (₱61.00) as administrative fee.

SO ORDERED.

Teehankee (Chairman), Makasiar, Santos, and *Guerrero, JJ.*, concur.

SECOND DIVISION

[A.C. No. 801. June 27, 1978]

CESARIO ADARNE, *complainant, vs.* **ATTY. DAMIAN V. ALDABA,** *respondent.*

SYLLABUS

1. LEGAL AND JUDICIAL ETHICS; ATTORNEYS; FORMALITIES FOR SUBSTITUTION OF AN ATTORNEY.— The rule followed on matters of substitution of attorneys as laid down by this Court is that no substitution of attorneys will be allowed unless there be filed: (1) a written application for such substitution; (2) the written consent of the client; (3) the written consent of the attorney substituted; and (4) in case such written consent can not be secured, there must be filed with the application proof of service of notice of such motion upon the attorney to be substituted, in the manner prescribed by the rules. Unless the foregoing formalities are complied with, substitution will not be permitted, and the attorney who properly appeared last in the cause, before such application for substitution, will be regarded as the attorney of record and will be held responsible for the proper conduct of the cause.