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FIRST DIVISION

[G.R. No. L-43021. June 30, 1978]

JOSEFINA ANINIAS, *petitioner, vs.* **THE WORKMEN'S COMPENSATION COMMISSION and THE CITY OF MANILA,** *respondents.*

[G.R. No. L-44391. June 30, 1978]

ISABEL REDOBLADO, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and REPUBLIC OF THE PHILIPPINES (BUREAU OF PUBLIC SCHOOLS),** *respondents.*

[G.R. No. L-41587. June 30, 1978]

JULIANA R. BUYTRAGO, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and REPUBLIC OF THE PHILIPPINES (Bureau of Public Schools),** *respondents.*

[G.R. No. L-42840. June 30, 1978]

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

[G.R. No. L-44958. June 30, 1978]

MARINA M. PUNTERA, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and REPUBLIC OF THE PHILIPPINES (Bureau of Public Schools),** *respondents.*

[G.R. No. L-41707. June 30, 1978]

JOSE C. TRIA, *petitioner, vs.* **REPUBLIC OF THE PHILIPPINES (Court of Agrarian Relations) and the**

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Honorable WORKMEN'S COMPENSATION COMMISSION, *respondents.*

[G.R. No. L-43074. June 30, 1978]

NICANOR REJUSO, *petitioner, vs.* **REPUBLIC OF THE PHILIPPINES (Bureau of Public Schools) and WORKMEN'S COMPENSATION COMMISSION,** *respondents.*

[G.R. No. L-43354. June 30, 1978]

DOLORES P. VDA. DE JABASA and ENRIQUE, PATRICIA, POMPIO, AMBROSIO, MILAGROS, GALO and ALETENENCIA, ALL SURNAMED JABASA, *petitioners, vs.* **WORKMEN'S COMPENSATION COMMISSION and ATLAS CONSOLIDATED MINING AND DEVELOPMENT CORPORATION,** *respondents.*

[G.R. No. L-43122. June 30, 1978]

PACIENCIA CAMA, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION and REPUBLIC OF THE PHILIPPINES (Bureau of Public Schools),** *respondents.*

[G.R. No. L-45399. June 30, 1978]

CONSOLACION AMADOR, *petitioner, vs.* **THE WORKMEN'S COMPENSATION COMMISSION and FAR EASTERN UNIVERSITY,** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATIONS; WORKMEN'S COMPENSATION ACT; PRINCIPLE OF PRESUMPTION OF COMPENSABILITY; APPLICABLE IN CASES AT BAR.**— The Court sets aside the commission's reversals of the referees'

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decisions and awards in the first nine above-entitled cases as well as its affirmance of the referee's dismissal of the claim in the last above entitled case (L-45399) on the basis of established and controlling jurisprudence anchored on section 44 of the Workmen's Compensation Act upholding the presumption of compensability of disabling ailments that supervene during the course of employment. Respondents in the cases at bar failed to discharge the burden of disproving the claims by substantial evidence and the referees' awards must therefore be maintained in the first nine cases, and the referee's dismissal of the claim in the tenth case set aside. The commission's gratuitous conclusion that the claims at bar were not compensable must be reversed, for as the Court stressed in *Visayan Stevedore & Transportation Co. vs. Workmen's Compensation Commission,* the mere opinion of doctors presented by the employer (or of the commission's Rating Medical Officer for that matter, as in the claims of petitioner Jabasa, Cama and Amador that would disconnect the employee's ailment from his employment cannot prevail over the presumption of compensability mandated by law.

2. **ID.; ID.; PRINCIPLE OF PRESUMPTION OF COMPENSABILITY; RESTATED.**— In the oft cited case of *Talip vs. Workmen's Compensation Commission*, the Court reaffirmed the principle of presumption of compensability, stating that assuming that "the causal link between the nature of (claimant's) employment and his ailment has been insufficiently shown, nevertheless it is to be presumed as mandated by Section 44 of the Workmen's Compensation Act that the employee's illness which supervened during his employment, either arose out of, or at least was aggravated by, said employment; and with this legal presumption, the burden of proof shifts to the employer and the employee is relieved of the burden to show causation." The Court stressed therein that "it is now well-settled that once it is established that the illness supervened during employment, as in this case, there is a rebuttable presumption that such illness arose out of the employment or was at least aggravated by it; and the employer has the burden of proving the contrary by substantial evidence."

3. **ID.; ID.; AVAILMENT OF OPTIONAL RETIREMENT IS NOT A BAR TO COMPENSATION.**— The commission's rejection of the claims of teachers-claimant's Buytrago, Villafranca and

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Puntera in Cases 3 to 5 (L-41587, L-42840 and L-44958) on the ground that they had voluntarily retired by availing of their optional retirement has been set aside by the Court in several cases. In *Gomez vs. Workmen's Compensation Commission*, the Court held that "Pursuant to *Memorandum Circular No. 133* issued by the Office of the President 'All optional applications for optional retirement under Commonwealth Act No. 180, as amended by Rep. Act No. 1616 and No. 4968, shall not be recommended for approval unless funds are available in the bureau or office concerned for the payment of applicant's retirement gratuity over and above the fund requirements of its programmed projects and activities and *provided* any of the following circumstances or conditions are present: (1) . . . ; (2) The employee-applicant is below 65 years of age and is *physically incapacitated* to render *further efficient service*.' The fact that the application of petitioner for retirement at the age of 63 was duly approved by the Government Service Insurance System is a clear indication that at the time her application was approved she was below 65 years of age and she was physically incapacitated to render further efficient service."

4. ID.; ID.; ID.; EFFECTS WHERE THE CLAIMS WERE NOT CONTROVERTED.— Where the claims were expressly non-controverted as in the claims of petitioners Tria and Rejuso (Cases 6 and 7, L-41707 and L-43074), it has long been established in an unbroken line of cases, since the early 1957 case of *Victorias Milling Co. Inc. vs. Compensation Commission* that "having renounced by operation of law the right to contest the employee's right to compensation [by failure to file a timely controversion within the statutory period or by an express statement of non-controversion], the [employer] is deemed also to have waived the right to interpose [any] defenses and hence, there is nothing it can legally prove in relation thereto."

D E C I S I O N

TEEHANKEE, *J.*:

The ten workmen's compensation cases at bar are jointly adjudicated in this consolidated decision by virtue of established

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jurisprudence and principles that are decisive and controlling in their determination.

1. In L-43021, respondent commission reversed the referee's decision in favor of claimant-petitioner JOSEFINA ANINIAS granting her ₱6,000.00 as compensation benefits, P300.00-attorney's fee and requiring respondent to pay ₱61.00 administrative fee (for her affliction of pulmonary tuberculosis inactive per X-ray examination, by reason of which claimant was recommended for lay-off "as unfit for work" and was laid off by respondent-employer, the City of Manila, and her services as street cleaner were terminated on July 31, 1971). on July 29, 1971 she had stopped working due to her illness diagnosed as PTB minimal by Dr. Evangeline S. Gonzales of the Manila Health Department.[1] The referee found that "by the very nature of claimant's work as street cleaner, her resistance easily weakens as she is involved in a strenuous activity coupled with exposure to dust, fumes, heat and rain," and granted the award on the basis of the presumption of compensability, but the commission set aside the award on the ground that a fluorography examination on July 3, 1971 "revealed that her illness was already inactive and therefore it did not result in disability since it was already healed . . ." and concluding that "her separation from her employment, therefore, is not due to a disabling illness but for reasons claimant alone knows."

2. In L-44391, respondent commission reversed the referee's decision in favor of claimant-petitioner ISABEL REDOBLADO granting her ₱3,850.33 as disability compensation and ₱5,000.00 as reimbursement of medical expenses and requiring respondent Republic "to provide further medical attention and treatment as the illness may require to restore claimant to the fullest capacity" and requiring respondent to pay ₱39.00-administrative fee (for claimant's illness of pneumonia and pulmonary tuberculosis suffered by her in the course of 28 years of service as classroom teacher since August 26, 1968). The commission set aside the award (although it correctly rejected

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[1] WCC decision, *Rollo*, p. 10.

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the principal ground of respondent Republic for assailing the same, to wit: "that the Regional office has not acquired jurisdiction over the respondent for its failure to furnish the Office of the Solicitor General a copy of the notice of claim for compensation filed by the claimant") on the ground that the claimant failed to prove her alleged illness of PTB minimal by an X-ray examination result as the "best evidence", and ruling further that "consequently, she is also not entitled to reimbursement of medical expenses allegedly incurred for the treatment of her ailment."

3. In L-41587, respondent commission reversed the referee's decision in favor of petitioner-claimant JULIANA R. BUYTRAGO granting her ₱4,293.05 as disability benefits and requiring respondent to pay ₱43.00-administrative fee (for her ailments of essential hypertension and rheumatoid arthritis as a result of which claimant after 28 years of service as public school teacher stopped working on July 7, 1973 and optionally retired from the service on September 10, 1973 at the age of 63 years). The commission set aside the award on the basis of alleged non-compensability of petitioner-claimant's main illness of arthritis and its bare belief that "she stopped working on July 7, 1973 in the enjoyment of her terminal leave preparatory to her retirement at age of 63 years."

4. In L-42840, respondent commission reversed the referee's decision in favor of petitioner-claimant ESTRELLA S. VILLAFRANCA granting her ₱6,000.00 as disability compensation, ₱2,494.10 as reimbursement of medical expenses, ₱300.00-attorney's fee and requiring respondent to pay ₱61.00-administrative fee (for her ailments of glaucoma of both eyes, high blood pressure, enlarged heart and fatty liver, as a result of which claimant after 39 years of service as public school teacher stopped working on July 8, 1967 and optionally retired from the service at 60 years of age) on the grounds of alleged non-compensability of petitioner-claimant's illnesses and its "earnest belief that at the time of her retirement claimant was not suffering from any disability."

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5. In L-44958, respondent commission reversed the referee's decision in favor of petitioner-claimant MARINA M. PUNTERA granting her ₱6,000.00 as disability benefits and requiring respondent to pay ₱61.00-administrative fee (for her ailments of coronary insufficiency and bronchial asthma, as a result of which she was optionally retired on August 1, 1974 " after 37 years of fruitful, dedicated and efficient public service"[2] on the ground that "the alleged ailments are not permanently and totally disabling, "although the Compensation Rating Medical Officer had found that" the ailments resulted in temporary total disability for labor from August 1, 1974 up to October 23, 1975, with permanent partial disability of 50% N.S.D. (cardio-vascular disease)," and the employer's report of her sickness had expressly stated that petitioner's claim was not being controverted.

6. In L-41707, respondent commission reversed the referee's decision in favor of petitioner-claimant JOSE C. TRIA granting him the total sum of ₱5,219.94 as disability compensation and for reimbursement of medical expenses[3] and requiring respondent to pay ₱61.00-administrative fee (for claimant's ailment of acute sub-endocardial infarction on April 25, 1974 in the course of his employment as translator in respondent Court of Agrarian Relations, as a result of which he was hospitalized in Naga City). The employer's report of sickness as filed by the presiding judge of respondent court expressly stated that claimant's right to compensation was not being controverted and that he had "contracted the illness while in regular occupation." Notwithstanding that an outright award could have been issued by the referee in accordance with the commission's rules, he nevertheless set the case for hearing on October 21, 1974 but despite due notice there was no

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[2] WCC decision, *Rollo*, p. 20.

[3] Broken down as follows:

Disability compensation	₱4.645.94
Reimbursement of medical expenses	574.00
	₱5.219.94

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appearance for respondent while the claimant duly appeared to support his claim. The commission nevertheless set aside the award on the erroneous ground that notwithstanding the non controversion of the claim, the claimant is not relieved "from proving, by substantial evidence, the existence of causal relationship between the work and the injury or illness that caused the disability."

7. In L-43074, respondent commission reversed the referee's decision in favor of petitioner-claimant NICANOR REJUSO granting him ₱6,000.00 as disability compensation, ₱300.00-attorney's fee and requiring respondent to pay ₱61.00-administrative fee (for claimant's ailment of rheumatoid arthritis suffered while working as janitor since October 7, 1963 of respondent Republic in the Bureau of Public Schools with the lifting of heavy objects as a result of which he fell to the ground and suffered "complete immobility" on February 20, 1975). The municipal health officer of San Jacinto, Masbate declared him permanently and totally disabled for work and he stopped reporting for work since the accident. Notwithstanding that the respondent through the principal teacher entered a notice of non-controversion, respondent commission reversed and set aside the award on the ground of alleged non-compensability of his ailment.

8. In L-43354, respondent commission reversed the referee's decision in favor of petitioner claimant DOLORES P. VDA. DE JABASA as surviving spouse of the deceased Inocencio G. Jabasa on her own behalf and on behalf of their 7 minor children (her co-petitioners herein), granting them ₱6,000.00 as death compensation, ₱200.00 for burial expenses, ₱300.00-attorney's fee and requiring respondent to pay ₱61.00-administrative fee (as a result of the death of her deceased husband Inocencio G. Jabasa who was stricken with typhoid with massive intestinal bleeding on August 16, 1972 while in the employ of private respondent as P.R. jumbo driller which had caused his death on August 25, 1972. The commission set aside the award and upheld respondent's stand "that since typhoid fever is caused by *bacillus typhosus* (not virus) which is taken

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thru food and drinking water, the employment factor bad no participation in the ailment."

9. In L-43122, respondent commission reversed the referee's decision in favor of petitioner-claimant PACIENCIA CAMA granting her ₱6,000.00 as disability compensation, ₱10,490.00 for reimbursement of medical expenses, ₱300.00-attorney's fee and requiring respondent to pay ₱61.00 administrative fee (for claimant's ailment of adenocarcinoma of the rectum incurred by her in the course of her employment as public school teacher which forced her to retire under "disability retirement" at the early age of 52 years after 33 years of service. Respondent, thru the recommendation of the committee constituted for the purpose of investigating the merits of the claim, did not controvert claimant's right to compensation. The commission nevertheless set aside the award on the basis of its medical officer's opinion as adopted by it that "the appearance of cancer has no service connection with whatever nature the claimant's employment may be."

10. In L-45399, respondent commission affirmed the referee's decision dismissing petitioner-claimant's claim for disability compensation and reimbursement of duly receipted medical expenses in the sum of ₱236.75 (for claimant's illness of blindness of right eye, macular scar right secondary to macular degeneration and to photo coagulation and cataract immature bilateral, as a result of which, following the labor physician's report that she should retire and refrain from paper work, petitioner-claimant CONSOLACION AMADOR retired on March 21, 1973 from employment with the Far Eastern University where she had worked as a cashier for more than 20 years at age 61[4]. The commission upon appeal of petitioner-claimant sustained the referee's dismissal of the claim which was based solely on its Compensation Rating Medical Officer's opinion "that the illness of claimant has no causal relation to her work."

The Court sets aside the commission's reversals of the referees' decisions and awards in the first nine above-entitled cases as well as its affirmance of the referee's dismissal of the claim

[4] *Rollo*, pp. 25, 38.

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in the last above entitled case (L-45399) on the basis of established and controlling jurisprudence anchored on section 44 of the Workmen's Compensation Act upholding the presumption of compensability of disabling ailments that supervene during the course of employment.[5]

In the oft cited case of *Talip vs. Workmen's Compensation Commission*,[6] the Court reaffirmed the principle of presumption of compensability, stating that assuming that "the causal link between the nature of (claimant's) employment and his ailment has been insufficiently shown, nevertheless it is to be presumed as mandated by section 44 of the Workmen's Compensation Act that the employee's illness which supervened during his employment, either arose out of, or at least was aggravated by, said employment; and with this legal presumption, the burden of proof shifts to the employer and the employee is relieved of the burden to show causation." The Court stressed therein that "it is now well-settled that once it is established that the illness supervened during employment. as in this case, there is a rebuttable presumption that such illness arose out of the employment or was at least aggravated by it; and the employer has the burden of proving the contrary by substantial evidence."[7]

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[5] The cited provision reads:

"SEC. 44. *Presumption.* — In any proceeding for the enforcement of the claim for compensation under this Act, it shall be presumed in the absence of substantial evidence to the contrary —

1. That the claim comes within the provisions of this Act;
2. That sufficient notice thereof was given;
3. That the injury was not occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another;
4. That the injury did not result solely from the intoxication of the injured employee while on duty; and
5. That the contents of verified medical and surgical reports introduced in evidence by claimants for compensation are correct. (RA No. 772.)"

[6] 71 SCRA 218, 220 (1976); see *Pillsbury Mindanao Flour Milling Co. vs. Murillo* and other cases jointly decided, L-32300, Jan. 31, 1978.

[7] *Idem*, citing *Maria Cristina Fertilizer Corp. vs. Workmen's Compensation Commission*, 60 SCRA 228, 232 (1974); per Makalintal, then *C.J.*

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Respondents in the cases at bar failed to discharge the burden of disproving the claims by substantial evidence and the referees' awards must therefore be maintained in the first nine cases, and the referee's dismissal of the claim in the tenth case set aside. The commission's gratuitous conclusion that the claims at bar were not compensable must be reversed, for as the Court stressed in *Visayan Stevedore & Transportation Co. vs. Workmen's Compensation Commission*,[8] the mere opinion of doctors presented by the employer (or of the commission's Rating Medical Officer for that matter, as in the claims of petitioner Jabasa, Cama and Amador [Cases Nos. 8, 9 and 10, L-43354, L-43122 and L-45399]) that would disconnect the employee's ailment from his employment cannot prevail over the presumption of compensability mandated by law.

This presumption of compensability is further reinforced by the Workmen's Compensation Act in tuberculosis cases such as in Cases Nos. 1 and 2, L-43021 and L-44391, for section 2 of the Act expressly mentions tuberculosis as a compensable illness when contracted in the course of employment, be it "directly caused by such employment or either aggravated by or the result of the nature of such employment."

The commission's dismissal of petitioner Aninias' claim in Case No. 1, L-43021 or the ground that the claimant's separation from her employment was not due to her illness of PTB is contradicted by the very record which shows that she was laid-off upon recommendation of the examining physician that said illness rendered the claimant "unfit for work." The commission's dismissal of petitioner Redoblado's claim in Case No. 2, L-44391 on the ground that she failed to present an X-ray file of her PTB ailment has in many cases been ruled out by the Court. As stressed in *Ybañez vs. Workmen's Compensation Commission*,[9] "this is not only contrary to the aforequoted ruling of this Court wherein the burden of proof is placed on the employer but to the well-entrenched and oft-

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[8] 59 SCRA 89, (1974), per Makalintal, then *C.J.*

[9] 77 SCRA 501 (June 30, 1977), per Makasiar, *J.*

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repeated pronouncements of this Tribunal to the effect that an x-ray or some other laboratory report is not an indispensable prerequisite to compensation."[10]

The commission's rejection of the claims of teachers-claimant's Buytrago, Villafranca and Puntera in Cases 3 to 5 (L-41587, L-42840 and L-44958) on the ground that they had voluntarily retired by availing of their optional retirement has been set aside by the Court in several cases. In *Gomez vs. Workmen's Compensation Commission*[11], the Court held that "Pursuant to *Memorandum Circular No. 133* issued by the Office of the President 'All optional applications for optional retirement under Commonwealth Act No. 180, as amended by Rep. Act No. 1616 and No. 4968, shall not be recommended for approval unless funds are available in the bureau or office concerned for the payment of applicant's retirement gratuity over and above the fund requirements of its programmed projects and activities and *provided* any of the following circumstances or conditions are present: (1) . . . ; (2) The employee-applicant is below 65 years of age and is *physically incapacitated* to render *further efficient service*.' The fact that the application of petitioner for retirement at the age of 63 was duly approved by the Government Service Insurance System is a clear indication that at the time her application was approved she was below 65 years of age and she was physically incapacitated to render further efficient service."

Where the claims were expressly non-controverted as in the claims of petitioners Tria and Rejuso (Cases 6 and 7, L-41707 and L-43074), it has long been established in an unbroken line of cases, since the early 1957 case of *Victorias Milling Co. Inc. vs. Compensation Commission*[12] that "having

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[10] Citing *Vallo vs. Workmen's Compensation Commission*, 73 SCRA 623 (1976), and *Jacob vs. Workmen's Compensation Commission*, 72 SCRA 575 (1976).

[11] 75 SCRA 395, 399, per Martin, J. (retired); cited in *Ybañez vs. Workmen's Compensation Commission*, *supra*, fn. 10.

[12] 101 Phil. 1208 (1957), notes in brackets supplied.

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renounced by operation of law the right to contest the employee's right to compensation [by failure to file a timely controversion within the statutory period or by an express statement of non-controversion], the [employer] is deemed also to have waived the right to interpose [any] defenses and hence, there is nothing it can legally prove in relation thereto."

ACCORDINGLY, judgment is rendered in Cases L-43021, L-44391, L-41587, L-42840, L-44958, L-41707, L-43074, L-43354 and L-43122, setting aside respondent commission's reversals of the referees' decisions and awards and reinstating the said decisions and awards in favor of petitioners-claimants Josefina Aninias, Isabel Redoblado, Juliana R. Buytrago, Estrella S. Villafranca, Marina M. Puntera, Jose C. Tria, Nicanor Rejuso, Dolores P. *Vda.* de Jabasa, *et al.*, and Paciencia Cama, with the modification that in each and all of said cases as provided by the Workmen's Compensation Act and the Commission Rules,[13] ten per cent (10%) of the compensation awarded shall further be paid by respondents-employers by way of attorney's fees, as follows: ₱600.00 in each case, except in Case 2, L-44391, wherein the 10% attorney's fee herein awarded is ₱385.00, Case 3, L-41587, wherein the 10% attorney's fee herein awarded is ₱429.30, and Case 6, L-41707, wherein the 10% attorney's fee herein awarded is ₱464.59.

Judgment is rendered in Case L-45399 sentencing respondent-employer therein to pay petitioner Consolacion Amador the sum of ₱6,000.00 as disability compensation, the further sum of ₱600.00 as attorney's fee and the sum of ₱61.00 as administrative fee to the Workmen's Compensation Fund.

SO ORDERED.

Makasiar, Muñoz Palma, Santos,[*] and *Guerrero, JJ.*, concur.

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[13] Rule 27, Sec. 1, 1973 Commission Rules.

[*] Designated to sit in the First Division vice Justice Ramon C. Fernandez who is on leave.