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legal presumption, the burden of proof shifts to the employer and the employee is relieved of the burden to show causation.'"

The jurisprudence surrounding the provisions of the former Workmen's Compensation Act, as amended is clear. Since this claim falls under that Act, we cannot depart from these rules of long standing.

WHEREFORE, the decision of the respondent Workmen's Compensation Commission is hereby REVERSED and SET ASIDE. The respondent City of Bacolod is ordered to pay.

1. Six Thousand (P6,000.00) Pesos for death benefits to the petitioner;

2. Two Hundred (P200.00) Pesos burial expenses to the petitioner;

3. Six Hundred (P600.00) Pesos attorney's fees; and

4. Sixty (P60.00) Pesos administrative fees to the Ministry of Labor and Employment.

SO ORDERED.

Teehankee, Melencio-Herrera, Plana, Relova, and *de la Fuente, JJ.*, concur.

SECOND DIVISION

[G.R. No. L-46775. January 17, 1985]

SILVERIO PARAGES, *petitioner, vs.* EMPLOYEES' COMPENSATION COMMISSION and GOVERNMENT SERVICE INSURANCE SYSTEM (CEBU CITY POLICE DEPARTMENT), *respondents.*

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SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION ACT; COMPENSABILITY OF DISEASES; PRESUMPTION OF COMPENSABILITY FOR DISEASE CONTRACTED BEFORE THE EFFECTIVITY OF THE LABOR CODE.**— It is not disputed that herein petitioner, Silverio Parages, was of sound health when he entered the government service, and that his ailments supervened only in the course of his employment. Petitioner's medical record shows that as early as 1967 he was found to be suffering from rheumatoid arthritis on both knees, and it was in 1972 when he was also found to be suffering from his present ailments, to wit: essential hypertension, diabetes mellitus, and osteoarthritis. Consequently, petitioner's cause of action accrued at least in 1967, long before the Labor Code was amended by PD 626. Hence, in view of the doctrine laid down in Corales *vs.* ECC (88 SCRA 547 [1979]) and reiterated in numerous cases, the provisions of the Workmen's Compensation Act, as amended, will apply in the instant case, not PD 626, as amended.

2. **ID.; ID.; ID.; ID.; BURDEN OF PROOF SHIFTED TO THE EMPLOYER.**— The legal presumption of compensability established under the Workmen's Compensation Act, as amended, shifts the burden of proof to the employer, and the employee is relieved of the burden to show the causal relationship of his illness and the nature/or conditions of his employment. In the case at bar, the presumption of compensability becomes conclusive since petitioner's employer (Cebu City Police Department) did not adduce any evidence to refute his claim for compensation.

3. **ID.; ID.; ID.; ID.; NOT OVERCOME BY OPINION OF ECC MEDICAL OFFICER ON ABSENCE OF CAUSAL RELATION.**— Furthermore, the opinion of the ECC Medical Officer (p. 16, ECC rec.) that there was no causal relationship betweeen the petitioner's ailments and the nature and/or conditions of his employment cannot by itself overcome the presumption of compensability established by law (Calvero *vs.* ECC, et al., 117 SCRA 461 [1982]).

4. **ID.; ID.; ID.; ID.; DISEASE CAUSED AND/OR AGGRAVATED BY NATURE OF EMPLOYMENT.**— It must be pointed out, however, that WE find petitioner's ailments compensable not only

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on the basis of the legal presumption of compensability, but also substantial evidence that his ailments were caused and aggravated by the nature and/or conditions of his employment. It is indubitable that petitioner's ailments were directly caused and aggravated by the nature and conditions of his employment. Petitioner's medical record shows that as early as 1967 he was already suffering from rheumatoid arthritis on both knees. As a police detective, petitioner had to expose himself to the natural elements, the hectic and strenuous everyday grind of police work. The records show that he had served in the Missing Persons Squad, Food Patrol, Warrant and Subpoena Section, and other units of the Cebu City Police Department. His physical condition continued to deteriorate that by 1972, he was found to be suffering not only from arthritis, but also from essential hypertension and diabetes mellitus.

5. ID.; ID.; ID.; ID.; APPROVAL OF OPTIONAL RETIREMENT FORECLOSED QUESTION ON DISABILITY.— Petitioner went on working for three more years until he could no longer endure the rigors of police work. His ailments forced him to retire at the age of 63, two years short of compulsory retirement age of 65. Hence, the question as to his disability is foreclosed with the approval of his optional retirement. Memorandum Circular No. 133 issued by the Office of the President, dated October 19, 1967, provides that optional retirement may be allowed before reaching the compulsory age of retirement only upon proof that the employee is already physically incapacitated to render sound and efficient service (Meñez *vs.* ECC, et al., 97 SCRA 87, 97 [1980].

APPEARANCES OF COUNSEL

Davide, Fernandez, Montecilla, Abella & Sitoy Law Office for petitioner.

Teofilo Hebron and *Teresita C. Marbibi* for respondents.

DECISION

MAKASIAR, *J.*:

This is a petition to review the decision of respondent Employees' Compensation Commission dated June 8, 1977, affirming the decision of respondent Government Service Insurance System which denied petitioner's claim for disability benefits under Presidential Decree No. 626, as amended.

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Petitioner herein, Silverio Parages, is a retired detective of the Cebu City Police Department. Although the records are completely bereft of any data indicating his length of service in the government, they show that he had served in several units of the police department, such as the Missing Persons Squad, Foot Patrol, and the Subpoena and Warrant Section (p. 26, ECC rec.). According to the certification issued by the chief of police of Cebu City, his last assignment was with the Warrant and Subpoena Section in the year 1971 up to the time of his retirement from the government service on July 1, 1975 at the age of 63, two years short of the compulsory retirement age of 65. His primary duty in the said section was to serve subpoenas and other court processes within the city of Cebu (p. 30, ECC rec.).

Petitioner's medical record shows that in 1967 and 1969, he was examined by doctors of the City Health Department, Cebu City, and found to be suffering from rheumatoid arthritis on both knees (p. 28, ECC rec.). On August 5, 1972, he was confined at the Cebu Community Hospital for episodes of severe, persistent dizziness usually appearing when he strains, associated with continuous frontal headache and nausea and vomiting. Final diagnosis showed that he is suffering from several ailments, namely: "Essential hypertension, diabetes mellitus (mild), and obesity, and osteoarthritis" (p. 33, ECC rec.).

On December 4, 1975, petitioner filed his claim for employee's compensation benefits with the respondent GSIS on the ground that his ailments (essential hypertension, diabetes mellitus, and osteoarthritis) are work-connected and were aggravated by the nature of the duties he performed (p. 31, rec.).

On December 17, 1975, respondent GSIS, in a letter-decision, denied petitioner's claim on the ground that his ailments are not occupational diseases. Pertinent portions of the said letter-decision read:

"x x x x x x x x x

"An occupational disease is one which usually and directly results from the occupation or profession of the worker.

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"Essential hypertension is a disorder in which there is abnormal resistance to the flow of blood. It is usually dependent on some external factors such as: individual's predisposition, age, diet, presence of kidney disease and heredity. The latter by far is the most important predisposing factor.

"Diabetes mellitus is a chronic disorder of carbohydrate metabolism characterized by deficiency of insulin. The three important causative factors are heredity, obesity and possibly hormonal disturbances. It is now well established that the diabetic trait is inherited. In this connection, it is worthy to mention here, that you have been diagnosed also by your attending physician to be having obesity.

"Osteroarthritis or senescent arthritis is a chronic disorder which may appear as early as the second decade of life and increases in frequency and severity with advancing age. This results from ordinary 'wear and tear', i.e., from cumulative trauma of everyday life. Furthermore, the presence of diabetes is a contributory factor to the occurrence of arthritis.

"The nature of your duties as a Detective as well as the working conditions of your employment could not have directly caused your ailments.

"x x x (p. 27, ECC rec.). x x x x x x"

Petitioner made several requests for reconsideration, but they were all denied by the respondent GSIS.

On November 16, 1976, pursuant to Section 5 of Rule XVII of the Rules and Regulations implementing PD 626, the records of the claim were sent to the respondent ECC for review (p. 17, ECC rec.).

On June 8, 1977, respondent ECC rendered its decision affirming the denial of petitioner's claim on the grounds that petitioner's ailments are not occupational diseases as defined and understood under PD 626, and that petitioner was not able to show by substantial evidence that the risk of contracting such diseases was increased by his working conditions (p. 12, rec.).

On July 9, 1977, petitioner filed a motion for reconsideration, but the same was likewise denied by the respondent ECC on the ground that the Commission cannot act on his motion for reconsideration since under Section 1, Rule XVII of the implementing rules of PD 626, as amended, no motion for reconsideration of the decision or

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resolution of the Commission *en banc* shall be entertained (p. 4, rec.).

Hence, this petition.

WE find for the petitioner. It is not disputed that herein petitioner, Silverio Parages, was of sound health when he entered the government service, and that his ailments supervened only in the course of his employment. Petitioner's medical record shows that as early as 1967 he was found to be suffering from rheumatoid arthritis on both knees, and it was in 1972 when he was also found to be suffering from his present ailments, to wit: essential hypertension, diabetes mellitus, and osteoarthritis. Consequently, petitioner's cause of action accrued at least in 1967, long before the Labor Code was amended by PD 626. Hence, in view of the doctrine laid down in Corales *vs.* ECC (88 SCRA 547 [1979]) and reiterated in numerous cases, the provisions of the Workmen's Compensation Act, as amended, will apply in the instant case, not PD 626, as amended.

Thus, in Corales *vs.* ECC (*Ibid.*, pp. 554-555), this Court ruled that:

"Petitioner's claim having accrued prior to the New Labor Code, the presumption of compensability, the principle of aggravation, the award of attorney's fees and the payment of administrative fees must be observed and applied. And the Employees' Compensation Commission as the successor of the defunct Workmen's Compensation Commission is duty bound to observe and apply the foregoing principles in passing upon workmen's compensation. Moreover, as an agency of the State, the Employees Compensation Commission, like the defunct Court of Industrial Relations and the Workmen's Compensation Commission, is under obligation at all times to give meaning and substance to the constitutional guarantees in favor of the workingmen, more specially the social justice guarantee; for otherwise, these guarantees would be merely a lot of meaningless patter (Santos *vs.* WCC, 75 SCRA 371 [1977])."

The legal presumption of compensability established under the Workmen's Compensation Act, as amended, shifts the burden of proof to the employer, and the employee is relieved of the burden to show the causal relationship of his illness and the nature/or conditions of his employment. In the case at bar, the presumption of compensability becomes conclusive since petitioner's employer

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(Cebu City Police Department) did not adduce any evidence to refute his claim for compensation.

Furthermore, the opinion of the ECC Medical Officer (p. 16, ECC rec.) that there was no causal relationship between the petitioner's ailments and the nature and/or conditions of his employment cannot by itself overcome the presumption of compensability established by law (Calvero *vs.* ECC, et al., 117 SCRA 461 [1982]).

It must be pointed out, however, that WE find petitioner's ailments compensable not only on the basis of the legal presumption of compensability, but also substantial evidence that his ailments were caused and aggravated by the nature and/or conditions of his employment.

The findings of medical authorities on the petitioner's ailments are as follows:

"1. *Essential hypertension.*— x x x The term essential hypertension has been employed to indicate those cases of hypertension for which a specific endocrine or renal basis cannot be found, and in which the neural element may be only a mediator of other influences. Since even this latter relationship is not entirely clear, it is more properly listed for the moment in the category of unknown etiology. The term essential hypertension defines simply by failing to define; hence it is of limited use except as an expression of our inability to understand adequately the forces at work. x x x.

"Many factors in the hypertensive syndrome have now been delineated. It may be permissible to attempt to integrate them in a theoretic case of human 'essential' hypertension in a fashion which lays much stress on the primary role of nervous vasoconstrictor influences. In this idealized view an individual, by reason of inherited traits, including race and sex, may be particularly susceptible to vasomotor reactions resulting from a *stressful environment.* x x x.

"2. *Osteoarthritis or degenerative joint disease.*— ETIOLOGY. Many anatomic studies, including the excellent one of Bennett, Waine, and Bauer in which knee joints from persons one month to ninety years of age were examined, reveal that alterations in the articular cartilage characteristic of DJD begin to appear in the second decade and increase in frequency and severity with age. *It is commonly held that these changes result from 'wear and tear,' i.e., from cumulative trauma.* Although

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diseased cartilage has a reduced concentration of chondroitin sulfate, it has been shown that this is not because of inability of cartilage cells to synthesize this mucopolysaccharide. x x x."

"3. *Diabetes Mellitus* — Non-hereditary (secondary) diabetes. Secondary diabetes may arise from any one of several causes for which a definite etiology for carbohydrate intorelance can be established. It may follow surgical removal of the pancreas, destruction of the pancreas by carcinoma, severe pancreatitis, or damage of the islets by iron deposits in hemochromatosis.

"Recently, the diabetogenic action of certain diuretics of the benzothiadiazine type has been noted. There is some evidence that these drugs mediate such mechanism by inhibiting pancreatic insulin release. This effect is reversible, contrary to the damage produced by the administration of alloxan. In addition, overactivity of the pituitary (acromegaly), adrenals (pheo-chromocytoma, Cushing's disease), or thyroid gland (Graves' disease) may result in diabetes, usually reversible once the primary disease is corrected. Growth hormone mediates its diabetogenic action by decreasing peripheral glucose utilization; excess epinephrine causes increased hepatic glycogenolysis, the steroids act by increasing hepatic gluconeogenesis, and thyroxin increases hunger and food intake and generally heightens the level of metabolic activity.

"Liver disease is often associated with mild diabetes, though severe liver disease may lead to hypoglycemia. Infection of any sort will impair glucose tolerance and may unmask the tendency to diabetes. The diabetogenic mechanism of infection is probably non-specific and consists of elevated levels of corticosteroids, fever that increases the general metabolic load, and possibly acidosis, which decreases the effectiveness of circulating insulin. In rare instances inflammation of the pancreatic islets takes place.

"Regardless of what precipitates secondary diabetes, the common denominator in all these factors is hyperglycemia, with resulting stimulation of insulin secretion. This serves to put a constant strain on the beta cells, with eventual exhaustion of the insulin reserve.

"xxx xxx" (Principles of Internal Medicine, Harrison, 5 ed., pp. 490, 1358, 706, italics supplied)

It is indubitable that petitioner's ailments were directly caused and aggravated by the nature and conditions of his employment. Petitioner's medical record shows that as early as 1967 he was

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already suffering from rheumatoid arthritis on both knees. As a police detective, petitioner had to expose himself to the natural elements, the hectic and strenuous everyday grind of police work. The records show that he had served in the Missing Persons Squad, Foot Patrol, Warrant and Subpoena Section, and other units of the Cebu City Police Department. His physical condition continued to deteriortate that by 1972, he was found to be suffering not only from arthritis, but also from essential hypertension and diabetes mellitus.

In spite of these ailments, petitioner went on working for three more years until he could no longer endure the rigors of police work. His ailments forced him to retire at the age of 63, two years short of the compulsory retirement age of 65. Hence, the question as to his disability is foreclosed with the approval of his optional retirement Memorandum Circular No. 133 issued by the Office of the President, dated October 19, 1967, provides that optional retirement may be allowed before reaching the compulsory age of retirement only upon proof that the employee is already physically incapacitated to render sound and efficient service (Meñez *vs.* ECC, et al., 97 SCRA 87, 97 [1980]; Delos Angeles *vs.* ECC, et al., 94 SCRA 308, 312 [1979]; Faicol *vs.* WCC, et al., 93 SCRA 811, 818 [1979]; Cañonero *vs.* WCC, 81 SCRA 712, 720 [1978]; Romero *vs.* WCC, 77 SCRA 482, 490 [1977]) [Calvero *vs.* ECC, et al., 88 SCRA 555, 459, 460].

WE cannot deny the fact that the members of the pollice force are rendering a valuable service to the community — preserving peace and order risking their lives in the process, aggravated by fears and worries that all the more weaken their undernourished bodies which their starvation wages could hardly furnish them and their families adequate food. The government must afford them the relief decreed by the law when they are incapacitated by illness caused or aggravated by the rigors and hazards of their duties.

WHEREFORE, THE DECISION OF THE EMPLOYEES' COMPENSATION COMMISSION IS HEREBY SET ASIDE AND THE CEBU CITY POLICE DEPARTMENT IS HEREBY ORDERED:

1. TO PAY PETITIONER THE SUM OF SIX THOUSAND (P6,000.00) PESOS AS DISABILITY COMPENSATION BENEFITS;

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2. TO REIMBURSE PETITIONER HIS MEDICAL AND HOSPITAL EXPENSES DULY SUPPORTED BY PROPER RECEIPTS;

3. TO FURNISH PETITIONER REHABILITATION SERVICES INCLUDING MEDICAL, SURGICAL OR HOSPITAL TREATMENT;

4. TO PAY PETITIONER ATTORNEY'S FEES EQUIVALENT TO 10% OF THE AMOUNT OF THE AWARD; AND

5. TO PAY ADMINISTRATIVE COSTS.

SO ORDERED.

Concepcion Jr., Abad Santos, Escolin, and *Cuevas, JJ.,* concur.
Aquino, J., no part.

FIRST DIVISION

[G.R. No. 51602. January 17, 1985]

GEORGE & PETER LINES, INC., *petitioner, vs.* ASSOCIATED LABOR UNIONS (ALU), HON. CARMELO NORIEL, DIRECTOR, BUREAU OF LABOR RELATIONS, MINISTERY OF LABOR, *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; LABOR CODE; LABOR RELATIONS; CERTIFICATION ELECTION; AND EXPRESSION OF RIGHT TO CHOOSE LABOR ORGANIZATION.**— The employees have the constitutional right to choose