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FIRST DIVISION

[G.R. No. L-43359. January 31, 1979]

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

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION COMMISSION; GRAVE ABUSE OF DISCRETION; COMMITTED IN CASE OF DISMISSAL OF CLAIM FOR LACK OF MERIT WHERE THE ONLY ISSUE RAISED IS CORRECTNESS OF AWARD.** — The Workmen's Compensation Commission acted in excess of authority and with grave abuse of discretion in dismissing a workmen's claim for lack of merit when the issue of compensability was not raised throughout the proceedings after the Hearing Officer rendered his decision finding the claim compensable, and the only question elevated for review was the correctness of the amount of compensation benefits due the claimant.

2. **ID.; ID.; FINDING OF COMPENSABILITY BY THE HEARING OFFICER; FINAL WHERE ISSUE WAS NEVER RAISED AFTER SUCH FINDING.** — Where the Hearing Officer finds a workmen's claim compensable and grants an award to claimant, the issue of compensability stands finally adjudicated insofar as the employer is concerned if said employer fails to appeal from said finding.

3. **ID.; ID.; TOTAL TEMPORARY DISABILITY; MAXIMUM AMOUNT OF COMPENSATION.** — Where as a result of a work-related accident a claimant-employee suffers temporary total disability for labor, permanent paralysis and loss of use of her right hand, and permanent partial injury of her spine, and the sum total of compensation due her from said disabilities exceeds the maximum of SIX THOUSAND PESOS (₱6,000.00) allowed under Act 3428, as amended, by way of compensation benefits, only the maximum of SIX THOUSAND PESOS (₱6,000.00) may be granted.

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4. ID.; ID.; CLAIM FOR COMPENSATION; AMOUNT OF COUNSEL'S FEES. — In workmen's compensation cases the amount of counsel's fee is 10% of the total compensation benefits awarded.

APPEARANCES OF COUNSEL

Cornelio R. Besinga for petitioner.
Office of the Solicitor General for respondents.

D E C I S I O N

GUERRERO, *J.*:

Petition for review[1] of the decision of the respondent Workmen's Compensation Commission dated February 25, 1976.

Petitioner Socorro Velez filed on August 18, 1972 before the Department of Labor, Regional Office No. VIII, Cebu City, a claim for compensation and other benefits under Act 3428, as amended, for injuries sustained on January 26, 1966 resulting in "permanent paralysis and loss of use of her right hand, aside from the permanent partial injury of her spine" forcing her to optionally retire from the service. Controversion having been interposed by respondent Bureau of Public Schools, the case was heard on the merits.

The facts established at the hearing are sufficiently stated in the Hearing Officer's decision dated November 16, 1973, to wit:

"(C)laimant, Socorro Velez was a former elementary school teacher assigned at Tejero Elementary School, Cebu City, with a last salary at the rate of ₱3,066.36 per annum (Service Record). She was the Head Teacher of all the Grade II classes in the school, and because she is just living across the street and in front of the school, the Principal Teacher assigned her to be the permanent bell taker in the morning (t.s.n., March 1, 1973). At about 6:30 o'clock in the morning of January 26, 1966, while crossing the street from her house to the school she ran to the direction of the school to avoid a speeding jeep and, in

[1] Treated as a special civic action per resolution of September 1, 1976.

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so doing, she slipped and fell on the cement pathway leading from the gate to the school building inside the school premises. She was thereupon hospitalized at the Cebu City Hospital under the Medical care of Dr. Oscar Obenza for "fracture of the spinal vertebra and the right forearm" (Compression fraction, L2; Celles Fracture, Right). She was in plaster cast in the hospital from January 26, 1966 up to May 7, 1966, and thereafter confined in the house to recuperate. Her injuries, however, resulted in permanent paralysis and loss of use of her right hand, aside from the permanent partial injury of her spine. As a consequence of these physical incapacities, which rendered her unfit for further service, she was optionally retired by respondent effective on September 30, 1966." Hearing Officer's Decision, Annex "B", p. 1).

Hearing Officer Dionisio T. Tabucanon declared the claim meritorious and issued a Decision dated November 16, 1973 declaring that petitioner was entitled to the lump sum of Four Thousand Eight Hundred Fifty-Seven and 06/100 Pesos (₱4,857.06) as compensation benefits computed as follows, to wit:

"Under Section 14 of the Act, she is entitled to compensation for temporary total disability for labor from January 26, 1966 to July 10, 1966 x x x or a total period of 23-5/7 weeks, at a weekly compensation computed at 60% of her average weekly wage. Sixty per centum of her average weekly wage which was ₱58.97 (₱3,066.36 per annum divided by 52 weeks) equals ₱35.38 and for 23-5/7 weeks, she is entitled to ₱989.61.

"Under Section 17 of the Act, she is entitled to compensation for permanent partial disability equivalent to 50% of her average weekly wage for 30% loss of use of her right hand and 40% for spine (N.S.D.), x x x for 131.2 weeks. Fifty per centum of her average weekly wage which was ₱58.97 equals ₱29.48, and for 131.2 weeks, she is entitled to ₱3,867.47." (Hearing Officer's Decision, Annex "B", p. 1).

No appeal from the decision was interposed by the Republic. However, petitioner filed on December 7, 1963 a partial reconsideration of the decision questioning the award for permanent partial disability (for the loss of use of her right hand). Petitioner insisted that since the Hearing Officer made a finding of fact that she sustained permanent paralysis and

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loss of use of her right hand, that fact being supported by the Physician's Report stating "the extent of permanent loss of use of her right hand is 100%" (Item 18, Annex "D"), the award of compensation for the "30% loss of use of her right hand" was erroneous; and that she should be granted compensation for 100% loss of use of her right hand.

Finding merit in petitioner's motion for reconsideration, the Hearing Officer issued on March 8, 1974 an Order modifying the decision of November 16,1973, granting compensation for the 100% loss of use of petitioner's right hand, thus increasing the total award to Five Thousand Eight Hundred Six Pesos and Forty-One Centavos (₱5,806.41).

From this modifying Order, the Solicitor General as counsel for the Republic, filed a Motion for Reconsideration seeking correction of the award for petitioner's temporary total disability from Nine Hundred Eighty-Nine Pesos and Sixty-One Centavos (₱989.61) to Eight Hundred Thirty-Eight Pesos and Ninety-Nine Centavos (₱838.99) alleging error in computation. In an Order dated October 4, 1974, the Referee found merit in the Solicitor General's motion for reconsideration and then reconsidered its Order of March 8, 1974 and corrected the award for temporary total disability from Nine Hundred Eighty-Nine Pesos and Sixty-One Centavos (₱989.61) to Eight Hundred Thirty-Nine Pesos and One Centavo (₱839.01), not Eight Hundred Thirty-Eight Pesos and Ninety-Nine Centavos (₱838.99) as pointed out by the Solicitor General in his Motion for Reconsideration.

Finding herself confused because of the piecemeal modifications of the award, petitioner filed on October 15, 1974 with the Regional Office an Urgent Motion for Clarification of the Compensation Awards. Acting on said motion, the Hearing Officer issued an Order dated November 8,1974, clarifying the awards as follows:

"1. Compensation in the amount of ₱839.01 (60% of ₱58.97 — her average weekly wage — for 23-5/7 weeks) for temporary total disability for labor from January 26, 1966 to July 10, 1966, under Section 14 of the Act.

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"2. Compensation in the amount of ₱4,716.80 (50% of ₱58.97 for 160 weeks) for 100% loss of use of her right hand, according to the findings of her attending physician, Dr. Oscar Obenza of the Cebu City Hospital, under Section 17 of the Act.

"3. Compensation in the amount of ₱2,452.73 (50% of ₱58.97 for 83.2 weeks) for the 40% permanent partial disability (N.S.D.) involving her spine, according to the findings of the Medical Officer of this Office.

"Adding all the above amounts will give a total of ₱8,008.55. But the law limits compensation benefits to a maximum of ₱6,000.00 (Sec. 18 of Act 3428, as amended). Accordingly, the compensation of the claimant should be ₱6,000.00 only. With this amount as her compensation, the fee of her lawyer should be ₱300.00 (5% of ₱6,000.00) as provided in Section 31 of the Act. The decision fee also becomes ₱61.00, pursuant to Section 55 of the Act.

x x x x x x x x x

"This Order is issued not only for clarification purposes but also to modify the Decision, dated November 16, 1973, the Order of March 8, 1974 and the Order of October 4, 1974."

From this clarifying and modifying Order, the Solicitor General filed a motion for reconsideration dated December 12, 1974 taking exception to the total award granted and maintaining that the only compensation payable is the award under Section 14 of the Workmen's Compensation Act, as amended, in the amount of Eight Hundred Thirty-Nine Pesos and One Centavos (₱839.01) and the award under Section 17 of the said Act in the sum of Three Thousand Eight Hundred Sixty-Seven Pesos and Forty-One Centavos (₱3,867.41) as allegedly so disposed in the Order of October 4, 1974. Opposition thereto was filed by petitioner. Without granting the Motion for Reconsideration, the entire records of the case were elevated to the Workmen's Compensation Commission for review.

On review, the respondent Workmen's Compensation Commission reversed the findings of the Hearing Officer and dismissed the claim on the grounds that the claim was without merit because there was no wage-loss involved as claimant retired voluntarily because of old age.

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Thereupon, petitioner filed this petition for review contending that "far from limiting its review on the lone issue raised — the correct amount of compensation benefits due the claimant — the Commission has gone out of its way with evident attitude of stricture and dismissed the claim x x x." (Petition, p. 4).

Petitioner's contention is well-taken. There is no doubt that the lone issue raised for review to the respondent Commission is only the question of what is the proper amount of compensation petitioner is entitled to. The issue of the compensability of her claim was not raised in issue throughout the proceeding after the Hearing Officer rendered its Decision of November 16, 1973 which found the claim compensable. Subsequent proceedings disclose motions for reconsideration filed by both parties questioning the compensation benefits awarded, but not the compensability of the claim itself. Therefore, the issue of the compensability of petitioner's claim stands finally adjudicated insofar as respondent employer (Republic) was concerned for failure to take an appeal therefrom, and respondent Commission acted in excess of authority and with grave abuse of discretion in dismissing the claim for lack of merit. The most that the Commission could have done, then, was to simply maintain the award stated in the Order of the Hearing Officer dated November 8, 1974, resolving petitioner's Motion for Clarification of the Awards, or to make a computation of its own, but certainly it could not reverse the Award and absolve respondent Republic from all liability on the inexistent ground of non-compensability which was not even in issue nor claimed by respondent itself.[2]

Clearly, the compensability of petitioner's claim is meritorious and its adjudication in her favor is final. The only question that remains to be resolved is the correctness of the award set out in the Order of November 8, 1974, the correctness of which depends not on the point of mathematical computations, but from the view of whether or not the disabilities for which compensation was awarded, exist.

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[2] *Ruelan v. Republic*, 70 SCRA 615.

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The Physician's Report attached to the records of the case states that the "injury caused temporary total disability for labor from January 26 to July 10, 1966 or for 23-3/7 weeks" (Item 14). The fact of this disability is not disputed by the respondent Republic; it only moved to reconsider the award given in the Decision of November 16, 1973 in the amount of Nine Hundred Eighty-Nine Pesos and Sixty-One Centavos (₱989.61) alleging mathematical error in computation. By order of the Hearing Officer dated October 4, 1974, the amount was corrected and reduced to Eight Hundred Thirty-Nine Pesos and One Centavo (₱839.01). From this amending Order, the Republic did not file or interpose an objection; neither did petitioner. Hence, as We find a factual basis for the compensation given for petitioner's temporary total disability, the award thereon in the amount of ₱839.01 stands as so ordered under paragraph 1 of the clarificatory and modifying Order of November 8, 1974.

Paragraph 2 of the above clarificatory and modifying Order granted Four Thousand Seven Hundred Sixteen Pesos and Eighty Centavos (₱4,716.80) for compensation due to the 100 (%) per centum loss of use of petitioner's right hand. The physician's report verified the given percentage of disability (Items 17 & 18). The Decision of November 16, 1973 issued by the Hearing Officer stated categorically that "(H)er injuries, however, resulted in permanent paralysis and loss of use of her right hand x x x" Hence, We find no reversible error in the Order of November 8, 1974 granting compensation for this disability under Section 17 of the Workmen's Compensation Act, as amended.

The third paragraph awarded compensation for the 40% permanent disability (N.S.D.) of petitioner's spine. Again, the fact of disability is clearly stated in the Hearing Officer's decision of November 16, 1973, to wit, "(S)he was thereupon hospitalized at the Cebu City Hospital under the Medical care of Dr. Oscar Obenza for fracture of the spinal vertebra x x x Her injuries, however, resulted in permanent paralysis and loss of use of her right hand, aside from the permanent partial injury of her spine." Petitioner is entitled to the compensation granted her in said paragraph in the sum of ₱2,452.73.

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But a cursory glance of the several amounts awarded as compensation reveals a sum total exceeding the maximum of Six Thousand Pesos (₱6,000.00) allowed by law by way of compensation benefits under Act 3428, as amended. Accordingly, the award in the amount of only Six Thousand Pesos (₱6,000.00) is correct. The counsel's fee of Three Hundred Pesos (₱300.00), however, should be increased to Six Hundred Pesos (₱600.00) or 10% of the compensation benefits.

WHEREFORE, the decision of the Workmen's Compensation Commission sought to be reviewed is set aside and the clarificatory and modifying Order of November 8, 1974 is reinstated, with a partial modification increasing the attorney's fees to Six Hundred Pesos (₱600.00).

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, De Castro, and *Herrera, JJ.*, concur.

SECOND DIVISION

[G.R. No. L-44886. January 31, 1979]

NORA VILLAMAYOR (Also known as Nora Aunor), *petitioner, vs.* **THE HON. LEONOR INES LUCIANO, Presiding Judge of the Juvenile and Domestic Relations Court of Quezon City and LUCIANO M. DOMINGUEZ,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; JUDGMENT; COURT LACKS JURISDICTION TO MODIFY OR AMEND FINAL AND EXECUTORY JUDGMENT. — It is beyond the power of the courts to issue a writ of execution for the payment of the