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the well-settled and binding doctrine that only in a very clear case is the judiciary justified in nullifying a statute, decree, or ordinance.

4. One last word. The decision certainly does not extend to any determination by this Court as to the validity, or lack of it, of the assailed ordinance. To do so would be, at the very least, premature. That is a function for the lower court to perform.

WHEREFORE, the petition is dismissed. The hearing of the case before respondent Judge should be conducted as speedily as circumstances permit. Costs against petitioner.

Barredo, Antonio, Aquino, Concepcion Jr., Santos, and *Abad Santos, JJ.*, concur.

SECOND DIVISION

[G.R. No. L-42995. March 14, 1979]

VICTOR N. LIZARDO, *petitioner, vs.* **WORKMEN'S COMPENSATION COMMISSION; REPUBLIC OF THE PHILIPPINES (BUREAU OF PRISONS),** *respondents.*

SYLLABUS

1. **LEGAL AND SOCIAL LEGISLATION; WORKMEN'S COMPENSATION; PRESUMPTION OF COMPENSABILITY; BURDEN OF PROOF RESTS UPON THE EMPLOYER.** — Where the employee was physically and mentally healthy when he entered the government service, his illness contracted during the latter part of his service shall be considered to have supervened in the course of his employment; and he shall have in his favor the statutory presumption that his claim is compensable, and the burden is shifted to the employer to show by substantial

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evidence that the illness did not arise out or was aggravated by it.

2. ID.; ID.; ID.; **EVIDENCE NECESSARY TO DESTROY LEGAL PRESUMPTION.** — The evidence necessary to destroy the legal presumption of compensability must do more than create a doubt. It should be such as a reasonable mind must accept as adequate to support a conclusion. The more opinion of doctors on the non-causal connection between the illness and/or nature of claimant's work presented as evidence by the employer is not meet the required quantum of evidence as aforestated and cannot prevail over the presumption of compensability established by law.

3. ID.; ID.; ID.; **CONFLICTING OPINIONS OF DOCTORS, NOT LEGALLY SIGNIFICANT.** — For the purpose of carrying out the intent of the Workmen's Compensation Act, the conflicting opinions of doctors should provide the basis for resolving the doubt in favor of the employee. Besides, the precise medical cause of the illness is not legally significant. As long as the illness supervened in the course of employment, the burden of proof shifts to the employer and the employee is relieved of the burden to show causation.

4. ID.; ID.; ID.; **FAILURE TO CONTROVERT, EFFECT OF.** — When the employers fails to seasonably controvert the employee's claim for compensation, the former not only forfeits his right to non-jurisdictional defenses, but also admits the compensability or work-connection of the employee's illness. The rules on forfeiture of the right to controvert compensation by belated notice of controversion applies both to private employers and to the government.

5. ID.; ID.; ID.; **DUTY TO CONTROVERT DEVOLVES ON THE EMPLOYER.** — The ten-day period within which to controvert a compensation claim starts from the time the office or bureau received the same and not from the time it was received by the Solicitor General, since the duty to controvert claims for compensation as provided in Section 45, Workmen's Compensation Act, devolves upon the employer, or the "heads of Departments, Bureau or offices" concerned, not their counsel.

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APPEARANCES OF COUNSEL

Rufino C. Lizardo for petitioner.

Acting Solicitor General Hugo E. Gutierrez, Jr., Assistant Solicitor General Eulogio Raquel-Santos and *Solicitor Demetrio G. Demetria* for respondents.

DECISION

SANTOS, *J.*:

This is a petition for review filed on March 13, 1976 of the decision dated February 3, 1976 of the Workmen's Compensation Commission in RO4-WC Case No. 1816, affirming the order of the Acting Referee, Regional Office No. IV, Workmen's Compensation Section, Manila, dated September 29, 1975, dismissing or disallowing the claim of petitioner for disability compensation on the ground ". . . that claimant had no disability at all inasmuch as the illness suffered benign prostatic hypertrophy has no causal relationship with his employment, but is a consequence of the aging process and other organic diseases."

On May 26, 1976, We resolved *inter alia* — in order to expedite the resolution of this case in view of its nature, a workman's claim — to treat the petition for review as a special civil action, and to require both parties to submit simultaneous memoranda.[1] Petitioner, thru counsel, filed his memorandum on August 6, 1976.[2] On September 2, 1976, respondent Commission filed its memorandum.[3] On August 24, 1976, respondent Workmen's Compensation Commission, was required, pursuant to Rule 43, Section 8, Rules of Court, to elevate to this Court the whole records of RO4-WC Case No. C-1816, "*Victor N. Lizardo vs. Republic of the Philippines (Bureau of Prisons)*"[4] and

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[1] *Rollo*, p. 41.

[2] *Id.*, p. 50.

[3] *Id.*, p. 72.

[4] *Id.*, p. 70.

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on September 13, 1976, We resolved to consider this case submitted for decision.

The records show that on August 1, 1948, petitioner Victor N. Lizardo (hereinafter referred to as the petitioner), entered the government service as prison Guard of the Bureau of Prisons (hereinafter referred to as the respondent Bureau) after qualifying in the physical, mental, and phychiatrical examinations. His duties consisted in acting as escort guard within the prison reservation, and in chasing and apprehending escapees in and out of the reservation. On February 14, 1958, petitioner was temporarily designated as "Sgt. of the Guards" during the prison riots, with the duty to cope with any untoward incidents and emergencies within the compound. Later, he was designated "Post Tower Supervisor" charged with the duty to visit and supervise every tower post, which job he had to undertake in all kinds of weather. Because of the nature of his work, there were times when he would omit his meals or neglect attending to his personal needs, for he could not just abandon his post.

On January 8, 1973, petitioner noticed that every time he urinated, he would experience pain and irritation which he never felt before. Subsequently, he notice blood in his urine. So, on January 18, 1973, he consulted the National Bureau of Prisons physician, Dr. Ricardo de Vera, who diagnosed his illness as acute prostate infection and advised him to immediately undergo an operation. On February 8, 1973, he was operated on by Dr. Nicanor Montoya of the Manila Doctors Hospital.

On March 7, 1973, petitioner filed his "Notice of Illness or Sickness and Claim for Compensation" with the respondent Bureau.[5] Meanwhile, he reported back to work on May 1, 1973. On May 21, 1973, he noticed blood oozing out from his urinary

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[5] This case, pending with the WCC as of March 31, 1975, shall be processed and adjudicated in accordance with the law, rules and procedures existing prior to the effectivity of the Employees Compensation State Insurance Fund. Section 5, Pres. Dec. 626, Further Amending Article 339 of Chapter III of Book VII on transitory and final provisions of the Labor Code of the Philippines.

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tract, but he, nevertheless, continued reporting for work. Later, he suffered pains in his thigh, back and other parts of his body, which subsequently became unbearable. On October 1, 1973, he entered the Veterans Memorial Hospital for treatment. On December 1, 1973, he went back to work and appeared to be doing well until March 3, 1974, when he again noticed blood in his urine and felt pain on the right side of his waist, which pain continuously grew worse, so that on June 19, 1974, he consulted Dr. Luz Enriquez of the respondent Bureau's hospital. Thereafter, he also consulted Dr. Vilma R. Ramos of the Veterans Memorial Hospital about the disabling pains he was then experiencing — he could no longer lift his foot and walk without the help of his children.

On July 10, 1974, petitioner was confined at the Government Service Insurance System (GSIS) Hospital, where a minor operation was performed on him by Dr. Antonio Tiongson — to extract blood through his urinal tract. Again, on July 31, 1974, he re-entered the Veterans Memorial Hospital where he underwent another operation for the same illness. After his discharge, he was asked to report to the hospital several times for observation and check-up. It was only on February 2, 1975 that he reported back to work, after exhausting all his vacation and sick leave. When he filed the present petition, he was still suffering from some minor pains due to his illness.

The Acting Referee, Mr. Angel L. Hernando Jr. of the WCC Task Force, Regional Office No. IV, Workmen's Compensation Section, Manila, dismissed on September 29, 1975 petitioner's claim on the ground ". . . that claimant had no disability at all inasmuch as the illness suffered, benign prostatic hypertrophy, has no causal relationship with his employment, but is a consequence of the aging process and other organic diseases."[6] This was affirmed by the Workmen's Compensation Commission — per Severo M. Pucan, Chairman, and Dioscora C. Arellano, Associate — when it held in its decision of February 3, 1976 that "the cause of the sickness which is the benign enlargement

[6] Annex "A", *Rollo*, p. 17.

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of the prostatic gland is medically identified to be unrelated to the nature of claimant's work as a supervising prison guard."[7]

The present petition and the memoranda submitted by the parties[8] raise two principal issues, namely:

1. Whether the illness benign prostatic hypertrophy suffered by petitioner has any causal relation with his employment as prison guard, and, therefore, compensable;

2. Whether the respondent Bureau failed to controvert the claim for compensation within the period prescribed by law and, therefore, forfeited its non-jurisdictional defenses and ultimately admitted the compensability or work-connection of petitioner's ailment.

1. *Re the first issue.* — The Commission's finding that the "benign enlargement of the prostate glands is medically identified to be unrelated to the nature of claimant's work as a Supervising Prison Guard," is based mainly if not solely on the Compensation Rating Medical Officer's opinion that petitioner's illness is but a consequence of the aging process and other organic diseases.

It is not controverted that when petitioner entered the government service, he was found to be physically and mentally healthy. His illness, therefore, contracted during the latter part of his service, could not but be considered as having supervened in the course of his employment. This being the case, he has in his favor, the statutory presumption that his claim is compensable, and the burden of proof is shifted to the respondent employer to show by substantial evidence[9] that while the illness

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[7] Annex "C", *Id.*, p. 25.

[8] For Petitioner, dated August 4, 1976, at *Rollo*, pp. 50-68; For Respondent, dated September 2, 1976 at pp. 72-74.

[9] See *Ma. Cristina Fertilizer Corporation vs. WCC, et al.*, L-29998, Oct. 31, 1974, 60 SCRA 228; *Cabinta vs. WCC, et al.*, L-42639, July 30, 1976, 72 SCRA 266; *Laude vs. Cine Moderna*, L-43009, Aug. 31, 1976, 72 SCRA 569; *Vallo vs. WCC, et al.*, L-41816, Oct. 29, 1976, 73 SCRA 623; *Buenaventura vs. WCC, et al.*, L-42835, April 22, 1977, 76 SCRA 485; *Nat'l. Housing Corporation vs. WCC, et al.*, L-37907, Sept. 30, 1977,

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subject of the claim supervened in the course of employment, it does not necessarily follow that it also arose from such employment or was at least aggravated by it.[10] This, respondent employer failed to do. Its evidence consisted merely of the brief medical report of the Compensation Rating Medical Officer that petitioner's disease was an ailment resulting from the aging process and other organic diseases.

We have held that the evidence necessary to destroy the legal presumption of compensability must do more than create a doubt. It should be such as a reasonable mind must accept as adequate to support a conclusion. We have also ruled that the mere opinion of doctors on the non-causal connection between the illness and/or nature of claimant's work presented as evidence by the employer do not meet the required quantum of evidence as aforestated and cannot, therefore, prevail over the presumption of compensability established by law.[11]

Moreover, we have the medical opinion of Dr. Nicanor Montoya of the Manila Doctor's Hospital who had performed an operation on petitioner, that ". . . because of the nature of his work, enlargement of his prostate was hastened by urinary tract infection."[12] We, therefore, have two conflicting opinions which, for the purpose of carrying out the intent of the Workmen's Compensation Act, should provide the basis for resolving the

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79 SCRA 281; *Villegas vs. WCC, et al.*, L-43258, Sept. 30, 1977, 79 SCRA 302; *Sudario vs. Republic*, L-44088, Oct. 6, 1977, 79 SCRA 337; *Lopez vs. WCC, et al.*, L-42582, Oct. 21, 1977, 79 SCRA 551; *Ilingan vs. WCC*, et al., L-40174, Oct. 11, 1977, 79 SCRA 345.

[10] *Mulingtapang vs. WCC*, L-42483, Dec. 21, 1977, 80 SCRA 610.

[11] See *Abana vs. Quisumbing*, L-23489, March 27, 1968, 22 SCRA 1278; *Visayan Stevedore & Transportation Co. vs. WCC*, L-26657, Sept. 12, 1974, 59 SCRA 89; *Talip vs. WCC*, L-42574, May 31, 1976, 71 SCRA 218; *National Housing Corp. vs. WCC*, L-37907, Sept. 30, 1977, 79 SCRA 281; *Mulingtapang vs. WCC*, L-42483, Dec. 21, 1977, *supra*; See *Aninias vs. WCC*, L-43021, June 30, 1978 and other cases jointly decided.

[12] Annex "F", Petition, Physician's Report of Sickness dated February 28, 1973; *Rollo*, p. 3.

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doubt in favor of the petitioner.[13] Besides, the precise medical cause of the illness is not legally significant. As long as the illness supervened in the course of employment, the burden of proof shifts to the employer and the employee is relieved of the burden to show causation.[14]

2. *Re the second issue*. Petitioner asserts that respondent Bureau having failed to seasonably controvert his claim for compensation not only forfeited its right to non-jurisdictional defenses, but also admitted the compensability or work-connection of petitioner's illness.

Petitioner's assertions are well taken. The records show that he filed his formal claim for compensation with the Workmen's Compensation Commission on March 7, 1973[15] which claim was controverted by the Director of Prisons only on March 28, 1973,[16] way beyond ten (10) days after knowledge of the alleged disability within which the employer is required to controvert the claim, pursuant to Section 45, paragraph 2 of the Workman's Compensation Act.[17]

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[13] See *C.A. Chiong Shipping Co. vs. WCC*, L-24202, Sept. 23, 1968, 25 SCRA 76, citing *Adoracion Francisco, et al. vs. Feliciano Consing*, 63 Phil. 354; *Afable, et al. vs. Loyola, et al.*, L-7789, May 27, 1955, 97 Phil. 960; *Enoria vs. Atlantic Gulf*, 30 O.G., Sept. 15, 1951, as cited in *Batangas Transportation Co. vs. Josefina V'da. de Rivera, et al.*, L-7658, May 8, 1956, 99 Phil. 1025.

[14] See *Cabinta vs. WCC, et al.*, L-42639, July 30, 1976, 72 SCRA 266; *Espiritu vs. WCC, et al.*, L-42471, Aug. 22, 1978.

[15] Petition for Review, dated January 27, 1976, filed before the Workmen's Compensation Commission, Annex "C"; Records, Workmen's Compensation Commission, p. 21.

[16] Records, Workmen's Compensation Commission, p. 146.

[17] Which reads: "In case the employer decided to controvert the right to compensation, he shall, either on or before the fourteenth day of disability or within ten days after he has knowledge of the alleged accident, file a notice with the Commissioner, on a form prescribed by him, that compensation is not being paid, giving the name of the claimant, name of the employer, date of the accident, and the reason why compensation is not being paid. Failure on the part of the employer or the insurance carrier

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We have time and again ruled that failure of an employer to timely controvert an employee's claim for compensation is fatal to any non-jurisdictional defense the latter may interpose.[18] Such failure constitutes constructive admission that the claim is compensable,[19] and bars the employer from proving that the employee's illness is not work-connected or aggravated,[20] thereby obligating the employer to compensate the employee for damages resulting from death or illness.

The Solicitor General, in taking exception to petitioner's contention that respondent Bureau failed to seasonably controvert petitioner's claim, would have Us reckon the ten-day period from the date his Office received notice of the claim for compensation, that is, on April 4, 1973.[21]

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to comply with the requirement shall constitute a renunciation of his right to controvert the claim unless he submits reasonable grounds for the failure to make the necessary reports, on the basis of which grounds the Commissioner may reinstate his right to controvert the claim."

[18] See *Victorias Milling Co., Inc. vs. WCC*, 101 Phil. 1208; *Alatco Trans. Inc. vs. WCC*, L-30548, Feb. 24, 1971, 37 SCRA 613; *National Dev. Co. vs. Galamgam*, L-29634, April 29, 1971, 38 SCRA 495; *General Textiles Inc. vs. Teofilo Taay*, L-29348, Nov. 29, 1971, 43 SCRA 375; *Galang vs. WCC, et al.*, L-33928, March 29, 1972, 44 SCRA 221; *7-Up Bottling Co. of the Phils. vs. Vda. de Tero, etc., et al.*, L-31995, Feb. 12, 1973, 49 SCRA 378; *Phil. Graphic Arts, Inc. vs. Mariano*, L-30979, Oct. 26, 1973, 53 SCRA 409; *Lombo vs. Standard Cigarette Mfg. Co.*, L-35537, Aug. 30, 1974, 58 SCRA 750; *Reynaldo vs. Republic*, L-43108, June 30, 1976, 71 SCRA 650; *Simon vs. Republic*, L-42510 June 30, 1976, 71 SCRA 643; *Arzadon vs. WCC, et al.*, L-42404, Dec. 8, 1976, 74 SCRA 238; *Bael vs. WCC, et al.*, L-42255, Jan. 31, 1977, 75 SCRA 181; *Legason vs. WCC, et al.*, L-43089, Jan. 31, 1977, 75 SCRA 213.

[19] See *Isias Pros vs. WCC, et al.*, L-43348, Sept. 29, 1976, 73 SCRA 92; *Camarillo vs. WCC, et al.*, L-42831, Oct. 21, 1976, 73 SCRA 497, *Legason vs. WCC, et al.*, L-43809, Jan. 31, 1977, 75 SCRA 213; *Vda. de Flores vs. WCC, et al.*, L-43316, July 21, 1977, 78 SCRA 17.

[20] See *Reynaldo vs. Rep., et al.*, L-43108, June 30, 1976, 71 SCRA 650; *Laude vs. Cine Moderna, et al.*, L-43009, Aug. 31, 1976, 72 SCRA 569; *Vallo vs. WCC, et al.*, L-41816, Oct. 29, 1976, 73 SCRA 623.

[21] Respondent's Memorandum, *Rollo*, p. 74.

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This contention is untenable. The duty to controvert the claim for compensation within ten days; as provided in Section 45, Workmen's Compensation Act, devolves upon the employer, or the "heads of the Departments, Bureaus or Officers concerned,[22] not their counsel.[23]

We have strictly applied to private employers the rule on forfeiture of the right to controvert compensation claims by belated notices of controversion, and see no reason for using a different norm when the employer is the Republic of the Philippines. Again, We reiterate Our pronouncement that "the Republic is duty-bound to set the example in the strict observance of the laws it had enacted, without seeking to shield itself in delays on official routine, an excuse not acceptable in instances where private employers are involved."[24]

But in addition to the foregoing, the records show and the Solicitor General's Office admits that it filed its controversion on April 16 or twelve (12) days after April 4, when it received notice of the claim, and, therefore, in point of fact, its controversion of the petitioner's claim was untimely or belated.[25]

In resume then, considering — (1) that petitioner's illness supervened during and was aggravated in the course of his employment; (2) that the prison riots in the early 1970's — immediately preceding the declaration of martial law and the confinement of subject for his illness — required of the prison guards performance of security missions beyond call of ordinary duties; (3) that respondent Bureau failed to controvert petitioner's claim within the period required by law; (4) that the Workmen's Compensation Act is a social legislation designed to extend protection to the workingman and should, therefore, be liberally

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[22] *Republic vs. WCC, et al.*, L-34352, May 31, 1972, 45 SCRA 358.

[23] *Republic vs. WCC, et al.*, L-29019, May 18, 1972, 45 SCRA 60; *Bael vs. WCC*, L-42255, Jan. 31, 1977, 75 SCRA 181.

[24] *Id.*

[25] Records, Workmen's Compensation Commission, p. 140.

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construed in his favor; [26] and (5) that the Act must be interpreted to attain the constitutional policy objective of social justice[27] — this petition is invested with merit and the decision of the Workmen's Compensation Commission, which dismissed the same, should be reversed.

WHEREFORE, the petition is GRANTED, and respondent Bureau is hereby ORDERED to pay petitioner the sum of ₱6,000.00 as disability compensation, the further sum of ₱600.00 as attorney's fees and the sum of ₱61.00 as administrative fee to the Workmen's Compensation Fund.

SO ORDERED.

Fernando (Chairman), Barredo, Concepcion Jr., and *Abad Santos, JJ.,* concur.

Aquino, J., concurs because the benign prostatic hypertrophy suffered by the claimant, although not work-connected, was aggravated by his work as prison guard.

Antonio, J., concurs in the result.

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[26] See *Iloilo Dock and Engineering Co. vs. WCC, et al.*, L-26341, Nov. 27, 1968, 26 SCRA 102; *Victorias Milling Co., Inc. vs. WCC*, L-25665, May 22, 1969, 28 SCRA 285; *B.F. Goodrich vs. Acebedo*, L-29551, March 25, 1970, 32 SCRA 100; *Republic vs. WCC, et al.*, L-29019, May 18, 1972, 45 SCRA 60; *Abong vs. WCC, etc. et al.*, L-32347-53, Dec. 26, 1973, 54 SCRA 379; *Manansala vs. Republic, et al.*, L-38184, May 30, 1974, 57 SCRA 231; *Vda. de Leorna, et al. vs. WCC*, L-42543, Sept. 30, 1976, 73 SCRA 228; *Vallo vs. WCC, et al.*, L-41816, Oct. 29, 1976, 73 SCRA 623; *Arzadon vs. WCC*, L-42404, Dec. 8, 1976, 74 SCRA 238; *Santos vs. WCC, et al.*, L-43243, Feb. 28, 1977, 75 SCRA 364.

[27] See *La Mallorca vs. WCC*, L-29315, Nov. 28, 1969, 30 SCRA 613; *Macabenta vs. Davao Stevedore Terminal Co.*, L-27489, April 30, 1970, 32 SCRA 553; *Calado vs. WCC*, L-26149, April 30, 1971, 38 SCRA 567.