WELFARE LAWS

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SOCIAL SECURITY

Coverage

The Philippine Social Security System, following the development of progressive social security schemes, aims at universal coverage.

The Social Security Act, as amended, provides that all employees below 60 years of age who work for a covered employer are subject to compulsory coverage.[1] It is true that another provision of the law itemizes types of employment which are exempt from compulsory coverage,[2] but this listing of exempt employment indicates exceptions to the general rule of coverage for all employees below 60. In other words, all employees, except those excluded for the moment by law, are covered by social security. In line with the goal of universal coverage, the law must always be interpreted and administered to resolve doubts in favor of increased protection and wider coverage. Only employees clearly and specifically excluded by the Act should be freed from the requirement of compulsory membership. Pursuant to the same goal, Congress has regularly amended the Act to reduce or eliminate the statutory exceptions.[3]

In the light of this basic principle of universality and considering the legislative declaration of policy in Section 2 of the Act,[4] recent decisions of the Supreme Court are quite significant. It appears that a liberal interpretation on coverage by the Social

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[1] Section 9 of the Social Security Act, Rep. Act No. 1161 (1954) as amended by Rep. Act No. 3839.

[2] Section 8 j (1-10).

[3] The amendatory acts are Rep. Act No. 1792, June 21, 1957; Rep. Act No. 2658, June 18, 1960; Rep. Act No. 3839, June 22, 1963; Rep. Act No. 4482, June 19, 1965; and Rep. Act No. 4857, September 1, 1966. It may be noted that the System's charter is amended almost every other year. Save for the 1965 amendment which limited itself to sickness benefits, all the other amendatory laws included increased coverage as a principal feature.

[4] Section 2. Declaration of policy. It is hereby declared to be the policy of the Republic of the Philippines to develop, establish gradually and perfect a social security system which shall be suitable to the needs of the people throughout the Philippines and shall provide protection against the hazards of disability, sickness, old age, and death. (As amended by Rep. Act No. 1792).

Security Commission is not sufficient and that amendatory legislation to make clearer the meaning of an employer — employee relationship or to provide for the coverage of certain types of self-employed individuals is necessary.

The experience of the Social Security System since it was established in 1957 has been that many employers will devise every conceivable method, within or outside the law, to avoid coverage and the corresponding contributions that it entails. In the spirit of section 2 of the Act, the System has implemented procedures designed to meet this problem. In its liberal interpretation in favor of coverage and protection, the Social Security Commission has, in the main, been upheld by the Supreme Court. But in 1966, a decision[5] represented a departure from earlier jurisprudence. This decision opened the way for unscrupulous employers to enter into fictitious "joint ventures" with employees to remove them from the employee-employer relationship upon which coverage is based. Even before the decision, the System had always found difficulty in registering employees of small fishing enterprises. The *Pajarillo* decision made the effort to provide protection to workers in this fairly hazardous occupation doubly difficult. However, it was hoped that the *Pajarillo* case, limited to fishermen and other employees similarly situated, would be some kind of an exception.

The 1967 case of *Investment Planning Corporation of the Philippines v. Social Security System*[6] now indicates that the *Pajarillo* case was not going to be such an exception. This 1967 decision has more far-reaching implications because, unlike *Pajarillo,* it may apply to a host of marketing enterprises such as those engaged in insurance, appliances, real estate, automobile, memorial park, cigar and cigarettes, sweepstakes tickets, basic commodities, and other sales operations.

The *Investment Planning Corporation* decision reversed a resolution of the Social Security Commission which required the coverage of commission agents of the Corporation. The Commission agents are "recruited and trained" by the employer and execute an agreement regarding the sale of mutual fund shares to the public. After considering the findings of the Social

[5] Pajarillo v. Social Security System, G.R. No. 21930, August 31, 1966.
[6] Investment Planning Corporation of the Philippines v. Social Security System, G.R. No. 19124, November 18, 1967.

Security System that these agents — who receive compensation in the form of commissions, who may be fired for certain causes, and who are subjected to certain rules and regulations regarding the performance of their duties — are employees, the Court ruled that the relationship of employer and employee, for purposes of social security, does not exist.

Applying the control test, the Court found nothing which would indicate that the commission agents are under the control of the employer in respect of the means and methods they employ in the performance of their work. The Court mentioned American decisions applying the control test and abandoning the "economic-reality" test. It noted that the local statute is patterned after the American law and, therefore, decisions of the US Court may be accorded persuasive force.

A motion for reconsideration pleaded that the 1948 statute of the United States which led to the decision cited by our Supreme Court was amended as early as 1950 and that this amendment simply modified the "economic reality" test but did not adopt the control test used by the American Supreme Court. If American jurisprudence is to be followed, it should be jurisprudence based on the 1950 legislation. The Philippines should not adopt decisions interpreting the 1948 provisions which are no longer applied in the United States. The motion, however, was denied.

Commission agents, therefore, are not employees under the Social Security Act. Employers who want to free themselves from their share of social security contributions may decide not to hire salesmen or regular sales employees and instead conduct marketing operations on a commission basis.

The staff of the Social Security Commission hopefully opines that the *Investment Planning Corporation* decision involves a question of fact and that requests for exemption shall continue to be carefully screened to find out if they fall squarely within the facts of the decision. Nevertheless, the true nature of a salesman's appointment and proof of the degree of control over him would be exceedingly difficult to ascertain. Merely locating and registering all those who are clearly employees of covered employers is already proving an impossible task for the System. An amendment to the law and not agency action is now the

remedy for the lack of protection of these types of workers and their families.

Administration

Related to the *Investment Planning Corporation* case is the *Philippine American Life Insurance Company v. Social Security Commission* decision.[7] Commission agents are also involved.

The Social Security Commission, in a circular, required all insurance firms to report their agents for coverage.[8] Instead of complying with the circular, the employer brought a petition for prohibition with injunction in the Court of First Instance. The Manila CFI ruled that agents, solicitors, and underwriters are not "employees" under the Act and enjoined both the bringing of criminal action against the employer for violations of the SSS law and the collection of SSS premium contributions.

Without going into the lower court decision on whether insurance agents are employees or not, the Supreme Court stated that a writ of prohibition is issued by a superior court to an inferior court, corporation, board, or person; that the Social Security Commission, in the exercise of its quasi-judicial functions, is not inferior to Courts of First Instance; and that decisions are subject to review by the Court of Appeals or the Supreme Court, as the case may be. The Court called for the exhaustion of administrative remedies and stated that the complainant should submit his objections to SSS circulars to the Commission, for determination before the same are ventilated in court.

This case also defined the status of circulars by stating that these are not "decisions" subject to judicial review. A "decision" connotes adjudication of a controversy and no controversy existed between the System and the plaintiff when the circular was issued by the Commission.

It is pertinent to point out that the Supreme Court has decided in the past that circulars of the SSS are not "rules and regulations" which call for approval by the President and publication in the Official Gazette.[7a] Now, the Court states they are

[7] Philippine American Life Insurance Company v. Social Security Commission, G.R. No. 20383, May 24, 1967.

[7a] Insular Life Assurance Ltd. v. Social Security Commission G.R. No. 16359, December 28, 1961.

[8] Commission Circular 34-A, November 6, 1960.

not decisions. Not being products of both the rule-making and quasi-judicial functions of the Commission, their exact nature is difficult to pinpoint. These circulars affect substantive rights of over 70,000 employers and 2,000,000 employees and cover all important aspects of the social security law. Yet, they are issued without the usual safeguards that should govern agency action. It is high time the Supreme Court became more categorical on the exercise of circular-making power by the Commission.

Benefits

The issue of whether or not payment to injured employees, by the employer, of compensation under the Workmen's Compensation Act precludes the further recovery of sickness benefits under the Social Security Act was again decided in the *Bachrach Transportation Co.* case.[9]

The employer based a refusal to advance SSS sickness benefits on Section 5 of the Workmen's Compensation law which prohibits double recovery for the same death or injury and which provides that compensation excludes all other rights and remedies accruing to the employee against the employer under the Civil Code and other laws, because of said injury.

The Court reiterated its ruling in the *Benguet Consolidated Inc.* case.[10] It stated that the recovery of SSS benefits is not double recovery. The requirement that sickness benefits shall be advanced by the employer is only to expedite payment of such benefits.

Comparing the two laws, the Court stated that the philosophy of workmen's compensation is to make industry bear the resulting death or injury to employees engaged in that industry. Social security benefits on the other hand, are not paid as a burden on the industry, but are paid as a matter of right, as statutory benefits, bought and paid for through contributions to a general common fund. The Court ruled that the nature and source of workmen's compensation and social security benefits are so clearly different and dissimilar that they cannot be considered alternate remedies.

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[9] Rural Transit Employees Association v. Bachrach Transportation Co., Inc., G.R. No. 21441, December 15, 1967.

[10] Benguet Consolidated, Inc. v. Social Security System, G.R. No. 19254, March 31, 1964.

The *Bachrach Transportation Co.* case came to court at a time when the employer was required to shoulder 20 percent of the amount of sickness benefits. The Court emphasized that the 20 percent burden is imposed not as a liability on the employer but as an administrative expense, to preclude connivance in the filing of fraudulent claims for reimbursement. The 1965 amendments provided for a 100 percent reimbursement of sickness benefits advanced by employers.[11] The ruling that there is no double recovery against the employer becomes stronger, and the objections academic.[12]

Unlike older social security systems which provide for payment of regular death pensions only to survivors defined in the law, the Philippine Social Security System allows the covered employee, within limits specified in the law, to choose his beneficiaries. Death benefits are given in the form of a lump sum payment.

Under the more liberal provisions of the original law, an employee designated his brothers and sisters as beneficiaries in 1957.[13] When he died in 1961, the designation remained unchanged but because of a 1960 marriage, the SSS paid benefits to a surviving widow and child.

The Court ruled that the 1960 amendments which limited the choice of beneficiaries made the 1957 designations void.[14] It reiterated the principle that benefits accruing under the So-

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[11] Rep. Act No. 4482, June 19, 1965.

[12] The employer may still insist that, more than the employee, he bears a greater portion of SSS contributions which make possible SSS benefits.

[13] Anicia v. Merced, Candelario v. Merced, Concepcion v. Merced, Atilano v. Merced, Jr. and Josefina v. Merced v. Columbina v. Merced, Briccio v. Merced, Jr. and the Social Security System.

[14] Section 8k as amended by Rep. Act No. 2658 defined beneficiaries as those designated by the covered employee from among the following:

1. The legitimate spouse, the legitimate, legitimated, acknowledged natural children and natural children by legal fiction and their legitimate descendants;
2. In default of such spouse and children, the legitimate parents of the covered employee;
3. In the absence of any of the foregoing, any other person designated by him.

Republic Act No. 4857 again amended this provision to allow a wider choice of beneficiaries to the employee. Under the present law, the claim of the petitioners would have been valid. As Section 8k now stands, the employee may designate:

(1) The legitimate spouse, the legitimate, legitimated, acknowledged natural children and natural children by legal fiction and their legitimate descendants, the legitimate parents, the brothers and the sisters.

(2) In the absence of any of the foregoing, any other person designated by him.

cial Security law are vested as of the moment of the employee's death and that before his death, the rights of beneficiaries are purely inchoate. It stated that Congress has the right to amend, alter, or repeal any provision of the Social Security law and no person can be deemed vested with any property or other right by virtue of the operation of the law.

It must be noted, however, that in the ordinary course of events, a young worker contributes to social security throughout his working life without getting any benefits, except those for occasional sickness beyond his sick leaves. After having contributed regularly from 30 to 40 years, with the expectation that certain benefits are definitely forthcoming, he may not understand the principle that, until the moment of entitlement, his rights are purely inchoate, that he has not been vested with any property or other rights and that a Congress faced with a bankrupt economy may decide not to give him anything, inspite of all his forced contributions.

Sanctions

Section 24 of the Social Security Act punishes employers who fail to report their employees to the System by providing that if an unreported employee should die or become sick or disabled, the delinquent employer is liable for an amount equivalent to the benefits to which the employee would have been entitled had such a report been made. In enforcing this provision, the System advances the amount to the employee or his beneficiaries and brings action against the employer.

In ordering the payment of these damages, the Court recently ruled that the collection of the employee's share of social security contributions is a duty imposed on the employer by law and compliance with this duty does not depend upon the employee's willingness to give his share of the contribution.[15] The Court also ruled that the jurisdiction of the Commission under the pertinent provision on the "filing, determination, and settlement of *claims*" is broad enough to include *damages* under Section 24 of the law.[16] Properly publicized, Section 24 should prove

[15] Poblete Construction Co. v. Asiain. G.R. No. 21448. August 30, 1967.

[16] The 1966 amendments broadened the jurisdiction of the Commission to include "any dispute arising under this Act with respect to coverage, entitlement to benefits, collection and settlement of premium contributions and penalties thereon, or any other matter related thereto." Thus, in addition to benefit claims, the Commission may now adjudicate disputes regarding coverage, contributions, and related matters.

an effective deterrent to under-reporting or non-reporting of employees by their employers.

WORKMEN'S COMPENSATION

The disproportionately large number of 1967 workmen's compensation cases involving public employment indicates a sad lack of experience or interest in this field of welfare legislation by government agencies and government owned or controlled corporations.

A review of the cases involving these government agencies or corporations shows that the decisions involved, in the main, issues that could have been settled by applying jurisprudence earlier established in the private sector. In fact, the rulings in the 1967 cases involving private employment were also mainly a re-emphasis or clarification of earlier decisions.

Coverage

One case, however, indicates that the Supreme Court leans towards greater liberality in favor of employees of government agencies or corporations. The issue of statutory employment was raised in the case of *Republic of the Philippines (Philippine Air Force) v. The Workmen's Compensation Commission.*[17] The Court held that constructing or providing facilities like baths and toilets for airforce personnel is necessarily tied up with the exercise of the broad function of prompt and sustained combat operations in the air. Thus, the Philippine Air Force or the Republic was regarded as statutory employer of a mason, constructing toilet facilities at Nichols Air Base, although said mason was hired through a contractor. This may be compared to earlier cases which applied a slightly more restrictive interpretation in determining when an employee may be considered rendering services directly or necessarily connected with the conduct or pursuit of the usual or habitual business of the statutory employer.[18] Nevertheless, the Court ruled a necessary connection between the construction of toilet facilities and combat air operations.

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[17] Republic (Philippine Air Force) v. The Workmen's Compensation Commission, G.R. No. 22650, April 28, 1967.

[18] Philippine Manufacturing Co. v. Geronimo, 96 Phil. 276 (1954); Manila Railroad Co. v. Oliveros, G.R. No. 14204, June 30, 1961; R. F. Sugay and Co., Inc. v. Reyes, G.R. No. 20451, December 28, 1964.

Coverage was an issue in the *National Shipyards and Steel Corporation v. Workmen's Compensation Commission* case.[19]

Section 3 of the applicable law refers to "employees and laborers employed ... in the industrial concerns of the government" as well as "all other persons performing manual labor in the service of the National Government and its political subdivisions or instrumentalities." On the other hand, Section 39 (c) defines public employment as employment in the service of the national government and its political subdivisions and instrumentalities but excludes elective public officers and persons paid more than ₱4,800 per annum. Whether or not "employee, under Section 3 is defined by "public employment" under section 39 was raised in the NASSCO case.

In answer to the contention that a company physician earning more than ₱4,800.00 per annum is not an employee under the term "public employment" nor a person performing manual labor, the Court ruled that he is an employee under Section 3 and since his claim is premised on the same section, which has no earnings limitation, his injury is compensable.

In the Course of Employment

"In the course of employment" in relation to the use of company vehicles was interpreted in the *Talisay-Silay Milling Co.* case.[20]

A paymaster who had completed paying laborers was told to go home because of a typhoon. He took a bus up to Bacolod City but from Bacolod hitched a ride on a company vehicle for Bago, his hometown. While in the employer's vehicle, he suffered the injuries as a result of an accident.

On the basis of testimony that a supervisor of transportation had orally agreed to the paymaster's riding in the company vehicle, the Court allowed compensation. The Court denied the employer's contention that the paymaster was a mere hitchhiker; that he rode without the knowledge and consent of the resident manager; and that he failed to get the written pass required of employees who use company vehicles. The injury was in the course of employment.

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[19] National Shipyards and Steel Corporation (NASSCO) v. The Workmen's Compensation Commission, G.R. No. 22628, January 31, 1967.

[20] Talisay-Silay Milling Co. v. Workmen's Compensation Commission, G.R. No. 22096, September 29, 1967.

Claims

For a compensation proceeding to prosper, a claim for compensation must be made not later than two months after the date of the injury or sickness or not later than three months after death.[21]

Supreme Court rulings on whether this statutory requirement for filing a claim within the periods fixed by law is jurisdictional or not have been marked by a certain amount of inconsistency.[22] The weight of the rulings has, of course, leaned towards the requirement being non-jurisdictional.

The 1967 cases should resolve any doubts whether the requirement may be waived or not. The *Rio y Compañia*[23] decision stated that the failure to comply with the requirements of Section 24 on the giving of notice and the filing of a claim within the period prescribed in said section is non-jurisdictional. In the *Rongavilla* case,[24] the Court again stated that failure to comply with Section 24 is non-jurisdictional.

Interpretations of what may be considered as the filing of a claim continue to be handed down. In the *Ayson decision*,[25] the Court stated that a claimant's request for financial benefits from his employer within a week from the receipt of the discharge letter amounts to an advanced filing of the claim and is a substantial compliance with Section 24 of Act 3428.

Controversion

Controversion continues to pose problems to employers in their handling of workmen's compensation claims.[26]

Earlier cases have categorically ruled that failure on the part of the employer to controvert on time bars all defenses

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[21] Section 24, Act No. 3428 (1928), as amended.

[22] See the discussion by the WCC Legal Officer in Fair Labor Standards and Welfare Legislation, Law Institute Series, Quezon City: U.P. Law Center, 1967, pp. 65-67.

[23] Rio y Compañia v. Workmen's Compensation Commission, G.R. No. 21467, August 30, 1967.

[24] National Development Company v. Rongavilla, G.R. No. 21963, August 30, 1967.

[25] National Development Company v. Ayson, G.R. No. 23450, May 24, 1967.

[26] Under Section 45 of Act No. 3428, as amended, the employer should file a notice of controversion stating the reasons why compensation should not be paid. The notice should be filed with the Commission within 14 days from the date of disability or within 10 days from knowledge of the injury or death.

available to it without any exception.[27] The use of the word *all* indicates the comprehensive scope of the waiver and makes it include any defense, even jurisdictional ones.

In spite of the well settled rule, that the failure to file notice of controversion results in the waiver of the defense that the claim is barred for being filed outside of the 2 month or 3 month period, in ten out of thirteen 1967 decisions on workmen's compensation, the Supreme Court emphasized and reiterated this rule.[28]

The 10 day or 14 day period to controvert is indeed very short and very often overlooked even by companies adequately staffed with legal and personnel assistants. The repeated emphasis given by the Court in its 1967 decisions must have been intended to make employers more conscious of this important requirement.

In the *Magalona* case,[29] the employer argued that in spite of failure to controvert, the acceptance by the hearing officer of NASSCO's or the employer's evidence was tantamount to reinstatement of its right to controvert.

The Court held that controversion requires a written petition under oath. Acceptance of evidence from the employer by a hearing officer is not the reinstatement outlined and required in the law.

The Court also stated that the law itself provides that only the Commissioner (now the Commission) may reinstate the right to controvert. The dictum was apparently intended only to emphasize the written form and procedure that must be followed in controversion. However, it seems to run counter to the practise of the Workmen's Compensation Commission delegating the power of reinstatement to referees in regional offices.

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[27] National Development Company v. Workmen's Compensation Commission, G.R. No. 19863, April 29, 1964; Agustin v. Workmen's Compensation Commission, G.R. No. 19957, September 29, 1964.

[28] NDC v. Rongavilla, *Supra*, see note 24; Republic (PAF) v. WCC, Supra, see note 17; NDC v. WCC, G.R. No. 21724, April 27, 1967; MRR v. WCC, G.R. No. 21504, September 15, 1967; Talisay-Silay Milling Co. v. WCC, *Supra*, see note 20; Philippine Iron Mines, Inc. v. Abear, G.R. No. 22555, October 31, 1967; Rio y Compania v. WCC, *Supra*, see note 23; NDC v. Ayson and WCC, *Supra*, see note 25; MRR v. WCC, G.R. No. 21902, August 10, 1967; Magalona v. WCC, G.R. No. 21849, December 11, 1967.

[29] *Supra*, see note 28.

In the *NDC v WCC* case,[30] the Court stated that in addition to its failure to controvert the claim, the employer cannot set up the 3 month period as a defense because it has shown no damage as a result of the employee's failure to file the claim on time, and further, it paid gratuity to the employee under a policy of retiring employees suffering from tuberculosis.

In the *Talisay-Silay Milling Co.* case,[31] the Court added that the statutory requirement for failure to controvert is not voided by the fact that the hearing officer never treated the case as uncontroverted or uncontested.

The question of who should controvert for government agencies should have been clarified in the *Philippine Air Force* case.[32] Unfortunately, the much awaited dictum was not forthcoming. The Court merely stated that whether it is the Philippine Air Force or the Solicitor General who should controvert the mason's claim for workmen's compensation becomes immaterial, considering that the Air Force controverted the claim after the expiration of the statutory period while the Solicitor General completely failed to file an employer's record. However, the ruling raises a glimmer of hope that the more sensible method — that it should be the agency and not the Solicitor General who should controvert — would eventually be upheld by the Court. If the Solicitor General has to controvert all claims against government agencies, the periods in the law may prove too short.

Evidence and Presumptions

Evidence necessary to support a claim for compensation received attention in the 1967 cases. The strong intendment in favor of coverage, protection, and award of benefits was very manifest.

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[30] *Supra*, see note 28. This ruling may be compared to the dictum in the *Rio y Compania* case, *supra*, see note 23. The Court stated that failure or delay in giving notice is not a bar to compensation where the employer had knowledge of the injury and did not suffer by such delay or failure. Actually, a distinction must be drawn between the notice of the injury or sickness given to the employer and the subsequent filing of a claim. In both instances, there may be delays. Section 27 of the Act excuses the delay in the filing of notice if said delay does not cause the employee to suffer. On the other hand, the Act excuses the delay in the filing of a claim if, as in this *NDC v. WCC* case, voluntary compensation was given by the employer. The Supreme Court, however, lumped up the statutory justifications for delay in giving of notice and delay in filing of claim.

[31] *supra*, see note 20.

[32] *supra*, note 17.

In the *Magalona* case,[33] the Commission reversed the regional office decision awarding compensation for death, burial, medical expenses, and attorney's fees. The reversal was based on a finding by the WCC Medical Officer that there was no proof of causal relationship between the conditions of work and the ailment causing death.

The Court considered the Commission ruling as reversible error. It stated that while technical rules of procedure need not be followed by the Commission, no evidence should be taken into account where the adverse party was not given a chance to object to its admissibility. The Court questioned the Workmen's Compensation Commission ruling which was premised on the evaluation and advise of its medical officer and on the basis of which evaluation, it required the claimant to establish the causal link between the employment and the cause of death. The Court stated that once illness supervenes at the time of the employment, there is a rebuttable presumption that such illness arose out of or was at the very least aggravated by such employment. It is the employer, therefore, who must overcome the presumption and disconnect by substantial evidence the sickness from the employment.

This ruling on administrative fair play is quite important in the adjudication procedures employed by agencies dealing with welfare laws. For instance, social security awards and commission adjudications are often highly institutionalized and either prepared or influenced by anonymous staff.

The statutory presumption of compensability was illustrated in the *NASSCO* case.[34] NASSCO contested the sufficiency of evidence to show that angiospastic retinopathy resulting in 70 percent loss of vision was caused by abrupt changes in atmospheric pressure in the course of an airplane flight. The Court held that the employer must prove that the injury *could not have been caused* by the conditions of the employment, which in this case involved an airplane flight. Assuming that the claimant's hypertension was a contributing factor, the aggravation of a pre-existing disease, when caused by working conditions, entitles the claimant to compensation. The record of the

[33] *supra*, see note 28.
[34] *supra*, see note 19.

case shows that the testimony of some specialists who ventured opinions indicated that an airplane flight *could* cause the injury.

In the *NDC v. WCC* case,[35] the Court relied on the presumption that the claimant's illness was aggravated by the nature of his employment and stated that the employer must establish, by substantial evidence, that the illness was not so aggravated. It also ruled that the right of a claimant to be present at the hearing of his claim includes the right to testify in his own behalf. While his interest may to some extent affect his credibility, his interest alone is not a ground for disregarding his testimony. The Supreme Court stated in the *Magalona* case[36] that no evidence should be taken into account where the adverse party was not given a chance to object to its admissibility. The evidence in that case was an opinion given to the Commission by its medical officer. In the *Raymundo* decision, the Court pointed out that the Workmen's Compensation Law allows the admission of certain kinds of hearsay evidence which in this case was for the claimant.

In the *Magdalena Ayson* case,[37] the presumption of compensability was applied in favor of a weaver who frequently worked the night shift, pushing heavy wagons of cloth and who contracted tuberculosis while employed. The employer alleged that Ayson was discharged because of total disability for eczema and not the tuberculosis. The Court held that the tuberculosis arising in the course of employment arose out of it and since the disability had not ceased after her discharge, workmen's compensation was proper.

In the *Rio y Compañia* case,[38] the Court stated that, primarily, the problem in workmen's compensation is not the admissibility of evidence which is incompetent under the ordinary legal rules, but the efficacy of such evidence to support an award or decision. Consequently, the admission of incompetent evidence is not, in itself, ground for reversal of an award. In this case, the employer alleged that an apprentice-mate, who was lost at sea when his ship sunk off an island in Palawan, was not an employee; that the shipping articles which lists the

[35] *supra*, see note 28.
[36] *supra*, see note 28.
[37] *supra*, see note 25.
[38] *supra*, see note 23.

crew members does not carry his name; and that the coasting manifest which carries his name was only for prospective crew members and intended to satisfy government regulations. The Workmen's Compensation Commission found the existence of an employee-employer relationship. Following a long line of decisions in this regard, the Supreme Court stated that the findings of the Commission should not be disturbed, unless there is a clear showing of failure to consider evidence on record, or a failure to consider fundamental and patently logical relations in the evidence, amounting to abuse of discretion.

In case an employer is uncooperative, an award may be based on the worker's evidence. Thus, in a case where the employer failed to submit competent and trustworthy data for the computation of the average weekly compensation of the laborer, the Supreme Court relied on the verified data found in the pleadings of the laborer.[39]

Compensation and Awards

The Court stated in the *Philippine Iron Mines*[40] case that compensation paid for an earlier partial disability may not be deducted by the employer from the compensation that he may later pay because a second injury increased the extent or percentage of the same disability.

In 1936, the employer paid the employee ₱600.00 for an injury which resulted in an amputation of a leg below the knee. The disabled employee was rehired by the firm. In 1957, he suffered another accident which called for a re-amputation of the same leg, this time above the knee.

The Court decided that no deduction of the 1936 compensation may be made from the 1957 compensation for 100 percent permanent partial disability of the left leg. Aside from the fact that there is no provision of law which allows the deduction, the Court stated that the weight of authority is also against such deductions.

The Court expressed awareness of the fact that the ruling may deter employers from re-hiring disabled workers but stated that the law allows it no discretion. It suggested that employers

[39] Ma-ao Sugar Central Co., Inc. v. Cañete, G.R. No. 26361, March 18, 1967.

[40] *supra*, see note 28.

may resort to insurance to provide for such resulting loss or ask Congress for an apportionment statute allowing such deductions.

In the *Philippine Air Force* case,[41] the amount raised by air men through benefit shows and voluntarily given to the laborer hired by a private contractor and working on their toilet facilities was deducted from the award. Equity was invoked to relieve the statutory employer from an abuse of its generosity. The mason had signed a quit claim but nevertheless filed a claim for compensation later on.

In the *Rongavilla* case,[42] the employer argued that in October 16, 1950 when the employee was ascertained to have tuberculosis, the word "tuberculosis" and the phrase "aggravated by" were not yet part of the workmen's compensation statute. It was only on June 20, 1952 when Section 2 of Act 3428 was amended and the foregoing word and phrase inserted. Since the employee was separated from work on June 11, 1951, it was contended that the illness was not compensable.

The Court ruled that even before Republic Act 772 took effect on June 20, 1952, if it was shown that an employee contracted an illness — be it tuberculosis or any other illness — caused by the employment or is the result of the nature of the employment, such employee is entitled to compensation.

The Supreme Court has authority to order the execution of an award pending appeal. It may order execution of an award for workmen's compensation pending appeal, "upon such terms as it may deem just" (Section 10, Rule 43, Rules of Court).

The Court exercised this discretionary power inspite of the contention of the employer that there is no way of reimbursement for such executed award, if the appellate or final decision turns out to be in its favor. Execution, pending appeal, was justified in a case where the worker was afflicted with pulmonary tuberculosis, where he was under the care of a physician to whose clinic he reported three times a week; whose sickness prevented him, a destitute, from performing any work; and where he was in constant danger of death from his critical physical condition.

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[41] *supra*, see note 17.
[42] *supra*, see note 24.

In another case, the employer claimed that the award should not be given to the minor children because the widow alone signed the claim.[43] She did not hold herself as representing the children and neither was she appointed guardian *ad litem*. The Court held that it was enough that Item 7 of the claim form listed the minors as surviving dependents, together with their respective dates of birth and relationship to the deceased. As regards guardianship, the Court cited Article 320 of the Civil Code which makes the widow in this case the legal administratrix of the property of the children. The Court added that, at the very least, form should not override substance.

Prescription

An employee who was separated from employment in 1951 may still file claim in 1960. The liability of the employer to pay workmen's compensation is an obligation created by law and under Paragraph 2 of Article 1144 of the Civil Code, the action to enforce this obligation can be brought within ten years from the time the right of action accrues.[44]

The combined force of rulings on the statute of limitations and failure to controvert was applied in another case. The Court stated that the claim is not barred by the statute of limitations because the benefits of the statute cannot be raised for the first time on appeal. Moreover, although aware of the accident, the employer did not report it to the Workmen's Compensation Commission within 14 days of the disability or 10 days after knowledge, thus renouncing its right to controvert and the defenses that are tied up with timely controversion.[45]

Administration

Delays in the adjudication of workmen's compensation claims have proved a major problem in the efficient administration of the law. Personnel and financial limitations are usually cited as among the major causes. In one case, the Supreme Court had occasion to touch upon an equally important cause of delay — the uncooperative attitude and delaying tactics of employers. In the private sector, this is often due to the desire of employers to use scarce funds for capital needs as long as

[43] MRR v. WCC, *supra*, see note 28.
[44] NDC v. Rongavilla, *supra*, see note 24.
[45] Philippine Iron Mines, Inc. v. Abear, *supra*, see note 28.

they can do so. A similar reason is hard to find in government corporations. The Court held that a WCC Hearing Officer did not abuse his discretion in closing a trial without permitting the employer NASSCO to complete its evidence. After four postponements, the hearing officer stuck to his condition of no further postponement. A telegram request for a fifth postponement was, upon proper objection, denied. The Court pointedly added that just because the NASSCO happens to be a government controlled corporation does not entitle it to delay trial indefinitely to suit its convenience.[46]

It is surprising why counsel for employers should continue to entertain doubts on the jurisdiction of regional offices of the Workmen's Compensation Commission.

In the *NASSCO v. WCC* case,[47] the Court reiterated the rule that WCC Hearing Officers in regional offices of the Department of Labor may hear and decide claims for workmen's compensation. Section 25 of the Reorganization Plan 20-A, in conferring such power, was merely reallocating powers already possessed by the Department of Labor and such reallocation was in conformity with the authority granted by Section 6 of Republic Act 997 as amended by Republic Act 1241. There was, therefore, no vesting with judicial powers. Hearing officers in regional offices are like referees whom the Commission could appoint.

In the *Investment Planning Corporation* case,[48] the Supreme Court emphasized the status of the Social Security Commission *vis-a-vis* the Courts of First Instance. In the *Lo Chi* case,[49] the Court reminded CFI judges that they are without jurisdiction to issue writs of injunction, certiorari, and prohibition affecting corporations, boards, officers, or persons outside their jurisdiction. The Court of First Instance of Rizal had tried to restrain acts of the WCC Hearing Officer and Regional Administrator in Naga City.

The grouping of various offices in each regional office of the Department of Labor apparently confuses not only employers dealing with specific commissions or bureaus but also their counsel. An employer made the mistake of appealing a decision of

[46] NASSCO v. WCC, *supra*, see note 19.
[47] *Ibid.*
[48] *supra*, see note 6.
[49] Lo Chi v. Leon, G.R. No. 18584, January 30, 1967.

the WCC Hearing Officer to the Labor Standards Commission. Since the latter agency has no appellate jurisdiction over workmen's compensation awards, the appeal was totally inefficacious and the decision of the Hearing Officer deemed final and executory.

The Supreme Court emphasized that the perfection of an appeal in the manner and within the period laid down by law is not only mandatory but jurisdictional. Failure to perfect an appeal, as legally required, makes the judgment final and executory.

Regarding enforcement of awards, the Court stated that prior to Republic Act 4119, which took effect on June 20, 1946, a regional administrator of the Workmen's Compensation Commission had no authority to issue a writ of execution to enforce an award. The 1964 amendment vested in the Commission and "duly deputized officials in the regional offices under the Department of Labor," the authority and power to issue a writ of execution.

In this case where the writ issued by a regional administrator was void because at the time such action was outside of his authority, the Court held that the void writ did not affect the validity of the award. The award was final and executory and must be enforced.[50]

LABOR STANDARDS LAW

Supreme Court rulings touching on labor standards law were, in the main, incidental pronouncements in cases involving other issues such as labor relations, evidence, execution of judgment, and new trial.

In a case involving reinstatement, illegal dismissal, back wages, increases in salary and separation pay, night differential pay, and premium pay for work on Sundays and legal holidays, the only issue elevated to the Supreme Court was the jurisdiction of the Court of Industrial Relations over the subject matter of the complaint.[51]

Another action for reinstatement with back salaries, damages, and attorney's fees was decided by the Supreme Court, not

[50] *Ibid.*

[51] Rheem of the Philippines, Inc. and Gordon W. Mackay v. Zoilo R. Ferrer, et al., G.R. No. 22979, January 27, 1967.

on fair labor standards law, but on the issues of evidence and the legality of a new trial.[52]

The two complaints in a third case involved claims for termination pay, underpayment of wages, unpaid overtime services, various types of damages, and attorney's fees. The decision, however, limited itself to questions of procedure, especially on splitting causes of action.[53]

A fourth case was decided by the Supreme Court on the question of delivering and paying 30 per cent of the sum of ₱35,263.50, representing wages of 113 dismissed employees, to the Union lawyer as his fees.[54]

In another case, the Court held as illegal the dismissal of a former union president in disregard of the stipulated procedure and without the required fair hearing.[55] The company was ordered to reinstate the employee. However, back wages during the period of dismissal were denied. The non-payment of wages was considered a penalty for the employee's leaving his work without definite and clear permission from his superiors. It was this leaving of work which triggered his summary dismissal.

The case of *Perez v. Central Azucarera Don Pedro*[56] involved the term of employment and separation pay of the plaintiff-appellant.

An employee hired in 1931 rendered continuous service until 1959 when he was dismissed for "loss of confidence." The Supreme Court held that the fact that Perez was considered a permanent employee does not itself show that he had been hired for a definite term. The original appointments were never re-

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[52] Philippine Air Lines, Inc. v. Melanio Salcedo, Philippine Air Lines Employees Association and Court of Appeals, G.R. No. 22119, September 29, 1967.

[53] Luis Enquerra v. Antonio Dolosa, G.R. No. 23233, September 28, 1967.

[54] Sta. Cecilia Sawmills, Inc. v. CIR and Tagkawayan Labor Union, G.R. No. 24235, April 18, 1967. The Court upheld the deposit of an amount paid pursuant to a writ of execution. It stated that the employer-company cannot contend that the Union lawyer did not serve notice of charging liens either to said company or to the laborers and that the company has no authority to represent the laborers in connection with the alleged absence of proof of service or to set it up as a defense.

[55] Norton & Harrison Co. and Jackbilt Concrete Blocks Co. Labor Union v. Norton & Harrison and Jackbilt Concrete Blocks Co., Inc. and Alberto Golden, G.R. No. 18461, February 10, 1967.

[56] Dionisio Perez v. Central Azucarera Don Pedro, G.R. No. 20215, April 24, 1967.

duced to writing. The "Voluntary Non-Contributory Retirement Gratuity Plan" gives benefits to employees who retire at age 65 or who complete 35 years in the company's employ but does not fix any definite period of employment. The Court also denied the allegation that Perez was hired, according to prevailing customs existing in the locality and the general policy of the company, for a definite period of 35 years or until he reaches 65 years of age. The Court, however, held that while the complaint does not contain a prayer for separation pay because the cause of action was for reinstatement, back salaries, and damages, the appellant must be given opportunity to prove the factual basis of his right. It was further held that the right to separation pay is within the jurisdiction of the Court of First Instance and not of the Regional Office of the Department of Labor.

LEGISLATION AND ADMINISTRATIVE ACTION

No new welfare legislation was enacted in 1967.

The absence of legislation does not, by any means, indicate the lack of interest of Congress in welfare laws nor the adequacy of present statutes.

There were several proposals, for instance, to increase the types of benefits administered by the Social Security System. The institution of medicare or hospitalization insurance and unemployment compensation was proposed. The motives behind the bills are laudable, for medical care and unemployment insurance are, indeed, pressing social security needs in the Philippines. However, most of the proposals displayed a sad lack of understanding of the funding method and contributory nature of Philippine social security, the meaning and purpose of SSS trust funds, and the basic philosophy behind the scheme itself. Increases in current benefits and completely new benefits like unemployment compensation were proposed without any corresponding increase in contributions nor actuarial studies to show that these new burdens could be shouldered by present contribution rates. The sizeable trust funds, intended for retirement pensions and other obligations programmed far into the future on the basis of present laws, are sought to be tapped for completely new purposes. It is fortunate that the proposals were

shelved and it is hoped that more careful studies are undertaken before these are brought out for further deliberation.

No significant developments in the Social Security Commission's performance of its rule-making or adjudication functions were noted. The SSS continues to operate with rules and regulations which are mostly obsolete, having been superseded by three amendatory statutes since they were promulgated during the infancy of the System.[57] The major thrust of the Commission's activities was in the field of investments. A complete re-examination of the SSS housing program was undertaken and a decision to construct huge low cost housing projects instead of financing individual residential units was implemented.

Development in fair labor standards law was mainly in administrative measures undertaken by the Bureau of Labor Standards.

A bill to amend Republic Act 1054 on emergency medical and dental treatment illustrates problems in this field of welfare legislation.[58]

A bill was introduced in Congress but failed to be enacted into law. The bill took cognizance of the present statute's failure to distinguish between hazardous and non-hazardous occupations and its requiring the same degree of medical protection for both types.

Under the present law, problems of enforcement often arise. The proposal seeks to clarify and define the jurisdiction of the Department of Labor and the Department of Health in the implementation of the statute. The employment of nurses, first-aiders, dentists, and physicians as required by law shall be determined by the Department of Labor. The issuance of rules and regulations and their enforcement, with regards to professional standards of medical and dental services, equipment, and supplies shall be the responsibility of the Department of Health.

The Bureau of Labor Standards took cognizance of delays in the administrative settlement and disposal of cases, particu-

[57] The only exception was the promulgation of rules in 1964 to implement the SSS salary loans program and, incidentally, to end the grant of refunds of premium contribution to separated employees.

[58] One problem which the bill does not touch is the difficulty of locating nurses and doctors. Many employers who want to comply with the law complain that nurses and doctors prefer to go abroad and work in Western countries than be employed in logging, mining, and other ventures.

larly wage claims. The 1964 NAWASA decision[59] on computation of overtime pay continues to have widespread repercussions.

Regarding hours of work and Blue Sunday regulations, the Bureau decided to do away with the permit system, whereby exceptions to the rules were made upon permission given by the regional offices. To facilitate matters and to curb the extent of discretionary powers given to minor officials spread all over the country, a listing of exemptible undertakings was made. If an employer is in the listing, as amended and expanded, he is automatically exempted.

The laws on minimum wages, hours of work, medical and dental care, women and child labor and Blue Sunday work are quite important. The dearth of Supreme Court decisions does not indicate in the least bit that observance of these laws is widespread or that enforcement is satisfactory. The truth is, the Philippines still has a long, long way to go before welfare laws — including social security and workmen's compensation — may fulfill the pressing needs and achieve the purposes for which they were enacted.

[59] National Waterworks and Sewerage Authority v. NWSA Consolidated Unions. G.R. No. 18938. August 31, 1964.