

THIRD DIVISION

[G.R. NO. 167572, July 27, 2007]

**GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS.
MELVIN I. PALMA, RESPONDENT.**

DECISION

CHICO-NAZARIO, J.:

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] of the Court of Appeals dated 28 March 2005, which reversed the Decision^[2] of the Employees' Compensation Commission (ECC) denying respondent Melvin I. Palma's claim for permanent disability benefits in ECC Case No. GM-16302-0323-04.

Respondent Melvin I. Palma started his teaching vocation in the government as a Practical Arts teacher in Zamboanga City High School from 17 July 1967 until 2 December 1970. Later on, he became an English teacher at Jose Abad Santos High School in Manila from 3 December 1970 until 16 December 1997.

On 15 to 18 April 1980, respondent underwent surgical excision of the cervical lymph node at the Jose Reyes Memorial Hospital, Sta. Cruz, Manila, for thyroid carcinoma which was diagnosed as papillary cancer of the thyroid. Not long after, on 22 to 30 April 1980, respondent went through a radical neck dissection with *Total Thyroidectomy* at the Ospital ng Maynila. Respondent's travail continued as two years later, or on 24 to 27 May 1982, he was made to undergo another surgical excision of the cervical lymph node at the Medical City General Hospital in Mandaluyong City.

On 3 March 1984, respondent filed with petitioner Government Service Insurance System (GSIS) a claim for compensation benefits under Presidential Decree No. 626, as amended, otherwise known as the Employees Compensation Act. Petitioner denied the said claim in its letter dated 3 May 1984, the relevant portion of which reads:

Please be advised that on the basis of the proofs and evidences submitted to this Office, your ailment "Total Thyroidectomy", is not considered an occupational disease as that your position as High School Teacher, Division of City Schools, Manila, had increased the risk of contracting said ailment.^[3]

Respondent requested petitioner to reconsider its decision, but the latter stood firm in denying his claim reasoning that:

We regret to inform the claimant that we reiterate the disapproval of his claim under P.D. 626, as amended because there is no concrete and

substantial proof to show that the illness was brought about by the performance of his duties while still in the service.^[4]

Then, in September 1997, he was subjected to *Tracheostomy*. This operation worsened respondent's condition which forced him to retire in December of 1997.

On 24 November 2003, respondent sent a letter to the GSIS General Manager and requested that his partial disability be converted to total and permanent disability. Respondent also wrote a letter dated 30 January 2004, which contained the same request, to the ECC Executive Director.

In a letter dated 14 February 2004, the ECC Director requested the GSIS to elevate the records of respondent's case to the ECC for review.

In a Decision dated 24 June 2004, the ECC affirmed the decision of the GSIS denying respondent's claim for disability benefits. It stated:

Medical science relative to the claimed ailments provides that:

"Thyroid cancer is the most common endocrine-related cancer. The outlook for patients with thyroid cancer is excellent in that safe and effective therapy is available in most cases. A lump (nodule) in the thyroid is the key sign of its presence. Most thyroid cancers do not cause any symptoms, and only rarely do they cause pain, difficulty in swallowing, or hoarseness."

Thyroid cancer is more common in people who have a history of exposure of the thyroid gland to radiation, have a family history of thyroid cancer, and are older than 40 years old."

To warrant compensability of an ailment and its resulting disability, sickness, or death under P.D. 626, as amended, Rule III, Section 1(b) thereof, specifically provides that: (1) The ailment must be listed by the ECC as an occupational disease. (2) There must be a showing by substantial evidence that the risk of contracting the ailment is caused or increased by the employees' work and working conditions.

Appellant's ailment, Thyroid cancer is not an occupational disease under Annex "A" of the aforementioned rule. Under the increased risk theory, compensation may still be had, provided substantial proof is shown that the risk of contracting the ailment was caused or increased by the nature of his work and working conditions.

In the case at bar, there is no indication that the ailment was brought largely by the conditions present in the nature of his job. In fact, the records of his case merely asserted that it was his work as a Teacher that caused him to contract the ailment. However, appellant offered no evidence that would establish a causal link between the ailment and his work. Such allegations of appellant would not constitute work-connection. There must be some real and concrete evidence that would link the ailment to appellant's nature of work and working conditions, which appellant however, failed to satisfy with.

Based on medical science, the ailment, Thyroid cancer is more common in people who have a history of exposure of the thyroid gland to radiation, have a family history of thyroid and are older than 40 years of age. These are the factors that medical authorities of this Commission believed have caused appellant's ailment and the same cannot be connected with his employment. Thus, the action taken by the respondent System is well taken.^[5]

On 3 September 2004, respondent filed before the Court of Appeals a petition for review under Rule 43 of the Rules of Court.

In a Decision dated 28 March 2005, the Court of Appeals reversed the decision of the ECC.

The Court of Appeals did not agree with the ECC's opinion stating that respondent's ailment was caused by the following factors: family history of thyroid cancer; a history of exposure of the thyroid gland to radiation; the victim is older than 40 years old. According to the Court of Appeals, these factors just enumerated are merely the specific situations or "risk factors" that increase an individual's chance of developing said ailment. Even as respondent's age is a risk factor, as he was 43 years old during his first operation, still the ECC erred in surmising that his ailment is attributable to his age, and not to his work. The appellate court also cited an authority stating that some persons exposed to the said risk factors do not get thyroid cancer and that other persons who get the disease have none of the said risk factors. In other words, persons exposed to the risk factors react differently. It concluded that respondent's illness could have been brought about by a combination of causes including that to which respondent was exposed, *i.e.*, the strenuous use of his vocal cords when he trained his students for declamation and his exposures to chemicals such as muriatic acid and paints when respondent supervised the cleaning of the comfort rooms and when he painted the classrooms every summer vacation.

Hence, the instant recourse.

Petitioner maintains that the Court of Appeals decided the case based on the principles of aggravation and presumption of compensability, which principles have been abandoned by the passage of Presidential Decree No. 626, as amended, thus, deciding the same contrary to law and jurisprudence. It argues that the intention of the law is that the work or working condition itself should cause the disease and not merely aggravated what was already being suffered by the claimant.

Petitioner also posits that the assailed decision of the Court of Appeals was not supported by positive evidence proving that the claimant's working conditions caused his ailment, there being none presented by respondent, except his bare allegations to support his claim.

Furthermore, petitioner maintains that respondent's exposure to paints and muriatic acid could not have caused his disease as exposure to radiation, which is one of the risk factors in contracting thyroid cancer, is not the same as exposure to paints and muriatic acid.

There is no merit in the petition.