

## THIRD DIVISION

[ G.R. No. 132648, March 04, 1999 ]

**GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS),  
PETITIONER, VS. COURT OF APPEALS AND ROMEO S. BELLA,  
RESPONDENTS.**

### D E C I S I O N

**PURISIMA, J.:**

At bar is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court seeking to set aside the Decision<sup>[1]</sup> of the Court of Appeals<sup>[2]</sup> dated February 12, 1998 in CA-G.R. SP NO.44465, reversing the Decision of the Government Service Insurance System (GSIS), which affirmed the Decision of the Employees Compensation Commission (ECC) in ECC Case No. M.G. 7872 - 1295.

The antecedent facts are, as follows:

On June 10, 1964, private respondent Romeo S. Bella was employed by the Bureau of Animal Industry as a livestock inspector. He retired from the service on August 16, 1986. On July 16, 1987, he was re-employed by the Department of Agriculture as Agricultural Food Technologist and on March 1, 1994, promoted to the position of Agriculturist II.

As disclosed by his records of employment, private respondent was suspended without pay from September 1, 1993 to March 1, 1994. A month after, or on April 1, 1994, to be precise, he was reinstated to his former position as Agriculturist II at the Provincial Agricultural Office in Tacurong, Sultan Kudarat. On July 1, 1995, private respondent who was then 56<sup>[3]</sup> years old, filed a terminal leave of absence due to physical disability.

The medical records of private respondent reveal that he was suffering from Acute Myocardial Infraction<sup>[4]</sup> and was confined at the Notre Dame Hospital in Cotabato City from September 13, 1988 to September 19, 1988 and at the Philippine Heart Center from September 6, 1994 to September 26, 1994.

Thus, private respondent filed with the GSIS, Cotabato Branch, a claim for compensation benefits under P.D. 626<sup>[5]</sup>, as amended. Finding his application meritorious and his ailment compensable, the GSIS awarded him a Temporary Total Disability income benefit during the periods of July 16 to July 21, 1994 and August 24 to August 29, 1994, as well as reimbursement for medical expenses. Private respondent Romeo S. Bella was also granted a Permanent Partial Disability income benefit equivalent to thirty-eight (38) months for his Ischemic Cardiomyopathy.

Private respondent requested for the conversion of his benefits from Permanent *Partial* Disability to Permanent *Total* Disability, reasoning out that his ailments of

Ischemic Cardiomyopathy<sup>[6]</sup> and Chronic Obstructive Pulmonary Disease<sup>[7]</sup> rendered him unable to engage in any gainful occupation for a continuous period exceeding 120 days, as certified to by his attending physicians, Dr. Romulo Uy, Dr. Anne Marie Luat, Dr. Danilo Rustia, Dr. Juanito Lastimosa and Dr. Eldefonso Maglasang.<sup>[8]</sup>

But petitioner GSIS denied his request for Permanent Total Disability on the ground that the degree of private respondent's disability as evaluated by petitioner's medical officers, did not satisfy the criteria for Permanent Total Disability. His motion for reconsideration was similarly denied. On appeal, the Employees Compensation Commission (ECC) affirmed the Decision of the GSIS, denying private respondent's request for conversion of his Permanent *Partial* Disability benefit to Permanent *Total* Disability benefit.

Dissatisfied, private respondent went to the Court of Appeals on a Petition for Review.

On February 12, 1998, the Court of Appeals came out with its decision reversing the Decision of the Employees Compensation Commission; disposing, thus:

*"WHEREFORE, the appealed decision is hereby REVERSED and SET ASIDE. Accordingly, another judgment is rendered granting petitioner's claim for Permanent Total Disability (PTD) benefits.*

*No pronouncements as to costs.*

*SO ORDERED."*<sup>[9]</sup>

Therefrom, petitioner GSIS found its way to this Court via the present petition, theorizing:

#### I

THAT THE RESPONDENT HONORABLE COURT OF APPEALS GRAVELY ERRED IN REVERSING AND SETTING ASIDE THE DECISION OF THE EMPLOYEES COMPENSATION COMMISSION WHICH AFFIRMED THE DECISION OF HEREIN PETITIONER GSIS.

#### II

THAT THE HONORABLE COURT OF APPEALS ERRED IN CONSIDERING THE CONVERSION OF PERMANENT PARTIAL DISABILITY (PPD) BENEFITS OF HEREIN RESPONDENT TO PERMANENT TOTAL DISABILITY UNDER P.D. 626, AS AMENDED.

#### III

THAT THE DECISION OF THE RESPONDENT HONORABLE COURT OF APPEALS IS CONTRARY TO LAW AND APPLICABLE JURISPRUDENCE.

The pivot of inquiry here is: whether or not the private respondent is entitled to permanent total disability benefits.

The Labor Code classifies employees' disability into three distinct categories, namely: a) temporary total disability;<sup>[10]</sup> b) permanent total disability;<sup>[11]</sup> and c) permanent partial disability.<sup>[12]</sup> Section 2, Rule VII, of the Rules and Regulation Implementing Title II, Book IV of the Labor Code defines and clarifies these categories, as follows: "SEC. 2. Disability. - (a) A total disability is temporary if as a result of the injury or sickness the employee is unable to perform any gainful occupation for a continuous period not exceeding 120 days, except as otherwise provided for in Rule X of these Rules.

*(b) A disability is total and permanent if as a result of the injury or sickness the employee is unable to perform any gainful occupation for a continuous period exceeding 120 days except as otherwise provided for in Rule of these Rules.*

*(c) A disability is partial and permanent if as a result of the injury or sickness the employee suffers a permanent partial loss of the use of any part of his body."*

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*(b) A disability is total and permanent if as a result of the injury or sickness the employee is unable to perform any gainful occupation for a continuous period exceeding 120 days except as otherwise provided for in Rule X<sup>[13]</sup> of these Rules.*

*(c) A disability is partial and permanent if as a result of the injury or sickness the employee suffers a permanent partial loss of the use of any part of his body."*

In *Vicente vs. Employees Compensation Commission*<sup>[14]</sup>, the Court laid down the litmus test and distinction between Permanent *Total* Disability and Permanent *Partial* Disability, to wit:

*"x x x while 'permanent total disability' invariably results in an employee's loss of work or inability to perform his usual work, 'permanent partial disability,' on the other hand, occurs when an employee loses the use of any particular anatomical part of his body which disables him to continue with his former work. Stated otherwise, the test of whether or not an employee suffers from 'permanent total disability' is a showing of the capacity of the employee to continue performing his work notwithstanding the disability he incurred. Thus, if by reason of the injury or sickness he sustained, the employee is unable to perform his customary job for more than 120 days and he does not come within the coverage of Rule X of the Amended Rules on Employees Compensability (which, in a more detailed manner, describes what constitutes temporary total disability), then the said employee undoubtedly suffers from 'permanent total disability' regardless of whether or not he loses the use of any part of his body.<sup>[15]</sup>*