SUPREME COURT
FIRST DIVISION

SOCIAL SECURITY COMMISSION and SOCIAL SECURITY SYSTEM,
***Petitioners*,**

-versus-

G.R. No. 152058
September 27, 2004

COURT OF APPEALS and JOSE RAGO,
***Respondents*.**
x----------x

D E C I S I O N

DAVIDE, JR., *C.J.*:

This is a Petition for the Review of the Decision[1] of 18 October 2001 and the Resolution of 30 January 2002 of the Court of Appeals in CA-G.R. SP No. 63389 entitled Jose Rago vs. Social Security Commission and Social Security System. The decision reversed the 20 December 2000 Resolution of the Social Security Commission (SSC) in SSC Case No. 4-15009-2000 denying respondent Jose Rago's request to convert his monthly pension from permanent partial disability to permanent total disability. The resolution denied the motion to reconsider the decision.

Private respondent Jose Rago (hereafter Rago) worked as an electrician for Legend Engineering in Basak, Pardo, Cebu City. On 1

December 1993, at about 6:15 p.m., while working on the ceiling of a building, he stepped on a weak ceiling joist. The structure gave way and he crashed into the corridor twelve feet below. The x-rays taken that day revealed that he had a (1) marked compression fracture of L1 vertebra without signs of dislocation and bone destruction; and (2) slight kyphosis at the level of L1 vertebrae, with the alignment of the spine still normal.[2] He was confined at the Perpetual Succour Hospital in Cebu City for twenty-four (24) days from 1 December 1993 to 24 December 1993,[3] and, thereafter, he was confined in his home from 25 December 1993 to 25 August 1994.[4]

On 20 May 1994, Rago filed a claim for permanent partial disability with the Cebu City office of the Social Security System (SSS). Since he had only 35 monthly contributions, he was granted only a lump sum benefit.[5] He made additional premium contributions on 6 November 1995, and sought the adjustment of his approved partial disability benefits from lump sum to monthly payments. The adjustment was resolved in his favor on 18 October 1995.[6]

On 9 November 1995, Rago filed a claim for Employee's Compensation (EC) sickness benefit, which was supported by an x-ray report dated 1 December 1993. This was approved for a maximum of 120 days to cover the period of illness from 1 December 1993 to 30 March 1994.

On 7 June 1996, Rago filed another claim to convert his SSS disability to EC disability. Again, it was resolved in his favor on 14 June 1996.[7]

Two years later, on 16 June 1998, Rago claimed for the extension of his EC partial disability. A rating of 50% OB (of the body) was granted corresponding to the maximum benefit allowed under the Manual on Ratings of Physical Impairment.[8]

Thereafter, Rago filed several requests for the adjustment of his partial disability to total disability. This time, his requests were denied by the Cebu City office of the SSS in its letters of 11 April 1999, 10 September 1999, 28 September 1999, 4 April 2000, and 17 April 2000. The denial was based on the medical findings of the Cebu City office that he was not totally prevented from engaging in any gainful occupation.[9]

Undaunted, on 3 April 2000, Rago filed with the petitioner Social Security Commission (SSC) a petition for total permanent disability benefits based on the following grounds:

1. his convalescence period from the time of his hospital confinement to home confinement totaled 268 days and under SSS guidelines, if the injury persisted for more than 240 days, the injury would be considered as a permanent total disability;

2. his x-ray results showed a deterioration of his condition without any visible improvement on the disabilities resulting from the accident; and

3. he had lost his original capacity to work as an electrician and has been unemployed since the accident.

The petition was docketed as SSC Case No. 4-15009-2000.[10]

In its position paper dated 24 August 2000, the SSS argued that Rago had already been granted the maximum partial disability benefits. The physical examination conducted by the Cebu City office of the SSS showed that he was more than capable of physically engaging in any gainful occupation and that there was no manifestation of progression of illness. Thus, the SSS recommended the denial of Rago's petition.[11]

In a resolution dated 20 December 2000, the SSC denied Rago's petition for lack of merit. The SSC ruled that he was not entitled to permanent partial disability more than what was already granted, more so to permanent total disability benefits since he was already granted the maximum allowable benefit for his injury.[12]

Without filing a motion for reconsideration, Rago appealed to the Court of Appeals by filing a petition for review and reiterating his claim for permanent disability benefits under Section 13-A (g) of R.A. No. 1161, as amended by R.A. No. 8282.[13] The petition was docketed as CA-G.R. SP No. 63389.

In its decision of 18 October 2001, the Court of Appeals reversed the SSC's resolution, and decreed as follows:

> WHEREFORE, the assailed decision of the Social Security Commission is hereby reversed and set aside. Petitioner's plea for conversion of his disability status from permanent partial to permanent total is granted. The SSS is hereby directed to pay him the necessary compensation benefits in accordance with the proper computation.

The SSS seasonably filed a motion for reconsideration on the ground that the Court of Appeals should have considered an order issued by the SSC dated 11 July 2001 which affirmed, but clarified, its 20 December 2000 Resolution under appeal. The SSS then referred to the findings and conclusions of the SSC in said 11 July 2001 order, which emphasized that: (1) Rago failed to file a motion for reconsideration with the SSC, which is mandatory, before filing a petition for review with the Court of Appeals; (2) the manual verification of the monthly contributions of Rago revealed that he had only 35 contributions and not 59; and (3) thus, whether or not the sickness or disability of Rago had showed signs of progression, a conversion of the same from permanent partial disability to permanent total disability could not be granted. This is because Rago lacked the required number of contributions mentioned in Section 13-A (a) of R.A. 1161, as amended, which reads:

> SEC. 13-A. Permanent disability benefits. – (a) Upon the permanent total disability of a member who has paid at least thirty-six (36) monthly contributions prior to the semester of disability, he shall be entitled to the monthly pension: Provided, That if he has not paid the required thirty-six (36) monthly contributions, he shall be entitled to a lump sum benefit equivalent to the monthly pension times the number of monthly contributions paid to the SSS or twelve (12) times the monthly pension, whichever is higher. A member who (1) has received a lump sum benefit and (2) is re-employed or has resumed self-employment or has resumed self-employment not earlier than one (1) year from the date of his disability shall again be subject to compulsory coverage and shall be considered a new member.

With that, the SSC ordered the SSS to re-compute the lump sum benefit due Rago and his EC benefit on the basis of the actual monthly contributions remitted in his behalf and to collect all excess payments made to him.[14]

In its resolution of 30 January 2002, the Court of Appeals denied the motion for reconsideration. It explained the denial in this wise:

> At the outset, the Court strikes down the Commission's July 11, 2001 clarificatory order as an exercise of grave abuse of authority amounting to lack and/or excess of jurisdiction. The said Order was issued at a time when the Commission itself was knowledgeable of the petition for review pending before this Court. It must be pointed out that when petitioner timely filed his petition for review, the appeal from the Commission's resolution had thus become perfected, and it is this Court which therefore had jurisdiction over the matter, and sole authority to make any affirmation or modification of the assailed resolution. Once appeal is perfected, the lower tribunal loses its jurisdiction over the case, in favor of the appellate tribunal. The Court deems it the height of injustice for the Commission to add to and bolster its final ruling with additional observations and justifications, not otherwise embodied in the original ruling, after the losing claimant had already perfected and was actively pursuing his appeal. It behooves upon the Commission, therefore, to refrain from making any substantial addition, or modification of its assailed ruling, such authority in law, now having been transferred to this Court. What prompted the Social Security Commission to issue its clarificatory order is not made clear in its motion for reconsideration, nor in the clarificatory order itself. In any case, any modification of the tenor and justification of the assailed resolution of the Commission by the same body effectively altered the tenor of the earlier ruling, amounting to a violation of the petitioner's right to due process and fair play, and, therefore, null and void.
>
> Moreover, the specific arguments raised by the Commission are not convincing to encourage a reversal of our earlier decision.

> To be sure, the alleged failure to file a motion for reconsideration of the Commission's December 20, 2000 resolution is not a fatal mistake, it appearing that the same was in clear violation of the petitioner's rights and claims, as a member of the Social Security System. It is the established rule that the filing of a motion for reconsideration may be dispensed with when the assailed ruling is a patent nullity. Furthermore, the fact that the petitioner as credited by SSS monthly contributions short to entitle him to be qualified for permanent total disability benefits appear to be largely due to the SSS' and its branches' failure to accurately account the petitioner's total payments, and not on the petitioner's or his employers' failure to do so. The same July 11, 2001 Order shows that the SSS Cotabato City Branch and the SSS Davao Hub Branch Office were unable to account for the complete contributions of the petitioner while he was employed by the San Miguel Corporation.[15]

Thus, in their petition in the case at bar, the SSS and the SSC pray to set aside the Court of Appeals' decision of 18 October 2001 and resolution of 30 January 2002 and to remand the case to the SSC for further proceedings.[16]

In support of their prayer, the petitioners assert that the Court of Appeals erred in disregarding the established jurisprudence that the filing of a motion for reconsideration is a prerequisite to the filing of a petition for review to enable the tribunal, board or office concerned to pass upon and correct its mistakes without the intervention of the higher court. Failure to do so is a fatal procedural defect.[17]

The petitioners likewise argue that they had not violated Rago's rights; hence, his case does not fall within the purview of Arroyo vs. House of Representatives Electoral Tribunal[18] where we held that a prior motion for reconsideration could be dispensed with if fundamental rights to due process were violated.

Additionally, the petitioners contend that the SSC's 11 July 2001 clarificatory order was issued to rectify its perceived error in the 20 January 2000 resolution relative to the number of Rago's contributions which directly affected the computation of his disability

benefits. Petitioners further maintain that the Court of Appeals relied heavily on the x-ray reports which contained no statement that Rago could no longer work. However, a certain Alvin C. Cabreros attested in an affidavit that Rago went out "disco[e]ing" after the accident, for which reason, Rago is not totally helpless as he portrayed himself to be.

On 20 March 2003, we received a handwritten letter from Rago informing us that his lawyer had withdrawn from the case and of his difficulty in securing a new counsel. After naming Attys. Pedro Rosito, Arturo Fernan or Fritz Quiñanola of the IBP Cebu City at Capitol Compound as his "informal lawyers," he asked us to consider, in lieu of his Comment, an attached copy of the opposition to the motion for reconsideration he filed with the Court of Appeals. In said pleading, Rago argued that the word "may" as used in the provision concerning the filing of a motion for reconsideration in the SSC's 1997 Revised Rules of Procedure is not mandatory but merely permissive. He also agreed with the conclusion of the Court of Appeals that a very strict interpretation of procedural rules would defeat the constitutional mandate on social justice.

We gave due course to the petition and required the parties to submit their Memoranda, which they did.

We shall first dispose of the procedural issue of prematurity raised by petitioners which is Rago's failure to file a motion for reconsideration. Section 5, Rule VI of the SSC's 1997 Revised Rules of Procedure provides:

> The party aggrieved by the order, resolution, award or decision of the Commission may file a motion for reconsideration thereof within fifteen (15) days from receipt of the same. Only one motion for reconsideration shall be allowed any party.
>
> The filing of the motion for reconsideration shall interrupt the running of the period to appeal, unless said motion is pro forma.
>
> The ordinary acceptations of the terms "may" and "shall" may be resorted to as guides in ascertaining the mandatory or

> directory character of statutory provisions. As regards adjective rules in general, the term "may" is construed as permissive and operating to confer discretion, while the word "shall" is imperative and operating to impose a duty which may be enforced.[19] However, these are not absolute and inflexible criteria in the vast areas of law and equity. Depending upon a consideration of the entire provision, its nature, its object and the consequences that would follow from construing it one way or the other, the convertibility of said terms either as mandatory or permissive is a standard recourse in statutory construction.[20]

Conformably therewith, we have consistently held that the term "may" is indicative of a mere possibility, an opportunity or an option. The grantee of that opportunity is vested with a right or faculty which he has the option to exercise.[21] If he chooses to exercise the right, he must comply with the conditions attached thereto.[22]

Applying these guidelines, we can construe Section 5, Rule VI as granting Rago, or any member of the System aggrieved by the SSC's resolution, the option of filing a motion for reconsideration which he may or may not exercise. Should he choose to do so, he is allowed to file only one motion for reconsideration within fifteen days from the promulgation of the questioned resolution.

This is as far as we go in construing the provision in isolation because a second procedural rule now comes into play: the requirements for appeals filed against the rulings of quasi-judicial agencies in the exercise of its quasi-judicial functions.

Section 1 of Rule VII of the SSC rules provides:

> Any order, resolution, award or decision of the Commission, in the absence of an appeal therefrom as herein provides, shall become final and executory fifteen (15) days after the date of notification to the parties, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the Commission.

It now becomes apparent that the permissive nature of a motion for reconsideration with the SSC must be read in conjunction with the requirements for judicial review, or the conditions sine qua non before a party can institute certain civil actions. A combined reading of Section 5 of Rule VI, quoted earlier, and Section 1 of Rule VII of the SSC's 1997 Revised Rules of Procedure reveals that the petitioners are correct in asserting that a motion for reconsideration is mandatory in the sense that it is a precondition to the institution of an appeal or a petition for review before the Court of Appeals. Stated differently, while Rago certainly had the option to file a motion for reconsideration before the SSC, it was nevertheless mandatory that he do so if he wanted to subsequently avail of judicial remedies.

This rule is explicit in Rule 43 of the Rules of Court, which states:

> Sec. 1. Scope – This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the…Social Security Commission.
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> Sec. 4. Period of appeal. – The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency a quo. Only one (1) motion for reconsideration shall be allowed.

The policy of judicial bodies to give quasi-judicial agencies, such as the SSC, an opportunity to correct its mistakes by way of motions for reconsideration or other statutory remedies before accepting appeals therefrom finds extensive doctrinal support in the well-entrenched principle of exhaustion of administrative remedies.

The reason for the principle rests upon the presumption that the administrative body, if given the chance to correct its mistake or error, may amend its decision on a given matter and decide it properly.[23] The principle insures orderly procedure and withholds

judicial interference until the administrative process would have been allowed to duly run its course. This is but practical since availing of administrative remedies entails lesser expenses and provides for a speedier disposition of controversies.[24] Even comity dictates that unless the available administrative remedies have been resorted to and appropriate authorities given an opportunity to act and correct the errors committed in the administrative forum, judicial recourse must be held to be inappropriate, impermissible,[25] premature, and even unnecessary.[26]

However, we are not unmindful of the doctrine that the principle of exhaustion of administrative remedies is not an ironclad rule. It may be disregarded (1) when there is a violation of due process, (2) when the issue involved is purely a legal question, (3) when the administrative action is patently illegal amounting to lack or excess of jurisdiction, (4) when there is estoppel on the part of the administrative agency concerned, (5) when there is irreparable injury, (6) when the respondent is a department secretary whose acts as an alter ego of the President bears the implied and assumed approval of the latter, (7) when to require exhaustion of administrative remedies would be unreasonable, (8) when it would amount to a nullification of a claim, (9) when the subject matter is a private land in land case proceedings, (10) when the rule does not provide a plain, speedy and adequate remedy, (11) when there are circumstances indicating the urgency of judicial intervention,[27] (12) when no administrative review is provided by law, (13) where the rule of qualified political agency applies, and (14) when the issue of non-exhaustion of administrative remedies has been rendered moot.[28]

Fortunately for Rago, his case falls within some of these exceptions as discussed below.

Petitioners' attempts to distinguish Arroyo vs. House of Representatives Electoral Tribunal[29] from this case is misplaced. The ground relied upon by the Court of Appeals for exempting this case from exhaustion of administrative remedies was not the denial of due process but of the patent nullity of the SSC decision in question.

It is true that Rago disregarded procedural and curative rules in taking immediate recourse to the appellate court. The Court of

Appeals similarly erred in taking cognizance of Rago's appeal. We likewise do not subscribe to issuing rulings or decisions that do not acknowledge or give reason for the disregard of the procedural defect of the petition, especially when it was specifically raised as an issue in respondent's answer.[30]

Nevertheless, to require Rago to comply with the principle of exhaustion of administrative remedies at this stage of the proceedings would be unreasonable, unjust and inequitable. It would prolong needlessly and uselessly the resolution of his claim.

Petitioners SSS and SSC have consistently shown their obstinacy in their stand to deny Rago's request to convert his permanent partial disability to permanent total disability. The SSC's reliance on the SSS recommendations, which did not consider other evidence of the illness' progression and its disregard of long-standing jurisprudence, made for the patent nullity of the SSC decision. The error was made more blatant when, in the SSC's clarificatory order, it classified the disability based on the amount of contributions Rago had paid.[31]

To give the SSC another chance to rectify its error in accordance with the principle of exhaustion of administrative remedies would inevitably result in the same inflexible stance in defense of its error. We say another chance because we can consider the SSC's clarificatory order as in the nature of a judgment on Rago's motion for reconsideration as if he had filed one. Otherwise, to admit the misnamed order which was issued when the SSC no longer had jurisdiction over the case, and which modified and altered the contents and tenor of its original resolution, would have amounted to a violation of Rago's right to due process. To this extent we give imprimatur to the assailed decision and resolution of the Court of Appeals, and uphold its factual determination that Rago is entitled to the conversion of his permanent partial disability to permanent total disability. Thus:

> There is merit in the petition. Evidently clear from the recitals of the assailed decision some indicia of petitioner's state of permanent total disability. To emphasize, he was granted sickness benefit for a maximum period of 120 days from December 1, 1993 to March 30, 1994. Then he was awarded

lump sum permanent partial disability benefits paid on June 15, 1994, which was then adjusted on October 18, 1995 to monthly pension benefit covering the period of 30 months from May 20, 1994 to October 1996. More, the permanent partial disability benefit was extended for another eight (8) months from July 3, 1998 to February 1999, all in all covering a period of 38 months. If temporary total disability lasting continuously for more than 120 days is deemed total and permanent, it is not therefore amiss to consider the payment of permanent partial disability benefits for 38 months as recognition of permanent total disability. Award of permanent partial disability benefits for 19 months was considered by the Supreme Court as an acknowledgment that the awardee was suffering from permanent total disability. (Diopenes vs. GSIS (205 SCRA 331[1992]).

x x x

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. (IJARES vs. Court of Appeals, 313 SCRA 141 [1999]). The cited radiologic report under date of February 26, 1999 is demonstrative of the fact that petitioner is still in a state which at the time of the taking deters him from performing his job or any such related function. It is evident that the pain caused to petitioner by his injuries still persists even after more than 5 years when the accident occurred on December 1, 1993. The disability caused thereby which had earlier been diagnosed as permanent partial had possibly became permanent total. (GSIS vs. CA 260 SCRA 133, [1996]). Also in the case of Tria vs. ECC, (supra) – a disability is total and permanent if as a result of the injury, the employee is not able to perform any gainful occupation for a period exceeding 120 days.

Moreover, prior payment of compensation benefits for permanent partial disability may not foreclose his right to compensation benefits for permanent total disability. Otherwise, the social justice policy underlying the enactment of labor laws would lose its meaning.

> Caution should be taken against a too strict interpretation of the rules lest the constitutional mandate of social justice policy calls for a liberal and sympathetic approval of the pleas of disabled employees like herein petitioner. Compassion for him is not a dole out. It is a right. (GSIS vs. Court of Appeals, 285 SCRA 430 [1998]).[32]

The Court of Appeals correctly observed that Rago's injury made him unable to perform any gainful occupation for a continuous period exceeding 120 days. The SSS had granted Rago sickness benefit for 120 days and, thereafter, permanent partial disability for 38 months. Such grant is an apparent recognition by the SSS that his injury is permanent and total as we have pronounced in several cases.[33] This is in conformity with Section 2 (b), Rule VII of the Amended Rules on Employees Compensation which defines a disability to be 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, and Section 1, b (1) of Rule XI of the same Amended Rules which provides that a temporary total disability lasting continuously for more than 120 days, shall be considered permanent.

In Vicente vs. Employees Compensation Commission,[34] we laid down the litmus test and distinction between Permanent Total Disability and Permanent Partial Disability, to wit:

> 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.

We further reiterate that disability should be understood less on its medical significance than on the loss of earning capacity. Permanent total disability means disablement of an employee to earn wages in the same kind of work, or work of similar nature that he was trained for or accustomed to perform, or any kind of work which a person of his mentality and attainment could do. It does not mean absolute helplessness.[35] Moreover, a person's disability may not manifest fully at one precise moment in time but rather over a period of time. It is possible that an injury which at first was considered to be temporary may later on become permanent or one who suffers a partial disability becomes totally and permanently disabled from the same cause.[36]

With this, petitioners' additional arguments that the x-ray reports lacked a physician's finding that Rago could no longer work and that Mr. Cabrero's affidavit attested to the contrary lose persuasive worth. X-ray reports and its confirmation by a physician are simply appraised for their evidentiary value and are not considered as indispensable prerequisites to compensation.[37] Even then, the three x-ray reports submitted by Rago clearly show the degenerative condition of his injury, viz:

(a) Radiology report stated 1 December 1993 revealed "Mark compression fracture o L1 vertebra without signs of dislocation and bone destruction and slight kyphosis at the level of L1 vertebra but the alignment of the spine is normal";

(b) Radiology report dated 4 may 1994 showed that "consistent with compression fracture with mild posterior dislocation of the L1"; and

(c) Radiology report dated 26 February 1999 showed anterior wedging or compression fracture of L1 with gibbus

> deformity and thoraco-lumber junction and suggested lumbo-sacral AP for further study. [Emphasis supplied]

Clearly, Rago is entitled to permanent total disability benefits.

One final note. Although the SSS and the SSC should be commended for their vigilance against unjustified claims that will deplete the funds intended to be disbursed for the benefit only of deserving disabled employees, they should be cautioned against a very strict interpretation of the rules lest it results in the withholding of full assistance from those whose capabilities have been diminished, if not completely impaired, as a consequence of their dedicated service. A humanitarian impulse, dictated by no less than the Constitution under its social justice policy, calls for a liberal and sympathetic approach to the legitimate appeals of disabled workers like Rago. Compassion for them is not a dole out but a right.[38]

WHEREFORE, the Decision of the Court of Appeals dated 18 October 2001 and its resolution of 30 January 2002 in CA-G.R. SP No. 63389 reversing the Social Security Commission's Resolution of 20 December 2000 in SSC Case No. 4-15009-2000 are hereby **AFFIRMED**.

No pronouncement as to costs.

SO ORDERED.

Quisumbing, Ynares-Santiago, Carpio, and Azcuna, *JJ.*, concur.

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[1] Per Cosico, R. J., with the concurrence of Barcelona, R. and Santos, A., JJ, Rollo, 120-126.
[2] Rollo, 44.
[3] Id., 39
[4] Id.
[5] Id., 56.
[6] Id., 57.
[7] Rollo, 57.
[8] Id.
[9] Id.

[10] Rollo, 31-35.
[11] Id., 62-64.
[12] Id., 312-320.
[13] Otherwise known as the Social Security Law of 1997. Section 13-A (g) provides the percentage degree of disability, which is equivalent to the ratio` that the designated number of months of compensability bears to seventy-five (75), rounded to the next higher integer, shall not be additive for distinct, separate and unrelated permanent partial disabilities, but shall be additive for deteriorating and related permanent partial disabilities, to a maximum of one hundred percent (100%), in which case the employee shall be deemed as permanently totally disabled.
[14] Rollo, 110-119.
[15] Rollo, 136-137.
[16] Rollo, 330-336.
[17] PNCC vs. NLRC, G.R. No. 112629, 7 July 1995, 245 SCRA 668.
[18] G.R. No. 118597, 14 July 1995, 246 SCRA 384.
[19] Manufacturers Hanover Trust Co. & Chemical Bank vs. Guerrero, G.R. No. 136804, 19 February 2003; Tan vs. Securities and Exchange Commission, G.R. No. 95696, 3 March 1992, 206 SCRA 740, citing Shauf vs. Court of Appeals, G.R. No. G.R. No. 90314, 27 November 1990, 191 SCRA 713; Bersabal vs. Judge Salvador G.R. No. L-35910, 21 July 1978, 84 SCRA 176.
[20] De Mesa, et al. vs. Mencias, 124 Phil 1187 (1966). See also Federation of Free Workers and Allied Sugar Centrals Employees and Workers Union – FFW vs. Inciong, No. L-48848, 11 May 1998, 161 SCRA 295, citing In Re Guarina, 24 Phil 37 (1913) and San Carlos Milling Co. vs. Commissioner of Internal Revenue, G.R. No. 103379, 23 November 1993, 228 SCRA 135.
[21] In Shauf vs. Court of Appeals, G.R. No. 90314, 27 November 1990, 191 SCRA 713, "may" was used in a U.S. federal statute (about equal opportunity for civilian employment in U.S. military installations) to give an aggrieved party a number of remedies which are not exclusive. In People vs. Court of Appeals, 312 Phil 739 (1995), "may" as used in section 7 of Rule 112 presented an "opportunity," a "possibility" or an option of filing a motion for preliminary investigation and in Section 1 of Rule 45, as an opportunity or option to file a petition for review. In Legaspi vs. Estrella, G.R. No. 90205, 24 August 1990 (Cited in the SCRA as Supangan, Jr. vs. Santos, a consolidation of cases), 189 SCRA 56 (1990) we interpreted "may" as used in Section 146 of Batas Pambansa Blg. 337 or the old Local Government Code as- being indicative of a "possibility" or an "opportunity," to avoid defeating the purpose of the law to immediately include sectoral representatives in the legislative councils of local government units.
[22] Id., People vs. Court of Appeals, 312 Phil 739 (1995).
[23] Lopez vs. City of Manila, 363 Phil 68 (1999).
[24] See Carale vs. Abarintos, G.R. No. 120704, 3 March 1997, 269 SCRA 132; Paat vs. Court of Appeals, 334 Phil 146 (1997); see also Union Bank of the Philippines vs. Court of Appeals, G.R. No. 131729, 19 May 1998 citing University of the Philippines vs. Catungal, Jr., 338 Phil 728 (1997);

Associated Communications and Wireless Services, Ltd. vs. Dumlao, et al., G.R. No. 136762, 21 November 2002.

[25] Garcia vs. Court of Appeals, 411 Phil 25 (2001).

[26] Lopez vs. City of Manila, supra note 23; Ambil vs. COMELEC, G.R. No. 143398, 25 October 2000, 344 SCRA 358.

[27] Paat vs. Court of Appeals, 334 Phil 146 (1997); Roxas & Co. Inc. vs. Court of Appeals, 378 Phil 727 (1999).

[28] Province of Zamboanga del Norte vs. Court of Appeals, G.R. No. 109853, 11 October 2000.

[29] G.R. No. 118597, 14 July 1995, 246 SCRA 384.

[30] See generally Yao vs. Court of Appeals, G.R. No. 132428, 24 October 2000, 344 SCRA 202.

[31] This tenuous basis was again put to question when it was later brought to our attention that the manual verification of Mr. Rago's contributions revealed that he had 57 total contributions and not 35. It was claimed that the additional 29 contributions were not made available to the SSC at the time of the promulgation of the clarificatory judgment.

[32] Rollo, 124-126.

[33] In Abaya, Jr. vs. ECC, G.R. No. 64255, 16 August 1989, 176 SCRA 507, partial permanent benefits was granted for more than 150 days. In Aguja vs. GSIS, G.R. No. 84846, 5 August 1991, 200 SCRA 187, permanent partial disability benefits was granted for 25 months. In Aquino vs. ECC, G.R. No. 89558, 22 August 1991, 201 SCRA 84, permanent partial disability was granted for 19 months. The Court held that such grants indicated a recognition on the part of the System of the members' permanent total disability. In Diopenes vs. GSIS G.R. No. 96844, 23 January 1992, 205 SCRA 331, temporary total disability benefits was granted for 240 days and permanent partial disability for 19 months.

[34] G.R. No. 85024, 23 January 1991, 193 SCRA 190; see also Ijares vs. Court of Appeals, G.R. No. 105854, 26 August 1999, 313 SCRA 141.

[35] Marcelino vs. Seven-Up Bottling Co., 150-C Phil 133 (1972); Landicho vs. WCC, G.R. No. L-45996, 26 March 1979, 89 SCRA 147; Legaspi vs. Province of Negros Oriental, G.R. No. L-43066, 29 December 1978, 87 SCRA 418; GSIS vs. Court of Appeals, 363 Phil 1999.

[36] GSIS vs. Court of Appeals, G.R. No. 117572, 29 January 1998, 285 SCRA 430 citing GSIS vs. Court of Appeals, G.R. No. 116015, 31 July 1996, 260 SCRA 133.

[37] Balanga vs. Workmen's Compensation Commission, No. L-43339, 22 June 1978, 83 SCRA 721; Romero vs. WCC, G.R. No. L-42617, 30 June 1997, 77 SCRA 482; and Ybañez vs. WCC, G.R. No. L-44123, 30 June 1997, 77 SCRA 501.

[38] See GSIS vs. Court of Appeals, G.R. No. 117572, 29 January 1998, 285 SCRA 430.