

SECOND DIVISION

[G.R. NO. 159146, January 28, 2005]

OSM SHIPPING PHIL., INC., PETITIONER, VS. ANTONIA DELA CRUZ, RESPONDENT.

DECISION

PUNO, J.:

Petitioner OSM Shipping Phil., Inc. (OSM) appeals by certiorari under Rule 45 of the Rules of Court the Decision^[1] of the Court of Appeals in CA-G.R. SP. No. 76136 dated May 27, 2003 and the Resolution^[2] dated July 18, 2003 of the Special Third Division denying its Motion for Reconsideration.

Respondent Antonia dela Cruz represents her deceased husband Arbit dela Cruz (Arbit), a seaman contracted by petitioner for and in behalf of its foreign principal.

On December 12, 1997, Arbit filed an Application for Shipboard Employment with OSM, a domestic corporation licensed by the Philippine Overseas Employment Administration (POEA) to operate as a manning agency. As a standard operating procedure, OSM directed Arbit to undergo a medical check-up at the St. Thomas Diagnostic, Medical and Dental Clinic, Inc., its accredited hospital. He was reported "fit to work."

OSM hired Arbit as Tug Master for and in behalf of Linden Shipping International for twelve months commencing on January 5, 1998 and ending on January 5, 1999. He was contracted with a basic monthly salary of US\$723.00, plus fixed overtime pay of US\$216.90 (not exceeding 105 hours per month) and vacation pay of 2½ days or US\$60.25 per month.^[3]

Arbit departed from Manila on February 24, 1998. He was directed to man the self-propelled speed barge "Mannta Ann" and later on the tug boat MT "Grouper Ann."^[4]

After almost nine (9) months, or on November 14, 1998, while the vessel was in India, Arbit wrote a letter^[5] to Mr. Dick Van Der Linden, Jr., managing director of Linden Shipping International. He informed the latter that he was resigning for "personal reason." He also requested for a reliever as soon as possible. Mr. Linden sent no reply.

Arbit wrote a second letter^[6] on November 26, 1998 and reiterated his request to be relieved and be allowed to go home for "medical purpose." In the letter, he confided to Mr. Linden that he was suffering from hypertension. Again, there was no reply. He wrote a third letter^[7] on November 30, 1998. He stated that should Mr. Linden send no reliever, he is left with no recourse but "tie up the tug and disembark." He also lamented that the provisions of the crew were insufficient and

did not arrive on time. Linden Shipping International finally responded on November 30, 1998 but asked Arbit for more time. He said that India was not a convenient port for crew change.

Arbit nevertheless disembarked from the vessel while it was in India on December 2, 1998. He went to the Sha Surgical Hospital at Jamnager, Gujarat State the following day. He was examined by Dr. M.A. Santwani who diagnosed that he was suffering from hypertension with LVF^[8] and Asthmatic Bronchitis. The doctor advised that he be hospitalized for further management and indoor treatment.^[9]

On the same day, Arbit wrote to Ambassador Jose del Rosario of the Philippine Embassy in New Delhi, India. He informed the latter about his health condition and desire to be repatriated.^[10] The Ambassador replied that his employer was already working on his repatriation.

Arbit was repatriated to Manila on January 5, 1999. He paid for his own airfare and the transportation cost of his reliever. Upon his arrival, petitioner directed him to proceed to the St. Thomas Diagnostic, Medical and Dental Clinic, Inc. for post-medical examination. Arbit was diagnosed to be possibly suffering from a heart ailment and should be endorsed to a cardiologist. The medical follow-up report^[11] dated January 28, 1999 showed that Arbit had "ischemic cardiomyopathy."^[12] He was advised to continue taking his medications and report for follow-up after completing his initial treatment schedule.^[13] In the same report, he was declared "x x still UNFIT for sea duty."^[14]

After his visit to the St. Thomas Diagnostic, Medical and Dental Clinic, Inc., Arbit sought medical attention from other hospitals: the Accuvision Diagnostic Center, Inc., the Philippine Heart Center, the Manila Sanitarium and the Metropolitan Hospital. Arbit shouldered all medical expenses. He tried to claim reimbursement from petitioner but the latter refused. Hence, he filed a complaint with the National Labor Relations Commission (NLRC) for the recovery of unpaid wages, repatriation cost, sickwage allowance, medical and hospital expenses, permanent and total disability benefits, damages and attorney's fees. Before the case could be resolved, Arbit died of "ischemic cardiomyopathy" on December 29, 1999. Respondent substituted her husband.

On April 16, 2001, Labor Arbiter Ermita T. Abrasaldo-Cuyuca rendered judgment ordering petitioner to pay Arbit the following:

US\$1,109.90 -representing unpaid salary and other benefits.

P16,177.20 -representing reimbursement of medical expenses.

US\$2,892.00 -representing sickwage allowance.

Ten percent of the total award as attorney's fees.^[15]

Respondent appealed to the NLRC for the award of disability benefits and reimbursement of full medical expenses, repatriation and transportation costs of Arbit's reliever.

The NLRC affirmed *in toto* the decision of the Labor Arbiter and denied the Motion for Reconsideration of respondent. She filed a Petition for Certiorari^[16] with the

Court of Appeals.

Respondent alleged that the NLRC acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it denied Arbit the full cost of his repatriation despite the fact that he disembarked for medical reasons. She also contended that petitioner should be held liable for the full cost of Arbit's medical and hospital expenses since the POEA Standard Employment Contract provides no restriction on seeking medical attention from hospitals not accredited by a seafarer's employer. Lastly, she averred that the NLRC erred in not awarding her husband disability benefits due to misrepresentation.

The Court of Appeals found the petition meritorious and ordered petitioner to pay Arbit permanent total disability compensation and to reimburse him for the full cost of his repatriation, the transportation cost of his reliever and full medical and hospital expenses. The appellate court likewise affirmed the award of the NLRC on the payment of unpaid salaries and other benefits, sickwage allowance, and attorney's fees.

Petitioner simultaneously filed a Motion for Reconsideration and a "Motion [t]o Inhibit the Ponente and the Division Members of the Honorable Third Division From Acting on the Motion for Reconsideration." It was allegedly "alarmed at the unusual haste by which the case was decided."^[17] In its assailed Resolution,^[18] the Special Third Division denied both Motions. Hence, this appeal.

Petitioner raises the following issues:

1. THE DECISION OF THE CA'S THIRD DIVISION WAS RENDERED WITH UNUSUAL, EXTRAORDINARY HASTE[.]
2. THE DECISION IS CONTRARY TO THE FACTS AND THE EVIDENCE ESTABLISHED BEFORE THE NLRC; THE HONORABLE THIRD DIVISION OF THE COURT OF APPEALS BASED ITS DECISION ONLY ON THE FACTUAL NARRATION OF RESPONDENT, TOTALLY DISREGARDING THAT OF PETITIONERS[.]
3. NO ABUSE OF DISCRETION WHEN NLRC DENIED REIMBURSEMENT OF DECEASED'S REPATRIATION COST[.]
4. THE NLRC DID NOT GRAVELY ABUSE ITS DISCRETION WHEN IT DENIED RESPONDENT THE REIMBURSEMENT OF THE DECEASED'S MEDICAL EXPENSES AND SICKWAGE ALLOWANCE[.]
5. [THE] NLRC NEVER ABUSED ITS DISCRETION WHEN IT DENIED THE DISABILITY BENEFITS CLAIMS OF RESPONDENT[.]^[19]

We shall resolve the issues *in seriatim*.

First. Petitioner is intrigued that the members of the Third Division of the appellate court were able to render the assailed Decision twenty (20) days after respondent moved to submit the case for decision.^[20] It contends that the unusual speedy resolution of the case might have caused the appellate court to overlook material facts in the records.

This matter was sufficiently explained by the appellate court in its Resolution^[21] where the *ponente*^[22] presented his record re the disposition of cases assigned to him. He explained that his speedy resolution of cases and average monthly output are in keeping with the "Zero Backlog Project of the Court." Suffice it to state that aside from its sentiment that this "unusual, extraordinary haste" raises suspicion, petitioner was not able to present any concrete evidence of irregularity.

Second. Petitioner contends that the appellate court totally disregarded factual findings of the Labor Arbiter and the NLRC which allegedly are supported by substantial evidence. The factual findings^[23] which are relevant to the issues raised are: 1) Arbit resigned due to inadequate food provisions; 2) Arbit sought medical attention from hospitals other than those accredited by petitioner in violation of the latter's advice to transfer Arbit to the Metropolitan Hospital; and, 3) Arbit misrepresented his true medical condition and employment history. These issues shall be resolved in the succeeding discussions.

Third. Petitioner argues that the NLRC did not abuse its discretion when it denied Arbit of repatriation cost. The NLRC applied Section 18(B)^[3] of the POEA Standard Employment Contract^[24] (Contract), viz:

SECTION 18. TERMINATION OF EMPLOYMENT

x x x

B. The employment of the seafarer is also terminated when the seafarer arrives at the point of hire for any of the following reasons:

x x x

3. when the seafarer, in writing, voluntarily resigns and signs-off prior to expiration of contract pursuant to Section 19(G) of this Contract.

x x x

Section 19(G) states:

Section 19. REPATRIATION

x x x

G. A seafarer who requests for early termination of his contract shall be liable for his repatriation cost as well as the transportation cost of his replacement. x x x.

Finding that Arbit signed-off and disembarked due to poor food provisions and gross negligence,^[25] the NLRC denied reimbursement of the cost of repatriation pursuant to Section 19(G) of the Contract.

The Court of Appeals found otherwise and applied Section 18(B)[1] of the Contract, viz.:

SECTION 18. TERMINATION OF EMPLOYMENT

x x x

B. The employment of the seafarer is also terminated when the seafarer arrives at the point of hire for any of the following reasons:

1. when the seafarer signs-off and is disembarked for medical reasons pursuant to Section 20(B)[5] of this Contract.

x x x

Section 20(B)[5] of the Contract states that upon the seafarer's sign-off from the vessel for medical treatment, the employer shall bear the full cost of repatriation in the event the seafarer is declared (1) fit for repatriation; or (2) fit to work but the employer is unable to find employment for the seafarer on board his former vessel or another vessel of the employer despite earnest efforts. Finding that Arbit signed-off and disembarked for medical reasons, the Court of Appeals awarded Arbit the full cost for his repatriation and the transportation cost of his reliever.

We sustain the factual finding of the Court of Appeals. While findings of fact by administrative tribunals like the NLRC are generally accorded not only respect but, at times, finality, this rule admits of exceptions,^[26] as in the case at bar.

The Labor Arbiter and the NLRC misappreciated the facts. The records establish that Arbit disembarked for medical reasons. He wrote three (3) letters to Mr. Linden asking that he be relieved for medical reasons. His deteriorating health condition was proven by his medical certificate from the Sha Surgical Hospital at Jamnager, Gujarat State, India. He was diagnosed to be suffering from hypertension with LVF and Asthmatic Bronchitis. Dr. Willy Que, the petitioner's company-designated physician, found him to be suffering from "ischemic cardiomyopathy" which eventually caused his death. Several documents in the records prove that he sought medical attention from various hospitals.

It would have been absurd for Arbit to land in a foreign port for treatment if he did not feel the urgency of his condition. The finding that he disembarked on foreign land, barely five (5) weeks before the termination of his contract, due to insufficient food provisions is not supported by the evidence on record. Further, the allegation that he was grossly negligent in fulfilling his duties on board came from the sworn statements of his two co-crew members at the "Mannta Ann." Their statements, uncorroborated by any other evidence, are suspect for being biased in favor of petitioner.

Fourth. Petitioner avers that the NLRC did not err in denying full reimbursement of Arbit's medical expenses and sickwage allowance.

The NLRC found that neither petitioner nor the St. Thomas Diagnostic, Medical and Dental Clinic, Inc. authorized Arbit to seek medical treatment from hospitals that are not accredited by petitioner. Hence, it only granted reimbursement for medical expenses that Arbit incurred at the Metropolitan Hospital, an accredited hospital. His