

TENTH DIVISION

[CA-G.R. SP No. 136892, February 20, 2015]

REYNALDO G. LAURIAGA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (1ST DIVISION), ACE NAVIGATION CO., INC., HAYS SHIP LTD., AND/OR RHOMMEL P. PAMINTUAN, RESPONDENTS.

D E C I S I O N

DIAMANTE, J.:

From the May 12, 2014 Decision^[1] and July 9, 2014 Resolution^[2] issued by public respondent National Labor Relations Commission (1st Division) in NLRC NCR Case No. OFW (M) 03-04230-13/NLRC LAC No. OFW (M) 01-000053-14, petitioner hereby brings before Us the instant Petition for Certiorari^[3] under Rule 65 of the Rules of Court, on the following grounds:

"7.1 THE HONORABLE PUBLIC RESPONDENT ACTED WITHOUT JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT RULED THAT PETITIONER'S MEDICAL CONDITION WHICH LED TO HIS TOTAL AND PERMANENT DISABILITY IS NOT WORK-RELATED. IT EVEN REFUSED TO CONSIDER HIS WORK AND NATURE OF HIS WORKING CONDITION TO HAVE AGGRAVATED PETITIONER'S MEDICAL CONDITION.

7.2. PUBLIC RESPONDENT ACTED WITHOUT JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN OMITTING THE AWARD OF ATTORNEY'S FEES."

The records and pleadings of the parties disclose the antecedents.

Complainant-seafarer (herein petitioner) Reynaldo G. Lauriaga entered into a Contract of Employment^[4] with respondent company Ace Navigation Company (local agency and herein private respondent), for and in behalf of its principal Hays Ships, Limited as its Third Engineer for the latter's vessel MV "KOMMANDOR JACK" and was given a nine-month contract.

Prior to his embarkation, petitioner underwent a pre-employment medical examination and was declared fit for sea duty.^[5] The Government of the United Kingdom also issued a Seafarer Medical Certificate stating that petitioner is fit to work with no restrictions.^[6]

Fifteen (15) days after petitioner's embarkation or on October 12, 2012, petitioner was brought to Polyclinique Hotel Dieu Abidjan in Abidjan, Ivory Coast for high fever accompanied by coughing with yellowish sputum and numbness of his two lower

extremities. The initial diagnosis was that petitioner has polyradicular neuritis.^[7] As petitioner had difficulty in breathing and was vomiting, he was placed in the Intensive Care Unit where he stayed for almost a month or until his discharge on November 10, 2012. The Medical Report upon petitioner's discharge showed that he is suffering from "[a]reflexic tetraparesia with respiratory and swallowing troubles evoking polyradiculoneuritis Guillain Barre Type."^[8]

A day after his discharge from Polyclinique Hotel Dieu Abidjan or on November 11, 2012, petitioner was repatriated to the Philippines, accompanied by an African doctor as he could barely walk.^[9]

On even date, he was seen by the company-designated physician, Dr. Natalio G. Alegre. Dr. Alegre's initial assessment was that petitioner has Guillain Barre Syndrome. Petitioner was then referred to a specialist for specialized medical care.

On November 12, 2012, petitioner was confined at St. Luke's Hospital for continuing treatment and evaluation. He was released after ten (10) days but was required to undergo rehabilitation.^[10] Petitioner regularly observed his scheduled medical check-up with Dr. Alegre,^[11] as well as his occupational and physical therapies.^[12]

Meanwhile, on November 22, 2012, Dr. Alegre prepared a Progress Report^[13] addressed to Mr. Rodolfo F. Pamintuan, Chairman/President of Ace Navigation Co., Inc., stating, inter alia, that while petitioner has been diagnosed with Guillain-Barre Syndrome, the same is not secondary to accident or trauma nor is listed as an occupational disease under Section 32-A,^[14] thus deemed not work-related.

Despite the treatment and therapy that petitioner has been receiving, his body remains weak and is unable to walk and move about without the assistance of other people. Thus, on March 15, 2013, he went to the clinic of Dr. Alegre, wherein he was attended by a certain Dr. Mary Anne Santos, who made a notation on the Acknowledgment Receipt^[15] referring petitioner to Dr. Alegre for final disposition and disability rating.

Petitioner claimed that Dr. Alegre refused to give him a permanent disability rating when he went to see the latter for such purpose prompting him to consult a physician of his choice, a certain Dr. May S. Donato-Tan (Dr. Tan). After examining petitioner, Dr. Tan's impression were the following: HPN Stage II; Polyradiculo Sensory Deficit/Polyradicular Neuritis; To consider Guillain Barre Syndrome; and To consider Parkinson White Syndrome. Thereafter, she issued a Medical Certificate^[16] declaring petitioner to be permanently disabled as a seaman "for he will not be able to perform his job effectively, efficiently and productively."^[17]

Armed with the Medical Certificate issued by the physician of his choice, petitioner filed a complaint on the same day, for permanent total disability benefits, refund of medical expenses and transportation, sickness allowance, moral and exemplary damages and attorney's fees.^[18]

Herein private respondent Ace Navigation Co., Inc. did not deny that petitioner was repatriated for medical reasons. It claimed that petitioner was provided the medical attention he needed and was timely paid of his sickness allowance. However, private

respondent argued that petitioner is not entitled to compensation and disability benefits for the reason that the company-designated physician and the attending specialist declared that the latter's condition is not work-related. Private respondent ratiocinated that to be entitled to the benefits he is claiming, it is not enough for petitioner to establish that his illness or injury rendered him permanently or partially disabled. It must also be shown that there is a causal connection between his illness or injury and the work for which he had been contracted for.

After due consideration, Labor Arbiter Patricio P. Libo-on rendered a Decision dated November 28, 2013, declaring that since petitioner suffered his illness during the term of his contract and his illness is disputably presumed to be work-related, there was sufficient legal basis for the grant of disability benefit. He thus ruled:

"WHEREFORE, premises considered, judgment is hereby rendered, ordering ACE NAVIGATION CO. INC./HAYES SHIP LTD. and/or RHOMMEL P. PAMINTUAN to pay complainant the amount of One Hundred Twenty Four Thousand Two Hundred Five U.S. Dollars [US\$124,205.00], representing full disability benefits and sickness wages of US\$1,230.00 plus ten [10%] percent thereof as and for attorney's fees, and the amount of P50,000.00 as medical reimbursement.

All other claims are dismissed for lack of merit.

SO ORDERED."^[19]

Private respondents elevated the case before the National Labor Relations Commission (NLRC), First Division, Quezon City, seeking for the reversal of the Labor Arbiter's Decision. The NLRC found merit in private respondent's appeal ratiocinating that while it is true that it is provided in the POEA SEC that illnesses not listed under Section 32 (A) are disputably presumed to be work-related, this presumption comes with the burden on the part of the complainant to prove that his working conditions caused, or at least, increased the risk of contracting the disease. The NLRC was of the view that herein petitioner was clearly unable to discharge the said burden of presenting substantial evidence to show that his working conditions caused or increased his risk of contracting GBS. The NLRC disposed of the case as follows:

"WHEREFORE, premises considered, the appeal is hereby GRANTED. The Labor Arbiter's Decision dated November 28, 2013 is hereby REVERSED and SET ASIDE, and a new one issued DISMISSING the complaint.

SO ORDERED."^[20]

Petitioner filed a Motion for Reconsideration^[21] of the aforesaid Decision, to which motion, private respondents filed their Comment/Opposition.^[22]

Finding that the motion filed by petitioner raised no new matters of substance which would warrant reconsideration of the Decision of the Commission, the NLRC denied the same in a Resolution^[23] dated July 9, 2014.

Hence, the present recourse, on the thesis that the assailed Decision and Resolution were rendered with grave abuse of discretion amounting to lack or in excess of

jurisdiction, on the grounds enumerated at the outset of this *ponencia*.

In the meantime, on September 5, 2014, this Court issued a minute Resolution^[24] requiring private respondents to file a Comment (not a motion to dismiss) to petitioner's Petitioner for Certiorari. This Court also directed petitioner to file his Reply within five (5) days from receipt of the Comment, if he so desires. Moreover, the parties were directed to inform the Court if there is any pending case before the other Divisions of this Court involving the same parties and/or related questions of fact and/or law to ensure strict observance of Section 3, Rule III of the 2009 Internal Rules of the Court of Appeals [In Re: Letter Complaint of Merlita B. Fabiana, etc., A.M. No. CA-13-51-J, July 2, 2013], within ten (10) days from notice.

On September 25, 2014, petitioner filed a Petitioner's Manifestation of No Other Pending Case.^[25]

On September 26, 2014, private respondents filed their Compliance/Manifestation^[26] to this Court's September 5, 2014 Resolution.

On October 13, 2014, private respondents filed their Comment^[27] to the petition for certiorari while a Reply was filed by the petitioner on January 28, 2015.^[28]

With the filing of the aforesaid pleadings by the parties, the instant petition is now deemed submitted for decision.

As with all other kinds of worker, the terms and conditions of a seafarer's employment is governed by the provisions of the contract he signs at the time he is hired. But unlike that of others, deemed written in the seafarer's contract is a set of standard provisions set and implemented by the POEA, called the Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels, which are considered to be the minimum requirements acceptable to the government for the employment of Filipino seafarers on board foreign ocean-going vessels.^[29] The issue of whether petitioner Lauriaga can legally demand and claim disability benefits from herein private respondent company for an illness that became apparent during his contract of employment with the shipping company, is governed by the provisions of the POEA Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels; hence, it is said standard terms and conditions which are relevant and need to be construed in the case at bench. Petitioner boarded the ship on September 26, 2012, thus, it is the *2010 POEA Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels* that is considered appended in his contract of employment and is controlling for purposes of resolving the issue at hand.

A cursory reading of the applicable contractual provisions and a thorough evaluation of the evidence presented by both the petitioner and private respondents, lends strong credence to the contentions and arguments presented by private respondents.

The POEA-SEC, as provided under Governing Board Resolution No. 09 and POEA Memorandum Circular No. 10, both series of 2010, which contains the Amended Standard Terms and Conditions Governing The Employment of Filipino Seafarers On-

Board Ocean-Going Vessels, governs the employment contract between petitioner and private respondents. Section 20-A of the POEA-SEC enumerates the duties of an employer to his employee who suffers work-related injury or illness during the term of his employment contract, viz:

Section 20

A. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS The liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract are as follows:

X X X X

6. In case of permanent total or partial disability of the seafarer caused by either injury or illness the seafarer shall be compensated in accordance with the schedule of benefits enumerated in Section 32 of this Contract. Computation of his benefits arising from an illness or disease shall be governed by the rates and rules of compensation applicable at the time the illness or disease was contracted.

X X X X

Prescinding from the foregoing, two elements must concur for an injury or illness of a seafarer to be compensable. First, the injury or illness must be work-related; and second, that the work-related injury or illness must have existed during the term of the seafarer's employment contract.

For disability to be compensable under Section 20 (A) of the 2010 POEA-SEC, it must be the result of a work-related injury or a work-related illness, which are defined as "injury(ies) resulting in disability or death arising out of and in the course of employment" and as "any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A of this contract with the conditions set therein satisfied."^[30]

Section 32-A of the 2010 POEA SEC reads:

"Section 32-A. OCCUPATIONAL DISEASES

For an occupational disease and the resulting disability or death to be compensable, all of the following conditions must be satisfied:

1. The seafarer's work must involve the risks described herein;
2. The disease was contracted as a result of the seafarer's exposure to the described risks;
3. The disease was contracted within a period of exposure and under such other factors necessary to contract it;
4. There was no notorious negligence on the part of the seafarer."

Further, under Section 20 A (3) of the 2010 POEA SEC, it is the company-designated physician who is entrusted with the task of assessing the seafarer's disability, thus: