

## SECOND DIVISION

[ G.R. No. 205725, January 18, 2021 ]

**MARCELO M. CORPUZ, JR., PETITIONER, VS. GERWIL CREWING  
PHILS., INC., RESPONDENT.**

### DECISION

**GESMUNDO, J.:**

Licensed recruitment agencies are subject to a continuing liability to ensure the welfare of the Filipino workers they deployed abroad. Their carelessness and wanton disregard of such responsibility that result to the substitution of employment contracts previously approved by the Department of Labor and Employment (*DOLE*), through the Philippine Overseas Employment Administration (*POEA*), shall render them liable for damages.

### The Case

We resolve this appeal by *certiorari* seeking to reverse and set aside the September 28, 2012 Decision<sup>[1]</sup> and January 30, 2013 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 120720, which affirmed the March 30, 2011 Decision<sup>[3]</sup> and May 30, 2011 Resolution<sup>[4]</sup> of the National Labor Relations Commission (*NLRC*) in NLRC LAC No. 10-000818-10. The NLRC decision reversed and set aside the September 11, 2010 Decision<sup>[5]</sup> of the Labor Arbiter (*LA*) that granted petitioner's claim for disability benefits.

### Antecedents

Gerwil Crewing Phils., Inc. (*respondent*) recruited Marcelo M. Corpuz, Jr. (*petitioner*) to work as an Able Seaman for a period of twelve (12) months with Echo Cargo & Shipping LLC on board the vessel *MT Azarakhsh*,<sup>[6]</sup> with a monthly salary of Four Hundred Sixty-One Dollars (\$461.00).<sup>[7]</sup> Respondent deployed petitioner on August 5, 2008.<sup>[8]</sup>

On May 17, 2009, petitioner was brought to the Sheik Khalifa Medical City in the United Arab Emirates due to severe headache and vomiting after he allegedly sustained a fall while lifting heavy motor parts on board the vessel. He experienced an episodic low back pain radiating to his left posterior thigh accompanied by severe pain of the foot. This caused him to slip, hitting his chest first, followed by his head. The diagnosis revealed that he suffered from *Left Cerebellar Hemorrhage with Intraventricular Hematoma*. Aside from the medications given, he underwent an external ventricular drain (*EVD*) to relieve his hydrocephalus. Petitioner was eventually recommended for repatriation to undergo further evaluation and treatment.<sup>[9]</sup>

On September 9, 2009, petitioner arrived in Manila on a wheelchair. Petitioner claims to have reported to the office of respondent the next day. However, respondent's Chief Executive Officer (CEO), Rommel S. Valdez (*Valdez*), denied his request for medical assistance on the ground that his illness was not work-related. Valdez also allegedly humiliated him in front of the people present in the agency.<sup>[10]</sup>

Consequently, petitioner sought medical consultation with Dr. Nune Babao-Balgotnera (*Dr. Balgotnera*), a neurologist at Sta. Rosa Medical Center. On October 28, 2009, Dr. Balgotnera issued a medical certificate declaring petitioner as permanently unfit for sea duty in any capacity and suffering from *Severe Complex Cerebral Function Disturbance* or *Post Traumatic Psychoneurosis*. Dr. Balgotnera classified petitioner's illness as a Grade I disability.<sup>[11]</sup>

Petitioner also consulted Dr. Donald S. Camero (Dr. Camero), an internist, who also gave an assessment of POEA Disability Grade I. Armed with both medical assessments, petitioner demanded payment of disability benefits from respondent to no avail.<sup>[12]</sup>

On April 20, 2010, petitioner instituted a complaint against respondent and Valdez for payment of disability benefits, among others.<sup>[13]</sup>

### **Labor Arbiter Ruling**

The Labor Arbiter (LA) promulgated a Decision on September 11, 2010, disposing as follows:

WHEREFORE, judgment is hereby rendered ordering respondents to jointly and severally:

1. Pay complainant permanent disability benefit in the amount of \$60,000.00;
2. Pay complainant sickness allowance in the amount of \$1,844.00;
3. Pay complainant moral and exemplary damages in the total amount of [P300,000.00]; and
4. Pay complainant attorney's fees equivalent to 10% of the total award.

SO ORDERED.<sup>[14]</sup>

The LA based his decision solely on the evidence submitted by petitioner in view of respondent's failure to file a position paper. The LA held that since respondent refused to provide petitioner with medical attendance, the latter was justified in consulting his own personal doctors. Also, both certifications issued by Dr. Balgotnera and Dr. Camero showed that petitioner's injury was related to his exposure to toxic and hazardous materials.<sup>[15]</sup>

Aggrieved, respondent appealed to the NLRC.

### **NLRC Ruling**

On March 30, 2011, the NLRC reversed the decision of the LA and dismissed petitioner's complaint for lack of merit.<sup>[16]</sup> The NLRC noted that based on petitioner's logbook, petitioner did not report to the agency on September 10, 2009.<sup>[17]</sup> Petitioner's failure to report upon repatriation was fatal to his claim for disability benefits.

The NLRC also held that petitioner failed to prove that his injury was work-related. As an Able Seaman, petitioner's duties were confined only to deck and navigational work and did not include lifting of motor parts. Furthermore, the medical certificates submitted by petitioner failed to establish that the injury he sustained was work-related because his doctors readily concluded that he had been exposed to hazardous materials, although the evidence on record did not support such finding.<sup>[18]</sup>

Petitioner filed a motion for reconsideration, which the NLRC denied in its May 30, 2011 Resolution.<sup>[19]</sup> Unsatisfied, petitioner filed a petition for *certiorari* before the CA.

### **CA Ruling**

In the now assailed decision, the CA dismissed the petition for *certiorari* for lack of merit. It agreed with the NLRC that petitioner was not entitled to disability compensation and other benefits due to his failure to comply with the compulsory examination upon repatriation. It noted that petitioner's name did not appear in respondent's visitor logbook for the period of September 4, 2009 to October 6, 2009. The NLRC also held that petitioner failed to submit evidence to support his claim that his disability was work-related.<sup>[20]</sup>

Petitioner filed a motion for reconsideration, which the CA denied in its January 30, 2013 Resolution.

Hence, this petition.

### **Issue**

Petitioner attributes the sole error on the part of the CA:

WHETHER OR NOT THE NLRC (FIRST DIVISION) AND THE HONORABLE COURT OF APPEALS (FOURTEENTH DIVISION) COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RENDERING THE ASSAILED DECISIONS AND DENIED RESOLUTIONS.<sup>[21]</sup>

Petitioner points to two (2) procedural defects in respondent's appeal before the NLRC: (1) that the appeal was filed out of time because respondent received a copy of the LA Decision on September 30, 2010 but filed the notice of appeal only on October 11, 2011; and (2) that respondent did not post a cash or surety bond.<sup>[22]</sup>

He also argues that the NLRC committed grave abuse of discretion in reversing the LA decision and denying his claim for Grade 1 disability benefits and attorney's fees.

Based on his medical histories, records and physician's reports, the working conditions at *MT Azarakhsh* increased his risk of contracting *Severe Complex Cerebral Function Disturbance*.<sup>[23]</sup> Considering that his injury arose out of the occupational conditions on board *MT Azarakhsh*, he should be entitled to disability compensation.<sup>[24]</sup>

Finally, petitioner maintains that he has the prerogative to consult a physician of his choice. Hence, the CA and the NLRC erred in ruling that the company-designated physician is the sole authority to determine the degree of disability of an ailing seafarer.<sup>[25]</sup>

The Court resolved to require respondent to comment on the petition in its June 19, 2013 Resolution.<sup>[26]</sup> Despite such notice, respondent failed to file its comment. Hence, on March 3, 2014, the Court issued a Resolution<sup>[27]</sup> requiring Atty. Robertson R. Aquino (*Atty. Aquino*) of Atienza Madrid and Formento, to file a comment and to show cause why he should not be disciplinarily dealt with or held in contempt. Noting that respondent's counsel again failed to comply with the prior resolutions, the Court resolved on December 10, 2014 to impose upon Atty. Aquino a fine of P1,000.00 and to file a comment.<sup>[28]</sup> Respondent counsel's failure to comply with said resolution prompted the Court to issue another Resolution on January 11, 2016<sup>[29]</sup> imposing an additional fine of P1,000.00 on Atty. Aquino. Respondent's counsel once again failed to comply with the prior resolutions, and the Court resolved to impose on him another additional fine of P1,000.00.<sup>[30]</sup>

In view of the several notices sent to respondent to file the required comment which remained unheeded, the Court deems it proper to dispense with the filing of the same and to proceed with the resolution of the instant petition.

### **Our Ruling**

The petition is partially meritorious.

*Respondent's  
appeal before  
the NLRC is  
not  
procedurally  
infirm*

Petitioner insists that respondent's appeal before the NLRC was defective because it was filed beyond the reglementary period and was not accompanied by a cash or surety bond.

We find the above claim to have no basis both in fact and in law.

Section 1, Rule VI of the 2005 Revised Rules of Procedure of the NLRC, the applicable rule at the time that respondent filed its appeal, reads:

Section 1. *Periods of Appeal*. - Decisions, resolutions or orders of the Labor Arbiter shall be final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from

receipt thereof; and in case of decisions, resolutions or orders of the Regional Director of the Department of Labor and Employment pursuant to Article 129 of the Labor Code, within five (5) calendar days from receipt thereof. **If the 10th or 5th day, as the case may be, falls on a Saturday, Sunday or holiday, the last day to perfect the appeal shall be the first working day following such Saturday, Sunday or holiday.**

x x x x (emphasis supplied)

Respondent received a copy of the LA Decision on September 30, 2010 and therefore had until October 10, 2010 to file an appeal to the same. Since October 10, 2010 fell on a Sunday, it had until October 11, 2010 to file its appeal. Hence, respondent submitted its appeal within the reglementary period.

As regards respondent's alleged failure to secure a bond, We find the same to be without basis. The records show that it had secured a *supersedeas* bond covering the monetary award from CAP General Insurance Corporation to which the latter issued CGI Bond No. JCL (15) 00001/00242.<sup>[31]</sup> Accordingly, respondent had perfected its appeal before the NLRC.

*Petitioner is  
not entitled to  
disability  
benefits;  
Failure to  
submit to post-  
employment  
medical  
examination  
was fatal to his  
cause*

The main thrust of the instant petition anchors on petitioner's claim for disability benefits. As the one claiming entitlement to benefits under the law, petitioner must establish his right thereto by substantial evidence.<sup>[32]</sup>

Petitioner's right to receive disability benefits is determined by his employment contract. Deemed written in his contract is a set of standard provisions established and implemented by the POEA called the *Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels*, which are the minimum requirements acceptable to the government for the employment of Filipino seafarers.<sup>[33]</sup> In petitioner's case, the 2000 POEA Standard Employment Contract (*2000 POEA-SEC*) governs his relationship with respondent.

Under the 2000 POEA-SEC, two elements must concur for an injury or illness to be compensable. *First*, the injury or illness must be workrelated; and *second*, the work-related injury or illness must have existed during the term of the seafarer's employment contract.<sup>[34]</sup> Paragraph 3, Sec. 20(8) of the same contract also requires him to submit to a post-employment medical examination within three (3) days from repatriation, viz.: