FIRST DIVISION

[G.R. No. 239793, January 27, 2020]

MULTINATIONAL SHIP MANAGEMENT, INC./SINGA SHIP AGENCIES, PTE. LTD., AND ALVIN HITEROZA, PETITIONERS, LOLET B. BRIONES, RESPONDENT.

D E C I S I O N

PERALTA, C.J.:

This Petition for Review under Rule 45 of the Rules of Court seeks to annul the Decision[1] dated January 12, 2018 of the Court of Appeals (*CA*) in CA-G.R. SP No. 151642, which nullified, except with respect to the award of sickness allowance in respondent's favor, the Decision[2] dated March 8, 2017 and the Resolution[3] dated May 15, 2017 of the National Labor Relations Commission (2nd Division) (*NLRC*) that reversed and set aside the Labor Arbiter's Decision[4] dated November 23, 2016, and dismissed the respondent's complaint for total and permanent disability, unpaid sickness allowance, damages and attorney's fees. Likewise assailed in this petition is the Court of Appeals' Resolution[5] dated May 30, 2018, which denied petitioners' Motion for Reconsideration.

Petitioner Multinational Ship Management Inc. (*MSMI*) is a corporation duly established and existing under the laws of the Philippines and duly licensed to do business as a manning agency with petitioner Alvin Hiteroza (*Hiteroza*) as its President/General Manager. Petitioner Singa Ship Agencies PTE. LTD. is petitioner MSMI's foreign principal for the vessel M/V Viking Mimir. On March 25, 2015, MSMI and respondent Lolet Briones (*Briones*) entered into an employment contract whereby the latter was hired as Cabin Stewardess in the vessel Viking Mimir for a period of eight (8) months with a basic salary of US$980.00. The employment contract incorporated the POEA's "Standard Terms and Conditions Governing the Employment of Filipino Seafarers On-Board Ocean-Going Vessels."[6]

After undergoing a series of medical tests or routine Pre-Employment Medical Examination (*PEME*), Briones was declared fit for duty. Thereafter, she boarded her vessel of assignment and commenced her work as Cabin Stewardess on May 15, 2015.[7]

While on board the vessel and in the course of her tour of duty, Briones experienced back pains. She alleged that on July 17, 2015, she assisted in the unloading of luggage of departing passengers and in retrieving boxes of mattresses and bedsheets from the laundry section to the state rooms. She felt pain in her back while in the middle of replacing the mattresses. When the pain did not subside the following day, she went to see the ship's doctor and was given pain relievers. She was allowed to continue her work, but the pain persisted and became unbearable after almost two (2) weeks of continuous duty.[8]

When the vessel arrived in Hungary on July 23, 2015, Briones was sent to a hospital. She was diagnosed to have lower back pain and muscle strain and was prescribed pain relievers. She rejoined the vessel and went back to her normal routine, but her back pain worsened. She was again disembarked when the vessel arrived in Passau, Germany on July 29, 2015. After undergoing X-ray and MRI on her back, she was suspected to have lumbar spine problem. She was prescribed with medicines to alleviate the pain and was advised to have a thorough check-up. As the vessel had to leave the port, she was not able to undergo further check-up. [9]

Briones' condition deteriorated and her mobility was seriously impaired after two (2) months of heavy manual labor. Thus, when the vessel arrived in Austria on September 21, 2015, she was sent to the General Hospital of Vienna where she was attended by Dr. Gerold Holzer. She was found to have serious back pain and was advised to be repatriated and undergo physiotherapy.[10]

Briones was finally repatriated on September 24, 2015 and she was immediately referred by MSMI to the Ship to Shore Medical Center under the care of the company-designated physician, Dr. Keith Adrian Celino (Dr. Celino). She underwent her various laboratory examinations the results of which revealed that she was suffering from *back pain* and *Lumbago*. She was advised to undergo physical therapy sessions and to continue her medications.[11]

Despite treatment and therapy, Briones claimed that she was not able to recover from her back pain. She requested for MRI on her back and upper portion of her body and MRI on her thoracic portion. Her request on the latter MRI, however, was denied. In a follow-up report dated November 17, 2015, Briones was noted to have tenderness on the lumbar area. She was advised to undergo MRI of the lumbosacral area. She made several follow-up consults with the company-designated doctor to monitor her medical progress.[12]

On December 1, 2015, the company-designated doctor cleared Briones from the cause of her repatriation and declared that her *Lumbago* was resolved. MSMI alleged that it unconditionally shouldered all of Briones' medical expenses and seasonably paid her sick wages.[13]

Briones claimed that the company doctors discontinued her treatment despite of her failure to recover and plea to the company to continue the medical treatment. This constrained her to consult an orthopedic specialist, Dr. Manuel Fidel Magtira (*Dr. Magtira*), from the Department of Orthopedic Surgery & Traumatology of the Armed Forces of the Philippines Medical Center. Upon advice of Dr. Magtira, she underwent MRI on her thorax and lumbar spine on February 4, 2016.

Dr. Magtira prescribed her pain relievers, but after more than one (1) month of treatment, Dr. Magtira issued a Certification dated March 10, 2016 stating, among others, that Briones is "permanently UNFIT in any capacity to resume her sea duties as a Sea woman." When MSMI failed to pay Briones the required benefits, the latter filed a labor complaint for total and permanent disability benefits, sickness allowance, medical benefits, damages and attorney's fees.

On November 23, 2016, the Labor Arbiter rendered a Decision[14] granting Briones' claims for total permanent disability and sick wage benefits, damages and attorney's fees. In resolving the labor complaint in favor of Briones, the Labor Arbiter reasoned

out that the disability provision in the POEA Standard Employment Contract (*POEA-SEC*) recognizes the seafarer's right to seek a second medical opinion and prerogative to consult a physician of his choice. The Labor Arbiter opined that while the POEA-SEC provides for the designation of a third doctor in case of difference between the company-designated doctor's assessment and that of the seafarer's doctor of choice, the provision, however, is merely directory and not mandatory. The fact that Briones initiated the complaint for permanent disability benefit based on her personal doctor's findings is sufficient notice to MSMI to exercise the option to refer the same to a third doctor. Finally, the Labor Arbiter viewed Dr. Magtira's Medical Report more complete and exhaustive than the certification issued by the company-designated doctor, which was merely concerned with the examination of the complaint for purposes of diagnosis and treatment rather than a determination of Briones' fitness to resume her work as a seafarer.

On appeal, the NLRC reversed and set aside the Labor Arbiter's decision. In its Decision dated March 8, 2017, the NLRC pointed out that the ruling in *Maersk Filipinas Crewing, Inc./Maersk Services Ltd., et al. v Mesina*,[15] wherein it was ruled that referral to a third doctor opinion is merely directory and not mandatory, was superseded by the ruling in *INC Shipmanagement Incorporated (now INC Navigation Co. Philippines, Inc.), et al., v. Rosales*,[16] and reiterated in the subsequent case of *Silagan v. Southfield Agencies, Inc., et al.*, [17] which described the nature of the referral to a third party doctor opinion as a mandatory procedure. It, thus, ruled that the failure of Briones to comply with the mandatory procedure makes her complaint susceptible to dismissal for being premature. In contrast to the Labor Arbiter's findings, the NLRC upheld the company-designated physician's findings as against Dr. Magtira's unfit to work certification. It took note of the medical treatment provided by the company-designated physician after her repatriation on September 24, 2015, and the MRI and series of physical therapy sessions undertaken by Briones until December 1, 2015, when her *Lumbago* was declared to have been resolved. This was after the result of the MRI was found to be unremarkable and the physical exercises required from Briones were done without complaints from her. Thus, the NLRC concluded that Dr. Magtira's medical opinion, which was: arrived at only after a single consultation, cannot override the assessment of the company-designated physician who had treated and monitored Briones' condition for months.

Aggrieved, Briones elevated the Decision of the NLRC, dated March 8, 2017, to the CA via Petition for *Certiorari* under Rule 65 of the Rules of Court. In a Decision[18] dated January 12, 2018, the CA granted the petition and nullified the decision of the NLRC, except with respect to the award of sickness allowance in favor of Briones. The CA held that while the seafarer's non-compliance with the conflict-resolution procedure results in the affirmance of the fit-to-work certification of the company-designated physician, the seafarer's compliance with such procedure, however, presupposes that the company-designated physician came up with an assessment of one's fitness or unfitness to work before the expiration of the 120-day or 240-day periods and that the certification must be a definite assessment of the seafarer's fitness to work or permanent disability.[19] According to the CA, the Medical Report dated December 1, 2015 issued by Dr. Celino, the company-designated physician, failed to make a categorical or definite assessment/declaration on Briones' fitness to work for sea duty, or a disability rating.[20] The appellate court noted that the Medical Report dated March 10, 2016 issued by Briones' personal physician, Dr. Magtira, confirmed that Briones was continuously suffering from back pain. It

considered Dr. Magtira's detailed explanation on Briones' injury and result of the MRI of the Thoraco-Lumbar Spine (Non-Contrast) dated February 4, 2016. Thus, as between the findings of Dr. Celino and Dr. Magtira, the CA accorded more weight to the assessment of the latter, who opined that Briones does not have the physical capacity to return to the type of work she was performing at the time of her injury. Accordingly, the CA granted the claims of Briones for payment of total and permanent disability benefits; sickness allowance and attorney's fees, but denied the award of actual and exemplary damages for lack of sufficient factual and legal basis.

After their motion for reconsideration was denied by the CA, petitioner filed the present petition raising this lone issue:

> DID THE COURT OF APPEALS COMMIT SERIOUS, GRAVE AND PATENT ERRORS, AS WELL AS GRAVE ABUSE OF DISCRETION, IN REVERSING THE DECISION OF THE NLRC, THEREBY AWARDING RESPONDENT FULL DISABILITY BENEFITS AND OTHER MONEY CLAIMS DESPITE CLEAR NON-ENTITLEMENT THERETO, CONTRARY TO THE RELEVANT LAW, RULE AND JURISPRUDENCE?[21]

Petitioners assert that the CA's decision militates against the provisions of the POEA-SEC and recent jurisprudence on maritime compensation cases.[22] It contends that the failure of Briones to comply with the mandatory provision of the POEA-SEC on third-doctor referral made her claim for total permanent disability premature and rendered the fit-to work findings of Dr. Celino, the company-designated physician, as prevailing and uncontested. The said mandatory procedure under Section 20(A)(3) of the POEA-SEC is supposed to be an extrajudicial measure premised on the timely contest of the company-designated physician's final disability assessment through the presentation of a contrary second medical opinion before the institution of any complaint for disability benefits. It argued that unlike Dr. Magtira's medical certificate, which was only presented during the submission of position papers before the Labor Arbiter, Dr. Celino's final assessment was amply supported by diagnosis and hence, a valid and definite assessment of the fit-to-work condition of Briones Petitioners, thus, conclude that Briones is not entitled to disability benefi1s because she breached her contractual duties under the conflict resolution provision of the POEA-SEC.[23]

Sought for comment to the present petition, Briones contends that the CA was correct in reversing the decision of the NLRC. She argued that the medical report of Dr. Celino is vague and not responsive as to her true medical condition, since it failed to categorically state her fitness to resume her duties as seafarer. Briones points out that although she was cleared from the orthopedic standpoint, the report cannot be considered as a final disability rating as she was still required to undergo fifteen (15) sessions of physical therapy and treatment. She insists that the company-designated physician's assessment on the seafarer's fitness to work or permanent disability must be definite. If the company-designated physician failed to issue a definite assessment and the seafarer's medical condition remains unresolved, the latter shall be deemed totally and permanently disabled. In the absence of a definite and accurate assessment by the company-designated physician, Briones claims that the provision in POEA-SEC on the appointment of a third-doctor does not apply since there was no final assessment to contest.

Additionally, Briones avers that more than five (5) months have transpired from the date of her injuries on July 17, 2015 until the time that Dr. Celino issued his medical report on December 1, 2015. While the medical treatment may go beyond 120 days and extended up to the maximum period of 240 days, such extension, however, requires a justification for the same. She alleged that there was no sufficient justification offered by the petitioners for the extension of her medical treatment.

Simply stated, the issue brought for resolution before this Court is whether Briones is entitled to payment of total permanent disability benefit despite of her failure to observe the third-doctor referral provision in the POEA-SEC, which was incorporated in the employment contract.

As a general rule, only questions of law raised via a petition for review under Rule 45 of the Rules of Court are reviewable by the Court. Factual findings of administrative or quasi-judicial bodies, including labor tribunals, are accorded much respect by this Court as they are specialized to rule on matters falling within substantial evidence. However, a relaxation of this rule is made permissible by this Court whenever any of the following circumstances is present:

> 1. When the findings are grounded entirely on speculations, surmises or conjectures;
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> 2. when the inference made is manifestly mistaken, absurd or impossible;
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> 3. when there is grave abuse of discretion;
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> 4. when the judgment is based on a misapprehension of facts;
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> 5. when the findings of fact are conflicting;
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> 6. when in making its findings, the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee;
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> 7. when the findings are contrary to that of the trial court;
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> 8. when the findings are conclusions without citation of specific evidence on which they are based;
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> 9. when the facts set forth in the petition, as well as in the petitioner's main and reply briefs, are not disputed by the respondent;
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> 10. when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence of record; and
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> 11. when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[24]

As there is a divergence of findings between the Labor Arbiter and the CA, on one hand, and the NLRC, on the other, on the medical report made by the company-designated physician, Dr. Celino, and medical certificate issued by Briones' personal doctor, Dr. Magtira, this Court will exercise its discretionary power of review.

After a judicious review of the records, the Court resolves to deny the petition.