SECOND DIVISION

[G.R. No. 244437, September 14, 2020]

HEIRS OF AMADEO ALEX G. PAJARES, AS SUBSTITUTED BY CRISTITA S. PAJARES AND/OR CHRISTOPHERLEX S. PAJARES AND/OR ANABELLE S. PAJARES AND/OR JAYSON S. PAJARES AND/OR JONAH S. PAJARES AND/OR AMADEO ALEX S. PAJARES, PETITIONERS, VS. NORTH SEA MARINE SERVICES CORPORATION, V. SHIPS LEISURE S.A.M. 'LES INDUSTRIES,' AND/OR EDWIN T. FRANCISCO, RESPONDENTS.

D E C I S I O N

DELOS SANTOS, J.:

This is a Petition for Review on *Certiorari*[1] filed under Rule 45 of the Rules of Court assailing the Decision[2] dated November 16, 2018 and the Resolution[3] dated January 23, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 155044, which affirmed with modifications the October 30, 2017 Decision[4] of the Office of the Panel of Voluntary Arbitrators (Panel of VAs) in the complaint for payment of total and permanent disability benefits filed by Amadeo Alex G Pajares (Amadeo) against North Sea Marine Services Corporation (North Sea), its foreign principal V. Ships Leisure S.A.M. 'Les Industries,' and Edwin T. Francisco (collectively, respondents).

The Facts

Amadeo signed a shipboard employment contract[5] with North Sea to serve as a Suite Attendant on board the vessel Silver Whisper, a cruise line, with a basic monthly salary of US$477.00 for six (6) months.[6]

As a Suite Attendant, Amadeo's responsibilities include the care and upkeep of the cabins, room and messenger services, laundry services, and laundry pick-up and delivery.[7] The heirs of Amadeo, namely: Cristita S. Pajares,[8] Amadeo's wife; and their children, (2) Christopherlex S. Pajares, (3) Anabelle S. Pajares, (4) Jayson S. Pajares, (5) Jonah S. Pajares, and (6) Amadeo Alex S. Pajares (collectively, petitioners) alleged that the housekeeping and cleaning of cabins and bathrooms in cruise lines are similar to five-star hotels, which require the use of strong chemicals to make sure that the room and bathrooms are clean. Thus, Amadeo was exposed daily to the noxious chemicals of the cleaning agents as part of his work. One day, Amadeo suffered severe nose bleeding so he sought the help of the ship's nursing station. When his condition persisted, he was sent to Aleris Hamlet Private Hospital when the vessel docked in Copenhagen. Amadeo underwent a series of tests and he was eventually declared unfit for sea duties and was thereafter repatriated.[9]

Upon arrival in the Philippines, Amadeo immediately reported to North Sea, which referred him to the company-designated clinic, Transglobal Health System, Inc. He was further referred to the company-designated physician at the Chinese General

Hospital, who diagnosed him with Multiple Myeloma, a type of cancer of the blood.[10]

When he inquired from the company-designated physician if he can still return to his usual work on board the cruise ship, the doctor merely referred him back to North Sea. Amadeo later on learned that North Sea already discontinued his treatment. When he asked for copies of his medical reports, he was denied and was told that the same were confidential. However, a copy of his final medical assessment was lying on the table of the company-designated physician and Amadeo took a snapshot of the same. The company-designated physician did not prohibit him from taking a picture of the assessment, which indicated that he is suffering from a Grade 1 Disability.[11]

Due to North Sea's refusal to provide him a copy of the medical report, Amadeo consulted an independent physician, who, after a series of tests, declared him to be suffering from Multiple Myeloma. He was declared unfit for sea service by the independent physician.[12]

On September 8, 2016, Amadeo sent a letter[13] to respondents informing them of the findings of the independent physician and requested for a third medical opinion.[14] When his request remained unheeded, Amadeo requested for a grievance proceeding reiterating his request for copies of his medical records and referral to a third doctor.[15] However, no settlement was arrived at during the mediation and conciliation proceedings. Thus the parties agreed to submit the matter for Voluntary Arbitration in accordance with the company's Collection and Bargaining Agreement (CBA).[16]

The Ruling of the Panel of VAs

The Panel of VAs dismissed the complaint for lack of merit. They upheld the medical findings of the company-designated physician that the illness is not work-related. Although Amadeo alleged that he was able to take a snapshot of the medical report of the company-designated physician, the Panel of VAs observed that the report failed to indicate the diagnosis of Amadeo's illness and is not clear if the illness was categorized as disability Grade 1 nor did it indicate the date of issuance. The counsel for Amadeo only submitted the medical report of the independent physician only after the death of Amadeo without interposing any justifiable reason for the delay in the submission thereof. As such, the Panel of VAs did not lend credence to the report of the independent physician and relied on the medical report of the company-designated physician, which indicated the medical procedures and examinations conducted on Amadeo and the diagnosis of Multiple Myeloma, which was declared as not work-related.[17]

However, for the sake of social and compassionate justice, the Panel of VAs awarded petitioners a financial assistance in the amount of US$20,000.00.[18]

The Ruling of the CA

North Sea elevated the case before the CA questioning the financial assistance awarded to petitioners. On the other hand, in their Comment,[19] herein petitioners did not only sought the reversal of the Decision[20] of the Panel of VAs but also

claimed to be entitled to the death benefit provided for under the CBA amounting to US$98,948.00.[21]

In its now assailed Decision,[22] the CA did not give due course to the reliefs prayed for by petitioners in their Comment considering that they failed to appeal the Decision and the Resolution[23] of the Panel of VAs. No modification of judgment could be granted to a party who did not appeal.[24]

The CA affirmed the findings of the Panel of VAs but equitably reduced the award of financial assistance from US$20,000.00 to US$8,500.00. The CA opined that the Supreme Court has granted financial assistance to separated employees for humanitarian considerations. Considering that Amadeo has worked for respondents for several years and was often re-hired due to his excellent performance and work attitude, the award of financial assistance to his heirs is proper. The amount of US$8,500.00 is based on petitioners' allegations in their Position Paper[25] that North Sea offered such amount as financial assistance in a conference before the Panel of VAs on January 25, 2017.[26]

As petitioners' Motion for Reconsideration[27] was likewise denied by the CA in its Resolution[28] dated January 23, 2019, they now come to the Court through this Petition for Review on *Certiorari*, submitting the following assignments of error allegedly committed by the CA:

> 9.1. CONTRARY TO LAW AND IN VIOLATION OF DUE PROCESS AND FAIR PLAY, THE HONORABLE COURT OF APPEALS ERRED IN DECLARING THAT THE NOW DECEASED SEAFARER IS ONLY ENTITLED TO FINANCIAL ASSISTANCE.
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> 9.2. CONTRARY TO LAW AND IN VIOLATION OF DUE PROCESS AND FAIR PLAY, THE HONORABLE COURT OF APPEALS FAILED TO ACCOUNT RESPONDENTS AND THEIR COMPANY-DESIGNATED PHYSICIAN FOR THEIR FAILURE TO FURNISH PETITIONER A COPY OF THE FINAL ASSESSMENT OF THE COMPANY-DESIGNATED PHYSICIAN AT THE DISCONTINUATION OF HIS MEDICAL TREATMENT, DESPITE REQUESTS.
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> 9.3. CONTRARY TO LAW AND JURISPRUDENCE, THE HONORABLE COURT OF APPEALS FAILED TO ACCOUNT RESPONDENTS FOR THEIR FAILURE AND REFUSAL TO REFER PETITIONER FOR A THIRD DOCTOR REFERRAL DESPITE THE LATTER'S INITIATIVE.
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> 9.4. CONTRARY TO LAW AND CURRENT JURISPRUDENCE, THE HONORABLE COURT OF APPEALS ERRED IN FINDING THAT PETITIONER DID NOT SUFFER FROM TOTAL AND PERMANENT DISABILITY.
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> 9.5. CONTRARY TO LAW AND CURRENT JURISPRUDENCE, THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT PETITIONER IS NOT ENTITLED [TO THE] MAXIMUM DISABILITY BENEFIT.[29]

The Issues

The core issues in the present case redound to: