

FIRST DIVISION

[G.R. No. 207344, November 18, 2020]

**OSG SHIPMANAGEMENT MANILA, INC., MICHAELMAR SHIPPING SERVICES, INC., AND/OR MA. CRISTINA PARAS, PETITIONERS,
VS. VICTORIO B. DE JESUS, RESPONDENT.**

DECISION

GAERLAN, J.:

Subject to review under Rule 45 of the Rules of Court at the instance of petitioners OSG Shipmanagement Manila, Inc., Michaelmar Shipping Services, Inc., and/or Ma. Cristina Paras, are the Decision^[1] promulgated on January 31, 2013 and the Resolution^[2] dated May 28, 2013 in CA-G.R. SP No. 120916, whereby the Court of Appeals (CA) reversed the National Labor Relations Commission's (NLRC) Decision^[3] dated March 31, 2011 in NLRC LAC (OFWM) No. 08-000633-10.

The Antecedents

Victoria B. De Jesus (respondent) alleged that he was hired by petitioner OSG Shipmanagement Manila, Inc. (petitioner), for and in behalf of Michaelmar Shipping Services, its foreign principal on Board "M/T OVERSEAS ANDROMAR, as Second Cook on January 15, 2008. His contract period was for eight months on the board the vessell M/T OVERSEAS ANDROMAR.^[4] Prior to boarding on February 20, 2008, he underwent medical examination and was declared "Fit to work."^[5] Several days after boarding, respondent noticed that the drinking water is salty and dirty. During the voyage, respondent experienced sudden pain all over his body and experienced nausea.^[6] Thus, when the ship anchored in Rotterdam, Netherlands, he consulted a doctor who diagnosed him with Costen Syndrome. Despite taking medication, respondent's condition did not improve. Hence, he was sent to a doctor in Singapore and then in China, who diagnosed him of urethritis and kidney stones.^[7]

Respondent further averred that when he was repatriated to the Philippines on November 14, 2008, petitioner refused to let him undergo a medical examination due to the absence of a master's medical pass.^[8] He was, thus, constrained to seek treatment from his personal doctor. He then underwent Nephrectomy, a surgery to remove one of his kidneys.^[9] On August 26, 2009, a doctor at the Intellicare Makati Clinic certified that respondent is no longer fit for maritime duties.^[10] Thus, he filed a complaint for full disability compensation against petitioners.

For their part, petitioners averred that respondent was repatriated due to a finished contract.^[11] Upon his arrival, respondent did not report for a post employment medical examination. They were, thus, surprised when, after nine months from respondent's repatriation, they learned that a complaint for full disability

compensation was lodged by respondent before the Labor Arbiter.^[12]

Petitioners further contended that respondent's illnesses are not occupational diseases and not work-related; respondent, therefore, is not entitled to disability compensation.^[13]

The Labor Arbiter Ruling

Labor Arbiter Lutricia F Quitevis-Alconcel (Labor Arbiter) rendered the May 7, 2010 Decision^[14] dismissing respondent's complaint for lack of merit. The Labor Arbiter ratiocinated that respondent was repatriated not because of any medical condition but due to a finished contract; and respondent failed to prove that his illnesses were work-related. The Labor Arbiter, thus, disposed the case in this wise:

WHEREFORE, in the light of the foregoing, judgment is hereby rendered **DISMISSING** the complaint for lack of merit.

All other claims herein sought and prayed for are hereby denied for lack of legal and factual bases.

SO ORDERED.^[15]

Undaunted, respondent filed an appeal to the NLRC.

The NLRC Ruling

On appeal, the NLRC affirmed the dismissal of the complaint. In its Decision^[16] promulgated on March 31, 2011, the NLRC likewise ruled that respondent's repatriation is not due to his alleged medical condition but because of a finished contract. Respondent likewise failed to prove that his illnesses were work-related and that they came about during the term of his employment. The *fallo* of the NLRC decision reads:

WHEREFORE, premises considered, the Appeal is **DENIED** for lack of merit. The Decision of May 7, 2010 is hereby **AFFIRMED**.

SO ORDERED.^[17]

Respondent then moved for reconsideration, it was, however, denied. Hence, respondent filed a petition for *certiorari* with the CA.

The CA Ruling

In the assailed Decision^[18] promulgated on January 31, 2013, the CA reversed the NLRC's Decision, the decretal portion of which reads:

WHEREFORE, premises considered, the petition is **GRANTED**. The assailed March 31, 2011 decision of public respondent and its June 15, 2011 resolution are **HEREBY REVERSED AND SET ASIDE**. The private respondents are held jointly and severally liable to pay the petitioner permanent and total disability benefits in the amount of US\$60,000.00, or its peso equivalent at the prevailing exchange rate at the time of

payment, reimbursement of expenses duly supported by official receipts, and attorney's fees of ten percent (10%) of the total monetary award.

SO ORDERED.^[19]

In reversing the NLRC's Decision, the CA concluded that the ailments of respondent were caused and/or aggravated by the nature of his employment. The CA further explained that, although his illnesses resulting in the removal of his kidney are not among those listed in Section 32-A (Occupational Disease) of the 2000 Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC), such ailments are presumed to be work-related. Accordingly, petitioners have the burden of proof to overturn such presumption. Petitioners, however, failed to do so.

Aggrieved, petitioners moved for reconsideration. It was, however, denied in a Resolution^[20] dated May 28, 2013.

Hence, the instant petition for review on *certiorari*^[21] interposing the following issues:

Issues

I.

Whether the [CA] committed serious, reversible error of law in awarding total and permanent disability benefits to Mr. Victorio de Jesus notwithstanding (i) completion of his employment contract; and (ii) failure to submit himself to the company doctor for a post-medical examination within 3 days from his arrival in the Philippines contrary to the rulings of this Honorable Court in ***Coastal Safeway Marine Services, Inc. v. Esguerra, G.R. No. 185352, 10 August 2011*** and ***Jebsens Maritime Inc., represented by Ms. Arlene Asuncion and/or Alliance Marine Services, Lld., v. Enrique Undag, G.R. No. 191491, 14 December 2011;***

II.

Whether the [CA] committed serious reversible error of law in awarding total and permanent disability benefits to Mr. Victoria de Jesus notwithstanding overwhelming evidence presented by petitioners that his illness does not render him permanently and totally disabled. Respondent's condition, loss of one kidney is classified as Grade 7 under POEA Contract. x x x

III.

Whether the [CA] erred in awarding attorney's fees in favor of the private respondent despite justified refusal to pay full and permanent disability benefits based on the fact that private respondent finished his contract.

^[22]

The Court's Ruling

The petition is meritorious.

Petitioners insist that respondent is not entitled to permanent disability compensation considering that his ailments are not work-related and they did not occur during the term of his employment. They expound that respondent was not repatriated due to a medical condition but because of a finished contract; in fact, after repatriation, he tendered his intent to board another vessel on February 28 or in March of 2009. Petitioners likewise contend that respondent's failure to report for a post-employment medical examination to a company-designated doctor immediately after repatriation is fatal to his claim for disability compensation. Finally, petitioners assert that respondent failed to prove that his ailments had rendered him permanently unfit for sea duty.

Respondent, on the other hand, alleges that his employment on board petitioners' vessel as a Cook exposed him to several factors which caused and aggravated his condition (kidney stones and urethritis); he reported to petitioner upon repatriation for a medical examination and treatment but the company-designated physician refused to attend to his aid for lack of a master's medical pass; his failure to present a master's medical pass upon repatriation was due to the ship captain's non-issuance thereof. Finally, respondent claims that due to his illnesses, one of his kidneys was removed resulting in his permanent unfitness for sea duty.

This Court rules in favor of petitioner.

At the outset, the issues the petitioners raised unavoidably assail common factual findings of the labor arbiter, the NLRC, and the CA. As a rule, only questions of law may be raised in a Rule 45 petition.^[23] In the case of *Punong Bayan and Araullo (P&A) v. Lepon*,^[24] the Court had the opportunity to explain the parameters of a Rule 45 appeal from the CA's Rule 65 decision on a labor case, viz.:

In a Rule 45 review, we consider the correctness of the assailed CA decision, in contrast with the review for jurisdictional error that we undertake under Rule 65. Furthermore, Rule 45 limits us to the review of questions of law raised against the assailed CA decision. In ruling for legal correctness, we have to view the CA decision in the same context that the petition for certiorari it ruled upon was presented to it; **we have to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not on the basis of whether the NLRC decision on the merits of the case was correct.** In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the NLRC decision challenged before it.

Accordingly, we do not re-examine conflicting evidence, re-evaluate the credibility of witnesses, or substitute the findings of fact of the NLRC, an administrative body that has expertise in its specialized field. Nor do we substitute our "own judgment for that of the tribunal in determining where the weight of evidence lies or what evidence is credible." The factual findings of the NLRC, when affirmed by the CA, are generally conclusive on this Court.

Nevertheless, there are exceptional cases where we, in the exercise of our discretionary appellate jurisdiction, may be urged to look into factual issues raised in a Rule 45 petition. For instance, when the petitioner persuasively alleges that there is insufficient or insubstantial evidence on record to support the factual findings of the tribunal or court a quo, as Section 5, Rule 133 of the Rules of Court states in express terms that in cases filed before administrative or quasi-judicial bodies, a fact may be deemed established only if supported by substantial evidence.^[25] (Emphasis in the original, citation omitted)

In the instant case, this Court holds and so rules that it is necessary to examine the records to determine whether the findings of the Labor Arbiter and the NLRC are supported by substantial evidence.

Entitlement to disability benefits by seamen on overseas work is a matter governed, not only by medical findings but also by law and by contract. The material statutory provisions are Articles 197-199 (formerly Articles 191 to 193) under Chapter VI (Disability Benefits), Book IV of the Labor Code, in relation to Rule X of the Rules and Regulations Implementing Book IV of the Labor Code. By contract, Department Order No. 4, series of 2000 of the Department of Labor and Employment or the POEA-SEC (the governing POEA-SEC at the time the petitioners employed respondent in 2008), and the parties' Collective Bargaining Agreement, bind the relationship between the seaman and his employer.

Section 20(B), paragraph 6 of the 2000 POEA-SEC reads:

Section 20(B) - 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.

Pursuant to the afore-quoted provision, two elements must concur for an injury or illness to be compensable. First, that the injury or illness must be work-related; and second, that the work-related injury or illness must have arisen during the term of the seafarer's employment contract.^[26] Accordingly, for disability to be compensable under Section 20(B) of the 2000 POEA-SEC, it must be the result of a work-related injury or a work-related illness, which are defined as "injur[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."^[27]