

## SECOND DIVISION

[ G.R. No. 241857, June 17, 2019 ]

**CAREER PHILS. SHIPMANAGEMENT, INC., CMA SHIPS UK LIMITED, AND SAMPAGUITA D. MARAVE, PETITIONERS, VS. JOHN FREDERICK T. TIQUIO, RESPONDENT.**

### DECISION

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[1]</sup> are the Decision<sup>[2]</sup> dated February 7, 2018 and the Resolution<sup>[3]</sup> dated August 30, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 145518, which reversed and set aside the Decision<sup>[4]</sup> dated November 26, 2015 and the Resolution<sup>[5]</sup> dated February 29, 2016 of the National Labor Relations Commission (NLRC) in NLRC LAC OFW (M)-06-000494-15 and accordingly, reinstated the Decision<sup>[6]</sup> dated April 30, 2015 of the Labor Arbiter (LA) in NLRC-NCR-Case No. 09-10777-14 granting respondent John Frederick T. Tiquio's (Tiquio) claim for total and permanent disability benefits under the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC),<sup>[7]</sup> as well as attorney's fees.

### The Facts

On November 14, 2012, petitioners Career Phils.<sup>[8]</sup> Shipmanagement, Inc., acting on behalf of CMA Ships UK Limited (petitioners), hired Tiquio as ordinary seaman under a nine (9)-month employment contract.<sup>[9]</sup> He embarked on the vessel "CMA CGM HYDRA" on November 16, 2012. On June 17, 2013, while on board the vessel en route to France, Tiquio suffered high fever, nausea, and vomiting. Despite medications, his condition worsened.<sup>[10]</sup> Thus, he was sent to an offshore clinic in France on June 28, 2013, where he was diagnosed with hyperthyroidism,<sup>[11]</sup> and was recommended for repatriation for proper medical treatment.<sup>[12]</sup> As a result, Tiquio was medically repatriated on June 29, 2013 and was immediately referred to the Associated Marine Officers' and Seamen's Union of the Philippines Seamen's Hospital, where he was diagnosed by Dr. Jay S. Fonte (Dr. Fonte), the company-designated physician (CDP), with hyperthyroidism secondary to Graves' Disease.<sup>[13]</sup> Tiquio thereafter underwent medical treatment for a year.<sup>[14]</sup> On June 23, 2014,<sup>[15]</sup> Dr. Fonte issued a Medical Certification<sup>[16]</sup> stating that Tiquio's status post radioactive iodine therapy showed persistence of symptoms, and thus, referred the latter for repeat radioactive iodine therapy. Additionally, Dr. Fonte reiterated that Tiquio is unfit for work and that his illness is "NOT Work Oriented."<sup>[17]</sup>

Subsequently, Tiquio filed a complaint<sup>[18]</sup> on **September 1, 2014** for disability benefits, reimbursement of medical and hospital expenses, moral and exemplary

damages, as well as attorney's fees. He averred that since the onset of his illness, which occurred during the term of his contract, he was not able to perform any gainful occupation or earn wages in the same kind of work that he was trained or accustomed to perform.<sup>[19]</sup> He added that he was entitled to reimbursement of the medical and transportation expenses he incurred from June 26, 2013 amounting to One Hundred Twenty Thousand Pesos (P120,000.00) as petitioners stopped giving him medical assistance,<sup>[20]</sup> as well as moral and exemplary damages since petitioners acted in bad faith when they refused to honor their contractual obligations to pay him his benefits.<sup>[21]</sup> Lastly, he claimed that he consulted an independent doctor who declared him unfit for sea duty and that his illness is work-related,<sup>[22]</sup> but without presenting any medical certificate supporting these claims.<sup>[23]</sup>

In their defense,<sup>[24]</sup> petitioners argued that Tiquio's Graves' Disease is an autoimmune disease affecting the thyroid which is, therefore, not work-oriented as certified to by Dr. Fonte.<sup>[25]</sup> They added that contrary to his claim, Tiquio was given radioactive iodine treatment and medications for his illness and was paid his sickness allowance.<sup>[26]</sup> Finally, they argued that the immediate riling of the complaint was a breach of his contractual obligation to have the alleged conflicting assessments of the CDP and his own physician — whose opinion was not supported by evidence — be assessed by a third doctor for a final determination.<sup>[27]</sup>

Thereafter, or on **December 16, 2014**, Tiquio submitted a Rejoinder<sup>[28]</sup> attaching thereto the medical certificate<sup>[29]</sup> dated December 3, 2014, issued by Dr. Amado M. San Luis (Dr. San Luis), a neurosurgeon at the University of the East Ramon Magsaysay Memorial Hospital, which stated that Tiquio is suffering from Graves' Disease and declared that he is permanently incapacitated to work as an ordinary seaman and his illness is work-related.

### **The LA Ruling**

In a Decision<sup>[30]</sup> dated April 30, 2015, the LA granted Tiquio's complaint, and accordingly, ordered petitioners to pay Tiquio the amount equivalent to US\$60,000.00, representing permanent disability benefits plus ten percent (10%) attorney's fees, while the rest of his claims were denied for lack of basis.<sup>[31]</sup> The LA found Tiquio's Graves' Disease/hyperthyroidism to be work-related, and thus, compensable pursuant to the Court's declaration in *Magsaysay Maritime Services v. Laurel (Magsaysay)*.<sup>[32]</sup> Additionally, the LA ruled that the nature of Tiquio's work as ordinary seaman, which exposed him to constant physical and psychological stress, precipitated his hyperthyroidism, and that the maximum 240-day medical treatment period expired with no declaration from the CDP that he was already fit for sea duty.<sup>[33]</sup> Finally, the LA held that the procedure for the appointment of a third doctor is merely directory, not mandatory, the absence of which will not preclude Tiquio's claim.<sup>[34]</sup>

Unsatisfied with the LA ruling, petitioners filed an appeal<sup>[35]</sup> before the NLRC.

### **The NLRC Ruling**

In a Decision<sup>[36]</sup> dated November 26, 2015, the NLRC set aside the LA's Decision, and instead dismissed the complaint. It did not give credence to the medical certificate issued by Dr. San Luis not only because it merely summarized the history of Tiquio's illness and his brief physical and neurological examination, but also because it was presented by Tiquio only three (3) months after he filed the complaint.<sup>[37]</sup> As such, it held that at the time of the complaint's filing, Tiquio had no evidence contradicting the CDP's assessment and findings.<sup>[38]</sup> In this relation, the NLRC further observed that Tiquio failed to comply with the conflict-resolution procedure under Section 20 (A) (3)<sup>[39]</sup> of the POEA-SEC.<sup>[40]</sup> Thus, it ruled that Tiquio's complaint was prematurely filed.<sup>[41]</sup>

Aggrieved, Tiquio moved for reconsideration,<sup>[42]</sup> which the NLRC denied in a Resolution<sup>[43]</sup> dated February 29, 2016. Thus, he filed a petition for *certiorari*<sup>[44]</sup> before the CA.

### **The CA Ruling**

In a Decision<sup>[45]</sup> dated February 7, 2018, the CA granted Tiquio's *certiorari* petition, and accordingly, reinstated the LA's Decision. The CA agreed with the LA that Tiquio suffered a work-related illness on board the vessel, and that the latter had complied with the four (4) requisites provided under Section 32-A<sup>[46]</sup> of the POEA-SEC, thus, rendering petitioners liable for disability compensation.<sup>[47]</sup>

Undaunted, petitioners sought reconsideration<sup>[48]</sup> which the CA denied in a Resolution<sup>[49]</sup> dated August 30, 2018; hence, this petition.

### **The Issue Before the Court**

The essential issue for the Court's resolution is whether or not the CA correctly declared Tiquio to be entitled to total and permanent disability benefits.

### **The Court's Ruling**

The petition is meritorious.

At the outset, the Court stresses that the review in this Rule 45 petition of the CA's ruling in a labor case via Rule 65 petition filed by Tiquio with that court carries a distinct approach. In a Rule 45 review, the Court examines the correctness of the CA's decision, which is limited to questions of law,<sup>[50]</sup> in contrast with the review of jurisdictional errors under Rule 65.<sup>[51]</sup> In ruling for legal correctness, the Court views the CA's decision in the same context that the petition for *certiorari* was presented to the CA,<sup>[52]</sup> that is, from the prism of whether the CA correctly determined the presence or absence of grave abuse of discretion in the NLRC's decision.<sup>[53]</sup>

Grave abuse of discretion, amounting to lack or excess of jurisdiction, has been defined as the capricious and whimsical exercise of judgment, done in a despotic manner by reason of passion or personal hostility, the character of which being so

patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.<sup>[54]</sup> In labor cases, grave abuse of discretion may be ascribed to the NLRC when its findings and conclusions are not supported by substantial evidence, which refers to that amount of relevant evidence that a reasonable mind might accept as adequate to justify a conclusion.<sup>[55]</sup> Thus, if the NLRC ruling has basis in the evidence and the applicable law and jurisprudence, then no grave abuse of discretion exists and the CA should so declare, and accordingly, dismiss the petition.<sup>[56]</sup> With these standards in mind, the Court finds that the CA erroneously ascribed grave abuse of discretion on the part of the NLRC in dismissing Tiquio's claim for disability benefits.

It is basic that the entitlement of overseas seafarers to disability benefits is a matter governed, not only by medical findings, but also by law and contract.<sup>[57]</sup> By law, the pertinent statutory provisions are Articles 197 to 199<sup>[58]</sup> (formerly Articles 191 to 193) of the Labor Code, as amended,<sup>[59]</sup> in relation to Section 2 (a), Rule X<sup>[60]</sup> of the Amended Rules on Employees Compensation.<sup>[61]</sup> By contract, material are: (a) the POEA-SEC, which is a standard set of provisions that is deemed incorporated in every seafarer's contract of employment; (b) the Collective Bargaining Agreement (CBA), if any; and (c) the employment agreement between the seafarer and his employer.<sup>[62]</sup> Section 20 (A) of the 2010 POEA-SEC, which is the rule applicable to this case since Tiquio was employed in 2012, governs the procedure for compensation and benefits for a work-related injury or illness suffered by a seafarer on board sea-going vessels during the term of his employment contract, to wit:

## SEC. 20. COMPENSATION AND BENEFITS

### 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

3. x x x [I]f after repatriation, the seafarer still requires medical attention arising from said injury or illness, he shall be so provided at cost to the employer until such time he is declared fit or the degree of his disability has been established by the company-designated physician.

4. n addition to the above obligation of the employer to provide medical attention, the seafarer shall also receive sickness allowance from his employer in an amount equivalent to his basic wage computed from the time he signed off until he is declared fit to work or the degree of disability has been assessed by the company-designated physician. The period within which the seafarer shall be entitled to his sickness allowance shall not exceed 120 days, x x x

x x x x

For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated

physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. In the course of the treatment, the seafarer shall also report regularly to the company-designated physician specifically on the dates as prescribed by the company-designated physician and agreed to by the seafarer. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits.

**If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the Employer and the seafarer. The third doctor's decision shall be final and binding on both parties.**

x x x x (Emphasis supplied)

In *C.F. Sharp Crew Management, Inc. v. Taok*,<sup>[63]</sup> cited in *Veritas Maritime Corporation v. Gapanaga, Jr. (Veritas)*,<sup>[64]</sup> the Court has held that a seafarer may have basis to pursue an action for total and permanent disability benefits, if any of the following conditions are present:

- (a) The company-designated physician failed to issue a declaration as to his fitness to engage in sea duty or disability even after the lapse of the 120-day period and there is no indication that further medical treatment would address his temporary total disability, hence, justify an extension of the period to 240 days;
- (b) 240 days had lapsed without any certification issued by the company designated physician;
- (c) The company-designated physician declared that he is fit for sea duty within the 120-day or 240-day period, as the case may be, but his physician of choice and the doctor chosen under Section 20-B (3) of the POEA-SEC are of a contrary opinion;
- (d) The company-designated physician acknowledged that he is partially permanently disabled but other doctors who he consulted, on his own and jointly with his employer, believed that his disability is not only permanent but total as well;
- (e) The company-designated physician recognized that he is totally and permanently disabled but there is a dispute on the disability grading;
- (f) The company-designated physician determined that his medical condition is not compensable or work-related under the POEA- SEC but his doctor-of-choice and the third doctor selected under Section 20-B (3) of the POEA-SEC found otherwise and declared him unfit to work;**