

## THIRD DIVISION

[ G.R. No. 226200, August 05, 2019 ]

**RUEL L. GUADALQUIVER, PETITIONER, VS. SEA POWER SHIPPING ENTERPRISE, INC., MISSISSAUGA ENTERPRISES, INC. AND/OR MS. ANTONIETTE A. GUERRERO, RESPONDENTS.**

### D E C I S I O N

**INTING, J.:**

Before the Court is a Petition for Review on *Certiorari* challenging the Decision<sup>[1]</sup> dated May 23, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 141829 which reversed and set aside the Decision<sup>[2]</sup> and Resolution,<sup>[3]</sup> respectively dated May 20, 2015 and June 19, 2015, of the National Labor Relations Commission (NLRC) in NLRC LAC No. OFW-(M)-11-000910-14. Also assailed is the CA Resolution<sup>[4]</sup> of August 4, 2016 denying petitioner Ruel L. Guadalquiver's (petitioner) motion for reconsideration.

#### ***The Antecedents***

Under a nine-month contract<sup>[5]</sup> (with three-month extension). Sea Power Shipping Enterprise, Inc. (Sea Power), in behalf of its principal, Mississauga Enterprises, Inc. (Mississauga), employed petitioner as Able Seaman to work aboard the vessel M/V Dimi with a basic monthly salary of US\$465.00, among other benefits. After passing his pre-employment medical examination, petitioner boarded the vessel on September 25, 2012.<sup>[6]</sup> Petitioner's contract was extended for two months. For which reason, the parties executed another contract on August 1, 2013.<sup>[7]</sup>

Petitioner alleged that his work involved strenuous manual work of pushing, pulling, lifting and/or carrying heavy objects. He narrated that in November 2012, after lifting a heavy jar of paint on the vessel, he felt a "click" followed by pain on his lower back. He initially ignored the incident but the pain persisted.<sup>[8]</sup> On August 30, 2013, he consulted a doctor in Egypt who diagnosed him with osteoarthritis.<sup>[9]</sup>

On September 19, 2013, petitioner was medically repatriated and immediately went to the company-designated doctor, Dr. Jose Emmanuel E. Gonzales (Dr. Gonzales).<sup>[10]</sup>

On October 7, 2013, Dr. Gonzales reported<sup>[11]</sup> that after undergoing an MRI,<sup>[12]</sup> petitioner was diagnosed with lumbo-sacral muscle strain but there was no indication that surgery was needed. Consequently, he advised petitioner to undergo physical therapy. On November 13, 2013, while petitioner was still undergoing therapy, Dr. Gonzales noted the great improvement in petitioner's pain relief. Because of this progress, he assured petitioner that he could be given a fit-to-work certification after six sessions of physical therapy. However, notwithstanding the

assurance, petitioner unjustifiably failed to report back to the company-designated physician. Resultantly, in his Medical Report dated March 25, 2014, Dr. Gonzales declared that petitioner abandoned his treatment as he failed to return for his follow-up physical therapy. He also gave petitioner his final diagnosis of "Lumbo Sacral Muscle Strain with Myositis S/P Physical Therapy."<sup>[13]</sup>

Meanwhile, petitioner admitted having consulted his physician-of-choice, Dr. Manuel Fidel M. Magtira (Dr. Magtira), because his condition did not improve.<sup>[14]</sup> He also declared that on February 13, 2014, Dr. Magtira already declared<sup>[15]</sup> him unfit to work at his previous occupation.

According to petitioner, he sought payment of disability benefits from his employer but to no avail.<sup>[16]</sup> Thus, on March 31, 2014, he filed a Complaint<sup>[17]</sup> for permanent and total disability benefits and reimbursement of medical expenses against Sea Power, Missisauga and/or Antoniette A. Guerrero, the President of Sea Power (respondents).

On April 9, 2014, Dr. Gonzales specified that he last treated petitioner on February 28, 2014; he required petitioner to report back on March 11, 2014 for his physical therapy session but the latter did not return for his follow-up treatment. Because of this, Dr. Gonzales gave him his final disability grade of "Grade 11 - Slight rigidity or one third (1/3) loss of motion or lifting power of the trunk[.]"<sup>[18]</sup>

In his Position Paper<sup>[19]</sup> and Reply,<sup>[20]</sup> petitioner asserted that from his repatriation on September 19, 2013 until the filing of his complaint on March 31, 2014, more than 120 days had lapsed without him regaining his fitness to work as a seafarer. He also refuted that he committed medical abandonment contending that there was no evidence to prove that his disability was because he absconded his treatment. He added that his personal doctor already declared him unfit to work as seafarer which made him entitled to full disability benefits.

Respondents, on their end, countered in their Position Paper<sup>[21]</sup> and Reply<sup>[22]</sup> that petitioner was still on his 188th day of medical treatment with the company-designated doctor when he filed this suit. They averred that on April 9, 2014, the company-designated physician issued his final disability assessment based on petitioner's last physical examination. They insisted that the final assessment was given within the 240-day period as required by law.

Moreover, respondents contended that petitioner committed medical abandonment when he did not return for his physical therapy session with the company-designated doctor. They also maintained that petitioner was not entitled to permanent and total disability benefits because the company-designated doctor only found him to have suffered from Grade 11 disability.

### ***Ruling of the Labor Arbiter***

In his Decision<sup>[23]</sup> dated September 8, 2014, the Labor Arbiter (LA) ordered respondents to pay jointly and severally permanent and total disability benefits (US\$60,000.00) as well as attorney's fees equivalent to 10% of the total monetary award in favor of petitioner.

The LA ruled that the opinion of the company-designated physician could not outweigh the categorical declaration of petitioner's personal doctor, who certified as to his permanent unfitness. The LA further noted that more than 120 days had lapsed from the time petitioner was repatriated yet there was no indication that he had gained employment as seafarer. According to the LA, petitioner's inability to find work for more than 120 days already amounted to permanent and total disability.

### ***Ruling of the National Labor Relations Commission***

On appeal, the NLRC affirmed *in toto* the LA Decision.

The NLRC decreed that considering that petitioner could no longer resume his duties as an Able Seaman, then he was entitled to permanent and total disability benefits. It was unconvinced with respondents' argument that no credence should be given to the medical report given by the doctor-of-choice because the report was a result of a single consultation only and was given after seven months from petitioner's repatriation. It also did not agree with the finding that petitioner committed any medical abandonment noting that the Philippine Overseas Employment Administration Standard Employment Contract (POEA-SEC) required mandatory reporting to the company-designated doctor within three days from repatriation and no other.

With the denial of their motion for reconsideration, respondents filed a petition for *certiorari* with the C A.

### ***Ruling of the Court of Appeals***

On May 23, 2016, the CA reversed and set aside the NLRC Decision and Resolution and, accordingly, ordered Sea Power and Missisauga to jointly and severally pay petitioner income benefit for 202 days in the amount of US\$3,131.00 and partial disability benefit amounting to US\$7,465.00 to be paid in Philippine Currency at the exchange rate prevailing at the time of payment.

The CA stressed that petitioner was duty-bound to complete his medical treatment until the company-designated doctor declares him fit to work or his disability was duly assessed. It underscored that at the time petitioner filed this case, the company-designated physician had not yet determined the extent of his disability and it remained undisputed that petitioner failed to report back for his already scheduled treatment.

In addition, the CA ruled that petitioner had no cause of action when he filed this suit emphasizing that while a seafarer has a right to seek medical opinion from his chosen doctor, it must be undertaken on the presumption that there was already a certification given by the company-designated physician. Since no such certification was given here, then the filing of the case was premature.

Notwithstanding the foregoing, the CA decreed that petitioner was entitled to sickness allowance or income benefit for the period from his repatriation until the date that the company-designated doctor issued his assessment on his condition. It further ruled that petitioner is entitled to Grade 11 disability benefits considering that respondents themselves acknowledged that the company-designated doctor

made such assessment on petitioner.

### *Issues*

With the denial of his motion for reconsideration, petitioner filed this Petition arguing that:

THE **COURT OF APPEALS COMMITTED** A SERIOUS ERROR OF LAW [(1)] IN HOLDING HIM **PETITIONER WAS GUILTY OF** MEDICAL ABANDONMENT FOR HIS ALLEGED FAILURE TO COMPLETE HIS TREATMENT WITH THE COMPANY-DESIGNATED PHYSICIAN [; AND (2)] IN DISREGARDING SUBSTANTIAL EVIDENCE PROVING THAT [PETITIONER IS] ENTITLED TO DISABILITY BENEFITS.<sup>[24]</sup>

Petitioner maintains that he did not commit a breach of his contractual obligations as he did not abandon his treatment. Instead, he faults the company-designated doctor from failing to issue any certification on his condition within 120 days from his repatriation. He maintains that he underwent the prescribed therapy; and even before its completion, the prognosis was known that regardless of whatever medical management, he could no longer be restored to his pre-injury health status.

On the other hand, respondents insist that petitioner was duty-bound to complete his medical treatment with the company-designated doctor. They stress that seafarers are to report regularly to the company-designated physician for their treatment otherwise, they will be guilty of medical abandonment and be disqualified from seeking disability benefits.

### *Our Ruling*

The Petition is bereft of merit.

As a rule, only questions of law may be raised in a petition under Rule 45 of the Rules of Court. The Court is not a trier of facts. At the same time, it accords much respect on the factual findings of administrative bodies, like labor tribunals, since they are specialized to decide matters within their jurisdiction. However, this rule allows certain exceptions, including situations where the factual findings are conflicting,<sup>[25]</sup> as in the case at bench. There being variance in the findings of fact of the LA and the NLRC, on one hand, and of the CA, on the other hand, the Court deems it necessary to re-assess these factual findings for the just resolution of the case.

*When is a seafarer deemed to be permanently and totally disabled?*

Citing *Vergara vs. Hammonio Maritime Services, Inc.*,<sup>[26]</sup> the Court has elucidated in *Scanmar Maritime Services, Inc. vs. Hernandez, Jr.*<sup>[27]</sup> that the period of 120 days from repatriation is the duration within which the employer is to determine the fitness of the seafarer to work or to ascertain the degree of his disability; in such case where the seafarer remains in need of medical attention, the 120-day period may be extended to a maximum period of 240 days within which the company-designated doctor must make a definite declaration on the fitness to work or the degree of the disability of the seafarer. A seafarer is thus considered permanently and totally disabled when so declared by the company-designated doctor within the