

THIRD DIVISION

[G.R. No. 239052, October 16, 2019]

APOLINARIO Z. ZONIO, JR., PETITIONER, V. 88 ACES MARITIME SERVICES, INC., KHALIFA A. ALGOSAIBI DIVING AND MARINE SERVICES CO., AND JANET A. JOCSON, RESPONDENTS.

D E C I S I O N

INTING, J.:

Before this Court is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court seeking to nullify and set aside the Decision^[2] dated July 31, 2017 and Resolution^[3] dated April 26, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 145357. The CA dismissed for lack of merit the petition for *certiorari* filed by Apolinario Z. Zonio, Jr. (Apolinario), praying for the following reliefs: (1) the issuance of a Writ of *Certiorari* to annul the Decision^[4] dated January 28, 2016 and Resolution^[5] dated February 29, 2016 of the National Labor Relations Commission (NLRC); and (2) payment of (a) disability benefits in the amount of US\$60,000.00, (b) sickness allowance of US\$2,024.60, and (c) 10% of the total judgment award by way of attorney's fees.

The antecedents are as follows:

88 Aces Maritime Services, Inc. (88 Aces) is a domestic corporation engaged in the recruitment of Filipino seafarers for and on behalf of its foreign principal Khalifa Algosaibi Diving & Marine Services Co. (Khalifa Algosaibi). Janet A. Jocson (Jocson) is the president/owner/manager of 88 Aces.

On February 4, 2010, Apolinario was hired as an "ordinary seaman" by 88 Aces to board the vessel MV Algosaibi 42. His contract was for a duration of six months with a basic monthly salary of US\$506.15.^[6]

After passing the required pre-employment medical examination,^[7] Apolinario left Manila on February 26, 2010 and embarked MV Algosaibi 42 in Ras Tanura, Saudi Arabia.

As an ordinary seaman, Apolinario's job on board the vessel included the following: 1) give assistance to the able seaman; 2) assist in the handling and operation of all deck gear such as topping, cradling and housing of booms; 3) aid the carpenter in the repair work when requested; and 4) to scale and chip paint, handle lines in the mooring of the ship, assist in the actual tying up and letting go of the vessel and stand as a lookout in the vessel.

After completing his six-month contract with 88 Aces in August 2010, Apolinario however was not repatriated as he directly entered into a new contract with 88 Aces' foreign principal, Khalifa Algosaibi. His new contract with Khalifa Algosaibi lasted until April 2012.

In April 2012, Apolinario was repatriated in Manila. On May 8, 2015, he filed a Complaint before the Labor Arbiter against 88 Aces, Jocson and Khalifa Algosaibi (collectively referred to as respondents) for the payment of disability benefits, attorney's fees, medical fees, sickness allowance and moral, exemplary and compensatory damages.^[8]

In his Position Paper,^[9] Apolinario alleged that while on board MV Algosaibi 42 in December 2010, he suddenly experienced dizziness. As his condition did not improve, he was sent to As Salama Hospital in Al-Khobar, Saudi Arabia where he was found to have high glucose and cholesterol.^[10] Apolinario posited that he was given medicine by the doctor and was advised to observe proper diet and avoid stress. After taking the doctor's advice, his medical condition improved and he was able to perform his work well.

However, after two years, particularly in January 2012, Apolinario alleged that his dizziness recurred, accompanied by the blurring of his vision. On April 2, 2012, he stated that he returned to As Salama Hospital where he was diagnosed to have diabetes mellitus^[11] and dislipidemia.^[12]

After his repatriation to the Philippines on April 11, 2012, Apolinario posited that he immediately reported to the office of 88 Aces to get his unpaid wages and for him to be referred to the company physician. However, since his repatriation was due to the completion of his six-month Philippine Overseas Employment Administration (POEA)-approved employment contract, he was allegedly told by President Janet Jocson that 88 Aces could not shoulder his medical expenses. Apolinario did not insist anymore and just continued taking the medicine given by the doctor in Saudi Arabia.

Subsequently, Apolinario felt well and thought that his illness was already cured. However, it recurred on August 2, 2013. Apolinario consulted Dr. Joseph Glenn Dimatatac, an internal medicine physician, and was informed that his illness was indeed diabetes mellitus.^[13]

On March 17, 2015,^[14] Apolinario consulted Dr. Rufo Luna, the Municipal Health Officer of the Municipality of San Jose, who declared him to be physically unfit to continue work due to his hyperglycemia. ^[15] Consequently, Apolinario demanded from respondents the payment of his disability benefits, but to no avail.

Apolinario argued that his illness is presumed as work-related. According to him, his stress was a factor in the development of his diabetes mellitus since he was exposed to frequent overtime, lack of sleep, and emotional/psychological stress for being away from his family. Moreover, Apolinario contended that his disability is permanent and total because he was already incapacitated to resume his sea duties for more than 240 days. Apolinario maintained that his cause of action to file a claim against respondents did not prescribe yet since his action was instituted within three years from his disembarkation from the vessel.

To counter Apolinario's claim, respondents, on the other hand, argued that Apolinario finished his six-month POEA-approved employment contract in August 2010 without any medical issue whatsoever. They contended that since the filing of his Complaint was made five years after the completion of his contract in August 2010, his cause of action had already prescribed for not having been filed within the three-year prescriptive period. Moreover, respondents claimed that contrary to

Apolinario's allegation, he actually failed to comply with the three-day post-employment medical examination requirement. As such, he cannot be entitled to his money claims, moral, compensatory and exemplary damages.

The Ruling of the Labor Arbiter

On October 30, 2015, the Labor Arbiter ruled in favor of Apolinario and held that Apolinario's cause of action has not prescribed yet.^[16] The Labor Arbiter explained that under Section 18 of the POEA-approved employment contract, the seafarer's contract with the employer is effective until the date of his arrival at the point of hire. Corollary thereto, the Labor Arbiter clarified that all claims arising from the contract should be made within three years from the date the cause of action arose. The Labor Arbiter concluded that since Apolinario's arrival at the point of hire was April 11, 2012, he had until April 11, 2015 within which to institute his action. Thus, he was able to institute his claim against respondents within the reglementary period when he filed his Request for Single Entry Approach (SENA) at the NLRC in March 2015.

Moreover, the Labor Arbiter found that Apolinario, while on board, was exposed to physical and psychological stress due to rush jobs, lack of sleep and homesickness. Inasmuch as stress can prompt an increase in the level of one's blood sugar, the Labor Arbiter found nexus between Apolinario's nature of work and his ailment diabetes mellitus.

Lastly, the Labor Arbiter gave more weight to Apolinario's allegation that he actually requested to undergo the required post employment medical examination, but 88 Aces denied it on the ground that his repatriation was not for medical reasons, but due to the completion of his contract.

Aggrieved, respondents elevated the case before the NLRC.

The Ruling of the NLRC

On January 28, 2016, the NLRC rendered a Decision^[17] granting respondents' Appeal. In ruling for the Respondents and dismissing Apolinario's complaint, the NLRC ratiocinated that the findings of Apolinario's physicians cannot be accorded weight since their medical certificates were only issued on March 17, 2015 and June 15, 2015—about three years or more from Apolinario's repatriation on April 11, 2012.

Lastly, the NLRC held that since Apolinario failed to establish that his illness was work-related and that he requested for a post-employment medical examination, his claim for disability benefits must be denied.

The Ruling of the CA

On July 31, 2017, the CA affirmed the NLRC's Decision and dismissed Apolinario's Petition.

The CA held that Apolinario's repatriation was due to the completion of his contract and that Apolinario had no complaint whatsoever when he disembarked from the vessel. Moreover, the CA pointed out that Apolinario was no longer a subject of any POEA Standard Employment Contract (SEC) when he was found unfit to work. Not being covered by the contract, the CA denied Apolinario's claim based thereon.

Lastly, the CA opined that Apolinario did not proffer any reason for his failure to undergo the required post-employment medical examination. Having failed to undergo the required medical test, the CA concluded that Apolinario cannot be entitled to disability benefits.

Hence, the instant Petition.

The Ruling of this Court

At the outset, it is to be emphasized that this Court is not a trier of facts; thus, its jurisdiction is limited only to reviewing errors of law. The rule, however, admits of certain exceptions, one of which is where the findings of fact of the quasi-judicial bodies and the appellate court are contradictory, such as the instant case. Thus, this Court is constrained to review and resolve the factual issue in order to settle the controversy.^[18]

The present controversy involves the claim for permanent and total disability benefits of a seafarer. Apolinario argues that contrary to the findings of the NLRC and the CA, his illness is presumed as work-related and compensable. Likewise, Apolinario argues that his cause of action had not prescribed yet as he instituted his action against the respondents within the three-year reglementary period.

The petition is meritorious.

Work-relatedness and compensability of the disease

The 2000 POEA-SEC provides that any sickness resulting in disability because of an occupational disease listed under Section 32(A) of this Contract is deemed to be work-related, provided the conditions set therein are satisfied. Section 20(B)(4) of the 2000 POEA-SEC, on the other hand, declares that if the illness, such as diabetes mellitus, is not listed as an occupational disease under Section 32(A), the ailment is disputably presumed as work-related.

The effect of the legal presumption in favor of the seafarer is to create a burden on the part of the employer to present evidence to overcome the *prima facie* case of work-relatedness. Absent any evidence from the employer to defeat the legal presumption, the *prima facie* case of work-relatedness prevails.^[19]

To reinforce the *prima facie* case in his favor, Apolinario stated that during the existence of his contract, he experienced recurring dizziness and was diagnosed at As Salama Hospital in Al-Khobar Saudi Arabia to have contracted diabetes mellitus. In fact, while on board the vessel, he was twice sent to As Salama Hospital in Al-Khobar Saudi Arabia for medical treatment. To support his claim, Apolinario presented the medical record issued by the hospital and the different medical certificates of his physicians after his repatriation in Manila stating that he is already physically unfit to return to work due to his diabetes mellitus.

While the illness is not listed as one of the occupational diseases under Section 32(A) of the POEA-SEC, the ailment is presumed work-related under Section 20(B)(4) of the contract. Respondents are duty bound to overcome this presumption. However, other than their bare allegation, respondents did not present a scintilla of proof to establish the lack of casual connection between Apolinario's disease and his employment as a seafarer. Had respondents granted Apolinario's request to undergo a post-employment medical check-up, they could have presented a medical finding

to contradict the presumption of work-relatedness of Apolinario's illness. The post-employment medical check-up could have been the proper basis to determine the seafarer's illness, whether it was work-related, or its specific grading of disability.^[20] Having failed to present any evidence to defeat the presumption of work-relatedness of Apolinario's diabetes mellitus, the *prima facie* case that it is work-related prevails.

Nonetheless, the presumption provided under Section 20(B)(4) is only limited to the "work-relatedness" of an illness. It does not cover and extend to compensability.^[21] In this sense, there exists a fine line between the work-relatedness of an illness and the matter of compensability.^[22] The former concept merely relates to the assumption that the seafarer's illness, albeit not listed as an occupational disease, may have been contracted during and in connection with one's work, whereas compensability pertains to the entitlement to receive compensation and benefits upon a showing that a seafarer's work conditions caused or at least increased the risk of contracting the disease.^[23]

It is medically accepted that stress has major effects on a person's metabolic activity. The effects of stress on glucose metabolism are mediated by a variety of counter-regulatory hormones that are released in response to stress and that result in elevated blood glucose levels and decreased insulin action. In diabetes, because of a relative or absolute lack of insulin, the increase in blood glucose on account of stress cannot be adequately metabolized. Thus, stress is a potential contributor to chronic hyperglycemia in diabetes.^[24]

At this juncture, the case of *Millora v. ECC*^[25] is instructive. The petitioner therein was the widow of Prisco Millora. The latter was a public school teacher and was diabetic during the last 11 years of his life. Upon his discharge from the hospital for treatment of his illness, he forthwith filed a claim for benefits due to diabetes mellitus, but it was denied. At the age of 40, Prisco died. Petitioner requested the Government Service Insurance System (GSIS) to reconsider its denial of the deceased's claim, but to no avail. This compelled petitioner to elevate the case to the Employees' Compensation Commission (ECC) for review, but the commission affirmed the dismissal of the case on the ground that the cause of the deceased's ailment was not work-connected. The ECC relied on the evaluation made by the GSIS that diabetes mellitus is hereditary in nature and could not have been caused by his employment conditions. To assail the ECC's findings and prove that the nature of her late husband's work as a teacher increased the risk of contracting diabetes mellitus, petitioner quoted the medical opinion of Dr. Augusto Litonjua, president of the Philippine Diabetic Association, published in the November 1, 1985 issue of *Bulletin Today*, to wit:

"Dr. Augusto Litonjua, president of the Philippine Diabetic Association, also said that other causes of diabetes are overweight, accidents, operations, pregnancy and certain drugs.

"Speaking before the weekly 'Agham Ugnayan', Litonjua said diseases caused either by a virus or bacteria were found to have damaged the pancreas and caused diabetes in persons 'with a predisposition.'

"Litonjua explained that a person under stressful physical or emotional situations secrete hormones that are 'contra-insulin' or hormones which