828 Phil. 122

THIRD DIVISION

[G.R. No. 208396, March 14, 2018]

ARIEL A. EBUENGA, PETITIONER, VS. SOUTHFIELD AGENCIES, INC., WILHEMSEN SHIP MANAGEMENT HOLDING LTD., AND CAPT. SONNY VALENCIA, RESPONDENTS.

DECISION

LEONEN, J.:

This Court is duty-bound to respect the consistent prior findings of the Labor Arbiter, of the National Labor Relations Commission, and of the Court of Appeals. It must be cautious not to substitute its own appreciation of the facts to those of the tribunals which have previously weighed the parties' claims and personally perused the evidence. It will not discard consistent prior findings and award disability benefits to a seafarer who fails to adduce even an iota of evidence, let alone substantial evidence, and fails to draw a causal connection between his or her alleged ailment and working conditions.

This resolves a Petition for Review on Certiorari[1] under Rule 45 of the 1997 Rules of Civil Procedure, praying that the April 29, 2013 Decision[2] and July 26, 2013 Resolution[3] of the Court of Appeals in CA-G.R. SP No. 126939 be reversed and set aside.

The assailed Court of Appeals April 29, 2013 Decision affirmed the June 29, 2012 Decision[4] of the National Labor Relations Commission which, in turn, affirmed Labor Arbiter Lilia S. Savari's (Labor Arbiter Savari) October 12, 2011 Decision,[5] dismissing Ariel A. Ebuenga's (Ebuenga) complaint[6] for permanent disability benefits. The assailed Court of Appeals July 26, 2013 Resolution[7] denied Ebuenga's Motion for Reconsideration.

Ebuenga was hired by Southfield Agencies, Inc. (Southfield) as a chief cook aboard respondent Wilhemsen Ship Management Holding Ltd.'s (Wilhemsen) vessel, MTV Super Adventure.[8] Ebuenga boarded the vessel on December 19, 2010.[9]

About two (2) months into his engagement, or on February 26, 2011, Ebuenga wrote a letter to Southfield, Wilhemsen, and Captain Sonny Valencia (Capt. Valencia)[10] (collectively, respondents), asking that he be repatriated as soon as possible "to attend to a family problem."[11] Respondents acted favorably on this request and Ebuenga was repatriated on March 5, 2011.[12]

Without consulting Southfield's designated physician, Ebuenga had himself checked at St. Luke's Medical Center where he underwent Magnetic Resonance Imaging. The test revealed that he was afflicted with "Multilevel Disk Dessication, from C2-C3 to

C6-C7."[13] He was advised to undergo physical therapy.[14]

Ebuenga went back to his hometown in Bogtong, Legaspi City to undergo physical therapy sessions. Thereafter, he consulted Dr. Misael Jonathan A. Ticman, who issued a Disability Report, finding him to be permanently disabled and no longer fit to work as a seafarer. Consequently, Ebuenga filed a complaint for permanent disability benefits.[15]

In his Position Paper, Ebuenga disavowed voluntarily seeking repatriation on account of a family concern. He claimed instead that upon embarkation, a crew member died from overfatigue. He reported this death to the International Transport Workers' Federation, which took no action. Incensed at Ebuenga's actions, the captain of the vessel, Capt. Jonathan B. Lecias, Sr. (Capt. Lecias), coerced him to sign a letter seeking immediate repatriation. Ebuenga also claimed to have reported to Capt. Lecias that he was suffering intense back pain but the latter refused to entertain this because of the animosity between them. He added that upon repatriation, he sought medical assistance from the company-designated physician, but was refused. Thus, he was forced to seek treatment on his own.[16]

In their defense, respondents denied that there was ever an incident where Ebuenga encountered medical problems while on board the vessel. However, they noted that Ebuenga had been a delinquent crew member as he was always complaining and agitating his colleagues about the lack of a washing machine. They added that Ebuenga's claim for disability benefits could not be entertained as he failed to undergo the requisite post-employment medical examination with the company-designated physician.[17]

In her October 12, 2011 Decision,[18] Labor Arbiter Savari dismissed Ebuenga's complaint. Labor Arbiter Savari explained that Ebuenga failed to prove that he had suffered an illness or injury while on board the M/V Super Adventure. She added that Ebuenga may no longer claim disability benefits for failing to undergo a post-employment medical examination with the company-designated physician.[19]

The National Labor Relations Commission denied Ebuenga's appeal in its June 29, 2012 Decision.[20]

On April 29, 2013, the Court of Appeals found no grave abuse of discretion on the part of the National Labor Relations Commission. It also denied Ebuenga's Motion for Reconsideration in its July 26, 2013 Resolution.[21]

Hence, Ebuenga filed the present Petition.[22] He contends that he could not have forfeited his claims as respondents refused to have the company-designated physician examine him.[23] He also insists on his version of events: that he came in conflict with Capt. Lecias over the death of a co-worker, was forced to sign a letter recounting a family emergency, and was denied assistance by Capt. Lecias when he fell ill while on board the M/V Super Adventure.

For resolution is the issue of whether or not petitioner Ariel A. Ebuenga is entitled to permanent disability benefits. Subsumed under this is the issue of whether or not his failure to have himself examined by the company-designated physician bars him

from pursuing his claim.

The Petition lacks merit.

I

Section 20(B) of the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC)[24] established the procedures for assessing claims for disability benefits. It mandates seafarers to see a company-designated physician for a post-employment medical examination, which must be done within three (3) working days from their arrival. Failure to comply shall result in the forfeiture of the right to claim disability benefits:

> 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:
>
> ....
>
> 3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work or the degree of permanent disability has been assessed by the company-designated physician but in no case shall this period exceed one hundred twenty (120) days.
>
>   *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. 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.[25] (Emphasis supplied)

Kestrel Shipping Co., Inc. v. Munar,[26] citing *Vergara v. Hammonia Maritime Services, Inc.*[27] clarified the rules and the period for reckoning a seafarer's permanent disability for purposes of entitlement to disability benefits:

> In *Vergara v. Hammonia Maritime Services, Inc.*, this Court read the POEA-SEC in harmony with the Labor Code and the AREC in interpreting in holding that: (a) the 120 days provided under Section 20-B (3) of the POEA-SEC is the period given to the employer to determine fitness to work and when the seafarer is deemed to be in a state of total and temporary disability; (b) the 120 days of total and temporary disability may be extended up to a maximum of 240 days should the seafarer require further medical treatment; and (c) a total and temporary

> disability becomes permanent when so declared by the company-designated physician within 120 or 240 days, as the case may be, or upon the expiration of the said periods without a declaration of either fitness to work or permanent disability and the seafarer is still unable to resume his regular seafaring duties....[28]

This Court's discussion on the same topic in *Vergara*[29] read:

> As these provisions operate, the seafarer, upon sign-off from his vessel, *must report to the company-designated physician within three (3) days from arrival for diagnosis and treatment*. For the duration of the treatment but in no case to exceed 120 days, the seaman is on temporary total disability as he is totally unable to work. He receives his basic wage during this period until he is declared fit to work or his temporary disability is acknowledged by the company to be permanent, either partially or totally, as his condition is defined under the POEA Standard Employment Contract and by applicable Philippine laws. If the 120 days initial period is exceeded and no such declaration is made because the seafarer requires further medical attention, then the temporary total disability period may be extended up to a maximum of 240 days, subject to the right of the employer to declare within this period that a permanent partial or total disability already exists. The seaman may of course also be declared fit to work at any time such declaration is justified by his medical condition.
>
> ....
>
> As we outlined above, **a temporary total disability only becomes permanent *when so declared by the company physician within the periods he is allowed to do so, or upon the expiration of the maximum 240-day medical treatment period without a declaration of either fitness to work or the existence of a permanent disability***. In the present case, while the initial 120-day treatment or temporary total disability period was exceeded, the company-designated doctor duly made a declaration well within the extended 240-day period that the petitioner was fit to work. Viewed from this perspective, both the NLRC and CA were legally correct when they refused to recognize any disability because the petitioner had already been declared fit to resume his duties. In the absence of any disability after his temporary total disability was addressed, any further discussion of permanent partial and total disability, their existence, distinctions and consequences, becomes a surplusage that serves no useful purpose.[30] (Emphasis supplied, citations omitted)

Manota v. Avantgarde Shipping Corporation[31] explained why the requisite three (3)-day period for examination by the company-designated physician "must be strictly observed":

> The 3-day mandatory reporting requirement must be strictly observed since within 3 days from repatriation, it would be fairly manageable for the physician to identify whether the disease . . . was contracted during the term of his employment or that his working conditions increased the

> risk of contracting the ailment.
>
> ....
>
> Moreover, the post-employment medical examination within 3 days from . . . arrival is required in order to ascertain [the seafarer's] physical condition, since to ignore the rule would set a precedent with negative repercussions because it would open the floodgates to a limitless number of seafarers claiming disability benefits. It would certainly be unfair to the employer who would have difficulty determining the cause of a claimant's illness considering the passage of time. In such a case, the employers would have no protection against unrelated disability claims.[32]

However, this Court has clarified that the conduct of post-employment medical examination is not a unilateral burden on the part of the seafarer. Rather, it is a reciprocal obligation where the seafarer is obliged to submit to an examination within three (3) working days from his or her arrival, and the employer is correspondingly obliged "to conduct a meaningful and timely examination of the seafarer":[33]

> We note on this point that the obligation imposed by the mandatory reporting requirement under Section 20 (B) (3) of the 1996 POEA-SEC is not solely on the seafarer. It requires the employer to likewise act on the report, and in this sense partakes of the nature of a reciprocal obligation. Reciprocal obligations are those which arise from the same cause, and where each party is effectively a debtor and a creditor of the other, such that the obligation of one is dependent upon the obligation of the other. While the mandatory reporting requirement obliges the seafarer to be present for the post-employment medical examination, which must be conducted within three (3) working days upon the seafarer's return, it also poses the employer the implied obligation to conduct a meaningful and timely examination of the seafarer.
>
> The petitioners failed to perform their obligation of providing timely medical examination, thus rendering meaningless Serna's compliance with the mandatory reporting requirement. With his July 14, 1999 visit, Serna clearly lived up to his end of the agreement; it was the petitioners who defaulted on theirs. They cannot now be heard to claim that Serna should forfeit the right to claim disability benefits under the POEA-SEC and their [Collective Bargaining Agreement].[34]

In cases where the employer refuses to have the seafarer examined, the seafarer's claim for disability benefits is not hindered by his or her reliance on a physician of his or her own choosing:

> The Court has in the past, under unique circumstances, sustained the award of disability benefits even if the seafarer's disability had been assessed by a personal physician. In *Philippine Transmarine Carriers, Inc. v. NLRC*, we affirmed the grant by the CA and by the NLRC of disability benefits to a claimant, based on the recommendation of a physician not designated by the employer. The "claimant consulted a physician of his choice when the company-designated physician refused to examine him."