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SECOND DIVISION

[G.R. No. 225995, November 20, 2017]

TEODORO V. VENTURA, JR., PETITIONER, V. CREWTECH SHIPMANAGEMENT PHILIPPINES, INC.,[*] RIZZO-BOTTIGLIERI-DE CARLINI ARMATORI S.P.A., AND/OR ANGELITA ANCHETA, RESPONDENTS.

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*[1] are the Decision[2] dated March 1, 2016 and the Resolution[3] dated July 4, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 142802 which reversed and set aside the Decision[4] dated June 30, 2015 and the Resolution[5] dated August 27, 2015 of the National Labor Relations Commission (NLRC) in NLRC LAC (OFW-M)-06-000514-15, and instead, reinstated the Labor Arbiter's (LA) Decision[6] dated April 30, 2015 dismissing the complaint for total and permanent disability benefits, but ordered respondent Elburg Shipmanagement Phils., Inc. to pay petitioner Teodoro V. Ventura, Jr. (petitioner) his unpaid sickness allowance and 10% attorney's fees.

The Facts

Petitioner was employed by respondent Crewtech Shipmanagement Philippines, Inc. (Crewtech), for its principal, Rizzo-Bottiglieri-De Carlini Armatori S.P.A. (Rizzo), as Chief Cook on board the vessel MV Maria Cristina Rizzo under a nine (9)-month contract[7] that was signed on October 18, 2013, with a basic monthly salary of US$710.00 exclusive of overtime pay and other benefits. After undergoing the required pre-employment medical examination (PEME) where he was declared fit for sea duty[8] by the company-designated physician, petitioner boarded the vessel on October 31, 2013.[9] Petitioner claimed to have been consistently employed as such by Crewtech for the past three (3) years and assigned at its different vessels.[10]

On April 4, 2014, the vessel MV Maria Cristina Rizzo was transferred to respondent Elburg Shipmanagement Phils., Inc. (Elburg) which assumed full responsibility for all contractual obligations to its seafarers that were originally recruited and processed by Crewtech.[11]

Sometime in April 2014, petitioner complained to the Chief Mate that he was having a hard time urinating that was accompanied by lower abdominal pain. He was given pain relievers and advised to take a substantial amount of water. Upon reaching the port of Singapore on April 30, 2014, petitioner was brought to a specialist at the Maritime Medical Centre and was diagnosed to have "prostatitis"[12] and declared "unfit for duty."[13] Petitioner disclosed to the foreign doctor that he: (*a*) has a

history of prostatitis that occurred three (3) years ago; (*b*) was treated for kidney stone in August 2013; and (*c*) was not under any regular medication.[14]

Thus, on May 1, 2014, petitioner was medically repatriated[15] and referred to a company-designated physician for further evaluation and treatment. His ultrasound[16] revealed *"Cystitis with Cystolithiases; Prostate Gland Enlargement, Grade III with Concretions; and Bilateral Renal Cortical Cysts,"* while his CT stonogram[17] showed *"Cystolithiases; Bilateral Non-Obstructing Nephrolithiases; Bilateral Renal Cortical Cysts; Prostatomegaly."* In a Medical Report[18] dated May 5, 2014, the company-designated physician eventually diagnosed petitioner's illnesses to be *"Cystitis with Cystolithiases; and Benign Prostatic Hyperplasia (BPH)*," which he declared to be not work-related[19] explicating that cystitis (inflammation of the urinary bladder) secondary to cystolithiasis (urinary stone formation in the urinary bladder) was usually on account of a combination of genetic predisposition, diet, and water intake, while BPH involved changes in hormone levels that occur with aging. [20]

Notwithstanding this finding, petitioner was consistently monitored by the company-designated physician and was even recommended to undergo "Open Prostatectomy with possible Transurethral Resection of the Prostate"[21] for his BPH and "Open Cystolithotripsy with Possible Laser Intracorporeal Lithotripsy and Endoscopic Extraction Bladder Stones"[22] for his Cystolithiasis. Thereafter, he is subjected to three (3) sessions of "Extracorporeal Shockwave Lithotripsy."[23] The length of treatment was estimated at three (3) months barring unforeseen circumstances.[24] While awaiting approval of the foregoing procedures, the company-designated physician noted petitioner's increasing complaints of pain during urination that was accompanied with blood, for which he was prescribed medications.[25] He was also inserted with an Indwelling Foley Catheterization to address his persistent hypogastric pain and difficulty in urination.[26]

On July 10, 2014, petitioner underwent Open Prostatectomy with possible Transurethral Resection of the Prostate,[27] as well as Open Cystolithotomy on his own account.[28] On July 14, 2014, petitioner also underwent "Cystoscopy, Evacuation of Blood Clots and Coagulation of Bleeders."[29] He was also subjected to continuous cystoclysis (bladder irrigation).[30] However, despite the foregoing procedures, petitioner still suffered from intermittent pain on his hypogastric area[31] and attempts to remove his indwelling foley catheter were shown to be unsuccessful.[32] The specialist further opined that petitioner was suffering from urethral stricture and possible urinary bladder neck contracture, for which he was recommended to undergo "Urethroscopy, Visual Internal Urethrotomy, Cystoscopy, Transurethral Resection of Bladder Neck Contracture."[33] Meanwhile, in the letters[34] dated August 4, 2014 and September 18, 2014, the company-designated physician reiterated that petitioner's illnesses were not work-related, while his subsequent urethral stricture was only secondary to the series of surgeries he had undergone and as such, was likewise not work-related.

On October 8, 2014, or prior to the expiration of the 240-day period reckoned from his repatriation on May 1, 2014, petitioner claimed that he was verbally informed by the company-designated physician that it would be his last check-up session and

that subsequent consultations would be for his own account.[35] Considering that petitioner's illnesses remained unresolved and he was still on catheters,[36] the latter was compelled to seek an independent physician of his choice, Dr. May S. Donato-Tan (Dr. Tan), who, in a Medical Certificate[37] dated October 20, 2014, declared him to be permanently disabled, in view of his existing indwelling catheter that caused frequent urinary tract infection and rendered him incapable of performing his job effectively.

Consequently, petitioner filed a complaint[38] for total permanent disability benefits, sickness allowance, transportation and medical expenses, damages and attorney's fees against Crewtech, Rizzo, and its President/Manager, respondent Angelita Ancheta (Ancheta) before the NLRC, docketed as NLRC NCR Case No. (M)-10-13052-14.

For their part, Crewtech, Rizzo, and Ancheta denied petitioner's claim for disability benefits, contending that the latter was guilty of fraudulent misrepresentation when he failed to disclose his previous medical history of prostatitis and kidney stone treatment during his last PEME, and as such, was disqualified from any compensation and benefits under Section 20 (E)[39] of the 2010 Philippine Overseas Employment Administration Standard Employment Contract[40] (2010 POEA-SEC).[41] They likewise contended that petitioner's ailments, Cystitis with Cystolithiases and BPH, have no causal connection to his work and were declared by the company-designated physician to be not work-related, hence, not compensable.[42] They added that petitioner's independent physician did not contradict the finding that his illnesses were not work-related, and that his failure to observe the procedure for the joint appointment of a third doctor under Section 20 (A) (3)[43] of the 2010 POEA-SEC was fatal to his cause.[44] They denied petitioner's claim for sickness allowance, in view of his concealment, and averred that they had shouldered all the necessary treatments, surgery, laboratory, hospital, professional fees and medicines.[45] They likewise denied the claim for moral and exemplary damages as petitioner was treated fairly despite the finding that his illnesses were not work-related, and attorney's fees for lack of basis.[46] Lastly, they prayed that Crewtech be dropped as party-respondent to the case and be substituted by Elburg.[47]

The LA Ruling

In a Decision[48] dated April 30, 2015, the LA dismissed the complaint for lack of merit, ruling that petitioner failed to discharge the burden of proving that his illnesses were work-related. The LA pointed out that since petitioner had a history of prostatitis in 2011 and did not take regular medication for it, he merely suffered from a recurrence of a pre-existing illness. The LA added that there was no clear and convincing indication that petitioner's work as Chief Cook has aggravated his condition given that it was his duty and responsibility to prepare safe and quality meals to the crew and that he was charged with the planning and requisition of food and catering supplies.[49] Moreover, petitioner's non-disclosure of a previous illness during his last PEME legally barred him from availing of the disability benefits pursuant to Section 20 (E) of the 2010 POEA-SEC.[50] Nevertheless, the LA ordered Elburg to pay petitioner his sickness allowance which was computed at US$2,840.00, as well as 10% attorney's fees since the latter was clearly compelled to litigate to protect his rights and interests.[51]

Aggrieved, petitioner filed an appeal[52] to the NLRC.

The NLRC Ruling

In a Decision[53] dated June 30, 2015, the NLRC partly ruled in favor of petitioner, directing Crewtech, Rizzo, and Ancheta, in *solidum*, to pay him his total and permanent disability benefits in the amount of US$60,000.00, and further sustained the award of sickness allowance and 10% attorney's fees.[54] Contrary to the findings of the LA, the NLRC ruled that there was no fraudulent concealment on the part of petitioner given that Crewtech was well aware of his past medical history as reflected in the Medical Report[55] dated May 2, 2014 and thus, cannot feign ignorance of his true condition.[56] The NLRC likewise ruled that petitioner's illness was work-related, holding that as Chief Cook, the latter cannot just excuse himself to obey the call of nature more so when preparing and cooking food of the officers and crew of the vessel, and that the limited water provisions for the entire voyage and their diet may have increased the development, if not aggravation of his illness.[57] As petitioner's illness rendered him incapable of resuming work, he was entitled to total and permanent disability or Grade 1 impediment pursuant to the 2010 POEA-SEC and not the FIT/CISL-SIRIUS SHIP management SRL - Genoa 2012-2014 IBF Model CBA that covered only those disabilities arising from an accident.[58] Finally, the NLRC ruled that since the complaint was not amended to implead Elburg, no jurisdiction was acquired over said corporation and as such, Crewtech, Rizzo, and Ancheta, were ordered, *in solidum*, to pay petitioner his disability benefits subject to reimbursement by Elburg on account of the assumption of responsibility agreement.[59] The latter's motion for reconsideration[60] was denied in a Resolution[61] dated August 27, 2015.

Dissatisfied, Elburg elevated the matter to the CA via a petition for *certiorari*,[62] docketed as CA-G.R. SP No. 142802.

The CA Ruling

In a Decision[63] dated March 1, 2016, the CA partly granted the petition and set aside the NLRC Decision in so far as it ordered the payment to petitioner of total permanent disability benefits in the amount of US$60,000.00.[64] Contrary to the findings of the NLRC, the CA ruled that petitioner willfully concealed his previous treatment for prostatitis in 2011 during his 2013 PEME. Moreover, he ticked the box "no" in answer to the question of whether or not he was suffering from any medical condition likely to be aggravated by sea service.[65] The CA further held that petitioner failed to discharge the burden of proving that his illness was work-related. It observed that petitioner merely enumerated his duties and responsibilities as Chief Cook without establishing a reasonable connection between the nature of his work and his illness and how his working conditions contributed to and/or aggravated his condition.[66] It added that the company-designated physician's assessment of non-work relatedness was supported by medical studies, given that petitioner's BPH was a common condition for aging men due to their hormonal imbalance.[67] It noted that even petitioner's independent physician failed to provide any medical explanation that would establish reasonable connection between his working condition and illness.[68] Finally, the CA ruled that since Elburg, Rizzo, and Ancheta (respondents) failed to appeal the LA's Decision granting petitioner his

claim for sickness allowance and attorney's fees, the same can no longer be modified or reviewed, and thus, was sustained.[69]

Petitioner filed a motion for reconsideration,[70] which was denied in a Resolution[71] dated July 4, 2016; hence, this petition.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not the CA erred in holding that the NLRC gravely abused its discretion when it ruled that petitioner was entitled to total and permanent disability benefits.

The Court's Ruling

The petition is denied.

It is basic that the entitlement of a seafarer on overseas employment to disability benefits is governed by the medical findings, the law, and the parties' contract. The material statutory provisions are Articles 197 to 199[72] (formerly Articles 191 to 193)[73] of the Labor Code in relation to Section 2 (a), Rule X[74] of the Amended Rules on Employees' Compensation (AREC),[75] while the relevant contracts are the POEA-SEC, the parties' Collective Bargaining Agreement (CBA), if any, and the employment agreement between the seafarer and the employer. In this case, petitioner executed his employment contract with respondents during the effectivity of the 2010 POEA-SEC; hence, its provisions are applicable and should govern their relations.

Pursuant to the 2010 POEA-SEC, the employer is liable for disability benefits when the seafarer suffers from a work-related injury or illness during the term of his contract. In this regard, Section 20 (E) thereof, mandates the seafarer to disclose all his pre-existing illnesses in his PEME, failing which, shall disqualify him from receiving the same, to wit:

> E. A seafarer who knowingly conceals a pre-existing illness or condition in the Pre-Employment Medical Examination (PEME) shall be liable for misrepresentation and shall be disqualified from any compensation and benefits. This is likewise a just cause for termination of employment and imposition of appropriate administrative sanctions.

Here, contrary to the findings of the C A, there was no concealment on the part of petitioner when he failed to disclose in his 2013 PEME that he was previously treated for prostatitis in 2011. As culled from the records, respondents were well aware of petitioner's past medical history given that the company-designated physician was able to provide a detailed medical history of the latter in the Medical Report dated May 2, 2014 which showed all of his past illnesses, the year he was treated and where he obtained his treatment.[76] Moreover, since petitioner's prostatitis was shown to have been treated in 2011 with no indication that he was required to undergo further medical attention or maintenance medication for the same, he cannot be faulted into believing that he was completely cured and no longer suffering from said illness. This is further bolstered by the fact that he was rehired by respondents the following year in 2012 and no longer found to be suffering from prostatitis during his PEME. Evidently, petitioner's non-disclosure of the same in his