

SECOND DIVISION

[G.R. No. 219370, December 06, 2017]

VERONICO O. TAGUD, PETITIONER, V. BSM CREW SERVICE CENTRE PHILS., INC./ NARCISSUS DURAN AND/OR BERNHARD SCHULTE SHIPMANAGEMENT (CYPRUS), RESPONDENTS.

DECISION

CARPIO, J.:

This is a petition for review on certiorari^[1] assailing the Decision^[2] dated 24 November 2014 and the Resolution^[3] dated 29 June 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 119633. The CA affirmed the Decision^[4] dated 12 January 2011 of the National Labor Relations Commission (NLRC) Second Division which dismissed petitioner's claim for disability benefits and other monetary awards.

The Facts

Respondent Bernhard Schulte Shipmanagement (Cyprus) (Bernhard), a foreign shipping company doing business in the Philippines through its local manning agent, respondent BSM Crew Service Centre Philippines, Inc. (BSM) hired petitioner Veronico O. Tagud (Tagud) as Able Bodied Seaman since 2005. BSM is a domestic corporation engaged in the manning and recruitment of Filipino seafarers on board ocean going vessels and respondent Narcissus Duran is the company's President and authorized representative.

On 7 March 2008, Tagud was re-hired by respondents as Able Bodied Seaman for the Kota Pemimpin vessel under a contract approved by the Philippine Overseas Employment Administration (POEA). The terms and conditions of the employment stated:

Duration	of 7 months
contract:	Able Bodied
Position:	Seaman
Basic Monthly	US\$648/month
Salary:	40 hours/week
Hours of Work:	\$317/month
Leave and Food	\$561/month
Allowance:	\$4.68/hour after
Gtrd Ot:	120 hours
Overtime:	Manila,
Point of Hire:	Philippines ^[5]

Tagud passed the required pre-employment medical examination at the American Outpatient Clinic and was declared to be "Fit for Sea Duty (without restriction)."^[6] On 24 March 2008, Tagud was deployed and joined the Kota Pemimpin vessel in Hongkong on the same day.

Tagud's job as Able Bodied Seaman required him to (1) stand watch while in port or at sea, and (2) perform routine deck department maintenance tasks, e.g. cleaning, painting, and preserving the ship. Tagud's other responsibilities also include underway replenishment, cargo handling, forklift operation, and helicopter flight deck operations.

On 18 October 2008, while on duty doing a sanding job, Tagud lost his balance due to the sudden tilting of the ship and his right elbow region crashed against a hard object. As a result, he lost sensation and strength on his upper right extremity. After three days, he was brought to a doctor for medical attention when the vessel docked in Wynnum, Queensland.

Tagud underwent an x-ray of his right elbow. The x-ray report dated 21 October 2008 yielded the following result:

Clinical History: Trauma to the lateral elbow three days ago.

Findings: There is no fracture. There is a small olecranon spur. No other abnormality.^[7]

Twenty-one days later, on 8 November 2008, Tagud disembarked in Singapore and was repatriated to Manila on the same day.

Tagud alleged that when he reported to his manning agency, he was not given any assistance or even referred to a company-designated physician for a follow-up medical examination. After four months, on 9 and 10 March 2009, Tagud sought medical attention at Sta. Isabel Medical Clinic in Caloocan City. Dr. Ruben Chua examined Tagud and prescribed medicines for Tagud's elevated blood pressure and pain in his upper right extremities.

Then sometime in September 2009, Tagud sought another medical consultation for neuritis with loss of strength of the right hand at Peter the Rock Family Medical Polyclinic in Caloocan City and was attended to by Dr. Sisinio Quilicot. Tagud returned on 16 January 2010 to Dr. Quilicot for a follow-up treatment of his neuritis which became chronic. With an illness which limits the flexion of his upper right extremity, Tagud was no longer employed in any gainful occupation.

On 11 December 2009, Tagud filed a complaint^[8] with the NLRC, National Capital Region, Quezon City, against respondents for permanent and total disability benefits, sickness wages, reimbursement of medical expenses, damages, and attorney's fees.

On 3 February 2010, Tagud sought for a thorough medical examination at the Veterans Memorial Medical Center in Quezon City. The attending physician, Dr. Liberato Casison, reported his assessment:

Subject has permanent disability neurologic in nature caused by repetitive vibratory trauma and physical trauma during work.

Disability rating: Disability 1.^[9]

Tagud claimed that as a result of his work-related illness which he contracted during the term of his employment, he should be entitled to permanent disability benefits in the amount of US\$125,000 in accordance with the schedule of rates applied by the foreign principal for crew of its vessels.^[10]

Respondents denied any liability to Tagud. They contended that on 8 November 2008 Tagud was repatriated to the Philippines on a "finished contract" as stated in Tagud's disembarkation report. Respondents maintained that after Tagud's disembarkation, Tagud did not (1) complain of any illness or infirmity, (2) mention any accident or incident on board the Kota Pemimpin vessel, and (3) ask for any post-employment medical examination after disembarkation. Respondents also asserted that Tagud failed to report to his manning agency within the three-day mandatory reporting period reckoned from the date of his repatriation.

In a Decision^[11] dated 10 September 2010, the Labor Arbiter granted Tagud's complaint. The dispositive portion of the Decision states:

WHEREFORE, premises considered, judgment is hereby rendered ordering respondents BSM Crew Service Centre Inc., and/or Bernhard Schulte Shipmanagement (Cyprus) to pay complainant Veronico O. Tagud jointly and severally, the Philippine Peso equivalent at the time of actual payment of ONE HUNDRED TWENTY-FIVE [THOUSAND] US DOLLARS (US\$ 125,000) representing total permanent disability benefits plus ten percent (10%) of the judgment award as and for attorney's fees.

All other claims are dismissed for lack of merit.

SO ORDERED.^[12]

Respondents filed an appeal^[13] with the NLRC. In a Decision^[14] dated 12 January 2011, the NLRC reversed the Labor Arbiter's decision. The NLRC stated that Tagud failed to prove that he reported to the manning agency within three days from his arrival in the Philippines on 8 November 2008 in order to be examined or treated for any injury sustained during the period of his employment. The NLRC added that it took Tagud about four months from his discharge from the vessel to seek medical treatment for a claim of "work-related injury." Thus, the NLRC declared that in the absence of a physician's opinion on Tagud's medical status immediately after repatriation, there can be no basis for his claim for disability benefits. The dispositive portion of the NLRC's decision states:

WHEREFORE, all the foregoing premises considered, the assailed Decision is hereby REVERSED and/or SET ASIDE, and a new one entered DISMISSING the instant complaint for lack of merit.

SO ORDERED.^[15]

Tagud filed a motion for reconsideration. The NLRC Second Division, in a Resolution dated 24 March 2011, denied the motion for lack of merit.^[16]

On 30 May 2011, Tagud filed a petition for certiorari with the Court of Appeals. In a Decision dated 24 November 2014, the CA dismissed the petition. The CA stated that during petitioner's employment on board M/V Kota Pemimpin, there was no incident or accident report submitted by his captain; and upon his arrival in the Philippines, Tagud did not report to respondents any ailment or injury he allegedly suffered on board said vessel. The CA concluded that petitioner was repatriated on a finished contract and not for any other reason. Thus, he is not entitled to claim any disability benefits absent proof of compliance with the requirements set forth in Section 20(B)(3) of the 2000 POEA Standard Employment Contract.

Tagud then filed a motion for reconsideration which was denied by the CA in a Resolution dated 29 June 2015. [17]

Hence, the instant petition.

The Issue

The issue in this case is whether or not the CA erred in affirming the decision of the NLRC which dismissed petitioner's claim for permanent disability benefits.

The Court's Ruling

The petition lacks merit.

Petitioner contends that his injury was work-related and had existed during the term of his employment. Petitioner states that he submitted medical evidence consisting of an x-ray examination result issued by a medical facility in Wynnum, Queensland. Petitioner adds that even if his repatriation was regarded as a finished contract, this should not change the nature of his work-related injury. Petitioner also insists that his alleged non compliance with the three-day mandatory reporting requirement should be considered as an exception since his non-compliance was not his fault but the inadvertence or deliberate refusal of respondents.

Respondents, on the other hand, maintain that in order to be entitled to claim disability benefits, a seafarer must submit himself to the company-designated physician for evaluation within three days from repatriation which petitioner did not do. Respondents reiterate that the most important basis to determine if the illness or injury is work-related and compensable is the post-employment medical examination. Without this examination or its equivalent, respondents cannot be made liable for compensation. Also, respondents contend that petitioner disembarked from the vessel due to a finished contract and not for medical reasons. Thus, he cannot claim any disability benefits since his contract had already ended.

At the outset, this Court only entertains question of law under Rule 45 of the Rules of Court. However, the Court admits of exceptions, such as in this case, when the factual findings of the labor arbiter, NLRC or courts below are in conflict with each other. Here, the labor arbiter found that petitioner should be awarded total permanent disability benefits and attorney's fees and the NLRC and the CA, on the other hand, decreed otherwise.

A seafarer employed on overseas vessels is entitled to disability benefits by law and by contract. By law, the provisions of Articles 191 to 193 under Chapter VI (Disability Benefits) of the Labor Code, in relation to Rule X of the Rules and Regulations Implementing Book IV of the Labor Code, are applicable. By contract, the POEA Standard Employment Contract (POEA-SEC) and the parties' Collective Bargaining Agreement bind the seafarer and the employer to each other. [18]

In this case, Tagud executed his employment contract with respondents on 7 March 2008. Accordingly, the 2000 POEA-SEC, as provided under Department Order No. 4, series of 2000, issued by the Department of Labor and Employment (DOLE) on 31 May 2000, applies here.

The POEA, pursuant to said order by the DOLE to formulate the guidelines on the implementation of the amended contract for seafarers, issued Memorandum Circular