

## FIRST DIVISION

[ G.R. No. 193101, April 20, 2015 ]

**NICANOR CERIOLA, PETITIONER, VS. NAESS SHIPPING PHILIPPINES, INC., MIGUEL OCA AND/OR KUWAIT OIL TANKER, RESPONDENTS.**

### D E C I S I O N

**PEREZ, J.:**

Before us is a Petition for Review on *Certiorari* assailing the Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. SP. No. 107477 which reversed and set aside the Decision<sup>[2]</sup> of the National Labor Relations Commission (NLRC) granting the appeal of petitioner Nicanor Ceriola sustaining his claims for disability benefit under the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC).

The NLRC, in turn, reversed and set aside the Decision<sup>[3]</sup> of the Labor Arbiter dismissing the complaint of petitioner.

From the year 1981, petitioner has been employed as a seafarer on board various vessels of respondent NAESS Shipping Philippines, Inc. (NAESS Shipping) covered by different overseas employment contracts.

The controversy between the parties involving the claimed illness of petitioner, and his possible entitlement to disability benefit, is reckoned from the start of the employment contract of 6 June 1999, where petitioner was deployed on board the vessel "GAS AL AHMADI."

After completing that contract, and for re-deployment purposes, petitioner reported to respondent for extensive medical examination, where he was then diagnosed to be suffering from early stage of "Lumbar Spondylosis." Despite the diagnosis, petitioner was declared "fit to work" and was deployed for two successive overseas employment contracts on board the vessel "GAS AL BURGAN": (1) from 8 July 2000 to 12 April 2001; and (2) from 7 July 2001 until 12 April 2002.

In between these employment contracts, specifically between the 'contract of 8 July 2000-12 April 2001 and that of 7 July 2001-12 April 2002, as per standard procedure, petitioner underwent medical examination because he was experiencing severe back pains. The results of the medical examination indicated that the dislocation of petitioner's lumbar vertebrae had aggravated. However, considering that his prior medical clearance in the year 2000 of "fit to work" was effective for two (2) years, petitioner was re-deployed on board "GAS AL BURGAN" 7 from July 2001 to 12 April 2002.<sup>[4]</sup>

Reckoned from this period, the finding of fact of the labor tribunals and the appellate court conflict on the results of petitioner's medical examinations. Three

different certifications come up, respectively supporting the assertions of either the petitioner or respondents:

1. Results of petitioner's medical consultation from 11 June 2002 to 1 April 2003 which declared petitioner "unfit to work" due to a work related injury or ailment, offered in evidence by petitioner and cited by the NLRC in reversing the ruling of the Labor Arbiter.
2. Results of petitioner's medical examination after expiration of his last contract on 12 April 2002 which declared him "fit to work," and submitted by respondents NAESS Shipping Philippines, Inc., Miguel Oca and/or Kuwait Oil Tanker.
3. Debriefing Questionnaire duly accomplished by petitioner on 16 April 2002, petitioner specifically stating that "all ok during his contract inc. his health (*sic*)."

In fact, the Court of Appeals in its Decision and Resolution made differing factual findings thereon, thus:

Before [petitioner] went on board, he was declared fit for work. Never during his work on board, did [petitioner] complain of any medical condition. When he disembarked on finished contract on 12 April 2002, [petitioner] did not complain of any illness nor did he report for medical consultation for any medical condition. He therefore did not qualify for the disability benefits forming part of his employment contract. He did not suffer any medical condition during the term of his contract nor was proof presented that whatever medical condition he complained of was caused by work-related illness or injury as he made no report of any medical condition when he disembarked. **In fact he was declared fit for work in the 23 July 2002 Certification issued by Dr. Calanoc of Seamen's Hospital.**<sup>[5]</sup>

The instant case arose from the complaint of [petitioner] for disability benefits granted under the Philippine Overseas Employment Administration Standard Employment Contract (POEA-SEC) for seamen. Records show that [petitioner] was last deployed for the period from 07 July 2001 until 12 April 2002 when [petitioner] disembarked after completion of contract. **[Petitioner] underwent another medical examination on July 2002, for possible re-deployment but was declared "unfit to work."**<sup>[6]</sup> (Emphasis supplied)

It appears from the record that petitioner never underwent post-employment medical examination as required under Section 20 (B) of the POEA SEC. Thus, as previously adverted to:

1. The Labor Arbiter dismissed the complaint of petitioner:

It is not disputed that [petitioner] completed his last contract with the respondents and was discharged from the vessel on April 13, 2002. There is no showing that prior thereto, the [petitioner] has sustained an injury

or suffered an illness during the term, of his contract which can be the basis for a claim for disability benefits under the contract.

On the contrary, the Debriefing Questionnaire duly accomplished by [petitioner] on April 16, 2002 contains his handwritten acknowledgement that was "all ok during his contract incl. his health."

Moreover, in June-July 2002, the [petitioner] underwent a series of examinations preparatory to deployment wherein he was declared fit to work.

It must be stressed that under Section 20.B of the POEA Standard Contract, the employer is liable for payment of disability benefits for work-related sickness/injury sustained during the term of the contract only after the degree/extent of injury has been assessed, and the corresponding impediment grade is declared by the company-designated physician.

In this case, a disability assessment was not undertaken as the complainant was declared fit to work by the respondents' designated physician to whom the [petitioner] was referred, and that the declaration of fitness was issued after [petitioner] has undergone a physical therapy program.

x x x x

[Petitioner] in this case was declared fit to work on July 23, 2002, after being evaluated and treated by the company-designated physician.

In the absence of proof that the certification of fitness was irregularly issued, or does not reflect the actual medical condition of the affected seafarer, said certification must be upheld and given probative weight to support the denial of the claim.

Accordingly, the declaration of fitness issued by the company-designated physician negates [petitioner's] claim for disability benefits.

And, while [petitioner] may have presented a medical certificate to support his claim for disability benefits, a perusal thereof fails to disclose the declaration of disability that would render operative the provisions of the POEA Standard Employment Contract.

x x x x

WHEREFORE, premises considered, judgment is hereby rendered dismissing the complaint for lack of merit.<sup>[7]</sup>

2. However, on appeal, the NLRC reversed the Labor Arbiter and granted petitioner's claim for disability benefits:

While it is true that the certification mentioned by the Labor Arbiter appear on record, the latter seemed not to have noticed the more recent certification which was issued by the respondents' hospital in April 2003. To reiterate, the certificate states that [petitioner] is "unfit to work" and his illness appears to be work-oriented, x x x

In support of his claims, we are persuaded by [petitioner's] allegations and arguments that:

1. His injury or ailment was due to his work of lifting heavy objects at the vessel;
2. The fact that such was work-related was attested to by the designated hospital of the respondent;
3. [Petitioner's] employment history shows that he spent his entire seafaring career since 1981 with herein respondents;
4. After every conclusion of his contract, he would merely take a vacation of approximately two (2) months only;
5. Beginning with his contract with the duration of 8 July 2000 to April 2001, he was already diagnosed to have a work-related injury or illness of "lumbar spondylosis" or dislocation of lumbar vertebrae;
6. Since his injury then was not yet severe, he was still allowed to be deployed. However, during the period he was on board, he sustained or aggravated his present illness; and
7. At present, he could no longer perform heavy works.

The foregoing allegations and argument substantiate the following requirements provided under the POEA Standard Employment Contract for an injury or illness to be compensable:

1. The seafarer's work must involve the risks described herein;
2. The disease was contracted as a result of the seafarer's exposure to the described risks;
3. The disease was contracted within a period of exposure and under such other factors necessary to contract it;
4. There was no notorious negligence on the part of the seafarer.

x x x x

WHEREFORE, premises considered, [petitioner's] appeal is hereby GRANTED. Accordingly, the assailed Decision is hereby REVERSED and

SET ASIDE.

Respondents are hereby held jointly and solidarity liable to pay [petitioner] his disability benefit in such amount as may correspond to the impediment grade to be provided by the Employees Compensation Commission.

[Petitioner] is hereby directed to strictly comply with the order requiring him to present himself to the Employee's Compensation Commission (ECC) and secure the impediment grade corresponding to his disability.

Other claims are dismissed for lack of basis.<sup>[8]</sup>

3. On petition for *certiorari* by respondents alleging grave abuse of discretion by the NLRC in granting petitioner's claim for disability benefits, the appellate court reinstated the ruling of the Labor Arbiter denying petitioner's claim:

In the instant case, [petitioner] had finished his contract when he disembarked on 12 April 2002. Thus, [petitioner] can no longer claim any benefits under his employment contract.

x x x x

Before [petitioner] went on board, he was declared fit for work. Never during his work on board, did [petitioner] complain of any medical condition. When he disembarked on finished contract on 12 April 2002, [petitioner] did not complain of any illness nor did he report for medical consultation for any medical condition. He therefore did not qualify for the disability benefits forming part of his employment contract. He did not suffer any medical condition during the term of his contract nor was proof presented that whatever medical condition he complained of was cause by work-related illness or injury as he made no report of any medical condition when he disembarked. In fact he was declared fit for work in the 23 July 2002 Certification issued by Dr. Calanoc of Seamen's Hospital.

x x x x

That the person qualified to determine the disability benefits of a seafarer is the company designated physician, was again emphasized by the Supreme Court in *Vergara v. Hammonia Maritime* x x x.

x x x x

**WHEREFORE**, premises considered, the instant petition is hereby **GRANTED**. The decision of the NLRC is hereby **REVERSED** and **SET ASIDE** and the decision of the Labor Arbiter is **REINSTATED**. And the **complaint is hereby DISMISSED for lack of merit.**<sup>[9]</sup>