

SECOND DIVISION

[G.R. No. 198640, April 23, 2014]

CARLO F. SUNGA, PETITIONER, VS. VIRJEN SHIPPING CORPORATION, NISSHO ODYSSEY SHIP MANAGEMENT PTE. LTD., AND/OR CAPT. ANGEL ZAMBRANO, RESPONDENTS.

DECISION

BRION, J.:

This is an appeal of the Decision^[1] dated February 25, 2011 and the Resolution dated September 14, 2011 of the Court of Appeals (**CA**) in CA-GR SP No. 113661. The appealed decision reversed and set aside the Decision dated December 21, 2009 of the National Labor Relations Commission (**NLRC**), Second Division, finding Carlo F. Sunga (**Sunga**) not entitled to disability benefits.

The Antecedent Facts

On July 14 2006, Virjen Shipping Corporation (**Virjen**), acting in behalf of its foreign principal, Nissho Odyssey Ship Management Pte. Ltd., entered into a contract of employment with Sunga. Under the contract, Sunga would be working as a fitter on board the ocean-going vessel MT Sunway for nine (9) months on a monthly salary of US\$ 566.00.^[2]

As a registered member of the Associated Marine Officers' and Seamen's union of the Philippines (**AMOSUP**), Sunga's employment was covered by the IBF JUS/AMOSUP-IMMAJ Collective Bargaining Agreement (**CBA**) executed between Virjen and Nissho Odyssey, All Japan Seamen's Union and AMOSUP.^[3]

Prior to Sunga's deployment, or before August 11, 2006, he underwent a pre-employment medical examination that found him fit for work. But, sometime in 2007, while already on board the MT Sunway vessel, Sunga started to experience an on-and-off right flank pain, making it difficult for him to work. The pain became more intense as the days progressed, thereby prompting him to request for repatriation. The request was granted on April 25, 2007.^[4]

On April 27, 2007, Sunga reported to Virjen's company-designated physician, Dr. Nicomedes G. Cruz (**Dr. Cruz**), for medical examination. The doctor instructed him to undergo Magnetic Resonance Imaging (**MRI**) of his lumbosacral spine. The MRI's results merited the medical advice that Sunga undergo physical therapy for a period of four (4) months under the supervision of Dr. Cruz. Despite the therapy, Sunga still experienced episodes of moderate to severe pain on his right lower extremity and back. He also manifested limited trunk mobility and was unable to undertake lifting activities.^[5]

On September 7, 2007, Dr. Cruz issued a medical certificate recommending a Grade 8 disability (*Moderate rigidity or 2/3 loss of motion or lifting power of the trunk*) based on the Philippine Overseas Employment Administration (**POEA**) Standard Employment Contract for Seafarers. Dr. Cruz also issued another medical certificate recommending a disability grading of 25% (*Back pains with considerable reduction of mobility*) in accordance with the parties' CBA.^[6]

On the strength of these two certificates, Virjen immediately offered Sunga the amount of US\$ 16,795.00, in accordance with the POEA Standard Employment Contract for Seafarers, as full settlement for the latter's disability benefits. However, Sunga rejected the offer; he demanded instead that his disability benefits be based on the disability grading of 25%, pursuant to the provisions of the parties' CBA.^[7]

Virjen denied Sunga's demand. Hence, on October 23, 2007, Sunga filed a complaint before the NLRC against Virjen for disability benefits as stated in the parties' CBA (not under the POEA Standard Employment Contract for Seafarers) in the amount of US\$ 110,000.00. The complaint likewise prayed for attorney's fees, plus moral and exemplary damages.^[8]

In his position paper, Sunga claimed that the nature of his work involved manual repairs, which required the lifting and carrying of heavy equipment and materials. On January 5, 2007, while MT Sunway was docked at Singapore, he alleged that he, together with two other oilers, was assigned to change MT Sunway's globe valves. Aside from lifting the 200-kilogram globe valve from the lower floor of the engine room to its installing position, Sunga also has to bear its entire weight while it was being positioned by the other oilers. Unfortunately, one of the oilers lost his grip, causing the whole weight of the globe valve to crash on Sunga. At that instant, he felt his back snap, causing intense pain at his lower back which persisted for several days. Unable to even stand up just to go to the bathroom, Sunga was forced to request for repatriation.^[9]

Virjen replied that it had no liability to pay Sunga any disability benefits under the CBA. Virjen claimed that the CBA requires that for permanent disability to be compensable, the disability should be the result of an accident incurred during the course of the seafarer's employment. Virjen argued that Sunga failed to present any proof that his disability was indeed the result of an accident. It was simply an illness or an anatomical defect. He had also failed to mention any details regarding the unfortunate event in his request for repatriation.^[10]

Ruling of the Labor Tribunals

On May 30, 2008, the Labor Arbiter ruled in Sunga's favour. It ordered Virjen to pay Sunga his disability compensation benefits in the amount of US\$ 110,000.00 pursuant to the provisions of the parties' CBA. The Labor Arbiter ruled that Sunga's injury is not merely an anatomical defect but a bodily harm brought upon by the performance of his duties and functions as fitter of the vessel. The result of the MRI revealing that Sunga had herniated disc is already a manifestation that the injury resulted from an accident, commonly incurred through falling or by lifting heavy objects. The pertinent portion of the Labor Arbiter's decision states:

WHEREFORE, premises considered, judgment is hereby rendered ordering respondents to jointly and severally liable:

- 1) To pay complainant the amount of US\$ 110,000.00, or its Philippine peso equivalent prevailing at the exchange rate at the time of payment, representing his disability benefits under the IBF-JUS-IMMF-AMOSUP Collective Bargaining Agreement;
- 2) To pay complainant an amount equivalent to ten (10%) percent of the total judgment award, as and for attorney's fees.

SO ORDERED.^[11]

Virjen filed its appeal with the NLRC. In a Decision^[12] dated December 21, 2009, the NLRC affirmed the findings of the Labor Arbiter. The NLRC however reduced the awards of disability benefits and attorney's fees to US\$ 105,000.00 and US\$ 10,500.00, respectively. Virjen filed a motion for reconsideration, which the NLRC denied in its Resolution^[13] of February 26, 2010

Ruling of the CA

Virjen filed a petition for *certiorari* with the CA, attributing grave abuse of discretion on the part of the NLRC. On February 25, 2009, the CA granted the petition. The CA reasoned that accident is an unintended and unforeseen injurious occurrence, something that does not occur in the usual course of events or could not be reasonably anticipated. According to the appellate court, the injury was not accidental; it is common knowledge that carrying heavy objects can cause injury and that lifting and carrying heavy objects are part of his duties as fitter. Thus, a back injury is reasonably anticipated. It cannot serve as basis, therefore, for Sunga to be entitled to disability benefits. There was no mishap, occurrence, or fortuitous event when the injury was incurred. Hence, the CA reversed the findings of the labor tribunals and applied the POEA Standard Contract for Seafarers disability benefits (which only requires that the seafarer's disability must be caused by an injury or illness that is work-related), instead of enforcing the parties' CBA.

Sunga's motion for reconsideration having been denied, it now come before us for a final review.

The Issues

Sunga raises the following assignment of errors:

I.

THE CA ERRED IN TAKING COGNIZANCE OF THE PETITION DESPITE THE WELL-ESTABLISHED RULE THAT FACTUAL FINDINGS OF LABOR OFFICIALS ARE ACCORDED NOT ONLY RESPECT BUT EVEN FINALITY.

II.

WHETHER OR NOT THE CA ERRED IN RULING THAT SUNGA'S INJURY WAS NOT A RESULT OF AN ACCIDENT.

Sunga primarily argues that factual findings of labor officials who are deemed to have acquired expertise in matters within their respective jurisdiction are generally accorded not only respect but even finality and bind even the Supreme Court when supported by substantial evidence; that there was no reason for the CA to reverse the findings of the labor tribunals. More importantly, granting that the CA indeed has the power to annul judgments handed by the labor courts, the CA erred in finding that Sunga is not eligible for disability benefits under the parties' CBA since he had incurred injury, by accident, in the performance of his duties.

The Court's Ruling

We find the petition meritorious.

The assailed CA decision before us is challenged through a Rule 45^[14] petition, a remedy limited to pure questions of law. In this mode of review, we have to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not necessarily on the basis of whether the NLRC decision on the merits of the case was strictly correct.^[15]

Grave abuse of discretion, amounting to lack or excess of jurisdiction, has been defined as the capricious and whimsical exercise of judgment amounting to or equivalent to lack of jurisdiction. There is grave abuse of discretion when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law."^[16]

Applying the doctrine in the present case, we fail to see any grave abuse of discretion on the part of the NLRC which would authorize the appellate court to substitute its own ruling over that of the NLRC. There was ample evidence to support the findings of the NLRC. The CA, in a Rule 65^[17] petition, is limited to a simple review of whether there existed grave abuse of discretion; the CA should not concern itself with the determination of whether the NLRC, after evaluation of the evidence presented before it, had correctly ruled on the merits of the case. The question of intrinsic merits is an issue best left to the labor tribunals which are deemed to have mastery over the subject matter.

As found by both the NLRC and the Labor Arbiter, Sunga's injury was the result of the accidental slippage in the handling of the 200-kilogram globe valve which triggered Sunga's back pain;^[18] the weight of the globe valve, coupled with the abruptness of the fall, explain why the injury was so severe as to render Sunga immobile.^[19] While indeed Sunga had not explained in the request for repatriation the proximate cause of the injury, there was enough circumstantial evidence to substantiate the claim. We have held that circumstantial evidence is founded on experience, observed facts and coincidences establishing a connection between the