

## FIRST DIVISION

[ G.R. No. 179868, January 21, 2010 ]

**RIZALDY M. QUITORIANO, PETITIONER, VS. JEBSENS  
MARITIME, INC./ MA. THERESA GUTAY AND/OR ATLE JEBSENS  
MANAGEMENT A/S,<sup>[1]</sup> RESPONDENTS.**

### DECISION

**CARPIO MORALES, J.:**

Respondent Jebbens Maritime, Inc. (represented by Ma. Theresa Gutay), on behalf of its foreign principal co-respondent Atle Jebbens Management A/S, hired<sup>[2]</sup> on January 13, 2001 Rizaldy M. Quitoriano (petitioner) as 2<sup>nd</sup> Officer aboard the vessel *M/V Trimnes* for a period of six months with a basic monthly salary of US\$936.<sup>[3]</sup>

On May 23, 2001, petitioner, who was assigned as navigating officer from 12:00 midnight to 4:00 a.m. and port watcher from 12:00 midnight to 6:00 a.m., complained of dizziness with severe headache, "general body weakness, chest pains, easy fatigability," "weak grip strength," and "numbness on the left side of his body" and was observed to be "dragging his left foot," "his mouth slightly down to one side," and his speech "slurred."<sup>[4]</sup>

When the vessel berthed on May 26, 2001 at Port Huelva, Spain, petitioner was brought to a hospital where he was diagnosed as suffering from "hypertension arterial" or "mild stroke."<sup>[5]</sup> Since his health condition did not improve, petitioner was repatriated to the Philippines on May 30, 2001 to undergo further medical examination and treatment.

Upon arrival in Manila, petitioner underwent several tests at the Medical Center Manila under the care of Dr. Nicomedes G. Cruz (Dr. Cruz), the company-designated physician. On June 6, 2001, Dr. Cruz, noting that petitioner "still complain[ed] of chest pain and easy fatigability,"<sup>[6]</sup> gave the following diagnosis, medications and recommendation:

**DIAGNOSIS:**

Hypertension

Transient ischemic attack

**MEDICATIONS:**

Diovan 80mg/capsule once daily

Sulodexide one tablet two times daily

Aspilet one tablet once daily

**RECOMMENDATION:**

Cranial CT scan  
Carotid Doppler

He is advised to come back on June 14, 2001.<sup>[7]</sup>

On November 16, 2001 or 169 days *after* petitioner's repatriation, Dr. Cruz issued a medical report declaring him "fit to work," thus:

The patient has no nuchal pain, headache, chest pain and dizziness noted. His blood pressure is normal at 130/87. There is no motor or sensory deficit noted. Triglycerides and routine urinalysis were within normal limits. He was evaluated by our cardiologist and neurologist who allowed him to resume his previous activities.

**DIAGNOSIS:**

Hypertension

Cerebrovascular disease, right internal capsule probably ischemic or infarct

He is **fit to work effective today, November 16, 2001**.<sup>[8]</sup> (emphasis and underscoring supplied)

Petitioner later sought the opinion of an independent internist-cardiologist, Dr. Sharon A. Lacson of the Philippine Heart Center, who diagnosed him as suffering from "hypertension cardiovascular disease and hyperlipidemia."<sup>[9]</sup> Dr. Abdias V. Aquino of the same hospital also found him to have "cerebral infarction, R, basal ganglia area."<sup>[10]</sup>

Petitioner thereupon repeatedly asked respondents for full permanent disability compensation but was unsuccessful. He thus filed on February 26, 2002 a complaint to recover permanent total disability compensation of US\$80,000, as provided for in the Collective Bargaining Agreement (CBA) forged with respondents, and attorney's fees before the National Labor Relations Commission (NLRC) Arbitration Office in Quezon City, docketed as NLRC-NCR OFW Case No. 02-02-0561-00.<sup>[11]</sup>

Respondents disclaimed petitioner's entitlement to any disability benefits in view of the company-designated physician's certification that he is fit to work.<sup>[12]</sup> Petitioner countered, however, that the "fit to work" assessment did not reflect his real health condition; and that his illness, given its delicate nature, could recur anytime once he resumes sea duties.<sup>[13]</sup>

By Decision of July 5, 2004, Labor Arbiter Madjayran H. Ajan dismissed petitioner's complaint, finding that petitioner "ha[d] recovered from his disability" based on the company-designated physician's "fit to work" certification.<sup>[14]</sup>

On appeal by petitioner, the NLRC, by Decision<sup>[15]</sup> of August 31, 2005, affirmed with modification the Labor Arbiter's findings by ordering respondents to "allow [petitioner] to resume sea duty," thus:

Since x x x the Labor Arbiter based his decision on the opinion of the company-designated physician that appellant was declared "fit to work" to resume sea duty, We have no reason to disturb his finding, x x x.

**But complainant should be allowed to resume sea duty** considering the fit to work findings of the company-designated physician.

**WHEREFORE**, premises considered, judgment is rendered affirming the assailed decision of the Labor Arbiter with slight modification **by ordering the respondents to allow complainant to resume sea duty**.

**SO ORDERED.**<sup>[16]</sup> (Underscoring and emphasis supplied)

Petitioner's Motion for Reconsideration of the NLRC decision having been denied by Resolution of December 28, 2005, he brought the case on Certiorari to the Court of Appeals which, by Decision<sup>[17]</sup> of March 8, 2007 in CA-G.R. SP No. 93332, affirmed the NLRC decision, and by Resolution of September 14, 2007,<sup>[18]</sup> denied his Motion for Reconsideration thereof.

Hence, the present Petition for Review on Certiorari, petitioner faulting the Court of Appeals for not finding that his disability is considered permanent and total, and for not awarding him attorney's fees.

The petition is impressed with merit.

In accordance with the avowed policy of the State to give maximum aid and full protection to labor, the Court has applied the Labor Code concept of permanent total disability to Filipino seafarers,<sup>[19]</sup> it holding that the notion of disability is intimately related to the worker's capacity to earn, what is compensated being not his injury or illness but his inability to work resulting in the impairment of his earning capacity; hence, disability should be understood less on its medical significance but more on the loss of earning capacity.<sup>[20]</sup>

The standard employment contract for seafarers was formulated by the POEA pursuant to its mandate under E.O. No. 247 to "secure the best terms and conditions of employment of Filipino contract workers and ensure compliance therewith" and to "promote and protect the well-being of Filipino workers overseas." Even without this provision, a contract of labor is so impressed with public interest that the New Civil Code expressly subjects it to "the special laws on labor unions, collective bargaining, strikes and lockouts, closed shop, wages, working conditions, hours of labor and similar subjects" (Art. 1700).

Thus, the Court has applied the Labor Code concept of permanent total disability to the case of seafarers. x x x.

x x x x