630 Phil. 352

SECOND DIVISION

[G.R. No. 186180, March 22, 2010]

MAGSAYSAY MARITIME CORPORATION AND/OR CRUISE SHIPS CATERING AND SERVICES INTERNATIONAL N.V., PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION (SECOND DIVISION) AND ROMMEL B. CEDOL, RESPONDENTS.

D E C I S I O N

BRION, J.:

We review in this petition for review on *certiorari*[1] the December 15, 2008 decision[2] and January 28, 2009 resolution[3] of the Court of Appeals (*CA*) in CA-G.R. SP. No. 105625 that affirmed the April 30, 2008 and July 31, 2008 resolutions of the National Labor Relations Commission (*NLRC*). The NLRC resolutions affirmed the Labor Arbiter's decision granting respondent Rommel M. Cedol (*respondent*) disability benefits and attorney's fees in the amounts of US$60,000.00 and US$6,000.00, respectively.

ANTECEDENT FACTS

On July 14, 2004, the respondent entered into a seven-month contract of employment with petitioner Magsaysay Maritime Corporation (*Magsaysay Maritime*) for its foreign principal, Cruise Ships Catering and Services International N.V. (*Cruise Ships*); he was employed as an assistant housekeeping manager on board the vessel *Costa Mediterranea* with a basic monthly salary of US$482.00. The respondent submitted himself to the required Pre-Employment Medical Examination (*PEME*), and was pronounced fit to work. He boarded the vessel *Costa Mediterranea* on July 19, 2004.

Prior to the execution of this employment contract, the respondent had previously worked as housekeeping cleaner and assistant housekeeping manager on board the petitioners' other vessels from 2000 to 2004.[4]

In November 2004, the respondent felt pain in his lower right quadrant. He was brought to and conferred at the Andreas Constantinou Medical Center in Cyprus for consultation. On January 18, 2005, he underwent a procedure called *exploratory laparotomy* which revealed a massive tumor in the terminal ileum and in the ascending colon near the hepatic flexture. On the same day, the respondent underwent a surgical procedure called *right hemicolectomy with end to end ilectransverse anastomosis*.[5] The Histopathology Report showed the following findings:

CONCLUSION

> The appearances are consistent with a malignant lymphoid infiltration of the ileum and the mesenteric lymph nodes.
>
> The appearances are consistent [with] the interstinal lymphoma of small and large sized lymphoid cells.

x x x x[6]

The respondent was discharged from the hospital and repatriated to the Philippines on February 1, 2005.

Upon repatriation, the respondent was placed under the medical care and supervision of the company-designated physician, Dr. Susannah Ong-Salvador (*Dr. Ong-Salvador*). In Dr. Ong-Salvador's Initial Medical Report[7] dated February 10, 2005, she found the respondent to be suffering from lymphoma, and declared his illness to be non-work related.

On April 14, 2005, the respondent was brought to the Chinese General Hospital, where he underwent a surgical procedure called *excision biopsy*.[8] Dr. Ong-Salvador's Medical Progress Report found the respondent's recurrent lymphoma to be in complete remission, and declared him "fit to resume sea duties" after undergoing six (6) sessions of chemotherapy.[9]

On June 16, 2006, the respondent filed before the Labor Arbiter a complaint for total and permanent disability benefits, reimbursement of medical and hospital expenses, damages, and attorney's fees[10] against the petitioners. He claims that he contracted his illness while working on board the petitioners' vessel.

The Labor Arbiter's Decision

Labor Arbiter Marita V. Padolina (*LA Padolina*) ruled in respondent's favor. She found the respondent permanently and totally disabled and awarded him disability compensation of US$60,000.00 or its peso equivalent; and US$6,000.00 attorney's fees.

LA Padolina ruled the respondent's illness to be work-related, hence compensable. She held that the respondent's illness was aggravated by his work, as he had always passed the company's physical examinations since 2000. She explained that the respondent's work need not be the main cause of his illness; it is enough that his employment had contributed even in a small degree to the development of the disease.

LA Padolina likewise held that each person has his own physical tolerance. That it was only the respondent who had contracted lymphoma among the petitioners' workers did not remove the fact that his illness was aggravated by his employment. She also ruled that the respondent was not fit to work as a seafarer because he had undergone chemotherapy.[11]

The labor arbiter likewise awarded attorney's fees in respondent's favor, as he was

forced to litigate to protect his rights.

The NLRC Ruling

The NLRC affirmed the labor arbiter's decision *in toto* in its resolution dated April 30, 2008.[12] The NLRC held that the respondent is not fit to work as a seafarer because he is suffering from recurrent lymphoma - a sickness that required him undergo chemotherapy. The NLRC explained that the respondent is in a state of permanent total disability because he can no longer earn wages in the same kind of work, or work of similar nature that he was trained for or accustomed to perform, or any kind of work which a person of his mentality and attainment could do.

The NLRC ruled that there was a reasonable connection between the nature of the respondent's work as assistant housekeeping manager and the development of his illness. The NLRC explained that the respondent had passed every PEME before signing the six employment contracts with the petitioner from 2000 to 2005, and was declared "fit to work" each time. It was only after the respondent was exposed to an extreme working environment in the petitioners' vessel that he developed his sickness. At any rate, the law merely requires a reasonable work connection, and not a direct causal connection for a disability to be compensable.

The petitioners moved to reconsider this resolution, but the NLRC denied their motion in its resolution of July 31, 2008.[13]

The CA Decision

The petitioners filed a **petition for *certiorari* with prayer for the issuance of a writ of preliminary injunction and/or temporary restraining order**[14] before the CA, docketed as CA-G.R. SP. No. 105625. The CA, in its decision[15] of December 15, 2008, denied the petition for lack of merit.

The CA held that under the provisions of the POEA Standard Employment Contract (*POEA-SEC*), it is enough that the work has contributed, even in a small degree, to the development of the worker's disease. The CA further held that the Courts are not bound by the assessment of the company-designated physician. According to the CA, Dr. Ong-Salvador's pronouncement that the respondent is "fit to resume sea duties" was inconsistent with the fact that the respondent had previously undergone chemotherapy, and needed to undergo periodic check-ups.

The CA affirmed the award of attorney's fees because Article 2208 of the Civil Code allows the recovery of attorney's fees in actions for indemnity under the workman's compensation and employer liability laws.

The petitioners moved to reconsider this decision, but the CA denied their motion in its resolution of January 28, 2009.[16]

The Petition

In the present petition, the petitioners argue that the CA erred in holding the petitioners liable for US$60,000.00 in total and permanent disability benefits despite the company-designated physician's finding that the respondent's illness was not

work-related. They assert that under the 2000 POEA-SEC, only work-related injury or illness is compensable. They likewise maintain that the company-designated physician's finding that the respondent's illness was not work-related should be given credence. Aside from the fact that lymphoma is not listed as an occupational disease under Section 32-A of the POEA-SEC, the respondent's work could not have exposed him to carcinogenic fumes or chemicals that cause cancer because his duties merely involved housekeeping and cleaning.

The Respondent's Position

In his Comment,[17] the respondent claims that the company-designated physician had no factual basis in ruling that his illness was not work-related. He posits that the opinions of company-designated physicians should not be taken as gospel truth because of their non-independent nature. Finally, he claims that his illness could have only been acquired on board since he passed the company's PEME.

THE COURT'S RULING

We find the petition meritorious.

The petitioners essentially claim that the evidence on record does not support the findings of the labor tribunals and the CA that the respondent's illness was work-related. This argument clearly involves a factual inquiry whose determination is not a function of this Court. We emphasize, however, that we are reviewing in this Rule 45 petition the decision of the CA on a Rule 65 petition filed by the petitioners with that court. In so doing, we review the legal correctness of 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.

In this task, the Court is allowed, in exceptional cases, to delve into and resolve factual issues when insufficient or insubstantial evidence to support the findings of the tribunal or court below is alleged, or when too much is concluded, inferred or deduced from the bare and incomplete facts submitted by the parties, to the point of grave abuse of discretion.[18] The present case constitutes one of these exceptional cases.

The Rule on Disability Benefits

Entitlement of seamen on overseas work to disability benefits is a matter governed, not only by medical findings, but by law and by contract. The material statutory provisions are Articles 191 to 193 under Chapter VI (Disability Benefits) of the Labor Code, in relation with Rule X of the Rules and Regulations Implementing Book IV of the Labor Code. By contract, the POEA-SEC, as provided under Department Order No. 4, series of 2000 of the Department of Labor and Employment, and the parties' Collective Bargaining Agreement (*CBA*) bind the seaman and his employer to each other.[19]

Section 20 (B), paragraph 3 of the 2000 POEA-SEC[20] reads:

Section 20-B. *Compensation and Benefits for Injury or Illness*.

The liabilities of the employer when the seafarer suffers **work-related injury or illness** during the term of his contract are as follows:

x x x x

6. In case of permanent total or partial disability of the seafarer caused by either injury or illness the seafarer shall be compensated in accordance with the schedule of benefits enumerated in Section 32 of this Contract. Computation of his benefits arising from an illness or disease shall be governed by the rates and the rules of compensation applicable at the time the illness or disease was contracted. [*Emphasis supplied.*]

For disability to be compensable under Section 20 (B) of the 2000 POEA-SEC, two elements must concur: (1) the injury or illness must be **work-related**; and (2) the work-related injury or illness must have existed during the term of the seafarer's employment contract.[21] In other words, to be entitled to compensation and benefits under this provision, it is not sufficient to establish that the seafarer's illness or injury has rendered him permanently or partially disabled; it must also be shown that there is a causal connection between the seafarer's illness or injury and the work for which he had been contracted.[22]

The 2000 POEA-SEC defines "work-related injury" as "injury(ies) resulting in disability or death arising out of and in the course of employment" and "work-related illness" as "any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A of this contract with the conditions set therein satisfied."

Under Section 20 (B), paragraphs (2) and (3) of the 2000 POEA-SEC, it is the company-designated physician who is entrusted with the task of assessing the seaman's disability, thus:

Section 20-B. *Compensation and Benefits for Injury or Illness*.

The liabilities of the employer when the seafarer suffers **work-related injury or illness during the term of his contract are as follows**:

x x x x

However, if after repatriation, the seafarer still requires medical attention arising from said injury or illness, he shall be so provided at cost to the employer until such time he is **declared fit or the degree of his disability has been established by the company-designated physician.**

3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is **declared fit to work or the degree of permanent disability has**