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SECOND DIVISION

[G.R. No. 175894, November 14, 2008]

NYK-FIL SHIP MANAGEMENT INC., AND/OR JOSEPHINE J. FRANCISCO AND TMM CO. LTD, TOKYO, JAPAN, PETITIONERS, VS. ALFONSO T. TALAVERA, RESPONDENT.

D E C I S I O N

CARPIO MORALES, J.:

Alfonso T. Talavera (respondent) entered into a nine-month contract of employment with petitioner NYK-Fil Ship Management, Inc. (NYK-Fil) and/or Josephine J. Francisco, acting for and in behalf of petitioner TMM Co., Ltd. - Tokyo, Japan, as a fitter on board the *M.T. Tachiho* vessel. As a fitter, he performed repair and maintenance and welding works which called for him to move heavy equipment and materials.

After respondent started working in June 2003, he, on several occasions, felt slight pains in his back and other parts of his body. He thus had frequent consultations with the ship medical officer who gave him analgesics. The pain persisted and became more severe as it radiated to his feet, hence, he consulted a clinic in Oman on August 16, 2003 and was diagnosed to have ureteric colic with urinary tract infection.

The following day or on August 17, 2003, respondent was repatriated to the Philippines following which he consulted the Sachly International Health Partners, Inc. (SHIP), a company-designated clinic, which diagnosed him to have lumbar strain with plantar fascitis and urinary tract infection.

Respondent thus went through daily physical rehabilitation therapy. After undergoing a Magnetic Resonance Imaging (MRI) and other tests, he was finally diagnosed to have "chronic bilateral L6 radiculopathies probably secondary to a lumbar canal" and "motility-like dyspepsia." He was later deemed fit to resume sea duties by specialists of the SHIP.[1]

Respondent sought a second opinion from an orthopedic expert who diagnosed him to have "lumbar spondylopathy, lumbar disk protrusion, L5-S1" and declared him unfit for further sea duties.[2] The doctor recommended a partial permanent disability with Grade 8 impediment based on the Philippine Overseas Employment Administration (POEA) Contract.[3]

Respondent thereupon sought to claim illness allowance and disability benefits from petitioners. His claim was denied in view of the declaration by the company-designated physicians that he was fit to work, drawing respondent to file a complaint[4] against petitioners, docketed as NLRC-NCR Case No. (M) 04-05-01242-00, for disability benefits, illness allowance, damages and attorney's fees, invoking

Sections 1 and 3 of Article XXI of the Collective Bargaining Agreement (CBA) between the All Japan Seamen's Union/Associated Marine Officers' and Seamen's Union of the Philippines and Global Marine Co., Ltd. as well as Sections 20 (B) (3) and 20 (B) (6) of the POEA Standard Employment Contract.[5]

By Decision[6] of June 28, 2005, the Labor Arbiter, finding that respondent was "not yet fit to perform his usual task as fitter" and noting that he had been declared unfit for further sea duty, awarded him "100% compensation as disability benefit" in the amount of $88,000 inclusive of attorney's fees. It denied, however, his prayer for illness allowance and damages, such allowance having already been paid and the claim for damages not having been justified.[7]

Petitioners alleged to have received the Labor Arbiter's decision on July 13, 2005 and thus had until July 23, 2005 to file their memorandum on appeal. July 23, 2005 being a Saturday and the following Monday, July 25, 2005, being a special non-working holiday, petitioners filed their Memorandum on Appeal[8] on July 26, 2005 before the National Labor Relations Commission (NLRC).

The NLRC dismissed petitioners' appeal for having been filed out of time,[9] it finding that "per Registry Receipt address[ed] to [petitioners' counsel]," copy of the Labor Arbiter's decision was received by them on July 12, 2005, hence, "the ten (10) day reglementary period within which to perfect an appeal was up to July 22, 2005."

Petitioners filed a Motion for Reconsideration of the NLRC order, their counsel contending that:

> x x x The aforementioned decision by the Labor Arbiter was received by the Makati Central Post Office on 12 July 2005 but the same was not delivered to the undersigned law office until 13 July 2005 by Letter Carrier JACOB ZETA. Attached hereto as Annex "A" is a certification issued by Ms. Emily A. Gianan, Chief, Administrative Unit of the Makati Central Post Office stating that the records of their office reflect the undersigned's manifestation that the decision was received by JANICE CANTALOPEZ [of the office of petitioners' counsel] on 13 July 2005, as stated in [petitioners'] Memorandum on Appeal dated 26 July 2005.
>
> As the Honorable Commission is well aware, 25 July 2005 was declared a special non-working holiday. Thus, the filing by the Respondents-Appellants of their Memorandum on Appeal on the next working day, 26 July 2005, was timely and indubitably within the reglementary period.[10] (Underscoring supplied)

The NLRC denied petitioners' Motion for Reconsideration by Resolution of January 31, 2006, declaring that:

> x x x [T]he appeal was filed out of time based on the Registry Return Receipt returned by the Post Office to this Commission, which forms part of the records of the case showing that a copy of the decision was **received by respondents['] counsel on July 12, 2005**, and not on July 13, 2005 as alleged in respondents' Motion for Reconsideration. The certification of Ms. Emily A. Gianan of the Makati Central Post office

> cannot invalidate the same official Registry Return Receipt that the very same post office sent back to this Commission showing the date of receipt by respondents['] counsel as July 12, 2005 on the face thereof. [11] (Emphasis and underscoring supplied)

Petitioners thereupon filed a Petition for Certiorari before the Court of Appeals,[12] their counsel alleging that:

> x x x Upon being confronted with the registry return card after the denial of Petitioners' Motion for Reconsideration by Public Respondent, Ms. Cantalopez [of the office of petitioners' counsel] realized that she had inadvertently and mistakenly entered the date "12" and not "13". She had actually received the decision of the Labor Arbiter on 13 July 2005 and had later that same day recorded that date accurately on the undersigned's copy of the Decision and in an "incoming" logbook, along with other incoming correspondences addressed to the undersigned law firm, before routing these to the appropriate attorney's, as is the Firm's standard practice and internal operating procedure. This may be considered as akin to a mere typographical error and should not be given the extreme punishment of dismissal of Petitioner's Appeal. x x x[13] (Underscoring supplied)

Attached to the petition was the affidavit of Cantalopez of the office of petitioners' counsel and a copy of the pertinent page of the logbook of the same office[14] reflecting the receipt on July 13, 2005 of the Labor Arbiter's decision.

The Court of Appeals dismissed the petition for, *inter alia,* failure to show that Marcelo R. Rañenes (Rañeses), Vice President of petitioner NYK-FIL Ship Management who signed the verification and certification of non-forum shopping, was authorized to sign for and in behalf of the said company.[15] Petitioners filed a Motion for Reconsideration,[16] attaching a copy of the Board Resolution of NYK-Fil Ship Management, Inc. authorizing Rañeses to sign the required verification and certification "at any stage of the subject case." Their motion was denied,[17] hence, the present Petition[18] raising the sole issue of:

> WHETHER A TOTALLY NEW BOARD RESOLUTION AUTHORIZING A CORPORATE OFFICER TO SIGN THE VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING IS SPECIFICALLY REQUIRED IN THE FILING OF A PETITION FOR REVIEW ON CERTIORARI UNDER RULE 65, BEFORE THE COURT OF APPEALS, EVEN IF A PREVIOUS BOARD RESOLUTION HAD ALREADY BEEN ISSUED IN FAVOR OF THE VERY SAME CORPORATE OFFICER AUTHORIZING HIM TO SIGN FOR AND IN BEHALF OF THE COMPANY "AT ANY STAGE" OF THE CASE.[19]

Annexed to the petition is a Secretary's Certificate attesting to the conduct of a special meeting of the Board of Directors of petitioner NYK-Fil Ship Management, Inc. in which said petitioner "is now ratifying the actions of its Vice President Rañeses and submit such ratification to this Honorable Supreme Court."[20]

The law allows a corporation to ratify the unauthorized acts of its corporate officer. [21] With the ratification by petitioner NYK-Fil of Rañeses' accomplishing of the

verification and certification of non-forum shopping which accompanied petitioners' petition for certiorari before the Court of Appeals, said petitioner had substantially complied with the requirements of the law. Any defect in the signing of the verification and certification of non-forum shopping is thus deemed cured. If this Court had, in some instances, allowed the belated filing of the certification against forum shopping, or even excused the non-compliance therewith, this Court *a fortiori* should allow the timely submission of such requirements, albeit the proof of the authority of the signatory was put forward only after.[22]

While the normal course of action would be to remand the case to the appellate court for decision on the merits, it is well within the conscientious exercise of this Court's broad review powers to choose to render judgment on the merits, all material facts having been duly laid before it as would buttress its ultimate conclusion, in the public interest and for the expeditious administration of justice.

Petitioners insist that they received notice of the Labor Arbiter's decision on July 13, 2005 and not on July 12, 2005 as indicated by their counsel's employee Cantalopez in the Registry Return Card. It is a generally accepted rule that when service is made by registered mail, the service is deemed complete and effective upon actual receipt by the addressee as shown by the Registry Return Card.[23] Between the Registry Return Card on one hand, and the Certification issued by Ms. Emily A. Gianan, Chief, Administrative Unit of the Makati Central Post Office that copy of the Labor Arbiter's decision was served on petitioners' counsel on July 13, 2005 and the entry of petitioners' counsel's office logbook stating that copy of the decision was received on July 13, 2005, on the other, the Registry Return Card commands more weight.[24] The Registry Return Card is considered as the official record of the NLRC. It is presumed to be accurate, unless proven otherwise, unlike a written record or note of a party which is often self-serving and easily fabricated.[25]

Nevertheless, this Court deems it proper to relax procedural rules in the interest of substantial justice[26] in view of the partial merit of petitioners' appeal before the NLRC.

Before the NLRC petitioners raised the following issues:

I

WHETHER THE COMPLAINANT-APPELLEE IS ENTITLED TO DISABILITY BENEFITS, DESPITE THE FACT THAT THE COMPANY-DESIGNATED PHYSICIAN HAD ASSESSED HIM AS FIT TO RESUME SEA DUTIES.

II

WHETHER THE COMPLAINANT-APPELLEE IS ENTITLED TO DISABILITY BENEFITS, DESPITE THE FACT THAT HIS ILLNESS OR INJURY IS NOT WORK-RELATED.

III

WHETHER THE COMPLAINANT-APPELLEE IS ENTITLED TO DISABILITY BENEFITS, DESPITE THE FACT THAT HIS ILLNESS OR INJURY WAS NOT

CAUSED BY AN ACCIDENT.

IV

WHETHER COMPLAINANT-APPELLEE IS ENTITLED TO ATTORNEY'S FEES. [27]

Respecting petitioners' argument that a company-designated physician declared respondent fit to resume sea duties, the right of a seafarer to seek a second opinion is recognized by the POEA Standard Employment Contract of 2000, the CBA governing the relationship between petitioners and respondent, and jurisprudence.

Section 20 (B) (3) of the POEA Standard Employment Contract of 2000 provides:

> **SECTION 20. COMPENSATION AND BENEFITS FOR INJURY AND 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
>
> 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 been assessed by the company-designated physician but in no case shall this period exceed one hundred twenty (120) days.
>
>   For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits.
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>   **If a doctor appointed by the seafarer disagrees with the assessment,** a third doctor may be agreed jointly between the Employer and the seafarer. The third doctor's decision shall be final and binding on both parties. (Emphasis and underscoring supplied)

This provision substantially incorporates the 1996 POEA Standard Employment Contract. Passing on the 1996 POEA Standard Employment Contract, this Court held that "[w]hile it is the company-designated physician who must declare that the seaman suffers a permanent disability during employment, it does not deprive the seafarer of his right to seek a second opinion," hence, the Contract "recognizes the prerogative of the seafarer to request a second opinion and, for this purpose, to consult a physician of his choice."[28]

The CBA governing the relationship between petitioners and respondent contains provisions similar to the aforecited provision of the POEA Standard Employment Contract of 2000, thus: