

SECOND DIVISION

[G.R. No. 123891, February 28, 2001]

**PHILIPPINE TRANSMARINE CARRIERS, INC., PETITIONER, VS.
NATIONAL LABOR RELATIONS COMMISSION, PHILIPPINE
OVERSEAS EMPLOYMENT ADMINISTRATION, AND CARLOS
NIETES, RESPONDENTS.**

D E C I S I O N

QUISUMBING, J.:

This petition seeks to annul and set aside the decision dated September 25, 1995 of the National Labor Relations Commission (NLRC) in NLRC-NCR Case No. 009101-95. Said decision affirmed with modification the judgment dated March 16, 1995 of the Philippine Overseas Employment Administration (POEA), ordering the herein petitioner and Pioneer Insurance and Surety Corporation to pay private respondent jointly and severally the sum of US\$21,000 or its peso equivalent at the time of actual payment and P34,114.00 as reimbursement for medical expenses plus 10% of the total award as attorney's fees in favor of the private respondent. In its Resolution dated December 29, 1995, the NLRC also denied petitioner's motion for reconsideration.

The facts in this case are as follows:

On January 23, 1993, private respondent, Carlos Nietes filed a complaint against Philippine Transmarine Carriers Inc. (PTC) for payment of disability benefit, sickness wages, refund of medical expenses and attorney's fees. Pioneer Insurance and Surety Corp. was impleaded as surety of respondent PTC.

Private respondent alleged that he was a licensed Captain and/or Master Mariner. For the period March 1985 to May 17, 1990, he was employed by PTC. He last boarded M/V MA. ROSARIO where he served as Master from April 11, 1990 to May 17, 1990. At that time he was a member of good standing of the Associated Marine Officers and Seamen's Union of the Philippines (AMOSUP), an affiliate of the International Transport Federation (ITF) of London. He paid his union dues, insurance premiums, etc., which were checked-off from his salaries.

As Master on board, he received US\$1,500.00 per month. From May 10, 1990 up to May 17, 1990, the date he was repatriated, he was hospitalized at the Moji Hospital in Moji, Japan, at the instance of the vessel's owners. Upon his arrival in the Philippines, he was instructed by PTC and AMOSUP to report to the Seamen's Hospital, a hospital owned and operated by AMOSUP. On May 19, 1990, Dr. George Matti of the Seamen's Hospital issued a medical certification that he was unfit for work and was instructed to continue treatment/medication.

When he was refused admission at the Seamen's Hospital, he was forced to secure

medical treatment at the Sto. Niño Medical Specialist and Emergency Clinic as an out-patient. His attending physician was Dra. Geraldine B. Emperador. Her diagnosis showed he was unfit to work as Master of the vessel.

On May 25, 1992, he referred his claims to Atty. Oscar Torres who repeatedly informed PTC of the claim for benefits and refund. Sometime in July 1992, he was informed by Atty. Torres that his claim was being handled by Atty. Augusto Arreza, Jr., PTC's legal consultant and that they had submitted all the required documents to Atty. Arreza, including the carbon original of the Medical Certificate issued by Dr. Matti of the Seamen's Hospital which certificate states that he was not fit to work.

From November 1992 up to the filing of this petition, Atty. Torres allegedly had not talked to Atty. Arreza. Being a member of AMOSUP from 1985 to 1990, until he was declared unfit to work, petitioner claimed he was entitled to "permanent total disability" benefit in the amount equivalent to 86% of the US\$18,000.00, sickness wage benefit in the sum of US\$6,000.00 as per Section C, Subsection (c) of the POEA Standard Format, plus ten percent (10%) of the total judgment award and attorney's fee.

In his supplemental complaint, private respondent further asked for refund of medical expenses incurred in the amount of P30,411.00 plus professional fee of P4,000.00 or a total of P34,411.00. Receipts covering these payments were submitted as Annexes "I" and "II."

On March 16, 1995, the POEA Adjudication Office issued its decision in favor of the private respondent. It held that

WHEREFORE, judgment is hereby rendered, ordering respondents Philippine Transmarine Carriers Inc. and Pioneer Insurance and Surety Corp. to pay complainant jointly and severally the sum of TWENTY ONE THOUSAND US DOLLARS (US\$21,000.00) or its peso equivalent at the time of actual payment and P34,114.00 representing reimbursement of medical expenses plus ten percent (10%) thereof of the total award by way of and/as attorney's fees.

All other causes or actions are dismissed for lack of merit.

SO ORDERED.

Petitioner appealed said decision to the NLRC which affirmed it except for the award of attorney's fees which is deleted for lack of factual and legal basis. NLRC later denied petitioner's motion for reconsideration.

Petitioner now contends that the NLRC acted with grave abuse of discretion amounting to lack or excess of jurisdiction in:

A

...AWARDING DISABILITY BENEFIT TO PRIVATE RESPONDENT DESPITE THE ABSENCE OF PROOF OF HIS PERMANENT DISABILITY AND THE DEGREE THEREOF.

B

...ARBITRARILY DISREGARDING THE WELL-ESTABLISHED FACT THAT THE ABSENCE OF A DETERMINATION OF PRIVATE RESPONDENT'S PERMANENT DISABILITY AND THE DEGREE THEREOF WAS DUE SOLELY TO HIS FAULT.

C

...AWARDING SICK WAGES TO PRIVATE RESPONDENT FOR THE FULL PERIOD OF 120 DAYS NOTWITHSTANDING THE ABSENCE OF A DECLARATION OF HIS UNFITNESS TO WORK OR A DETERMINATION OF THE DEGREE OF HIS PERMANENT DISABILITY.

D

...GRANTING THE REIMBURSEMENTS OF PRIVATE RESPONDENT'S MEDICAL EXPENSES DESPITE THE FACT THAT THE LATTER'S TREATMENT WAS DONE BY A PHYSICIAN NOT DESIGNATED OR ACCREDITED BY PETITIONER IN VIOLATION OF THE POEA STANDARD CONTRACT.

The main issue is whether the NLRC gravely abused its discretion in affirming with modification, the judgment of the POEA Adjudication Office.

Petitioner admits that private respondent suffered illness which rendered him unfit for work. However, it points out that private respondent did not submit proof of the extent of his disability as required by Section C (4) [b] and [c] of the POEA Standard Contract for Seamen.^[1] Without this proof, petitioner argues that the NLRC gravely abused its discretion when it affirmed the findings of the POEA.

Petitioner also contends that public respondents erred in awarding sick wages for 120 days in favor of the private respondent without evidence on record establishing the extent of his disability, which is essential in determining the correct amount of disability benefit. Further, petitioner avers private respondent's claim for refund of the medical expenses should have not been granted by the public respondents on the ground that the physician who treated private respondent was not accredited in violation of the POEA Standard Contract for Seamen.

Public respondents held that "in effect, the complainant has substantially complied with the POEA Standard of Employment Contract for Seamen when he submitted himself to the Seamen's Hospital three days after his repatriation from Japan."^[2] They also found that private respondent had in fact substantially complied with the post-employment requirements under paragraph 4 [b] and [c] of Section c,^[3] of the POEA Standard Employment Contract for Seamen. We note that private respondent submitted himself, upon the instructions of the petitioner and AMOSUP, to the Seamen's Hospital, which is owned and operated by AMOSUP, for medical assistance under the care of Dr. George Matti, a company accredited physician, three days after his May 17, 1990 repatriation from Japan.

On record, private respondent was examined and diagnosed at the Seamen's Hospital and was found to be suffering from congestive heart failure and cardiomyopathy, so that he was declared unfit to work by no less than a company