

THIRTEENTH DIVISION

[CA-G.R. SP NO. 129771, March 27, 2015]

MARICEL E. DESTREZA^[1], PETITIONER, VS. DOHLE PHILMAN MANNING AGENCY INC. AND/OR DOHLE (IOM) LTD., MANOLO GACUTAN, AND NATIONAL LABOR RELATIONS COMMISSION (SECOND DIVISION), RESPONDENTS.

DECISION

CORALES, J.:

This is a Petition for *Certiorari*^[2] under Rule 65 of the Rules of Court seeking the nullification of the January 7, 2013 Decision^[3] and February 25, 2013 Resolution^[4] of the National Labor Relations Commission (NLRC) in NLRC LAC No. 10-000863-12. The assailed Decision reversed and set aside the August 10, 2012 Decision^[5] of the Labor Arbiter and in effect dismissed the complaint for permanent total disability filed by Allan A. Destreza (Allan) against private respondents DOHLE-Philman Manning Agency, Inc. (DOHLE-Philman), DOHLE (IOM) Limited (DOHLE-Limited), and Manolo T. Gacutan. The challenged Resolution denied Allan's subsequent motion for reconsideration.

The Antecedents

On September 5, 2011, DOHLE-Philman engaged the services of Allan as wiper on board MV Chaiten which is operated by DOHLE-Limited. Allan boarded the vessel after having been declared "fit for sea duty" in his Pre-Employment Medical Examination (PEME).^[6]

In the course of Allan's employment, he complained of severe headache, dizziness, and joint pains and was diagnosed with "elevated blood pressure with fibromyalgia and heat exhaustion" by the attending physician at Jebel Ali International Hospital in Dubai, United Arab of Emirates. The attending physician also declared Allan "unfit for duty" and recommended his repatriation.^[7]

On January 6, 2012, Allan was medically repatriated.^[8] Upon his arrival in the Philippines, he was referred to the company-designated physicians at Metropolitan Medical Center (MMC) and subjected to several tests including chest x-ray, 12 Lead ECG, and ultrasound. He was also put under the care of a cardiologist and neurologist who gave him medications for reactive hypertension.^[9] He returned to MMC on January 11, 2012 and February 3, 2012 for re-evaluation and another series of tests such as ultrasound of the whole abdomen, 2D Echo Study with color flow doppler study, treadmill stress test, and clinical CT scan.^[10] During the February 3, 2012 re-evaluation, Allan no longer complained of headache, vomiting or chest discomfort, his blood pressure was already controlled, and the laboratory

tests revealed normal results. The company-designated physicians diagnosed him with hypertension and tension headache which is “multifactorial” in origin and not work-related.^[11]

Allan was re-evaluated on February 16, 2012 and the company-designated physicians cleared him for work. He was pronounced fit to resume sea duties as of said date.^[12] He then signed a Certificate of Fitness For Work^[13] releasing DOHLE-Philman from all actions, claims, and demands.

However, on March 9, 2012, Allan filed before the Labor Arbiter a complaint^[14] for permanent disability benefits, sickness wages, and damages against DOHLE-Philman and DOHLE-Limited. He later on consulted Dr. Antonio Pascual (Dr. Pascual), a cardiologist who issued a medical certificate^[15] stating that Allan was “seen and examined on 17-May-12 with the following finding/s and/or diagnosis/diagnoses: Bradycardia, to rule out Sinus Node Dysfunction” and was “MEDICALLY UNFIT TO WORK as a seaman”. He invoked the foregoing findings when he filed his position paper. He claimed that his condition did not actually improve and he could no longer perform any sea duty contrary to the “fit to work” assessment of the company-designated physicians. He attributed his medical condition to the strenuous physical activities he performed and the limited provisions on board which are mostly frozen and high in cholesterol.

In their Position Paper,^[16] private respondents argued that Allan was already declared fit to work effective February 16, 2012 and his hypertension is genetic and lifestyle related, not work-related. The nature of his job has nothing to do with his genetic predisposition, poor lifestyle, and high salt intake and there is no substantial evidence of causal connection between his work as seafarer and his alleged illness. They added that the findings of the company-designated physician is controlling instead of Allan's bare and self-serving assertion to the contrary. They pointed out that when Allan executed the Certificate of Fitness for Work, he already acknowledged the matters stated therein and cannot now be allowed to contradict himself for the mere purpose of obtaining monetary compensation.

The Rulings of the Labor Arbiter and the NLRC

In the August 10, 2012 Decision,^[17] the Labor Arbiter noted the undisputed fact that Allan was declared “fit to work” in his PEME and he subsequently suffered illness while on board the vessel. It was concluded that Allan's illness was not shown to be pre-existing and Dr. Pascual's medical findings were more reflective of Allan's actual condition because the company-designated physicians declared Allan fit to work despite the categorical findings that he had hypertension which requires medication. Accordingly, the Labor Arbiter upheld Allan's entitlement to permanent total disability and attorney's fees. However, the claims for sickness wages and damages were denied for lack of factual and legal basis. The dispositive portion of the Labor Arbiter's Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered ordering respondents **Dohle-Philman Manning Agency Inc., and/or Dohle (IOM) Limited** to pay complainant **Allan A. Destreza**, jointly and severally the amount of **SIXTY SIX THOUSAND US DOLLARS (US\$66,000.00)** or its equivalent in Philippine Peso at the prevailing

rate of exchange at the time of actual payment representing his total permanent disability benefits and attorney's fees.

All other claims are **DISMISSED** for lack of merit.

SO ORDERED. (Emphasis appears in the original text of the Decision)

On appeal, the NLRC, through its January 7, 2013 Decision,^[18] reversed and set aside the Labor Arbiter's findings. It gave more credence to the findings of the company-designated physicians because they conducted an exhaustive examination of Allan's condition as compared to Dr. Pascual who was consulted by Allan only on May 17, 2012 when the complaint was already filed. It further held that the Certificate of Fitness For Work has been translated in Filipino, thus, it can be safely presumed that Allan read and fully understood its contents and terms before he affixed his signature thereon. It disposed the appeal as follows:

WHEREFORE, in the light of the foregoing, the appeal is hereby **GRANTED.**

The assailed Decision dated 10 August 2012 is hereby ordered **REVERSED** and **SET ASIDE.** A new one is hereby entered **DISMISSING** the instant complaint for lack of merit.

All other reliefs herein sought and prayed for are hereby **DENIED** for lack of merit.

SO ORDERED. (Emphasis appears in the original text of the Decision)

Allan sought reconsideration but the NLRC denied the same through its February 25, 2013 Resolution.^[19]

Hence, this petition for *certiorari* raising the following issues:

1. Whether or not the Honorable Commissioner committed grave abuse of discretion in finding that – (1) complainant was not medically repatriated; (2) his illness is not work-related; (3) complainant is fit to work as determined by the company-designated physician; (4) the purported Affidavit of Quit-Claim and Release should be given credence and proper; Thus, the Honorable Commission erroneously concluded that complainant is not entitled to any of the relief previously awarded by the Honorable Labor Arbiter.
2. Whether or not the Honorable Labor Arbiter (*sic*) committed grave abuse of discretion in dismissing the claims for damages and attorney's fees despite the fact the (*sic*) appellee committed gross negligence in affording appellant medical attention while on board the vessel? (*sic*)

Allan argues that he was medically repatriated due to a work-related illness which he acquired while on board the vessel and after being declared fit to work prior to embarkation. He allegedly developed hypertension due to poor and unhealthy provisions and stressful and strenuous work conditions on board the vessel, and

since his repatriation up to the filing of the present petition, or for more than 240 days, he failed to discharge his duties as a seafarer, thus, he is entitled to permanent total disability. He insists that the findings of the company-designated physicians are not automatically binding on him and may be disputed by seasonably consulting another doctor like Dr. Pascual. Lastly, he assails the validity of the Certificate of Fitness for Work for being procured through fraud or deceit.^[20]

Private respondents maintain that all their obligations to Allan ceased after he was declared fit to work by the company-designated physicians on February 16, 2012 or after 38 days of medical treatment. They further claim that there was no substantial evidence to support Allan's allegation that he was subjected to poor provisions and exposed to stressful work conditions.^[21]

Before We could resolve the petition, Allan passed away. His wife, Maricel E. Destreza (Maricel), continued pursuing the case after proper substitution of parties.^[22]

This Court's Ruling

The petition is devoid of merit.

As a rule, petitions for *certiorari* under Rule 65 of the Rules of Court involve only jurisdictional issues or grave abuse of discretion amounting to lack or excess of jurisdiction. Hence, this Court refrains from reviewing factual assessments of the NLRC except when there is insufficient or insubstantial evidence on record to support those factual findings; or when too much is concluded, inferred or deduced from the bare or incomplete facts appearing on record; or when the NLRC and the Labor Arbiter have come up with conflicting positions.^[23] In this case, the NLRC and the Labor Arbiter had conflicting decisions as to the propriety of Allan's claim for permanent total disability, thus, We are constrained to wade into the factual matters to determine which findings are more in conformity with the evidence on records.^[24]

After a thorough examination of the records and the respective arguments of the parties, We are more inclined to affirm the findings of the NLRC which were well supported by substantial evidence and in accord with pertinent laws and established jurisprudence.

No Substantial Evidence of Permanent Total Disability

The entitlement of seafarers to disability benefits is governed by the medical findings, by law, and by their contract which must embody the pertinent provisions of Section 20-B(3) of the Philippine Overseas Employment Agency-Standard Employment Contract (POEA-SEC),^[25] viz.:

SECTION 20. COMPENSATION AND BENEFITS

x x x

B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS The liabilities of the employer when the seafarer suffers work-related injury or illness