

SPECIAL SIXTEENTH DIVISION

[CA-G.R. SP. No. 134212, March 24, 2015]

**JORGE D. CARDONES, JR., PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION (THIRD DIVISION), STATUS
MARITIME CORP., CINER SHIPMANAGEMENT AGENCY
INDUSRIAL AND TRADING INC., AND MR. EDWIN A. RIVERA,
RESPONDENTS.**

D E C I S I O N

BRUSELAS, JR. J.:

Petitioner Jorge D. Cardones (Cardones) filed the herein petition for *certiorari*^[1] under Rule 65 of the Rules of Court, to invalidate, for having been rendered with grave abuse of discretion, the—

(a) Decision,^[2] the dispositive of which, reads –

“WHEREFORE, the appeal filed by complainant is hereby DENIED for lack of merit. The decision dated 27 September 2013 is AFFIRMED.

SO ORDERED.”

and –

(b) Resolution^[3] which denied petitioner's motion for reconsideration of the assailed Decision.

The facts of the case as found by the labor arbiter and reiterated by the NLRC are as follows:

Cardones entered into a Contract of Employment with the respondents Status Maritime Corporation and its foreign principal, Ciner Shipmanagement Agency Industrial & Trading Inc., which was patterned after and approved in accordance with the amended Philippine Overseas Employment Administration-Standard Terms and Conditions Governing the Employment of Filipino Seafarers On-Board Ocean-Going Vessels (POEA-SEC). He was contracted for a period of nine (9) months, with additional three months upon mutual consent, to serve as Cook on board the vessel M/V “TRABZON” with a monthly basic salary of US \$876.00. Prior to the execution of the contract, he underwent pre-employment medical examination (PEME) and was declared fit to work as Chief Cook. On 6 November 2011, he departed from the point of hire and embarked on his assigned vessel. As Chief Cook, his duties included supervising and coordinating the activities of the kitchen personnel in preparing meals aboard ship; coordinating with the Master on matters pertaining to food supplies and equipment; determining time and sequence of cooking operations; inspecting galley mess hall and equipment; butchering and preparing meats, fowl

and seafood for cooking; and lifting heavy loads of provisions and stocks. His work consisted of eighteen (18) hours a day.

On 23 August 2012, due to the hostile working conditions at the vessel, Cardones felt dizziness, chest pain and easy fatigability. He requested medical attention which the Master did not grant due to cost-cutting measures then being implemented by the respondents. Due to serious illness, he signed off on 28 August 2012. Upon his arrival on 29 August 2012, Cardones went directly to his hometown in Naic, Cavite. On the next day, he was brought to the San Lorenzo Ruiz Hospital in Naic, Cavite due to severe body weakness, dizziness and blurring of vision. His wife informed the respondents of his situation but she received no response from the latter. Cardones was discharged from the hospital on 1 September 2012. He reported to the respondents on the same day and was told to await the Master's Report. No report, however, was given to him. He was not also accorded any medical attention.

On 19 March 2013, a medical certificate was issued by his attending physician which stated that he was suffering from *Diabetes Mellitus 2, Uncontrolled Retinopathy and Cataract OD* and that he was unfit to do medium and heavy jobs. On 21 February 2013, he underwent ECG and 2D Echo, which revealed abnormal results. On 26 February 2013, he was examined and confined at the Philippine General Hospital (PGH). His admitting diagnosis was "*CSM OD, Pseudophakia, S/P LE with IL*". On 11 March 2013, he was again examined and confined at the PGH with admitting diagnosis of "*DMT2, Uncontrolled and Retinopathy, Cataract OD Pseudopakia S/P LE*." On 10 April 2013, he was again examined and confined at the PGH due to chest pain, and after his discharge, he was issued a Clinical Abstract stating that his admitting diagnosis was "*T/C Coronary Artery Disease. Type 2 DM*." On 24 April 2013, he was issued a Medical Certificate with final diagnosis of "*T/C Coronary Artery Disease; Type 2 Diabetes Mellitus, Cataract Senile mature; Right Eye Pseudophakia; S/P LE with Introcular lens; and Myopic fungus changes, both eyes*." He was suggested to undergo angioplasty. In order to determine the nature and degree of his disability, he sought the expert opinion of an independent physician/cardiologist, Dr. Rommel F. Galvez. Dr. Galvez issued a Medical Certificate dated 19 April 2013 stating that Cardones still complained of on-and-off angina and that he was permanently unfit to work.

Cardones contended that because of his incapacity to work due to his work-related illness, which he contracted during the effectivity of his contract, the respondents should be held liable to him for the payment of total disability compensation. He also claimed that he should be entitled to sickness wages for 120 days, moral and exemplary damages and attorney's fees.

On the part of the respondents, they argued that Cardones should not be entitled to his claims because he failed to undergo the mandatory post-employment medical examination and he did not even report for debriefing. They further asserted that Cardones had finished his contract without any medical issue and that his diagnosed illness was not work-related.

The respondents submitted the affidavit of Edwin A. Rivera, Crewing Manager, who stated that Cardones never brought to the respondents' attention any medical complaint during the term of his employment, and that upon completion of his contract, he did not present himself for debriefing or request for medical assistance. They also submitted the Statement of Captain Camilo F. Nailon, Master of M/V

"TRABZON", who certified that no report of any illness or request for medical attention involving Cardones was ever reported during the latter's stay on board the vessel.

In his Decision,^[4] the labor arbiter dismissed Cardones' complaint for lack of merit. According to the labor arbiter, while it appeared that the 9-month contract may be the subject of a 3-month extension, the extension, however, must be upon mutual consent of the parties. The fact that Cardones was signed off and repatriated after completing 9 months of service showed that no contract extension was undertaken. As such, Cardones was deemed to have completed or finished his contract.

The labor arbiter found no indication that Cardones, at the time he was discharged from the vessel, was suffering from an illness or that his repatriation was undertaken on medical grounds. As such, the labor arbiter held that the provisions of Section 18 B.1 of POEA-SEC on medical repatriation was not applicable, so as to render the respondents liable for the obligations under Section 20-A of the POEA-SEC. The labor arbiter further ruled that Cardones was disqualified from claiming benefits under Section 20 of the POEA-SEC as there was no proof that he reported to the respondent manning agency for the conduct of a post-deployment medical examination.

The labor arbiter also found that Cardones' diagnosed illness of Diabetes Mellitus 2 was not listed as an occupational illness while retinopathy was merely incidental to, or a necessary medical consequence for patient diagnosed with diabetes mellitus.

It was also noted by the labor arbiter, that contrary to Cardones' claim, it was incumbent upon him to prove causality for purposes of claiming compensation benefits. The labor arbiter, however found no proof to establish that Cardones' working conditions and environment aggravated his illness to render any incapacity arising therefrom to be compensable.

The labor arbiter further ruled that even on the assumption that Cardones was diagnosed to be suffering from coronary artery disease which was listed as an occupational illness, the latter still had the the burden to prove the existence of the conditions for compensability.

Given the foregoing circumstances, the labor arbiter did not sustain Cardones' claim for disability benefits.

Finally, there being no proof of bad faith or malice on the part of the respondents, the labor arbiter likewise denied Cardones' claims for damages and attorney's fees.

Cardones appealed the decision of the labor arbiter to the NLRC.

On 29 November 2013, the NLRC affirmed the decision of the labor arbiter. According to the NLRC, while Cardones' wife may have asserted that she informed respondents that her husband had been hospitalized a day after his arrival, she, however, failed to identify the personnel of the respondent manning agency to whom she relayed the said information. Neither was Cardones able to identify the personnel of the respondent manning agency to whom he reported on 1 September 2012 and who told him to wait for the Captain's Report. If indeed, Cardones was confined at a hospital in Naic, Cavite from 30 August 2012 to 01 September 2012,