

FOURTH DIVISION

[CA-G.R. SP No. 137751, March 24, 2015]

PETPAUL ALDEA BUENO, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (FIRST DIVISION), BSM CREW SERVICE CENTRE PHILS., INC., BERNHARD SCHULTE SHIP MANAGEMENT (ISLE OF MAN) LTC, AND MR. NARCISSUS L. DURAN, RESPONDENTS.

DECISION

ABDULWAHID, J.:

Before us is a petition for certiorari filed under Rule 65 of the Revised Rules of Civil Procedure, which seeks to annul and set aside the *Decision*^[1] dated June 4, 2014, and *Resolution*^[2] dated August 22, 2014 of the National Labor Relations Commission (NLRC), in NLRC LAC No. OFW (M) 03-000288-14 [NLRC NCR Case No. OFW(M) 11-14724-13].

The undisputed facts, as culled from the records of the case are, as follows:

On January 27, 2013, petitioner Petpaul Aldea Bueno was hired by private respondent BSM Crew Service Centre Phils., Inc. [BSM Crew], in behalf of its foreign principal, private respondent Bernhard Schulte Ship Management (Isle of Man) Ltd., as Chief Cook on board the vessel, Umm Al Lulu-I, for a period of nine (9) months, with a basic monthly salary of US\$698.00.^[3] Petitioner underwent pre-employment medical examination and was declared fit to work.^[4] Thus, he commenced work on February 29, 2012, until he disembarked on November 30, 2012, upon completion of his employment contract.^[5]

On November 11, 2013, petitioner filed with the NLRC a *Complaint*^[6] for permanent disability benefits (for traumatic arthritis on both knees); compensatory, moral and exemplary damages in the amount of P500,000.00 each, and attorney's fees amounting to 10% of his total monetary claims.

In his *Position Paper*,^[7] petitioner alleged that, as Chief Cook, he was constantly exposed to extreme heat in the galley, and then to extreme cold whenever he had to routinely enter the freezer, even while perspiring. Thus, at around the fifth month, petitioner began to suffer severe cough, which later worsened and caused him shortness of breath, chest and muscle pains, dizziness and recurring high fever. His condition worsened to a point that he could no longer bear the pain and found it difficult to perform his job. He reported his condition to the ship captain and even requested for early termination of his contract and early release so that he could seek medical attention, but the same was not granted. Instead, he was made to stay on board the ship until the end of his employment term, since private respondents had not yet found a replacement for him. In the meantime, he was

allowed to rest on board and was given various medications which, however, only worsened, and not alleviated, his condition. On November 20, 2012, he was sent to a clinic in Abu Dhabi, where he was treated by Dr. M. Aravindakshnv and diagnosed with dry cough and traumatic arthritis on both knees.^[8] Nevertheless, he stayed on board until he was repatriated/disembarked the vessel on December 1, 2012. At the same time, he was assured by the ship captain that BSM Crew would assist him and provide him with proper care upon arrival in the Philippines. However, petitioner did not receive any assistance despite his request for help, and he went home on a wheelchair, accompanied only by a colleague.

Due to severe health condition, it was only on December 11, 2012, that petitioner was able to consult with Dr. Alma Neny C. Bion of the Doctors Hospital in Bacolod. Dr. Bion advised him to undergo a chest x-ray because his cough had been ongoing for six months already. He was further examined by a rheumatologist and pulmonologist, and was subjected to various laboratory tests and medication for severe cough and arthritis. On September 26, 2014, Dr. Bion issued a *Medical Certificate and Report*,^[9] diagnosing petitioner with PTB Extensive, TB Bone, old multiple rib fracture or congenital rib deformity. The *Medical Certificate* also indicated that petitioner's pulmonary tuberculosis was only partially treated since his anti-tuberculosis medications had to be stopped after two months due to complications to his arthritis. Through all these procedures, private respondents failed/refused to extend assistance to petitioner, despite his oral requests and demands.

Since petitioner's condition did not improve, and since private respondents continued to refuse to provide medical and financial assistance to petitioner, petitioner was constrained to file his complaint for permanent disability benefits. Further, he sought a second opinion from another independent internist-cardiologist, Dr. Rommel F. Galvez, who issued a medical certificate dated December 4, 2013, declaring petitioner "unfit to work as a seaman", to wit:^[10]

This is to certify that Mr. Petpaul Bueno 40y/o, male previously diagnosed with pulmonary tuberculosis with incomplete treatment base on his medical profile available. At present patient is very weak and was not able to ambulate without support thus makes him unfit to work as seaman.

Further, petitioner maintained that his illness was work-related and compensable under the POEA Standard Employment Contract [POEA-SEC], and that he is entitled to permanent total disability compensation under Section 32 of the POEA-SEC. Finally, petitioner posited that he was entitled to damages and attorney's fees due to private respondents' failure to comply with their contractual obligations by refusing to provide him with medical and financial assistance.

On the other hand, private respondents BSM Crew and Narcissus Duran alleged that petitioner performed his duties as chief cook on board the vessel without any issue until he finished his contract on November 30, 2012. In support thereof, private respondents presented the *Disembarkation Report*^[11] dated November 30, 2012, which indicated that the reason for petitioner's discharge was "EOC" or end of contract. Thus, BSM Crew was surprised when petitioner filed the instant complaint with the NLRC. In its Position Paper,^[12] BSM Crew maintained that petitioner had no

cause of action against the former since it did not commit any act or omission which violated the rights of petitioner. As previously stated, petitioner disembarked from the vessel after finishing his contract, and not because he was suffering from any illness or injury which would have necessitated his medical repatriation. Moreover, BSM Crew noted that petitioner failed to comply with the mandatory reportorial requirement under the POEA-SEC, which incorporated the 2000 Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean Going Vessels, by not reporting for post-medical examination by a company-designated physician, and not the employee's chosen physician, within three days after repatriation or disembarkation, pursuant to the POEA SEC. BSM Crew stressed that the rule requiring post-employment medical examination within three days after repatriation is mandatory in nature, and failure to comply with the same would result to forfeiture of the seafarer's right to claim disability compensation under the POEA SEC.

In his *Reply*,^[13] petitioner countered that, while it was true that he disembarked the vessel due to completion of his employment contract, his illness had begun long before, a fact which he had reported to his ship captain. However, he was made to stay on the vessel and was merely allowed to rest and given medicine during that time. On the other hand, upon his return to Manila, his illness and physical incapacity to freely move on his own rendered it impossible for him to comply with the three-day notice rule. Moreover, private respondents failed to give him medical assistance upon his arrival in Manila, as promised, thus leaving him with no choice but to proceed home to Bacolod, where he sought immediate medical treatment and care.

On February 20, 2014, Labor Arbiter Jose Antonio C. Ferrer rendered its *Decision*,^[14] dismissing the complaint on the ground that petitioner failed to comply with the mandatory post-employment reportorial and medical examination requirement under the POEA-SEC, *viz.*^[15]

WHEREFORE, premises considered, the instant case is hereby
DISMISSED for lack of merit.

SO ORDERED.

Petitioner immediately raised the same on appeal before the NLRC via a *Memorandum of Appeal*.^[16] However, on June 4, 2014, the NLRC rendered its assailed *Decision*, dismissing the appeal, to wit:^[17]

WHEREFORE, the instant appeal is DISMISSED. The Decision of the Labor Arbiter dated February 20, 2014 is hereby AFFIRMED.

SO ORDERED.

Petitioner moved for reconsideration^[18] of the foregoing Decision, but the same was again denied in the NLRC's assailed *Resolution*^[19] dated August 22, 2014.

Aggrieved, petitioner filed the instant petition, praying for the annulment and/or reversal of the above-assailed *Decision* and *Resolution* of the NLRC and raising the following issues:^[20]

1. Whether or not the NLRC erred in dismissing the Complaint on the ground of plain denial of private respondents that petitioner failed to report for post-employment medical examination upon his return in Manila on 01 December 2012?;
2. Whether or not the NLRC erred in applying the exceptions of equivalent post-employment examination and violation of the reciprocal obligation to the general rule mentioned in Section 20(A) (3) of the POEA SEC?;
3. Whether or not the NLRC erred in dismissing the claim for permanent and total disability benefits despite petitioner failed to gainfully employ for a period of more than 240 days since July 2012 or even after arrival in Manila on 01 December 2012?;
4. Whether or not the NLRC erred in dismissing the claim for sickness allowance even if petitioner was medically repatriated due to medical reason needing further treatment?; *and*
5. Whether or not the NLRC erred in dismissing the claims for damages and attorney's fees even if private respondents committed gross negligence in their failure to accord petitioner an immediate medical attention in July and 20 November 2012, which negligence led to his permanent and total disability?

The instant petition is bereft of merit.

A careful examination of the issues raised by petitioner will reveal that most, if not all of said issues involve questions of fact, law and evidentiary matters. It is an oft-repeated rule in jurisprudence that the remedy of *certiorari* may be resorted to only in cases involving errors of jurisdiction or grave abuse of discretion amounting to lack of jurisdiction. In *INC Shipmanagement, Inc. v. Moradas*, the Supreme Court held, as follows: ^[21]

When a labor case decided by quasi-judicial tribunals—the Labor Arbiter (LA) and the National Labor Relations Commission (NLRC)—finds its way into the judicial sphere, the court must proceed and act on the petition on the basic premise that the assailed ruling is a ***final and executory ruling***. This premise, in turn, is based on two facts: *first*, labor cases that reach the CA (and eventually the Supreme Court) are already rulings on the merits that finally dispose of the case; and, *second*, after the labor tribunals have rendered judgment, substantive law no longer provides any remedy of appeal to the losing party.

Notwithstanding the absence of appeal, the aggrieved party is not without any legal remedy. As the legal battle is transferred from the quasi-judicial sphere to the strictly judicial sphere, the aggrieved party must contend with the fact that the new avenue for legal advocacy becomes narrower. The review allowed is limited to ***jurisdictional grounds under Rule 65 of the Rules of Court*** (Rule 65).

A *certiorari* proceeding is limited in scope and narrow in character. The special civil action for *certiorari* lies only to correct acts rendered without jurisdiction, in excess of jurisdiction, or with grave abuse of discretion. *Certiorari* will issue only to correct errors of jurisdiction and not mere errors of judgment, particularly in the findings or conclusions of the quasi-judicial tribunals or lower courts. For errors of judgment, appeal, if provided for by law, is the proper remedy and not *certiorari*. Accordingly, when a petition for *certiorari* is filed, the judicial inquiry should be limited to the issue of whether the NLRC acted with grave abuse of discretion amounting to lack or in excess of jurisdiction.

The supervisory jurisdiction of a court over the issuance of a writ of *certiorari* **cannot be exercised for the purpose of reviewing the intrinsic correctness** of a judgment. Even if the findings of the lower court or tribunal are incorrect, as long as it has jurisdiction over the case, such correctness is **normally** beyond the province of *certiorari*. *Certiorari* xxx xxx xxx (in the guise of correcting errors of jurisdiction even if they are plainly errors of judgment) plainly amounts to **unwarranted judicial legislation, by indirectly creating a non-existing right of appeal**.

Nevertheless, while a *certiorari* proceeding does not strictly include an inquiry as to the correctness of the evaluation of evidence (that was the basis of the labor tribunals in determining their conclusion), **the incorrectness of its evidentiary evaluation should not result in negating the requirement of substantial evidence**. Indeed, when there is a showing that the findings or conclusions, drawn from the same pieces of evidence, were arrived at arbitrarily or in disregard of the evidence on record, they may be reviewed by the courts. In particular, the CA can grant the petition for *certiorari* if it finds that the NLRC, in its assailed decision or resolution, made a factual finding not supported by substantial evidence. A decision that is not supported by substantial evidence is definitely a decision tainted with grave abuse of discretion. (*Emphasis, italics and underscoring in the original.*)

In the present case, petitioner failed to prove grave abuse of discretion on the part of the NLRC in rendering its assailed *Decision* and *Resolution*. On the contrary, we find that the NLRC's findings were substantially supported by the evidence on record and prevailing law and jurisprudence.

Section 20(A)(3) of the 2010 POEA Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers on Board Ocean-Going Ships^[22] provides, as follows:

3. In addition to the above obligation of the employer to provide medical attention, the seafarer shall also receive sickness allowance from his employer in an amount equivalent to his basic wage computed from the time he signed off until he is declared fit to work or the degree of disability has been assessed by the company-designated physician. The period within which the seafarer shall be