

SECOND DIVISION

[CA-G.R. SP No. 122714, May 27, 2014]

NILO M. ALNGOG, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (FIRST DIVISION), TORM SHIPPING PHILS., INC., TORM A/S (FORMERLY KNOWN AS A/S DAMPSEKIESSELSKABET TORM), AND MR. ALFONSO DEL CASTILLO, RESPONDENTS.

DECISION

GAERLAN, S.H., J.:

Before this Court is a Petition for Certiorari^[1] pursuant to Rule 65 of the Rules of Court assailing the 27 July 2011 Decision^[2] and the 21 October 2011 Resolution^[3] of the National Labor Relations Commission (NLRC) in NLRC LAC NO. 10-000877-10. In the assailed Decision, the NLRC reversed the 10 August 2010 Decision^[4] of the Labor Arbiter in NLRC-NCR Case No. (M) NCR-01-00841-10 and dismissed the complaint^[5] filed by herein petitioner Nilo M. Alngog against herein private respondents Torm Shipping Phils., Inc., Torm A/S (formerly known as A/S Dampsekiesselskabet Torm), and Alfonso Del Castillo for lack of merit. On the other hand, the questioned Resolution is a denial of petitioner's Motion for Reconsideration^[6] of the NLRC's earlier Decision.

The facts, as culled from the records, may be summarized in this wise:

In a contract of employment^[7] signed on 10 September 2008, petitioner Nilo M. Alngog (hereinafter called "Alngog") was hired by private respondent A/S Dampskibsselskabet Torm (now Torm A/S) through its local manning agent private respondent Torm Shipping Phils., Inc. (hereinafter called "Torm Shipping"). Alngog was employed on board the vessel Torm Laura under the following terms and conditions:

- 1.1 Duration of Contract: 6 months
- 1.2. Position: GP1/AB Experience Allowance: \$ 46.00
- 1.3. Basic Monthly Salary: \$ 585.00 Education Allowance:\$ 75.00
- 1.4. Hours of Work: 40 Hours
- 1.5. Overtime: \$ 435/Month 103 Hours/mo. OT Rate: \$ 4.23 /Hour
- 1.6. Vacation Leave with Pay: \$176.00/Month
- 1.7. Point of Hire: Manila, Philippines

On 6 November 2008, Alngog boarded the vessel Torm Laura in Mexico. According to Alngog, he performed the duties of a GP1 (General Purpose 1) which includes giving assistance in mooring and in opening and closing the ship's manifold as oiler and motorman, among others. He also worked as an AB or steering man. He alleged that most of the time, the crew of the ship are not equipped with protective clothing

and equipment while they load and unload in ports and that they smell the bad fumes in the cargo.

While on board Torm Laura, Alngog averred that he suffered from uncontrollable coughing and excruciating pain in the stomach coupled with difficulty in breathing. As a consequence thereof, the master of the vessel referred Alngog to a medical facility in Houston, Texas on 20 February 2009. He was diagnosed to have Diabetes Mellitus^[8] but he resumed his work on board although he remained to be in pain while working. Alngog was again referred to a company designated clinic in Corpus Christi, Texas on 19 March 2009 and was eventually ordered to be repatriated for medical treatment.^[9] Consequently, Alngog was signed off on 28 March 2009 in the port of Cristobal, Panama on medical grounds.

Upon Alngog's repatriation, he reported to Torm Shipping on 31 March 2009 and was referred to the company-designated physicians at the Manila Doctors Hospital, namely: Dr. Mary Anne Lim-Abraham and Dr. Nicomedes Cruz (hereinafter called "Dr. Cruz"). Alngog was diagnosed to be suffering from diabetes mellitus type 2 and mild left lower lobe pneumonia.

On 19 April 2009, Alngog was admitted at the St. Luke's Medical Center for diabetes and pneumonia. The bills for said hospitalization was paid through Alngog's personal medical insurance. Thereafter, on 18 May 2009, he was admitted at the Seamen's Hospital being a member of the Associated Marine Officer's and Seamen's Union of the Philippines.

On 20 August 2009, Dr. Cruz declared Alngog to be fit to work.^[10] As he allegedly continued to experience occasional weakness and dizziness, despite having been declared as already fit to work, he consulted Dr. Li-Ann Orenca (hereinafter called "Dr. Orenca") for second opinion. Contrary to the previous declaration of Dr. Cruz, he was declared as totally and permanently disabled with a Grade 1 impediment for diabetes mellitus by Dr. Orenca whose medical certification^[11] indicated that:

The patient is Mr. NILO M. ALNGOG, 51 years old, married, working as Able Seaman since 1990. Patient started employment on his last vessel on November 6, 2008. As Able Seaman, patient is exposed to extended working hours, extreme weather conditions, exposure to chemicals like Benzene and its derivatives working on a finished product tanker, and extreme stress as his work includes actual steering of the vessel through narrow passages and canals.

On February 20, 2009, patient had sudden unbearable abdominal pain. He was seen at a Houston clinic and was diagnosed to have Diabetes Mellitus. He was ordered with low carbohydrate diet and immediately sent home for treatment on March 20, 2009. Patient was confined at the Manila Doctors' Hospital and the St. Luke's Hospital where he was examined by an endocrinologist and the diagnosis of Diabetes Mellitus was confirmed. On August 20, 2009, patient was pronounced fit to work with prescription of Metformin 850mg and Diamicron 80mg. Patient was furthermore advised continued consultation with physician of choice. At present, patient still has dizziness and occasional weakness. Recent FBS check up revealed 234 mg/dl (normal values 80-120 mg/dl) which was taken on Jan. 18, 2010. With this condition he cannot return to work as able seaman and may be considered totally and permanently disabled with

a Grade 1 impediment according to Section 32-A of the Employment Contract.^[12]

With the findings of Dr. Orenzia, Alngog filed a complaint claiming for total disability benefits, sickness allowance, refund of travel expenses, moral and exemplary damages, and attorney's fees before the NLRC against herein private respondents.^[13]

Finding merit in Alngog's complaint, the Labor Arbiter ruled in his favor in its 10 August 2010 Decision,^[14] the dispositive portion of which states:

WHEREFORE, judgment is rendered finding the respondents as jointly and severally liable to the complainant to pay the following:

US Dollar 60,000 as total and permanent disability benefit.

US Dollar 2,340 as sick pay for 120 days.

P11,520.44 as medical reimbursement of air fare only.

Attorneys (sic) Fees equivalent to ten (10%) percent of the total awards.

All other claims are denied for lack of merit.

S O O R D E R E D.^[15]

Aggrieved, the private respondents filed an appeal^[16] from the Decision of the NLRC. In its 27 July 2011 Decision,^[17] the NLRC granted the appeal and dismissed the complaint filed by Alngog against the private respondents for its lack of merit. Unsatisfied, Alngog moved for the reconsideration^[18] of the Decision of the NLRC which was eventually denied in the 21 October 2011 Resolution^[19] of the latter. Hence, Alngog is now raising the following issues for the determination of this Court:

I.

WHETHER OR NOT THE PUBLIC RESPONDENT SERIOUSLY ERRED AND GRAVELY ABUSED ITS DISCRETION IN FINDING THAT THE PETITIONER'S DISEASE WAS NOT WORK-RELATED.

II.

WHETHER OR NOT THE PUBLIC RESPONDENT GRAVELY ABUSED ITS DISCRETION IN HOLDING THAT MERE LENGTH OF TREATMENT CONFERS CREDIBILITY UPON THE COMPANY DOCTORS' FIT-TO-WORK FINDINGS.^[20]

The instant petition is devoid of any merit.

The terms and conditions of a seafarer's employment, as with all other kinds of workers, are governed by the provisions of the contract he signs at the time he is hired.^[21] However, unlike that of others, deemed written in the seafarer's contract is a set of standard provisions set and implemented by the POEA called the Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels, which is considered to be the minimum requirement

acceptable to the government for the employment of Filipino seafarers on board foreign ocean-going vessels.^[22]

Under Sec. 20 (B)(6), of the 2000 POEA Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels:

SECTION 20. COMPENSATION AND BENEFIT

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B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

The liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract are as follows:

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6. In case of permanent total or partial disability of the seafarer caused by either injury or illness the seafarer shall be compensated in accordance with the schedule of benefits arising from an illness or disease shall be governed by the rates and the rules of compensation.

Clearly, to be entitled to compensation and benefits pursuant to the above quoted provision, it is not sufficient to establish that the seafarer's illness or injury has rendered him permanently or partially disabled, it must also be equally shown that there is a causal connection between the seafarer's illness or injury and the work for which he had been contracted for.^[23]

In labor cases, the rule is that, substantial evidence or such relevant evidence as a reasonable mind might accept as sufficient to support a conclusion is required. Likewise, the oft-repeated rule is that whoever claims entitlement to the benefits provided by law should establish his or her right thereto by substantial evidence.^[24]

Diabetes mellitus is not an occupational disease under the POEA-SEC. Although Section 20 (B) (4) of the POEA-SEC provides that illnesses not listed in Section 32 thereof are disputably presumed as work related, it did not dispense with the required burden of proof imposed upon the seafarer as claimant. It remained incumbent upon the seafarer to discharge the required quantum of proof of compensability. Awards of compensation cannot rest entirely on bare assertions and presumptions. The claimant must present evidence to prove a positive proposition.^[25]

As earlier narrated, Alngog has already been declared fit to work by Dr. Cruz, the company-designated physician, while he was considered to be totally and permanently disabled by his chosen physician, Dr. Orenca. This conflict should have already been resolved if the parties in this case stayed true to the provisions of the POEA-SEC.

Section 20 (B)(3) of the POEA-SEC specifically provides that:

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-