FOURTH DIVISION

[CA-G.R. SP No. 127866, November 19, 2014]

RUBEN V. CHAN, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, SENATOR CREWING (MANILA) INC., AQUANUT SHIPMANGEMENT LTD., MS. ROSEMARY M. AARON AND CMA CGM ESPERANZA, RESPONDENTS.

D E C I S I O N

CARANDANG, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court seeking to set aside the Resolution of the National Labor Relations Commission (NLRC) dated August 31, 2012, the dispositive portion of which reads:

> "WHEREFORE, in view of the foregoing, the Decision promulgated on April 4, 2012 is hereby SET ASIDE and the Labor Arbiter decision dated December 28, 2011 is REINSTATED."[1]

The Motion for Reconsideration of herein petitioner was likewise denied in the Resolution[2] dated October 17, 2012, hence the petition.

Antecedents:

Petitioner Ruben Chan has been a constant rehire of the private respondent since 1998. Chan's last employment with private respondent was as an Able Bodied Seaman/Bosun with a contract duration of six (6) months on board "CMA CGM ESPERANZA". Chan was deployed on November 20, 2010.[3] His contract was covered by the IMEC/VERDI IBF CBA which provides for higher benefits than that provided under the POEA standard employment contract.[4]

Sometime on April 14, 2011 while on board the ship, Chan's left hand suffered an inflammation. He immediately reported his medical condition to his superior officer. He was brought to the Medical Associates Hospital in Jamaica where he was examined by Dr. Bommineni on April 16, 2011 and was diagnosed with ÄRTHRITIS" and treated as an outpatient. He was advised to take ten days rest, then he returned to the vessel and continued his duties on board.[5]

Chan was repatriated on May 14, 2011. Upon arrival, he reported to his local manning agency for post medical examination. He was referred to the company-designated physician at Metropolitan Medical Center and examined by Dr. Esther Go. Dr. Go's diagnosis states:

"He was referred to an Orthopoedic surgeon.
There is swelling and tenderness on the left wrist upon examination.
xxx
The specialist opines that patient has left wrist sprain.
xxx
Left wrist sprain may be considered work-related secondary to a repetitive wear and tear of the affected ligaments during tour of duty."[6]

On May 31, 2011, Chan had his follow-up consultation at the Metropolitan Medical Center[7] (MMC) and on June 2, 2011, after follow-up consultation, Dr. Go issued the follow-up report, to wit: "LEFT WRIST SYNOVITIS PROBABLY SECONDARY TO GOUT; CERVICAL RADICULOPATHY; LEFT CARPAL TUNNEL SYNDROME".[8] Thereafter, he was treated as an outpatient. He continued follow-up check-ups[9] at the MMC until on July 18, 2011, Dr. Aileen Agbanlog issued the following findings:

"I have seen Mr. Ruben Chan today with note of significant improvement on his left wrist swelling and pain.
At present, he has no active joint pains.
Assessment: Reactive arthritis resolved.
Plan: no medications from rheumatologic standpoint.
Patient is cleared to board ship anytime."[10]

After being found "fit to work", Chan was made to sign a Certificate of Fitness to Work on even date releasing private respondents from all actions, claims and demands, holding private respondents free from all liabilities as a consequence of the fitness to work.[11]

On August 5, 2011, Chan sought a second opinion from Dr. Manuel Jacinto, Jr. of Sta. Teresita General Hospital whose findings revealed that Chan was suffering from "Cervical Radiculopathy; Osteoarthritis due to Cervical Spondylosis; Carpal Tunnel Syndrome Left Wrist; Left Wrist Joint Synovitis Secondary to Gouty Arthritis". Dr. Jacinto issued the following assessment:

"Patient's condition on discharge: no improvement was noted on the patient.

Remarks: Patient's illness started at work and symptoms of pain, progressive weakness of grip and numbness of left hand persisted despite management and medications, thus, he was assessed to be physically unfit to go back to work. (/) Total Permanent."[12]

Chan filed his complaint for permanent disability benefits[13], sick wages for 130 days, plus damages and attorney's fees on August 5, 2011. He claims that he is entitled to permanent total disability benefit in the amount of US$125,000.00 as

provided for under his IMEC/VERDI IBF CBA because he already lost his profession on account of his injury. Moreover, he claims that more than 120 days had already lapsed since his disability and no employer in his right mind would hire him taking into consideration his unresolved serious injury.[14]

On the other hand, the private respondents claim that the CBA is inapplicable to the complainant because there was no evidence to show that his illness was caused by an accidental injury. As found by the doctors who examined the complainant, the latter's condition was Left wrist synovitis secondary to gout. Gout is a medical condition usually characterized by recurrent attacks of acute inflammatory arthritis. Moreover, complainant was found fit to work by the company-designated physician who treated him continuously as compared to Dr. Jacinto who had no extensive dealings with complainant's medical condition. Lastly, the complainant acknowledged his fitness to work when he voluntarily signed the certification of fitness to work issued by the company-designated physician.[15]

The Labor Arbiter dismissed the complaint in the Decision dated December 28, 2011.[16] In the said decision, the Labor Arbiter decreed that the CBA had no relevance as the requirements set therein were not availing in the present case; that although complainant suffered work-related illness during his employment, overwhelming evidence would show that he was not suffering from any disability, whether partial, total or permanent as shown by the medical reports finding him "*Fit to return to work*" and that he was "*cleared from orthopedic standpoint*." With regard to complainant's claim that he was not redeployed because he was not medically fit, the Labor Arbiter ruled that complainant was a contractual employee and he was not redeployed due to his underperformance in violation of his "last chance undertaking".[17]

On appeal, the NLRC reversed the Labor Arbiter and awarded the disability benefit to appellant in the amount of US$60,000.00 plus 10% of the award as attorney's fees. In said decision, the NLRC ratiocinated that as of the date of the decision, there is no evidence to prove that the complainant was rehabilitated or has been healed of his disabling injury. Neither was there any proof that respondents even offered complainant to be deployed again in any of their vessels which merely confirms that complainant was rendered permanently and totally incapacitated to work as a seafarer due to his ailment.[18]

However, on motion for reconsideration by the private respondents, the NLRC reversed its earlier decision and reinstated the decision rendered by the Labor Arbiter. The NLRC relied on the evidence presented by the private respondents that complainant was engaged in a gainful occupation as a tricycle driver where it can also be seen that he was hardly suffering from any disability. This fact refutes the certification of Dr. Jacinto that complainant sustained permanent disability.[19]

The NLRC denied complainant's motion for reconsideration in its Resolution[20] dated October 17, 2012.

Hence the instant petition.

Petitioner asserts that under the POEA contract, the assessment of permanent

disability is not exclusively vested in the company-designated physician. The seafarer has the option to consult his physician of choice should he disagree with the findings of the company-designated physician. Petitioner also asseverates that in compensation cases, what is being compensated under the law is not the absolute helplessness of the seafarer or the gravity of the illness or injury but the loss of the seafarer's capacity to obtain further sea employment.[21]

On the other hand, private respondents argue that petitioner was already declared fit to work by the company-designated physician after a meticulous and specialized treatment; fit to work was issued within the required period of 120 days under the law; petitioner was not redeployed because of his willfull breach of undertaking; petitioner was continuously engaged in gainful occupation as a tricycle driver necessitating the use of his left wrist; the assessment made by the company-designated physician is controlling especially if not substantially disputed.[22]

Issue/s:

Whether or not the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it reversed its earlier decision and reinstated the Labor Arbiter's Decision dated December 28, 2011.

Our Ruling:

It has been an oft repeated rule that factual findings of quasi-judicial agencies like the National Labor Relations Commission are generally accorded not only great respect but at times even finality where such findings are supported by substantial evidence.[23] The rule is not absolute, however, as it admits of exception, such as when the quasi-judicial agency committed grave abuse of discretion, or there is an error of law or abuse of power.[24] In the case at bar, We find no grave abuse on the part of the public respondent after considering the law and evidence presented.

Section 20 B of the POEA-SEC provides:

> The liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract are as follows:
>
> xxx
>
> However, if after repatriation, the seafarer still requires medical attention arising from said injury or illness, he shall be so provided at cost to the employer until such time he is declared fit or the degree of disability has been established by the company-designated physician.
>
> 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-designated physician but in no case shall this period exceed one hundred twenty days.