

THIRTEENTH DIVISION

[CA-G.R. SP NO. 134019, November 10, 2014]

VICENTE JALANDOON, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (SECOND DIVISION) AND/OR ARCTIC SHIPPING CORPORATION AND/OR C.H. LINE S.A. AND/OR BARTOLOME V. OLIVEROS, RESPONDENTS.

D E C I S I O N

DIAMANTE, J.:

This Petition for *Certiorari* under Rule 65 of the 1997 Rules of Civil Procedure seeks to annul and set aside the Resolutions dated September 30, 2013^[1] and November 29, 2013^[2] of the public respondent National Labor Relations Commission (NLRC), Second Division, in NLRC OFW (M) 08-12948-12 (LAC No. 09-000807-13).

The facts, as culled from the records, are as follows:

Petitioner Vicente P. Jalandoon ("Vicente" for brevity) was engaged by respondent Arctic Shipping Corporation, for and in behalf of principal C.H. Line S.A., as an Able Seaman, for deployment on board the vessel "MV ATLANTIC DAISY" for a period of nine (9) months with a basic monthly salary of US\$564.00, among other contractual benefits.^[3]

Before being deployed aboard the vessel on August 26, 2011, petitioner was found fit for sea duty.^[4] It appears, however, that on September 3, 2011, he was referred to the Hospital Alcivar in Guayaquil, Ecuador, after he complained of nausea, lack of appetite, dizziness, weakness and breathing difficulty associated with back pains. Thereafter, or on September 8, 2011, his attending physician, Dr. Nelson Segarra Camino, issued a Certification^[5] that petitioner was admitted for respiratory distress, acute renal failure, atrial fibrillation and severe anemia. Consequently, he was repatriated to the Philippines on September 22, 2011.^[6]

According to petitioner, upon his repatriation, he reported to the respondents and was referred to Medical Center Manila where he undergone dialysis until October 17, 2011. However, he was later advised that respondents will no longer shoulder the costs of his treatment.^[7]

Subsequently, petitioner demanded from respondent company the payment of total and permanent disability benefits, reimbursement of medical and hospital expenses. He submitted his claim before the AMOSOUP but the parties failed to reach into an amicable settlement.^[8]

Petitioner filed with the Labor Arbiter a Complaint^[9] for payment of total and permanent disability benefits, reimbursement of medical hospital expenses and cost

of renal hemodialysis, moral and exemplary damages, attorney's fees and legal interest until the time of payment. In his Position Paper,^[10] petitioner claimed that his illness is compensable and the respondents remain contractually obligated to him notwithstanding his eventual repatriation to Manila. To prove his claim, he cited Section 20 (B) of the POEA Standard Employment Contract which provides that an employer shall be liable to the seafarer for illness/injuries suffered during the period of employment contract. Also, for having been incapacitated for more than 120 days because of renal failure, he is entitled to total permanent disability compensation in accordance with POEA-SEC and the provisions of CBA. He likewise asserted that his illness was clearly work-related as it could not be said that he was negligent in discharging his duties on board the vessel. Petitioner sought for reimbursement of medical and hospital expenses as well as payment of moral and exemplary damages and attorney's fees.

Respondents, on the other hand, contended that petitioner failed to establish that his illnesses were work-related and the same were pre-existing considering that petitioner admitted having a history of kidney stone in 2009, or two years prior to his contract with the respondents. They reiterated that petitioner's illnesses could not have developed in a span of two (2) to three (3) weeks. Thus, petitioner's claim for total and permanent disability compensation is definitely unfounded and baseless.^[11]

On July 31, 2013 Labor Arbiter Fatima Jambaro-Franco rendered a Decision^[12] dismissing petitioner's complaint for lack of merit.

Aggrieved, petitioner appealed to the NLRC. The NLRC (2nd Division) affirmed *in toto* the Decision of the Labor Arbiter in its September 30, 2013 Resolution,^[13] thus:

"WHEREFORE, premises considered, the complainant's appeal is hereby **DISMISSED** for lack of merit or basis. The assailed Decision dated July 31, 2013 is thus **AFFIRMED** in toto.

SO ORDERED."^[14]

Petitioner subsequently filed his Motion for Reconsideration^[15] of the NLRC's Decision but the same was denied in a Resolution dated November 29, 2013.^[16]

Thus, petitioner filed before this Court a Petition for *Certiorari* under Rule 65 on February 17, 2014.^[17]

In his petition, petitioner assigned the following errors:

I.

THERE IS PRIMA FACIE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION ON THE PART OF PUBLIC RESPONDENT NLRC IN RULING THAT PETITIONER IS NOT ENTITLED TO THE AWARD OF TOTAL AND PERMANENT DISABILITY BENEFITS UNDER THE POEA-SEC ON THE GROUND

THAT PETITIONER FAILED TO DISCHARGE THE BURDEN OF PROOF THAT HIS ILLNESS IS WORK-RELATED.

II.

THERE IS PRIMA FACIE ABUSE OF DISCRETION ON THE PART OF THE HONORABLE PUBLIC RESPONDENT WHEN IT UNREASONABLY IGNORED THE OVERWHELMING EVIDENCE IN SUPPORT OF PETITIONER'S ENTITLEMENT TO MAXIMUM DISABILITY BENEFITS IN THE AMOUNT OF US\$89,100.00.

III.

THE DECISION OF THE HONORABLE PUBLIC RESPONDENT CONTAINS SERIOUS ERRORS IN ITS FINDINGS OF FACTS AND LAW WHICH, IF NOT CORRECTED, WOULD CAUSE GRAVE OR IRREPARABLE DAMAGE OR INJURY TO PETITIONER.^[18]

We deny the petition.

In sustaining the findings of the Labor Arbiter, public respondent NLRC held that the CBA provisions cited by the petitioner in the body of his pleadings cannot be used as a basis in determining his disability benefits as he failed to produce a verified copy of the said agreement. In addition, petitioner failed to substantially prove by any evidence his claim that he suffered work-related or work-connected illnesses involving chronic renal failure, atrial fibrillation, and acute respiratory failure^[19] and that his working conditions caused or aggravated his illness while on board the ship.^[20] It further sustained the Labor Arbiter's determination that petitioner's illnesses were pre-existing. Thus, public respondent NLRC found no basis in awarding disability compensation, as well as other monetary claims.^[21]

Petitioner, on the other hand, stressed that public respondent NLRC committed grave abuse of discretion in denying his award for full disability benefits considering that he was not suffering from an ordinary Urinary Tract Infection (UTI). He likewise pointed out that following the language of Section 2 (A) and 18 (A) of the POEA-SEC, it is clear that respondents remain contractually obligated to him notwithstanding his repatriation to Manila.^[22] Also, as his career as seafarer had ended and his earning capacity had been gravely and permanently impaired, he is, therefore, considered under the law as completely disabled.^[23] He reiterated his claim for damages and his entitlement to payment of legal interest on his claims.^[24]

We sustain the ruling of the public respondent NLRC.

It is well-settled in this jurisdiction that factual findings of the NLRC, particularly when they coincide with those of the Labor Arbiter, are accorded respect, even finality, and will not be disturbed for as long as such findings are supported by substantial evidence.^[25]

Upon a judicious examination of the records, We find no cogent reason to modify or reverse the factual findings of public respondent NLRC which to Our mind were supported by substantial evidence.^[26]

At the outset, We emphasize that, as with all other kinds of worker, the terms and conditions of a seafarer's employment is governed by the provisions of the contract he signs at the time he is hired. But 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 are considered to be the minimum requirements acceptable to the government for the employment of Filipino seafarers on board foreign ocean-going vessels.^[27] Considering that petitioner's contract of employment was approved by the POEA on July 28, 2011,^[28] the terms and conditions of the 2010 Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers on Board Ocean-Going Ships ("Amended Standard Terms and Conditions" for brevity) is herein applicable and were deemed written in or appended to petitioner' POEA-SEC.^[29]

Sec. 20 (A), paragraph 3 of the 2010 Amended Standard Terms and Conditions provides:

"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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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 entitled to his sickness allowance shall not exceed 120 days. Payment of the sickness allowance shall be made on a regular basis, but not less than once a month.

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For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. In the course of the treatment, the seafarer shall also report regularly to the company-designated physician specifically on the dates as prescribed by the company-designated physician and agreed to by the seafarer. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits.

If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the employer and the

seafarer. The third doctor's decision shall be final and binding on both parties. xxx xxx [Emphasis and underscoring supplied.]

Based on the above, an injury or illness is compensable when, first, it is work-related and, second, the injury or illness existed during the term of the seafarer's employment contract.^[30] In other words, to be entitled to compensation and benefits under this 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 shown that there is a causal connection between the seafarer's illness or injury and the work for which he had been contracted.^[31]

Applying the foregoing legal parameters to the case at bench, We agree with the findings of the lower tribunals that petitioner is not entitled to disability benefits.

Petitioner's repeated insistence that he is entitled to disability benefits is primarily premised on the fact that he contracted his illness while he was on board the vessel. To petitioner's mind, given that his illnesses manifested during the term of his contract, and while on board the vessel, he concluded that the said illnesses were work-related. This, however, is an erroneous contention. It bears reiterating that petitioner still has the burden of establishing that the conditions of his employment caused his disease or that such conditions aggravated his risk of contracting the illnesses.^[32]

To Our appreciation, petitioner failed to discharge his burden.

In the case of *Alex C. Cootauco vs. MMS Phil. Maritime Services, Inc., et al.*,^[33] the High Court stressed that the awards of disability benefits cannot rest on speculations and presumptions as the claimant must prove a positive proposition.^[34] As can be gleaned from the records, it is clear that petitioner had nothing to support his claim other than his sweeping conclusion that his illnesses were work-connected.

Records indicate that petitioner was diagnosed to be suffering from chronic renal failure, atrial fibrillation, and acute respiratory failure. In the more recent case of *Marciano L. Masangcay vs. Trans-Global Maritime Agency, Inc., et al.*,^[35] chronic renal failure was described as a result of progressive and irreversible destruction of nephrons, regardless of cause. This diagnosis implies that glomerular filtration rate (GFR) is known to have been reduced for at least 3 to 6 months. Often a gradual decline in GFR occurs over a period of years.^[36] In the said case of *Masangcay*, the High Court ruled out that by the nature of the disease, it was highly improbable that petitioner's chronic renal failure developed in just a month's time, the length of time he was on board the vessel before the symptoms became manifest.

As can be inferred from the facts of the case at bench, the manifestation of the petitioner's illnesses occurred only several days after he boarded the vessel.^[37] Following the ruling in *Masangcay*, We agree with the apt observation of the lower tribunals that it was unbelievable for the petitioner to contract his illnesses while on board the vessel given that from the nature of his illnesses, the same could have not developed overnight. Clearly, it is safe to conclude that petitioner's medical condition pre-existed his employment.^[38] Indeed, this conclusion is further bolstered by the