

SIXTEENTH DIVISION

[CA-G.R. SP NO. 126747, December 09, 2014]

SOUTHFIELD AGENCIES, INC., DANIA MARINE AND/OR ARSENIO BENJAMIN E. SANTOS, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION (FOURTH DIVISION) AND ANTONIO D. DAYO, RESPONDENTS.

D E C I S I O N

BATO, JR., J.:

Assailed in this Petition for Certiorari with Prayer for the Issuance of a Writ Preliminary Injunction and/or Temporary Restraining Order under Rule 65 of the 1997 Revised Rules on Civil Procedure are the Decision^[1] dated 22 June 2012 and Resolution^[2] dated 27 July 2012 of the National Labor Relations Commission in NLRC-LAC Case No. 05-000475-12(OFW) (NLRC NCR Case No. 04-06600-11[OFW]).

The factual and procedural antecedents of the case, as culled from the records, are as follows:

Southfield Agencies, Inc. ("Southfield Agencies") is a domestic corporation engaged in the recruitment and manning business for and on behalf of its foreign principal Dania Marine (formerly Graig Ship Management). Arsenio Benjamin E. Santos ("Santos") is an officer of Southfield Agencies^[3] (Southfield Agencies, Dania Marine and Santos shall be hereafter collectively referred to as "petitioners").

On 1 June 2010, Antonio D. Dayo ("respondent") was hired by petitioners as its 2nd Deck Officer on board M/V Thor Pioneer. The duration of his contract was for a period of six (6) months with a basic monthly salary of US\$1,013.30, monthly overtime pay of US\$730.00, monthly vacation leave pay of US\$405.00 and monthly provident fund of US\$101.30.^[4] Being a member of the Associated Marine Officers' and Seamen's Union of the Philippines^[5] ("AMOSUP"), respondent's contract was likewise covered by a Collective Bargaining Agreement ("CBA") between AMOSUP and International Maritime Employers Committee ("IMEC").^[6]

On 30 October 2010, while respondent was on duty and after he pulled a mooring rope of the vessel, he suddenly experienced pain on his lower back and abdomen.^[7] After he reported his condition to the captain,^[8] he was immediately brought to Citymed Health Associates, Pte. Ltd. in Singapore where he underwent a series of laboratory tests^[9] and was diagnosed with "Epididymitis/Orchitis, associated with Hesitancy and Dysuria".^[10] In addition, he was advised to take all the medications prescribed to him and was declared fit to return to the vessel.^[11]

On 25 November 2010, respondent was brought to Carpentaria Medical Centre at

Darwin, Northern Territory, Australia because of persistent pain on his lower abdomen, loin and scrotal.^[12] However, Dr. Santiosh Linga assessed that his symptoms were vague and required him to undergo further medical investigation.^[13] Thus, respondent was medically repatriated on 27 November 2010.^[14]

Upon arrival in Manila, respondent was immediately referred by petitioners to Alegre Medical Group of Companies, Inc. at St. Luke's Medical Center, Quezon City where he was attended by Dr. Natalio G. Alegre (hereafter referred to as the "company-designated physician").^[15] To efficiently assess respondent's condition, the company-designated physician referred him to a Urologist – Dr. Jaime Balingit ("Dr. Balingit")^[16] to which the latter diagnosed him to have "Epididymitis, Left; Spondylolisthesis; Prostatitis".^[17] He was also referred to a Gastroenterologist – Dr. Arnel N. Pangilinan ("Dr. Pangilinan") where the latter conducted an Esophagogastroduodenoscopy and diagnosed him with "Esophagitis LA Grade A, Hernia, Hemorrhagic Gastritis and H. Pylori Positive".^[18] (Dr. Balingit and Dr. Pangilinan shall be hereafter collectively called as "collaborating physicians").

On 3 January 2011, the company-designated physician sent a 9th Progress Report^[19] to Southfield Agencies stating his assessment on respondent's illness, to wit:

"Assessment:

Low Back Pain to consider Degenerative Disk Disease
Prostatitis, Resolving
Hypertension Stage 2
Tinea Versicolor
Diffuse Gastritis and Esophagitis
To Consider Pulmonary Tuberculosis

Discussion and Plan:

He is advised to continue Amoxicillin 500mg 2 capsules twice daily, Clarithromycin 500mg 1 tablet twice daily, Rebamipide 100mg 1 tablet thrice daily for two weeks, Simvastatin 20mg 1 tablet once daily at bed time, Cetirizine 10mg 1 tablet once daily as needed. Pantoprazole 40mg 1 tablet twice daily pre-meals, Aliskerin 150mg 1 tablet once daily in the morning and Terbinafine cream to be applied on skin lesions twice daily.

Urinalysis, ultrasound of the kidneys, ureters and bladder with prostate study and x-ray of the lumbosacral spine are requested.

Due to noted findings of granuloma of the right midlung on chest x-ray, we are recommending Pulmonary specialist consult and tuberculosis work-up comprising of apicolordotic chest x-ray, purified protein derivative exam, sputum acid fast bacilli test for three consecutive days with sputum culture and gram stain. Estimate cost of the work-up is Php 30,000.00. This is subject to your approval.

Follow-up is advised on 07 January 2011."^[20]

Pursuant to the above-quoted assessment and upon request of the company-designated physician and his collaborating physicians, respondent underwent a series of medical examinations and procedures, to wit:

DATE	EXAMINATION/ PROCEDURE	INTERPRETATION / FINDINGS	IMPRESSION
01/05/11	CT SCAN: Spine-Lumbo-Sacral ^[21]	<ul style="list-style-type: none"> - There is exaggerated lumbar lordosis which could be positional in nature. - Osteophytes of the lumbar vertebral bodies. <ul style="list-style-type: none"> - Pedicles are intact. - Negative for spondylolisthesis. - Incidental note of pelvic calcifications on the left side suggestive of phleboliths. 	Degenerative Changes
01/05/11	SONOGRAPHY: Kidneys, Prostate, Urinary Bladder ^[22]	<p>KIDNEYS: The right kidney measures 9.6 x 5.4 cm with cortical thickness of 1.4 cm. while the left kidney measures 10.9 x 5.0 cm. with cortical thickness of 1.1 cm. Both kidneys show normal central echo complexes and corticomedullary junctions. No hydronephrosis nor calculi noted. URINARY BLADDER: The urinary bladder shows no abnormal intravesical echoes. The wall is not thickened. Pre-void volume measures 1182 cc. while post-void film shows 112 cc. of residual urine.</p> <p>PROSTATE: The prostate gland measures 5.6 x 3.7 x 5.2 cm. (56 grams) with calcifications noted within its substance. No discrete mass lesion seen.</p>	<p>KIDNEYS: Normal Renal Study</p> <p>URINARY BLADDER: Residual Urine volume of 9%.</p> <p>PROSTATE: Enlarged prostate gland with concretions</p>
02/03/11	MAGNETIC RESONANCE IMAGING: Lumbosacral Spine ^[23]	<ul style="list-style-type: none"> - Conus medullaris normally ends at L1. Cauda equina is not thickened. - Vertebral height and marrow signal are preserved. Osteophytes are noted along the vertebral 	<ul style="list-style-type: none"> - Normal conus medullaris - Anterior vertebral osteophytes - Varying degrees of disk

		<p>margins. Cortical endplates are intact.</p> <ul style="list-style-type: none"> - Normal lordotic curvature of the spine is maintained. No paravertebral mass is demonstrated. - The sacroiliac joints show no abnormal signal. - Varying degrees of disk desiccation is noted at L2-L3 down to L5-S1. There is a left paracentral annular tear at L5-S1. No other disk herniation. The canals are adequate. 	<p>desiccation, L2-L3 down to L5-S1</p> <ul style="list-style-type: none"> - Left paracentral annular tear, L5-S1
02/22/11	CHEST PA: Magnetic Resonance Imaging ^[24]	<ul style="list-style-type: none"> - Subcentimeter nodular density is again noted in the right midlung field. - The rest of the lung fields are clear. - Heart is not enlarged. - Atheromatous aorta. - Diaphragm and sulci are intact. - Bony thorax is unremarkable. 	<ul style="list-style-type: none"> - Stable Granuloma, Right Midlung Field - Atheromatous Aorta
02/28/11	ULTRASOUND GUIDED TRANSRECTAL PROSTATE BIOPSY ^[25]	<p>Patient placed in left lateral decubitus. Asepsis, Antisepsis done and sterile drapes placed. Ultrasound probe inserted. Prostate identified. Local anesthesia was infiltrated. Biopsy gun inserted taking specimens from the right and left prostate lobes. Instruments withdrawn. Hemostasis was assured. Patient tolerated the procedure well.</p>	<p>Operative Diagnosis : BPH R/O Prostate CA^[26] (Benign Prostatic Hyperplasia)</p>

On 14 March 2011, Dr. Balingit diagnosed respondent with "1. Prostatitis (culture positive Staphylococcus hemolyticus) 2. Elevated PSA test due to the above 3. Benign Prostatic Hyperplasia".^[27] Thereafter, he underwent a follow-up sonography and electrodiagnostic examination which revealed that his residual urine volume increased to 12% and that he has an "active lumbar radiculopathy involving the right and left L4-5 spinal roots", respectively.^[28] Also, another collaborating physician of the company-designated physician – Dr. Ronald B. Pidlaon ("Dr. Pidlaon") assessed respondent to have "Spinal Stenosis Sec. To Degenerative Disc Disease LS Spine L3-L4 L4-L5" and advised him to undergo "spinal posterior decompression with application of spacer L3-L5" and should continue his medications.^[29]

On 27 April 2011, respondent filed a Complaint against petitioners for payment of disability compensation, balance of sick wages, moral and exemplary damages, attorney's fees and other benefits provided under the CBA and applicable laws.^[30]

In the interim, on 28 May 2011, respondent underwent another series of major operations, namely, cystoscopy, transurethral electrosurgical resection of the prostate and transurethral incision.^[31]

On 5 July 2011, the company-designated physician issued a medical report to a certain Atty. Ruben del Rosario regarding the condition of respondent.^[32] The company-designated physician stated –

“Mr. Antonio Dayo has been diagnosed with Benign Prostatic Hyperthropy, Low Back Pain secondary to Disc Dessication L2L3 to L5S1 with Annular Spinal Stenosis L5-S1, and Neurogenic Bladder secondary to L4L5 Nerve Root Compression, Resolved Diffuse Gastritis and Esophagitis, Treated Dyslipidemia, Controlled Diabetes Mellitus, Resolved Tinea Versicolor, Pulmonary Tuberculosis and controlled Hypertension.

The Prostate pathology is secondary to ageing and is not work related. The Gastritis and Esophagitis, Dyslipidemia, Diabetes, Tinea Versicolor and Hypertension were treated and controlled, Pulmonary Tuberculosis is still under treatment but is expected to be controlled.

The Disk Problem consisting of disc dessication with stenosis and neurogenic bladder is work related and a disability grade of 8 is given based on the POEA Contract, Chest-Trunk-Spine #5, moderate rigidity on 2/3 loss of motion or lifting power of the trunk.”^[33]

Also, on 7 July 2011, Dr. Pidlaon issued a Medical Certificate which reads –

“This is to certify that MR. ANTONIO DAYO Age/Sex 53M of Pasig City was examined at SLMC-QC on July 7, 2011 because of the following :
DIAGNOSIS :

Spinal Stenosis L3L4, L4L5
Degenerative Disc Disease

Remarks :

- Patient is advised to have spine surgery (Decompression Laminotomy, Foraminotomy L3L4L5)
- For follow up if approved with insurance
- continue with present x x x”^[34]