

ELIAS C. DE VILLA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, TORM SHIPPING PHILIPPINES, INC., TORM SHIPPING, DENMARK MAILYN BORILLO. RESPONDENTS.

Ponente: LANTION, J.A.C., J.

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LANTION, J.A.C., J.:

This Petition for Certiorari[1] under Rule 65 of the Rules of Court seeks to annul and set aside the Decision[2] dated 8 February 2013 of the National Labor Relations Commission (NLRC), Forth Division, in NLRC LAC No. OFW (M) 11-001009-12, as well as the Resolution[3] dated 27 May 2013 denying the Motion for Reconsideration[4] thereof. The dispositive portion of the 8 February 2013 Decision[5] reads:

"WHEREFORE, premises considered, the appealed decision is hereby AFFIRMED.

SO ORDERED."[6]

THE FACTS

(As culled from the Records)

Petitioner Elias C. Villa (hereafter Petitioner) was hired as Chief Cook for six (6) months by Respondent Torm Shipping Phils., Inc., for its foreign principal, Respondent Torm Shipping Denmark, and was subsequently assigned to the vessel "M/T Torm Helene".[7] Petitioner underwent the routine Pre-Employment Medical Examination (PEME) and was declared "Fit to work" by the company-designated physician.[8] On 1 October 20011, he left the country and joined the vessel.[9]

Sometime in the first week of March 2012, Petitioner allegedly experienced chest pains while in the performance of his duties. However, he did not report the same to the company.[10]

After the end of his contract, on 10 March 2012, Petitioner was repatriated to the Philippines. Instead of submitting himself to the three (3) day mandatory post-employment medical examination with the company designated physician, Petitioner submitted himself for diagnosis and treatment at the Physician's Diagnostic Services Center on 26 March 2012 and at the Philippine Heart Center on 2 April 2012 and he was found to have hypertensive cardiovascular disease and coronary artery disease.[11]

On 15 June 2012, Petitioner filed a Complaint[12] for nonpayment of disability benefits, damages and attorney's fees against Respondents.

On 16 October 2012, the Labor Arbiter rendered a Decision[13] in favor of Respondents, holding Petitioner's illness not compensable. The Labor Arbiter ratiocinated that since Petitioner did not file any illness report regarding his condition while he was still on board the vessel, there was no proof that his illness was contracted during his employment.[14] Moreover, the Labor Arbiter decreed that since Petitioner failed to undergo the three (3) day mandatory post-employment medical examination from his repatriation, he is barred to recover disability benefits pursuant to the POEA Standard Employment Contract.[15]

Petitioner appealed the above Decision to the NLRC. On 8 February 2013, the NLRC rendered the herein assailed Decision affirming in toto the Labor Arbiter's ruling.

Petitioner filed a Motion for Reconsideration of the Decision of the NLRC, but the same was denied on 27 March 2013.

Hence, this Petition.

ISSUES

I

WHETHER OR NOT THE NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION IN FINDING THAT PETITIONER IS NOT ENTITLED TO DISABILITY BENEFITS UNDER THE POEA STANDARD EMPLOYMENT CONTRACT.

II

WHETHER OR NOT THE NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION IN NOT AWARDING ATTORNEY'S FEES TO COMPLAINANT.[16]

THIS COURT'S RULING

Petitioner contends that the NLRC gravely abused its discretion in affirming the Labor Arbiter's ruling. He insists that he developed his cardiovascular disease while working on board "M/T Torm Helene," thereby entitling him to disability benefits under the law.[17]

We are not persuaded.

Two elements must concur for an ailment to be considered as compensable. First, the ailment must be work related. Second, the work-related ailment must have existed during the term of the seafarer's employment contract.[18]

The 2000 POEA Amended Standard Terms and Conditions defines "work-related illness" as any sickness resulting in disability or death as a result of an occupational disease.[19]

Sec. 32-A(11) of the 2000 POEA Amended Standard Terms and Conditions explicitly considers a cardiovascular disease as an occupational disease if the same was contracted under working conditions that involve any of the following risks -

- a) If the heart disease was known to have been present during employment, there must be proof that an acute exacerbation[20] was clearly precipitated by the unusual strain by reasons of the nature of his work.
- b) The strain of the work that brings about an acute attack must be sufficient severity and must be followed within 24 hours by the clinical signs of cardiac insult to constitute causal relationship.
- c) If a person who was apparently asymptomatic[21] before being subjected to strain at work showed signs and symptoms of cardiac injury during the performance of his work and such symptoms and signs persisted, it is reasonable to claim a causal relationship.

Simply put, for cardio-vascular disease to be considered as an occupational disease for which the seafarer may claim compensation, it is incumbent upon said seafarer to show that he developed the same during the term of his work or sea deployment.[22]

The degree of proof required to establish the compensability of an occupational disease, such as cardio-vascular disease, is substantial evidence, that is, such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[23]

At bench, Petitioner failed to adduce any evidence to establish the compensability of his ailment. There is nothing in the records which would show that while he was on board “M/T Torm Helene”, he experienced symptoms indicative of cardiovascular disease. Aside from his bare allegation that he felt chest pains while on board the said vessel, Petitioner failed to present any evidence to prove the same. At the very least, Petitioner should have presented any written note, request or record of any medical check-up or consultation during his 6-month sea deployment but failed to adduce even one. Clearly, Petitioner failed to establish that his ailment was acquired or existed during the term of his employment contract.

Moreover, this Court notes that Petitioner failed to undergo the three (3) day mandatory post-employment medical examination sanctioned by Section 20(B), paragraph (3) of the 2000 Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels, which reads:

x x x

3. Upon sign off from the vessel x x x

x x x 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. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits. [Emphasis supplied]

x x x

From the aforequoted provision, a seafarer must report to the company-designated physician within three (3) working days upon signing-off from the vessel for diagnosis and treatment. The seafarer's failure to comply with the said examination shall result in the forfeiture of his right to claim disability benefits.[24]

In the similar case of *Jebsens Maritime Inc., et. al. vs. Undag*,[25] the seafarer therein allegedly suffered chest pains while on board the vessel. However, he did not report the same to the company during his stay in the vessel. Moreover, said seafarer also failed to undergo the three-day mandatory post-employment medical examination by the company-designated physician. The Supreme Court denied the seafarer's claim for disability benefits, ratiocinating in this wise:

“An award of disability benefit to a seaman in this case, despite non-compliance with strict mandatory requirements of the law, cannot be sustained. The rationale behind the rule can easily be divined. Within three days from repatriation, it would be fairly easier for a physician to determine if the illness was work-related or not. After that period, there would be difficulty in ascertaining the real cause of the illness.

To ignore the rule would set a precedent with negative repercussions because it would open the floodgates to a limitless number of seafarers claiming disability benefits. x x x

As the case abovesited, Petitioner herein likewise did not comply with the required three (3) day post-employment medical examination by the company-designated physician. Instead, Petitioner submitted himself for diagnosis and treatment at the Physician's Diagnostic Services Center and the Philippine Heart Center weeks after his repatriation. Following the ruling in *Jebsens Maritime*, supra, We also cannot grant Petitioner's claim for disability benefits, since his failure to comply with the said mandatory requirement left Us with no means to ascertain the real cause of his illness.

Well-settled is the rule that the findings of the Labor Arbiter, when affirmed by the NLRC are accorded not only great respect but even finality when supported by substantial evidence and devoid of any unfairness,[26] as in this present Petition. Thus, We find that the NLRC did not act with abuse of discretion, much more grave abuse in rendering the assailed Decision.

WHEREFORE, the Petition is DISMISSED. The the Decision[27] dated 8 February 2013 and the Resolution[28] dated 27 May 2013 of the National Labor Relations Commission (NLRC), Forth Division, in NLRC LAC No. OFW (M) 11-001009-12 are hereby AFFIRMED.

SO ORDERED.

Veloso (Chairperson) and Antonio-Valenzuela, JJ., concur.

[1] Rollo, pp. 3-25.

[2] Rollo pp. 27-34.

[3] Rollo, pp. 35-37.

[4] Rollo, pp. 304-342.

[5] Supra.

[6] Rollo, p. 35

[7] See Contract of Employment, Rollo, p. 44.

[8] Rollo, p. 5.

[9] Id.

[10] Id.

[11] Rollo, pp. 5-6.

[12] Rollo, pp. 45-47.

[13] Rollo, pp. 170-179.

[14] Rollo, pp. 175-176.

[15] Rollo, p. 177.

[16] Rollo, p. 9.

[17] Rollo, pp. 11-14.

[18] Jebsens Maritime, Inc. vs. Babol, G.R. No. 204076, December 4, 2013.

[19] Casomo vs. Career Philippines Shipmanagement, Inc., G.R. No. 191606, August 01, 2012.

[20] Rapid onset of symptoms and signs of heart failure and may occur with or without previous cardiac disease; McMurray JJ, Adamopoulos S, Anker SD, et al. ESC Guidelines for the diagnosis and treatment of acute and chronic heart failure 2012: The Task Force for the Diagnosis and Treatment of Acute and Chronic Heart Failure 2012 of the European Society of Cardiology. Eur Heart J. 2012;33:1787-1847.

[21] Asymptomatic means literally the absence of symptoms. It describes a condition that is present, but in which a person does not show any signs or symptoms of disease;
<http://lungcancer.about.com/od/glossary/g/asymptomatic.htm>

[22] Jebsens Maritime, Inc. vs. Babol, G.R. No. 204076, December 4, 2013.

[23] See GSIS v. Besitan, G.R. No. 178901, 23 November 2011.

[24] Wall Em Maritime Services, Inc. vs. Tanawan, G.R. No. 160444, August 29, 2012.

[25] G.R. No. 191491, December 14, 2011.

[26] Career Philippines Shipmanagement, Inc., et al. vs. Serna, G.R. No. 172086, December 3, 2012..

[27] Rollo pp. 37-51.

[28] Rollo, pp. Rollo pp. 52-54.

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