

**NOEL R. MALLORCA, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION (FOURTH DIVISION), MARSAMAN
MANNING AGENCY, INC., AND/OR MARSAMAN
NAVIGATION/FORUMCENTRE SHIPPING LTD. AND ...**

Ponente: DICDICAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/48b2c09c9019/>

DICDICAN, J.:

Before us is a Petition for Certiorari[1] filed by petitioner Noel R. Mallorca (“petitioner”) pursuant to Rule 65 of the 1997 Revised Rules of Court seeking to annul and set aside the Decision[2] promulgated by the First Division of the National Labor Relations Commission (“NLRC”) dated August 30, 2013 in NLRC NCR LAC 06-000624-13 which, inter alia, affirmed the Decision[3] rendered by Labor Arbiter Alberto B. Dolosa (“labor arbiter”) on February 28, 2013 in NCR-08-12760-12. Likewise assailed in the instant petition is the subsequent Resolution[4] that was issued by the NLRC on October 31, 2013 which denied the motion for reconsideration that was filed by herein petitioner in the said case for lack of merit.

The material and relevant facts of the case, as culled from the record, are as follows:

On November 11, 2009, herein petitioner entered into a contract of employment with private respondent Marsaman Manning Agency, Inc. for and in behalf of the principal of the latter, herein private respondent Marsaman Navigation, Ltd./Forumcenter Shipping, Ltd., to work as an able seaman on board the vessel “Aris T” for a period of seven (7) months. Prior to his disembarkation, the petitioner underwent a medical examination where he was found to be “fit for sea duty”. The petitioner thereafter boarded the aforesaid vessel on December 11, 2009 and commenced to perform his job in accordance with his contract of employment.

In the month of April 2010, however, the petitioner claimed that he started to experience extreme back pains and difficulty in sleeping. He reported the matter to his chief mate and he was brought to a doctor in Taiwan who gave him medications for his pain. Unfortunately, the petitioner asseverated that the said medications did not address his medical condition. Subsequently, the petitioner complained that his back pain and difficulty in sleeping worsened that he eventually suffered weight loss, loss of total senses, excessive sweating, muscle pains in his hands and legs, nausea and vomiting. In fact, the petitioner narrated that, while he was loading coal when the vessel was in Australia, he experienced sudden excessive sweating followed by vomiting and loss of senses that he had to see a doctor who, in turn, gave him medications for back pains. Thereafter, when the vessel reached Papua New Guinea, the petitioner once again suffered the same symptoms which prompted the ship officers to bring him to LAE International Hospital where he was diagnosed by the attending physician to have been suffering from musculoskeleton pain, high blood pressure, continuous sweating and lack of sleep.[5] He was then recommended to take rest and take analgesic. However, since the petitioner continued to exhibit the above-mentioned symptoms, he was finally repatriated on May 5, 2010.

When the petitioner arrived home in the Philippines, he immediately reported to the office of private respondent Marsaman Manning Agency, Inc. in Manila. The petitioner was then referred to the company doctors at Ygeia

Medical Center where he was given medications that were intended to cure hypertension and back pains. Afterwards, the petitioner was paid his partial sickness allowance amounting to Four Hundred Sixty Five US Dollars (USD\$465.00) and he was then advised to go home to his province in Iloilo.

The foregoing antecedents thereby prompted herein petitioner to file a complaint in the NLRC against the private respondents for: (1) total and permanent disability benefits; (2) sickwages allowance; reimbursement of medical and hospital expenses; (3) moral and exemplary damages; and (4) attorney's fees. In the said complaint, the petitioner maintained that he was never advised of any disability assessment but he nonetheless continued to suffer the same medical symptoms while he was still on board the vessel of the private respondents. Moreover, the petitioner lamented that he could no longer return to his previous work as a seafarer. Consequently, the petitioner prayed that he be awarded permanent disability benefits in that he had been incapacitated and unable to engage in any meaningful activity after he was repatriated on May 5, 2010.

The conduct of the mandated preliminary conference notwithstanding, the parties herein failed to amicably settle their dispute. Accordingly, the labor arbiter directed them to submit their respective position papers.

In his Position Paper[6], the petitioner averred that he first suffered the symptoms complained of while he was working on board the vessel of the private respondents. Moreover, the petitioner contended that he was repatriated before the actual completion of the term of his employment. Thus, the petitioner asseverated that he suffered a disability which is compensable under the POEA Standard Employment Contract, stressing that, from the time of his repatriation from the vessel of the private respondents up to the time when he filed his complaint in the NLRC, he had been incapacitated and unable to engage in any meaningful activity. Further, the petitioner submitted that, under the POEA Standard Employment Contract, a seafarer who was repatriated for medical reasons is entitled to receive his or her basic salary for one hundred twenty (120) days as sickness allowance. Furthermore, the petitioner claimed that, due to his medical condition, he should be awarded permanent and total disability benefits by the private respondents in the total amount of Sixty Thousand US Dollars (USD\$60,000.00).

For their part, the private respondent posited that the petitioner underwent a pre-employment medical examination wherein it was noted that he had a "Class B+ hypertension controlled/interventricular septal hypertrophy" but he was cleared for work by the company physician and declared as "fit for sea duty". On December 11, 2009, the petitioner embarked on the "Aris T" vessel to commence the service of his contract of employment with the private respondents. While on board the aforesaid vessel, however, the private respondents narrated that the petitioner complained of back pains. Thus, the petitioner was brought to a doctor in Kaohsiung for a medical examination where he was diagnosed with "left shoulder tendonitis". An x-ray on his left shoulder, however, revealed that there was no abnormal bone structure. Thereafter, the petitioner was recommended to see another doctor at the next port and he was advised to do only light work in the vessel.

Weeks later, the private respondents claimed that the petitioner again experienced bilateral shoulder muscle pain and the latter twice lost his consciousness while on board the vessel. Afterwards, the petitioner was seen by a doctor in Newcastle, Australia, where he was diagnosed with "musculoskeleton pain, high blood pressure, continuous sweating and lack of sleep". The petitioner was then recommended to rest and take analgesic and he was given an initial and final diagnosis of "insomnia". Finally, on May 4, 2010, the petitioner was discharged after he was found to be stable. He was then repatriated on the same day.

On May 5, 2010, the private respondents averred that the petitioner arrived in the Philippines where the latter was examined by a company-designated physician in Ygeia Medical Center, Inc. A physical examination was conducted upon the petitioner which yielded "unremarkable" results. Likewise, the results of the laboratory tests that were conducted upon him turned out to be normal. However, the petitioner was given an initial diagnosis of

“controlled hypertension and to consider anxiety reaction”. Afterwards, the petitioner was referred to a psychiatrist who prescribed a medication for “neurasthenia syndrome”. According to the said psychiatrist, the said syndrome was a mere condition of tiredness or apathy and it was not work-related. Thereafter, the petitioner was advised to continue with his other medications. Finally, during the final check-up of the petitioner on May 31, 2010, he was noted to be asymptomatic with no muscle pain and he was declared to be fit to work by the company-designated physician. Since then, nothing was heard from the petitioner until he filed the instant complaint in the NLRC two (2) years later or on August 29, 2012.

Consequently, the private respondents argued that the petitioner was not entitled to disability benefits in that he was declared to be fit for work by the company-designated physician within one hundred six (106) days from the time of his disembarkation from the vessel. The private respondents pointed out that, once the disability of a seafarer had been cured, the employer no longer had the obligation to compensate him or her for the reason that there is no more disability to compensate in the first place.

Thus, on February 28, 2013, the labor arbiter rendered a Decision which, inter alia, dismissed the complaint for total and permanent disability benefits and other money claims that was filed by herein petitioner against the private respondents for lack of merit. Aggrieved by the foregoing disposition of the labor arbiter, herein petitioner appealed from the same to the NLRC[7] on the ground that the findings of fact and conclusions of the labor arbiter were patently erroneous and without basis. However, the NLRC, in the herein assailed decision dated August 30, 2013, denied the appeal that was filed by the petitioner for lack of merit. Subsequently, herein petitioner filed a Motion for Reconsideration[8] of the aforesaid decision of the NLRC but the same was likewise denied for lack of merit in the herein assailed resolution dated October 31, 2013.

Undaunted by the foregoing disquisition of the NLRC, the petitioner filed the instant petition with this Court assigning the following acts of grave abuse of discretion that were purportedly committed by the NLRC, to wit:

I.

THE HONORABLE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN AFFIRMING THE DECISION OF THE HONORABLE ARBITER DISMISSING THE CLAIMS OF THE PETITIONER.

II.

THE HONORABLE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION BY UNJUSTIFIABLY IGNORING THE OVERWHELMING EVIDENCE WHICH CLEARLY SUPPORTS THE PETITIONER'S ENTITLEMENT TO MAXIMUM DISABILITY BENEFITS. THE PETITIONER WAS TOTALLY AND PERMANENTLY DISABLED IN THAT HE COULD NO LONGER RETURN TO ACTIVE SEA DUTY AND EARN THE INCOME WHICH HE ONCE ENJOYED AS A SEAFARER, A JOB WHICH HE HAD BEEN ACCUSTOMED TO PERFORM.

In sum, the sole issue to be resolved by us in this case is whether or not the petitioner was entitled to total and permanent disability benefits in the amount of Sixty Thousand US Dollars (USD\$60,000.00). After a careful and judicious scrutiny of the whole matter, together with the applicable laws and jurisprudence in the premises, we find the instant petition to be bereft of merit.

In the instant petition, the petitioner vehemently contended that the POEA Standard Employment Contract was primarily and specifically designed to safeguard the rights and privileges of seafarers on board ocean-going vessels. According to the petitioner, the disability which he suffered in the vessel was compensable and that he was able to meet all the requirements under the law for a compensable disability. Moreover, the petitioner averred

that the private respondents had already assumed the risk that they take the petitioner as the private respondents found him based on the mere fact that there was an employment contract that was entered into between the petitioner and the private respondents after the latter had subjected him to the pre-qualification standard.

Further, the petitioner asseverated that the record of the case is not bereft of evidence that he was, indeed, permanently incapable of going back to his former work as a seafarer. As a seafarer, the petitioner submitted that he was required to engage in strenuous activities and exert considerable effort in order to perform his job. However, he had been unanimously pronounced as permanently unfit for sea duty by his attending physicians. According to the petitioner, the nature and character of his injury would show that he could no longer dispose of his duty as a seafarer for the very reason that he had been totally and permanently impaired by the injuries which he sustained while on board the vessel of the private respondents. Consequently, the petitioner maintained that he was entitled to receive the maximum benefits that were provided by law.

Furthermore, the petitioner stressed that, in view of the refusal of the private respondents to faithfully perform their duties under the contract of employment which they entered into with the petitioner, the latter should be awarded moral and exemplary damages, plus attorney's fees.

For their part, the private respondents countered that, contrary to the argument of the petitioner, the fact that his medical examination revealed that he joined the vessel without any health issue is of no moment in that the said medical examination was not exhaustive in nature. According to the private respondents, the petitioner had not shown any reasonable connection between his work on board and his previous illness. Thus, the private respondents ratiocinated that the complaint of the petitioner was correctly dismissed since there was an absence of substantial evidence on record that would prove that his illness was work-related.

Moreover, the private respondents pointed out that the claim of the petitioner for total and permanent disability benefits was filed on October 23, 2012. On the other hand, the disability report that was issued by his personal doctor was only issued on June 4, 2013 or more than seven (7) months after the petitioner filed the instant complaint in the NLRC. Thus, the private respondents insisted that, at the time when the petitioner filed the instant complaint, he had no cause of action yet against the private respondents, thereby warranting the outright dismissal of this case for being premature and for want of a cause of action.

We agree with the contentions of the private respondents. Permanent total disability means disablement of an employee to earn wages in the same kind of work, or work of similar nature that he or she was trained for or accustomed to perform, or any kind of work which a person of his or her mentality and attainment could do.[9] The Supreme Court, in the case of *C.F. Sharp Crew Management, Inc. v. Taok*,^[10] enumerated the following instances when a seafarer may be allowed to pursue an action for total and permanent disability benefits, to wit:

“(a) The company-designated physician failed to issue a declaration as to his fitness to engage in sea duty or disability even after the lapse of the 120-day period and there is no indication that further medical treatment would address his temporary total disability, hence, justify an extension of the period to 240 days;

“(b) 240 days had lapsed without any certification issued by the company-designated physician;

“(c) The company-designated physician declared that he is fit for sea duty within the 120-day or 240-day period, as the case may be, but his physician of choice and the doctor chosen under Section 20-B(3) of the POEA-SEC are of a contrary opinion;

“(d) The company-designated physician acknowledged that he is partially permanently disabled but other doctors who he consulted, on his own and jointly with his employer, believed that his disability is not only permanent but total as well;

“(e) The company-designated physician recognized that he is totally and permanently disabled but there is a dispute on the disability grading;

“(f) The company-designated physician determined that his medical condition is not compensable or work-related under the POEA-SEC but his doctor-of-choice and the third doctor selected under Section 20-B(3) of the POEA-SEC found otherwise and declared him unfit to work;

“(g) The company-designated physician declared him totally and permanently disabled but the employer refuses to pay him the corresponding benefits; and

“(h) The company-designated physician declared him partially and permanently disabled within the 120-day or 240-day period but he remains incapacitated to perform his usual sea duties after the lapse of said periods.”

In the case at bench, none of the foregoing enumerated instances when an action for total and permanent disability benefits may be instituted is present. In fact, herein petitioner was examined by the company-designated physician who certified him as fit to go back to work as early as on May 31, 2010. It bears stressing that this finding was never disputed by the petitioner and it was only two (2) years thereafter and, worse, after the filing of the instant complaint in the NLRC, that the petitioner presented a Medical Certificate[11] stating that he was “unfit to perform strenuous exercise”. Clearly, evidence is wanting of proof that the petitioner suffered a total and permanent disability from a work-related illness that would warrant the award of total and permanent disability benefits under the law. As the labor arbiter aptly found:

“Complainant is not entitled to any disability benefit under the POEA Standard Employment Contract. This is because there is no substantial showing that he suffered a compensable work-related injury or illness which rendered him incapacitated for more than 120 days. The evidence on record, particularly the company-designated physician's Final Report dated May 31, 2010 (Annex 10-Respondents' Position Paper), states:

“Working Diagnosis: Hypertension Controlled

Neurasthenia Syndrome, Resolved

“Recommendation: Fit to Work

(Effective: May 31, 2010)

“Not a single medical record was adduced by complainant to dispute the said declaration of 'fit to work' by the company-designated physician made within the initial 120-day treatment period from the date of complainant's sign off. The only medical records presented by the complainant are those issued abroad and prior to his repatriation, which records were also adduced by the respondents.

“In fact, there is no slightest showing that he was under any medication after he was declared fit to work by the company-designated physician effective May 31, 2010. There is a complete lull, in facts and in evidence, from May 1, 2010 up to August 29, 2012, the date when complainant filed his initial sworn Complaint. Intriguingly, complainant stated in his initial sworn Complaint the dates of his 'Departure' and 'Arrival' as 'November 2010' and 'May 2011', respectively.

“Be that as it may, there being no evidence whatsoever to the contrary, the declaration of fitness to work made by the company-designated physician must be upheld. Complainant did not bother to consult any other physician to substantiate his claim for permanent total disability benefit. Notably, the obligation to make a declaration of fitness to work or the assessment of the degree of disability is imposed by the parties' POEA Standard

Employment Contract upon the company-designated physician. Thus, without proof of bad faith or grave abuse of discretion on the part of the company-designated physician, bias cannot be imputed on him. What the law presumes is good faith.

xxx

“In this case, the evidence adduced shows that on May 3, 2010 or 106 days from disembarkation and after undergoing medical treatment, complainant was declared fit to work, which declaration was made well-within the initial treatment period of 120 days. Complainant was paid of his sickness allowance covering said period of 106 days. Also, it is worthy to note that the condition (neurasthenia syndrome) of complainant which caused the repatriation of the complainant two years ago was found by the company-designated physician as not work-related. No contrary medical opinion is shown by the complainant.”

The afore-quoted findings of the Labor Arbiter was affirmed and further explained by the NLRC in the herein assailed decision in this wise:

“Noteworthy to state that a claim for disability benefits must be a consequence of an alleged injury/sickness suffered/contracted by complainant while on board the vessel. The existence of the alleged disability, as assessed by the company-designated physician is crucial in determining whether complainant is entitled to total and permanent disability benefit. Such claim presupposed that the claimant is truly suffering from a disability of that degree.

“In the present case, complainant was treated by the company-designated physician; and was certified fit to go back to work on 31 May 2010. xxx

xxx

“In the case at bar, complainant did not present any evidence showing that he secured the services of his own doctor to determine his medical condition. xxx

“Anent the medical certificate dated 4 June 2013 attached by the complainant in his Memorandum on Appeal, the commission cannot lend credence to the said certification simply for the reason that it was issued more than three (3) years from the time complainant was repatriated. The said medical certification is no longer credible since it cannot be proven that complainant's condition as of June 2013 is similar to his condition way back in 2010, when the company-designated physician issued the final certification declaring him fit to go back to work.

“We likewise take note of the fact that the fit to work certification was issued by the company-designated physician after treatment and management of complainant's condition. Based on the Medical Reports issued by the Ygeia Medical Center, it is indisputable that the company-designated physician, Dr. Maria Lourdes A. Quetulio monitored the health status of the complainant from the beginning up to the last day of his treatment. Thus, the commission cannot simply disregard the said certification based on complainant's bare allegation that said certification does not reflect the true and accurate status of his health.”

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DENYING the instant petition for lack of merit. The Decision promulgated by the First Division of the National Labor Relations Commission dated August 30, 2013 in NLRC NCR LAC 06-000624-13 and its subsequent Resolution dated October 31, 2013 in the said case are AFFIRMED in toto.

SO ORDERED.

Paredes[*] and Galapate-Laguilles,**] JJ., concur.

[*]Acting Senior Member vice J. Elbinias per Office Order No. 258-14-ABR dated June 2, 2014.

[**]Acting Junior Member vice J. Paredes per Office Order No. 258-14-ABR dated June 2, 2014.

[1]Rollo, pages 3-31.

[2] Ibid, Annex “A”, pages 35-45.

[3] Ibid, Annex “I”, pages 146-151.

[4] Ibid, Annex “B”, pages 46-47.

[5] Ibid, pages 85-86.

[6] Ibid, Annex “E”, pages 63-77.

[7] Ibid, Annex “J”, pages 152-178.

[8] Ibid, Annex “C”, pages 48-60.

[9] Valenzona v. Fair Shipping Corporation, G.R. No. 176884, October 19, 2011.

[10]G.R. No. 193679, July 18, 2012.

[11] Ibid, page 179.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.