

JORGE D. CARDONES, JR., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION), STATUS MARITIME CORP., CINER SHIPMANAGEMENT AGENCY INDUSTRIAL AND TRADING INC., AND ...

Ponente: BRUSELAS, JR. J.

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BRUSELAS, JR. J.:

Petitioner Jorge D. Cardones (Cardones) filed the herein petition for certiorari^[1] under Rule 65 of the Rules of Court, to invalidate, for having been rendered with grave abuse of discretion, the—

(a) Decision,^[2] the dispositive of which, reads —

“WHEREFORE, the appeal filed by complainant is hereby DENIED for lack of merit. The decision dated 27 September 2013 is AFFIRMED.

SO ORDERED.”

and —

(b) Resolution^[3] which denied petitioner's motion for reconsideration of the assailed Decision.

The facts of the case as found by the labor arbiter and reiterated by the NLRC are as follows:

Cardones entered into a Contract of Employment with the respondents Status Maritime Corporation and its foreign principal, Ciner Shipmanagement Agency Industrial & Trading Inc., which was patterned after and approved in accordance with the amended Philippine Overseas Employment Administration-Standard Terms and Conditions Governing the Employment of Filipino Seafarers On-Board Ocean-Going Vessels (POEA-SEC). He was contracted for a period of nine (9) months, with additional three months upon mutual consent, to serve as Cook on board the vessel M/V “TRABZON” with a monthly basic salary of US \$876.00. Prior to the execution of the contract, he underwent pre-employment medical examination (PEME) and was declared fit to work as Chief Cook. On 6 November 2011, he departed from the point of hire and embarked on his assigned vessel. As Chief Cook, his duties included supervising and coordinating the activities of the kitchen personnel in preparing meals aboard ship; coordinating with the Master on matters pertaining to food supplies and equipment; determining time and sequence of cooking operations; inspecting galley mess hall and equipment; butchering and preparing meats, fowl and seafood for cooking; and lifting heavy loads of provisions and stocks. His work consisted of eighteen (18) hours a day.

On 23 August 2012, due to the hostile working conditions at the vessel, Cardones felt dizziness, chest pain and easy fatigability. He requested medical attention which the Master did not grant due to cost-cutting measures then being implemented by the respondents. Due to serious illness, he signed off on 28 August 2012. Upon his arrival on 29 August 2012, Cardones went directly to his hometown in Naic, Cavite. On the next day, he was brought to the San Lorenzo Ruiz Hospital in Naic, Cavite due to severe body weakness, dizziness and blurring of vision. His

wife informed the respondents of his situation but she received no response from the latter. Cardones was discharged from the hospital on 1 September 2012. He reported to the respondents on the same day and was told to await the Master's Report. No report, however, was given to him. He was not also accorded any medical attention.

On 19 March 2013, a medical certificate was issued by his attending physician which stated that he was suffering from Diabetes Mellitus 2, Uncontrolled Retinopathy and Cataract OD and that he was unfit to do medium and heavy jobs. On 21 February 2013, he underwent ECG and 2D Echo, which revealed abnormal results. On 26 February 2013, he was examined and confined at the Philippine General Hospital (PGH). His admitting diagnosis was "CSM OD, Pseudophakia, S/P LE with IL". On 11 March 2013, he was again examined and confined at the PGH with admitting diagnosis of "DMT2, Uncontrolled and Retinopathy, Cataract OD Pseudopakia S/P LE." On 10 April 2013, he was again examined and confined at the PGH due to chest pain, and after his discharge, he was issued a Clinical Abstract stating that his admitting diagnosis was "T/C Coronary Artery Disease. Type 2 DM." On 24 April 2013, he was issued a Medical Certificate with final diagnosis of "T/C Coronary Artery Disease; Type 2 Diabetes Mellitus, Cataract Senile mature; Right Eye Pseudophakia; S/P LE with Intraocular lens; and Myopic fungus changes, both eyes." He was suggested to undergo angioplasty. In order to determine the nature and degree of his disability, he sought the expert opinion of an independent physician/cardiologist, Dr. Rommel F. Galvez. Dr. Galvez issued a Medical Certificate dated 19 April 2013 stating that Cardones still complained of on-and-off angina and that he was permanently unfit to work.

Cardones contended that because of his incapacity to work due to his work-related illness, which he contracted during the effectivity of his contract, the respondents should be held liable to him for the payment of total disability compensation. He also claimed that he should be entitled to sickness wages for 120 days, moral and exemplary damages and attorney's fees.

On the part of the respondents, they argued that Cardones should not be entitled to his claims because he failed to undergo the mandatory post-employment medical examination and he did not even report for debriefing. They further asserted that Cardones had finished his contract without any medical issue and that his diagnosed illness was not work-related.

The respondents submitted the affidavit of Edwin A. Rivera, Crewing Manager, who stated that Cardones never brought to the respondents' attention any medical complaint during the term of his employment, and that upon completion of his contract, he did not present himself for debriefing or request for medical assistance. They also submitted the Statement of Captain Camilo F. Nailon, Master of M/V "TRABZON", who certified that no report of any illness or request for medical attention involving Cardones was ever reported during the latter's stay on board the vessel.

In his Decision,[4] the labor arbiter dismissed Cardones' complaint for lack of merit. According to the labor arbiter, while it appeared that the 9-month contract may be the subject of a 3-month extension, the extension, however, must be upon mutual consent of the parties. The fact that Cardones was signed off and repatriated after completing 9 months of service showed that no contract extension was undertaken. As such, Cardones was deemed to have completed or finished his contract.

The labor arbiter found no indication that Cardones, at the time he was discharged from the vessel, was suffering from an illness or that his repatriation was undertaken on medical grounds. As such, the labor arbiter held that the provisions of Section 18 B.1 of POEA-SEC on medical repatriation was not applicable, so as to render the respondents liable for the obligations under Section 20-A of the POEA-SEC. The labor arbiter further ruled that Cardones was disqualified from claiming benefits under Section 20 of the POEA-SEC as there was no proof that

he reported to the respondent manning agency for the conduct of a post-deployment medical examination.

The labor arbiter also found that Cardones' diagnosed illness of Diabetes Mellitus 2 was not listed as an occupational illness while retinopathy was merely incidental to, or a necessary medical consequence for patient diagnosed with diabetes mellitus.

It was also noted by the labor arbiter, that contrary to Cardones' claim, it was incumbent upon him to prove causality for purposes of claiming compensation benefits. The labor arbiter, however found no proof to establish that Cardones' working conditions and environment aggravated his illness to render any incapacity arising therefrom to be compensable.

The labor arbiter further ruled that even on the assumption that Cardones was diagnosed to be suffering from coronary artery disease which was listed as an occupational illness, the latter still had the the burden to prove the existence of the conditions for compensability.

Given the foregoing circumstances, the labor arbiter did not sustain Cardones' claim for disability benefits.

Finally, there being no proof of bad faith or malice on the part of the respondents, the labor arbiter likewise denied Cardones' claims for damages and attorney's fees.

Cardones appealed the decision of the labor arbiter to the NLRC.

On 29 November 2013, the NLRC affirmed the decision of the labor arbiter. According to the NLRC, while Cardones' wife may have asserted that she informed respondents that her husband had been hospitalized a day after his arrival, she, however, failed to identify the personnel of the respondent manning agency to whom she relayed the said information. Neither was Cardones able to identify the personnel of the respondent manning agency to whom he reported on 1 September 2012 and who told him to wait for the Captain's Report. If indeed, Cardones was confined at a hospital in Naic, Cavite from 30 August 2012 to 01 September 2012, he could have presented proof of his confinement but he failed to do so. On the other hand, respondents presented the affidavit of Edwin Rivera, Crewing Manager, whereby Rivera stated that Cardones, who had been repatriated due to the completion of his contract, did not report to the respondent regarding any medical illness or medical assistance.

The NLRC also held that Cardones failed to substantiate his allegation that he suffered dizziness, chest pain and fatigability while on board respondent's vessel. The NLRC agreed with the labor arbiter that there was no showing that Cardones, at the time he was discharged from the vessel, was suffering from an illness or that his repatriation was undertaken on medical grounds. In this connection, the respondents submitted the Statement of the Master stamped with the official seal of the vessel, whereby the Master stated that based on his knowledge and the Master's Logbook, no report of any illness or request for any medical attention involving Cardones was reported during his stay on board the vessel from 8 November 2011 up to 28 August 2012.

The NLRC did not give credit to the medical certificate issued by Dr. Rafael Vasquez, who certified that Cardones had been under his medical care since 30 August 2012. According to the NLRC, the same cannot be considered as substantial compliance with the mandatory requirement provided under Section 20 (B) paragraph 3 of the POEA-SEC, as it did not certify that Cardones was physically incapacitated to undergo post-employment medical examination within three (3) working days from arrival.

For failure of Cardones to comply with Section 20 (B) of the POEA SEC which provided that it was mandatory for a seafarer to undergo post-employment medical examination by a company-designated physician within three (3) working days from arrival or if physically incapacitated to do so, to give a written notice to the agency within the same period, the NLRC held that he had forfeited his right to claim his disability benefits.

The NLRC also pointed out that while Cardones averred that he was suffering from many illnesses, consisting of coronary artery disease, diabetes and cataract as shown by medical certificates, a perusal, however of the said certificates revealed that his medical examination was conducted only six (6) months after his repatriation. Cardones cannot claim disability benefits for his illness contracted after the termination or expiration of his contract of employment. In this connection, the NLRC also noted that the records did not show that Cardones made a written demand for disability benefits from the respondents prior to his filing of his complaint on 15 March 2013.

Cardones moved to reconsider the decision of the NLRC but his motion was denied. Hence, the herein petition for certiorari. Cardones contends that the NLRC committed grave abuse of discretion in: 1) ruling that he failed to report to the private respondents within a period of three working days after his arrival at the point of hire; 2) ruling that he did not suffer diseases during the term of his employment; 3) dismissing his claims for permanent total disability benefits despite his disablement to earn wages in whatever capacity as a seafarer; 4) in dismissing his claim for sickness allowance despite the fact that he still needed further treatment even after he had signed-off from the vessel; and 5) dismissing his claim for damages and attorney's fees, there being bad faith on the part of the respondents in the performance of their contractual obligations.

We find the petition to be bereft of merit.

As can be gleaned from the foregoing recitals, substantial evidence permeate the decisions of the lower labor tribunals. The conclusions and inferences reached find support from the evidence submitted. No gross, arbitrary misreading of the evidence can be detected. In our view, Cardones failed to demonstrate that the NLRC's decision was attended with grave abuse of discretion. All the grounds raised by him to support his petition pertain to a determination of factual matters which would require us to inquire into the correctness of the evaluation of the evidence made by the NLRC. Such an examination, however, may not be carried out in a petition for certiorari. As held by the Supreme Court in *Letran Calamba Faculty v. NLRC*:^[5]

“The appellate court's jurisdiction to review a decision of the NLRC in a petition for certiorari is confined to issues of jurisdiction or grave abuse of discretion. An extraordinary remedy, a petition for certiorari is available only and restrictively in truly exceptional cases. The sole office of the writ of certiorari is the correction of errors of jurisdiction including the commission of grave abuse of discretion amounting to lack or excess of jurisdiction. It does not include correction of the NLRC's evaluation of the evidence or of its factual findings. Such findings are generally accorded not only respect but also finality. A party assailing such findings bears the burden of showing that the tribunal acted capriciously and whimsically or in total disregard of evidence material to the controversy, in order that the extraordinary writ of certiorari will lie.

In the instant case, the Court finds no error in the ruling of the CA that since nowhere in the petition is there any acceptable demonstration that the LA or the NLRC acted either with grave abuse of discretion or without or in excess of its jurisdiction, the appellate court has no reason to look into the correctness of the evaluation of evidence which supports the labor tribunals' findings of fact.”

We must remember that “grave abuse of discretion”, in a special civil action for certiorari under Rule 65, means such capricious or whimsical exercise of judgment which is equivalent to lack of jurisdiction. To justify the issuance of the writ of certiorari, the abuse of discretion must be grave, as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined, or to act at all, in contemplation of law, as to be equivalent to having acted without jurisdiction.^[6] Further, far from being contrary to law or prevailing jurisprudence, the LA's and the NLRC's conclusions were arrived at after a determination of the surrounding facts and the prevailing law; much less has the respondent Commission exercised its power

arbitrarily or despotically, by reason of passion, prejudice or personal hostility.

Where there is a concurrence of both the NLRC's and labor arbiter's decisions, courts ought to be more prudent in the exercise of its certiorari jurisdiction in order to allow greater stability in the market place because, after all, labor law and policy mandate speedy, efficient and effective resolution of employer-employee controversies by specialized labor tribunals who have expertise on the matter and whose decisions must, as much as possible, carry finality.

WHEREFORE, the petition is DENIED DUE COURSE and consequently DISMISSED.

IT IS SO ORDERED.

Bueser, and [*]Reyes Carpio, JJ., concur.

[*] Acting Junior Member per Office Order No. 81-15-ABR dated March 16, 2015.

[1] Rollo, pp. 3-31.

[2] Written by Presiding Commissioner Alex A. Lopez, in NLRC LAC OFW (M)-11-001031-13, entitled "Jorge D. Cardones, Jr. vs. Status Maritime Corp. and/or Edwin A. Rivera and Ciner Ship Management Agency & Industrial & Trading Inc.," Rollo, pp. 189-197.

[3] Rollo, pp. 219-220.

[4] Rollo, pp.141-150.

[5] G.R. No. 156225, January 29, 2008, 543 SCRA 26, citing *Odango v. NLRC*, G.R. No. 147420, June 10, 2004, 431 SCRA 633.

[6] *C.F. Sharp Crew Management, Inc. v. Taok*, G.R. No. 193679, 677 SCRA 296, July 18, 2012; *Julie's Franchise Corporation v. Ruiz*, G.R. No. 180988, August 28, 2009, 597 SCRA 463, citing *Vergara v. Ombudsman*, G.R. No. 174567, March 12, 2009, 580 SCRA 693.

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