

URIEL ORTEZA, JR., PETITIONER, VS. WILHELMSSEN-SMITH BELL MANNING INC./ WILHELMSSEN SHIP MANAGEMENT LTD., FAUSTO R. PREYSLER AND ANTONIO LADERA III, RESPONDENTS.

Ponente: BRUSELAS, JR. J.

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BRUSELAS, JR. J.:

The petition should be dismissed for want of demonstrable grave abuse of discretion as to oust the National Labor Relations Commission (NLRC) of jurisdiction, when it affirmed the findings of the labor arbiter.

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

Orteza was employed by respondent Wilhelmsen-Smith Bell Manning, Inc., for and in behalf of respondent Wilhelmsen Ship Management, Ltd., as Third Officer on board the vessel M/V Cape Orchid for a period of eight months.

Orteza then suffered an injury, the circumstances of which were disputed by both parties.

Orteza averred that he suffered Right Knee Internal Derangement during the term of his POEA contract on board the vessel. He was examined abroad in Baltimore and later on in Savannah where he was diagnosed with Internal Derangement, Knee. For this reason, he was repatriated on 6 April 2012. Upon repatriation, he was referred to the Metropolitan Medical Center on 10 April 2012, and was diagnosed to have Gouty Arthritis, Right Knee; Unicameral Bone Cyst, Right Proximal Tibia; S/P Core Needle Biopsy; S/P Extended Curettage, High Speed Burr; Chemical Adjuvant, Bone Grafting, Right Proximal Tibia.

Orteza further averred that, after he was advised that his treatment had been stopped, he sought the services of an independent doctor because he still felt pain and stiffness on his right knee. The independent doctor, Dr. Garduce, opined that “it would be impossible for him to work as third officer/seaman.” Orteza continued to suffer from the injury that brought about his repatriation even after the lapse of a 240-day period.

Because he was already unfit to resume work as a seaman in any capacity, Orteza filed a complaint for total permanent disability benefits under the POEA contract. He also prayed for moral damages, exemplary damages and attorney's fees.

The respondents on the other hand, remained firm on their stand that Orteza was not entitled to disability benefits. They averred that while Orteza was off-duty, he played basketball with his other crewmates and that after the game, Orteza complained of pain and swelling on his right knee. The respondents submitted an affidavit of Orteza's crewmate, Gener G. Cruz, as well as the vessel's logbook, which contained an entry of: “while playing basketball (2012-02-018) 3rd OFF twisted his right knee.” Orteza was then brought to a clinic abroad where he was diagnosed with Right Knee Internal Derangement (ligament tear). He was repatriated for further treatment and management. The respondents shouldered all medical expenses of Orteza and paid his sickness allowance in full.

In his Decision,[1] the labor arbiter dismissed the complaint for lack of merit. According to the labor arbiter, Orteza failed to show compliance with the requirements for compensability of an injury under the POEA contract. Orteza was not able to show that the injury that he sustained was work-related. Because of his failure to comply with the requirements for entitlement to disability benefits, the labor arbiter denied Orteza's claim for disability benefits, moral and exemplary damages and attorney's fees.

The NLRC affirmed the decision of the labor arbiter. According to the NLRC, Orteza failed to prove the causal connection between his injury and his work. In his position paper, Orteza failed to provide the details on how he incurred such injury on his knee. The respondents' evidence, however, provided the fact that Orteza had purposely omitted: he was injured while playing basketball. Such fact was recorded in the vessel's logbook, which was never contested by Orteza. Orteza merely capitalized on the accepted doctrine that in case of doubt between the evidence of the employee and that of the employer, the doubt must be resolved in favor of labor. The NLRC, however, found no doubt between the parties' evidence. The NLRC held that the vessel's log book was "a prima facie evidence of the facts stated therein as they are official entries made by a person in the performance of a duty required by law," and "a respectable record that can be relied upon to authenticate the charges filed and the procedure taken against the employees prior to their dismissal." The NLRC also took into consideration the affidavit of Gener Cruz, Orteza's co-player, attesting that it was after they played basketball that Orteza complained of pain on his knee.[2]

Orteza moved to reconsider the decision of the NLRC but his motion was denied. Hence, the herein petition for certiorari. Orteza contends that the NLRC committed grave abuse of discretion when it denied his claim for full disability benefits, damages and attorney's fees. According to Orteza, the respondents should be held liable because his injury occurred on board the vessel and during the term of his POEA contract. He contends that the basketball game was allowed by the captain of the vessel and should be considered as part of his duty. He also insists that he should be entitled to disability benefits because he was not able to go back to his work as a seafarer. He further argues that he should be declared permanently and totally disabled because he had been incapacitated to work for more than 240 days. Anent his claim for damages, Orteza avers that the respondents acted clearly with fraud, malice and in bad faith when they refused to pay the disability benefits due him under the POEA Standard Employment Contract.

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, Orteza failed to demonstrate that the NLRC's decision had been attended with grave abuse of discretion. All the grounds raised by him to support his present 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*: [3]

"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.[4] Further, far from being contrary to law or prevailing jurisprudence, the LA's and the NLRC's conclusions were arrived at after a meticulous 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 DISMISSED.

IT IS SO ORDERED.

Reyes, Jr., A.B., P.J., (Chairperson) and Gaerlan, JJ., concur.

[*] Wilhelmsen was erroneously spelled as Wilhemsem in the Petition.

[1] Rollo, pp.115-120.

[2]Written by Commissioner Mercedes R. Posada-Lacap, in NLRC NCR-OFW- (M)-05-07519-13, entitled “Uriel G. Orteza, Jr. vs. Wilhelmsen-Smith Bell Manning Inc. et al.,” Rollo, pp. 18-26.

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

[4] *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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