

MAERSK-FILIPINAS CREWING, INC. / JESUS AGBAYANI, PETITIONERS, VS. HERMENEGILDO G. CELESTIAL AND NATIONAL LABOR RELATIONS COMMISSION, RESPONDENTS.

Ponente: YBAÑEZ, J.

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YBAÑEZ, J.:

In this special civil action for certiorari,[1] petitioners seek to reverse and set aside the Decision[2] dated 25 April 2012 of the public respondent National Labor Relations Commission (NLRC) which dismissed their appeal for lack of merit as well as the Resolution[3] dated 31 May 2012 which denied the consequent reconsideration thereof.

The Facts

Since 2006, private respondent Hermenegildo Celestial has been employed as a seafarer by petitioner Maersk-Filipinas Crewing Inc. On 27 October 2010, he signed his sixth and latest Contract of Employment[4] as a chief cook on board the vessel M/V MAERSK KINLOSS for a six (6)-month period and left the Philippines to join the vessel on 11 November 2010.

In the first week of 2011, private respondent manifested to his captain that he was experiencing shortness of breath, chest pain and body exhaustion which prompted the latter to sent him to a local hospital where he was confined and diagnosed to have an ischemic heart disease and uncontrolled hypertension. The cardiologist then advised him to undergo an angiogram and angioplasty.[5]

On 24 February 2011, private respondent was repatriated to the Philippines for further medical evaluation and management. He was referred to the company-designated physician, Dr. Natalio Alegre and underwent series of examinations and laboratory testing at St. Lukes Hospital.

On 09 May 2011, schedule of the follow-up medical evaluation, private respondent did not return to Dr. Alegre's clinic. Thus, Dr. Alegre could not give him final assessment on his disability.[6]

Alleging the long period that he was not given any work and the absence of any assessment on his disability by Dr. Alegre, private respondent consulted Dr. May Donato-Tan, a cardiologist from the Philippine Heart Center, who posited that he is suffering from a permanent disability and opinionated that he could no longer work as a seafarer because of his persistent symptoms that required consultations, further laboratories and adjustment in his medications.[7] Pursuant to the said findings, he claimed disability benefits from the petitioners which was not heeded prompting him to file the instant complaint.

On the other hand, petitioners countered that private respondent is not entitled to his claim because his illness was pre-existing and was not contracted while working on board the vessel. They also alleged that when he took only herbal medicines instead of the doctor-prescribed medications, he violated one of his duties as seafarer, i.e., to take personal responsibility of his health while onboard by practicing a healthy lifestyle which includes taking medications and lifestyle changes as prescribed by the company-designated physician, provided in the POEA

Standard Employment Contract.[8]

Ruling of the Labor Arbiter

In his 20 October 2011 Decision,[9] Labor Arbiter Joel Lustria granted private respondent's disability claims. He opined that petitioners cannot escape liability by claiming that private respondent's illness is pre-existing since not only they had the opportunity to determine the latter's medical fitness prior to his deployment, their company-designated physician declared him as "fit for employment" which indicated that his ischemic heart disease and uncontrolled hypertension is work-related. Labor Arbiter Lustria did not also give credence to petitioners' allegation that private respondent failed to take his medicines as there was no evidence that will show what these prescribed medicines are. The decretal portion of the Decision reads as:

"WHEREFORE, responsive to the foregoing, judgment is hereby rendered declaring complainant's claim for disability benefits based on the permanent total disability compensation category meritorious. Accordingly, respondents are hereby ordered jointly and severally liable:

1. To pay complainant the amount of US\$ 118,800.00 or its equivalent in Philippine Currency prevailing at the exchange rate at the time of payment, representing his permanent and total disability benefits;
2. To pay complainant the amount of US\$ 3,300.00 or its equivalent in Philippine Currency prevailing at the exchange rate at the time of payment, representing his sickness benefits allowance;
3. To pay complainant an amount equivalent to ten (10%) percent of the total judgment award, as and for attorney's fees.

Other claims are dismissed for lack of merit.

SO ORDERED."[10]

Ruling of the NLRC

Petitioners then appealed before the NLRC which was ineffectual since the latter affirmed the findings of the Labor Arbiter. It ruled that private respondent is entitled to disability benefits because his ischemic heart disease and uncontrolled hypertension supervened during his last employment engagement with petitioners. In fact, there was no indication in the mandatory pre-employment medical examination that he was suffering from said illnesses. Further, even assuming that private respondent's heart condition is pre-existing at the time he was hired, the same would not alter his entitlement to the benefits if his work had somehow contributed to a small degree to the aggravation of his condition.[11]

Aggrieved with the said reversal, petitioners moved for the reconsideration[12] of the aforesaid ruling which was however, denied in the Resolution[13] issued on 31 May 2012.

Hence, petitioners filed the instant petition interposing the following grounds,[14] to wit:

I.

THE HONORABLE COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION IN DISREGARDING THE PROVISION OF THE POEA STANDARD EMPLOYMENT CONTRACT, AS AMENDED, CONCERNING PRE-EXISTING ILLNESS, GLOSSING OVER THE BREACH OF DUTY BY COMPLAINANT AND VIOLATION OF MANDATORY REPORTING REQUIREMENT SUSTAINING THE HONORABLE LABOR ARBITER'S AWARD OF PERMANENT AND TOTAL DISABILITY BENEFITS; and

II.

THE HONORABLE COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION IN AWARDING SICKWAGES ALLOWANCES AND ATTORNEY'S FEES TO PRIVATE RESPONDENT.

The Issue

The errors presented could be summarized to the sole issue of whether or not private respondent is entitled to disability benefits.

The Ruling of this Court

We resolve to grant the petition.

At the outset, we would like to point out the settled rule that factual findings of labor officials, who are deemed to have acquired expertise in matters within their jurisdiction, are generally accorded not only respect but even finality by the courts when supported by substantial evidence, i.e., the amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion. We emphasize, nonetheless, that these findings are not infallible. When there is a showing that they were arrived at arbitrarily or in disregard of the evidence on record, they may be examined by the courts. This court can then grant a petition for certiorari if it finds that the NLRC, in its assailed decision or resolution, has made a factual finding that is not supported by substantial evidence,[15] as the case at bar.

Here, while the NLRC found and gave credence to the admission of private respondent that he was taking herbal medications to control the high episodes of his blood pressure that already manifested prior to his deployment in 2010, it nevertheless granted the claim of disability benefits because private respondent's ischemic heart disease and uncontrolled hypertension supervened during his last employment engagement with the petitioners.[16] However, such reason is not enough to warrant the grant of his claim.

Section 20 (B) of the Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels provides, to wit:

SECTION 20. COMPENSATION AND BENEFITS

B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

The liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract are as follows:

1. The employer shall continue to pay the seafarer his wages during the time he is on board the vessel;
2. If the injury or illness requires medical and/or dental treatment in a foreign port, the employer shall be liable for the full cost of such medical, serious dental, surgical and hospital treatment, as well as board and lodging, until the seafarer is declared fit to work or to be repatriated.

However, if after repatriation, the seafarer still requires medical attention arising from said injury or illness, he shall be so provided at cost to the employer until such time he is declared fit or the degree of his disability has been established by the company-designated physician.

3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work, or the degree of permanent disability has been assessed by the company-designated physician, but in no case shall this period exceed one hundred twenty (120) days.

For this purpose, 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.

If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the employer and the seafarer. The third doctor's decision shall be final and binding on both parties.

4. Those illnesses not listed in Section 32 of this Contract are disputably presumed as work related.

5. Upon sign-off of the seafarer from the vessel for medical treatment, the employer shall bear the full cost of repatriation in the event the seafarer is declared (1) fit for repatriation; or (2) fit to work, but the employer is unable to find employment for the seafarer on board his former vessel or another vessel of the employer despite earnest efforts.

6. In case of permanent total or partial disability of the seafarer caused by either injury or illness, the seafarer shall be compensated in accordance with the schedule of benefits enumerated in Section 32 of his Contract. Computation of his benefits arising from an illness or disease shall be governed by the rates and the rules of compensation applicable at the time the illness or disease was contracted. (emphasis supplied)

Thus, in order for an illness or injury to be compensable, it must be shown that the injury or illness is work-related

and that it existed during the term of the seafarer's employment contract.[17]

Work-related illness is defined by the 2000 POEA Amended Standard Terms and Conditions as any sickness resulting in disability or death as a result of an occupational disease listed under Section 32-A of this contract with the conditions set therein satisfied. These are:

SECTION 32-A. OCCUPATIONAL DISEASES

For an occupational disease and the resulting disability or death to be compensable, all of the following conditions must be satisfied:

- (1) The seafarer's work must involve the risks described herein;
- (2) The disease was contracted as a result of the seafarer's exposure to the described risks;
- (3) The disease was contracted within a period of exposure and under such other factors necessary to contract it; and
- (4) There was no notorious negligence on the part of the seafarer.

Section 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 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 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 causal relationship.

Consequently, for cardiovascular disease to constitute an occupational disease for which the seafarer may claim compensation, it is incumbent upon said seafarer to show that he developed the same under any of the three conditions identified above.[18]

Clearly, the first working condition is the one applicable since private respondent's hypertension already existed and known to have been present at the time of his employment.[19] Thus, private respondent has to show a

convincing proof that the nature of his work as a chief cook aggravated his condition, which however, it failed to do. His mere narration that: he was constantly exposed to warm temperature inside the kitchen; he was required to clean the ovens every night, spraying with chemical soap, drying and wiping them with rags; he maintained the cleanliness of the dry store, meat room and dry room; and he was rarely given fresh meat, fruits and vegetables to eat,[20] did not convince us that his ailment worsened. Private respondent should have been more detailed in enumerating his duties and responsibilities like the time he starts his work and retires at night; the dimensions of the dry store, meat room and dry room that he maintains as well as the number of ovens that he cleans. Private respondent should have also given the danger, if there is, and correlation of his constant exposure to the warm temperature inside the kitchen to his heart condition. Such showing would have guided us in depicting a clearer picture of how his work put a strain in his illness since the duties that he listed did not appear to be burdensome and uncalled for as a chief cook. Thus, since private respondent unsuccessfully satisfied the requisites of the first working condition in order to consider the cardiovascular disease as compensable, then he is not entitled to any disability benefits.

Such is still the outcome even if private respondent was issued a “fit to work” status which both the Labor Arbiter and NLRC gave too much importance. The pre-employment medical examination or PEME is not exploratory and does not allow the employer to discover any and all pre-existing medical condition with which the seafarer is suffering and for which he may be presently taking medication. The PEME is nothing more than a summary examination of the seafarer's physiological condition and is just enough for the employer to determine his fitness for the nature of the work for which he is to be employed.[21]

Moreover, it must be stressed that the filing of the instant complaint is still premature. It should be noted that private respondent's treatment and consultations with the company-designated physician began on 01 March 2011, six days after he was medically repatriated.[22] While in the middle, however, of his treatment, private respondent did not return for the follow-up check-up scheduled on 09 May 2011 or on any other day.[23] As a result of his abandonment midway of the on-going management of his illness, the company-designated physician could not give an accurate assessment on his physical health. Naturally, private respondent should not expect that he will be given back his employment or the consequent grade of his disability as he was the one to be blamed for ditching the medical treatment.

While we sympathize with the predicament of private respondent, the same is not an excuse for him to neglect the requirements mentioned by the POEA Amended Standard Terms and Conditions. We now ruled that private respondent is not entitled to his claim of disability benefits because of his failure to substantiate that his cardiovascular ailment falls under one of the working conditions. Public respondent thus committed grave abuse of discretion when it affirmed the award given by Labor Arbiter Lustria.

WHEREFORE, premises considered, the instant petition is GRANTED. The assailed Decision and Resolution dated 25 April 2012 and 31 May 2012 respectively, of the National Labor Relations Commission are REVERSED AND SET ASIDE.

SO ORDERED.

Dimaampao, (Chairperson), and Sadang, JJ., concur.

[1] Rollo, pp. 3-23

[2] Id., pp. 152-164

[3] Id., pp. 175-178

[4] Id., p. 38

[5] Id., Complainant's Position Paper, p. 44

[6] Id., p. 41

[7] Id., p. 45

[8] Id., Respondents' Position Paper, pp. 27-30

[9] Id., pp. 94-106

[10] Id., pp. 105-106

[11] Id., pp. 160-163

[12] Id., pp. 165-174

[13] Supra on note 3

[14] Supra on note 1, p. 12

[15] Norkis Trading Corporation vs. Joaquin Buena Vista, et al., G. R. No. 182018, October 10, 2012, 683 SCRA 406

[16] Jebsens Maritime Inc., represented by Ms. Arlene Asuncion and/or Alliance Marine Services, Ltd. vs. Enrique Undag, G. R. No. 191491, December 14, 2011, 662 SCRA 670.

[17] Jebsens Maritime Inc., represented by Ms. Arlene Asuncion and/or Alliance Marine Services, Ltd. vs. Enrique Undag, G. R. No. 191491, December 14, 2011, 662 SCRA 670.

[18] Id.

[19] Rollo, pp. 39-40

[20] Id., p. 44

[21] Philman Marine Agency, Inc. (now DOHLE-Philman Manning Agency, Inc.) and/or DOHLE (10M) Limited vs. Armando Cabanban, G. R. No. 186509, July 29, 2013

[22] Rollo, pp. 39-40

[23] Id., p. 41

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