

NESTOR J. PLATA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, MEDLINE PHILIPPINES, INC. AND/OR PAFALOS SHIPPING S.A. AND/OR CAPT. ANGEL J. OSEÑA, RESPONDENTS.

Ponente: SALAZAR-FERNANDO, J.

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SALAZAR-FERNANDO, J.:

Before this Court is a Petition for Certiorari[1] under Rule 65 of the 1997 Revised Rules of Civil Procedure assailing the Decision[2] dated March 24, 2014 and the Resolution[3] dated April 25, 2014 of the National Labor Relations Commission (NLRC), Fifth Division in NLRC NCR Case No. (M) 11-16243-12 NLRC LAC No. (OFW-M) 12-001136-13, entitled “NESTOR J. PLATA, Complainant-Appellant, versus MEDLINE PHILIPPINES, INC. and/or FAFALIOS SHIPPING S.A. and/or CAPT. ANGEL J. OSEÑA, Respondents-Appellees.”, the dispositive portions of which read:

Decision dated March 24, 2014

“WHEREFORE, premises considered, complainant's Appeal is hereby PARTLY GRANTED. The Decision of Labor Arbiter Pablo A. Gajardo, Jr. dated August 30, 2013 is hereby MODIFIED in that complainant is entitled to his sickness allowance equivalent to his basic salary for the period of April 27, 2012 to July 15, 2012. Further, complainant is entitled to financial assistance in the amount of TWO HUNDRED THOUSAND PESOS (P200,000.00).

SO ORDERED.”[4]

Resolution dated April 25, 2014

“WHEREFORE, the Motion for Partial Reconsideration of complainant is DENIED for lack of merit. The Motion for Reconsideration of respondents is PARTLY GRANTED. The Decision dated March 24, 2014 is MODIFIED to the extent that the sickness allowance awarded to complainant is computed from April 27, 2012 to May 21, 2012.

All other dispositions STAY.

SO ORDERED.”[5]

The facts are:

On November 20, 2012, petitioner Nestor J. Plata (Plata for brevity) filed a Complaint[6] for payment of disability benefits, damages, sick leave pay, attorney's fees, and reimbursement of sickness allowance against private respondents Medline Philippines, Inc. (MPI for brevity), Capt. Angel J. Oseña (Oseña for brevity), and/or Fafalos Shipping S.A. (FSSA or PSSA, or collectively, private respondents for brevity).

In his Position Paper[7], petitioner Plata averred that: he was engaged by private respondent MPI for and in behalf of its foreign principal, private respondent PSSA as “2/Cook” for ten (10) months in the latter's vessel, M/V Nueva Fortuna (vessel for brevity); such employment was his eighteenth (18th) in a series of successively

renewed contracts he had with private respondent PSSA, a Greek company, since April 12, 1992; he underwent pre-employment medical examination (PEME for brevity) conducted by the company-designated physician prior to his deployment; after being declared fit to work by the company-designated physician, he joined as 2nd cook of the vessel with various kitchen duties; while onboard the vessel, he performed strenuous tasks such as lifting, carrying, pulling, pushing or moving provisions and materials; in the performance of his duties, he was constantly exposed to inhalation and direct contact to fumes, gas, dust and various injurious and harmful chemicals; his work was not confined to the regular eight to five schedule but started early at dawn with broken time work and rest schedule; the extended amount of work spent each day had inevitably caused him tremendous strains and fatigue; adverse conditions of work included exposure to varying temperatures of extreme hot and cold as he moved from the hot cooking and down to the cold food storage and vice versa, harsh sea weather conditions, frequent adjustment to different time zones, all of which were physically and mentally stressful; he performed his duties satisfactorily until he suffered symptoms of his illness in the course of his employment; his Greek superiors were verbally abusive to him but he opted to contain his emotions for the sake of his family; as assistant cook, he was subjected to daily verbal abuse by the Greek Chief Cook who shouted derogatory remarks and vented anger at him for no apparent reason; he experienced difficulty sleeping for several days accompanied by headaches, difficulty in concentration and increased blood pressure; when insomnia persisted, he approached the Chief Mate who advised him to seek the help of their employer, private respondent MPI, but the latter told him to shoulder the medical expenses to be incurred; upon the vessel's arrival in Singapore, he was referred to Khoo Tech Pvat Hospital with the chief complaint of giddiness accompanied by right hand numbness, neck pain, and insomnia; when asked what triggered his symptoms, he merely replied that his family problem was a factor, without mentioning his abusive chief cook for fear that the latter would eventually discover his complaint, and with the hope that he will have a more humane Greek superiors in his next assignment; he was initially diagnosed of Acute Stress Reactive Depression for which he was given several medications; while on his way back to the vessel onboard a tugboat, he collapsed; he was readmitted to the hospital for observation, and later recommended for repatriation; he was repatriated on April 12, 2012 feeling weak with body pain; due to his persistent insomnia, headache, dizziness, abdominal discomfort and body malaise, he was referred to NGC Clinic and later on to Dr. Tomas Bautista for further evaluation and management; he was prescribed Clonazepam (Rivotril); on July 15, 2012, despite being unwell, he was declared fit to work by the company-designated physician; because his symptoms persisted, he wrote private respondents on August 16, 2012 requesting that he be treated, evaluated, and given his sick wages, but he did not receive any reply; he sent a follow-up handwritten letter dated August 31, 2012 informing private respondents that he was going to secure a second opinion; he thereafter consulted an independent specialist, psychiatrist Dr. Joel Enrico N. Anastacio (Anastacio for brevity) who diagnosed him of Generalized Anxiety Disorder, a mental disorder which limits his daily activities with some directed care; Dr. Anastacio declared him permanently unfit for sea duties as a seaman in any capacity with impediment Grade 1 (120%) based on POEA contract; in the meantime, in his home province, he had a check-up because of hypertension, increased uric acid, and blood sugar and was prescribed Glecoxib, Allopurinol, and Losartan; later on, he received a letter-reply from private respondents dated September 24, 2012 stating that their liability had ceased after he was declared fit to work by the company-designated physician; and, on the basis of the finding of the Dr. Anastacio, he sought payment of his disability benefits from private respondents, but the latter refused to acknowledge their contractual obligation.

For their part, private respondents filed their Position Paper[8] asserting that: on March 22, 2012, petitioner Plata was engaged by private respondent MPI in behalf of private respondent FSSA as 2nd Cook for the vessel for a period of ten (10) months; on April 9, 2012, petitioner Plata boarded the vessel; based on the e-mail of the Master addressed to the principal, petitioner Plata was unable to sleep for three (3) days and suffered occasional headaches; petitioner Plata's blood pressure and temperature were checked while onboard the vessel and the

results were normal; petitioner Plata was given paracetamol; on April 27, 2012, the Vessel arrived in Singapore where petitioner Plata was taken to a physician and was diagnosed to be suffering from hypertension, headache and emotional upset; upon reaching the vessel, petitioner Plata was again very sick so he was brought back to the hospital, where he was given medication while his condition was monitored; thereafter, he was repatriated to the Philippines; private respondents referred petitioner Plata to the company-designated physician and he was diagnosed with hypertension and partner relational problem; he was given oral medications and had regular sessions with a psychiatrist; on May 21, 2012, or 21 days after he was initially diagnosed and treated by the company-designated specialist physicians, petitioner Plata was declared fit to work; based on the final medical report, his blood pressure had been placed under control and that he had reconciled with his wife; on the same date, petitioner Plata signed a Certificate of Fitness to Work in both English and Filipino versions stating therein that he released private respondents from any and all claims, actions, and demands in connection with his being declared fit for sea duty, he recognized the validity of such Certificate, and that said document can be used or pleaded as a bar in any legal proceeding; and, the company-designated physicians signed the Certificate as witnesses.

Thereafter, both parties filed their respective Replies.[9]

On August 30, 2013, Labor Arbiter Pablo A. Gajardo, Jr. rendered a Decision[10] dismissing petitioner Plata's complaint for lack of merit. According to the Labor Arbiter, the declaration of fitness to work dated May 21, 2012 issued by the company-designated physicians who treated, closely monitored and examined petitioner Plata deserves credence considering the amount of time and effort doctors gave to monitoring and treating the seafarer's condition. Moreover, evidence showed that "Partner Relational Problem" is not work-related nor work-aggravated, and petitioner Plata was unable to present evidence to prove otherwise except for his bare assertions. Ultimately, the Labor Arbiter ruled that petitioner Plata is not entitled to disability benefits because the company-designated physician issued an assessment declaring him fit for work within the 240-day period under the POEA Standard Employment Contract (POEA-SEC for brevity).

Aggrieved, petitioner Plata filed a Notice of Appeal with Memorandum of Appeal.[11]

On March 24, 2014, public respondent NLRC rendered the assailed Decision[12] partly granting petitioner Plata's appeal, awarding sickness allowance equivalent to his basic salary from April 27, 2012 to July 15, 2012 and financial assistance in the amount of P200,000.00, taking into consideration petitioner Plata's twenty (20)-year service to private respondents. Public respondent NLRC found that a later declaration by the company-designated physician that petitioner Plata's sickness is not work-related cannot prejudice the latter, considering that he got ill while onboard the vessel and within his 10-month employment, and especially since at the time of his repatriation, his illness was not yet medically declared as not work-related and thus, the presumption under Section 20 A.4 of the 2010 POEA-SEC applies. Therefore, public respondent NLRC reasoned, petitioner Plata is entitled to his sickness allowance pending assessment and declaration by the company-designated physician on the work-relatedness of his condition. However, public respondent NLRC denied petitioner Plata's claim for permanent total disability benefits because he failed to establish that his illness was work-related. Upon evaluation of the Psychiatric Report issued by petitioner Plata's physician, public respondent NLRC observed that it was not only undated but was also unsupported by diagnostic tests and procedures as would adequately refute the normal results of those administered to petitioner Plata at Khoo Teck Pvat Hospital and by NGC Medical Specialist Clinic, Inc..

Unsatisfied, both parties filed their respective Motion for Reconsideration[13] and Motion for Partial Reconsideration[14] which were partly granted and denied, respectively, by the public respondent NLRC in the assailed Resolution dated April 25, 2014.[15] Hence, this Petition for Certiorari raising the following

grounds:[16]

I.

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF ITS JURISDICTION IN DENYING THE PETITIONER'S CLAIM FOR FULL DISABILITY BENEFITS AND ILLNESS ALLOWANCE FOR A PERIOD OF 120 DAYS.

II.

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF ITS JURISDICTION IN NOT AWARDING THE PETITIONER'S CLAIM FOR ATTORNEY'S FES (sic.).

The petition lacks merit.

In challenging the aforesaid findings of public respondent NLRC, petitioner Plata contends[17] that: public respondent NLRC should not have denied his claim for disability benefits just because the medical report he presented does not have supporting documents showing diagnostic tests and procedures administered to him by his own physician; courts take judicial notice of the greater physical and emotional strain experienced by seafarers while doing their job onboard a moving vessel; he worked long hours and was exposed to adverse conditions of work which affected and aggravated his mental condition; Dr. Comising, the company-designated physician is a general surgeon, compared to his doctor of choice, Dr. Anastacio, who is a psychiatrist; the latter is thus in a better position to determine the ability or disability of a seafarer; and, in the absence of a credible fit-to-work assessment from the company-designated physician within the 120/240-day period, the law steps in to consider the disability to be permanent and total.

At the outset, it should be stressed that certiorari is a remedy narrow in its scope and inflexible in character. It is not a general utility tool in the legal workshop. Certiorari will issue only to correct errors of jurisdiction and not to correct errors of judgment.[18] Indeed, for a petition for certiorari to prosper, mere abuse of discretion on the part of the public respondent is not enough. It must be grave abuse of discretion as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so 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.[19]

Under these parameters, this Court finds that the public respondent NLRC did not commit grave abuse of discretion in issuing the assailed Decision and Resolution. In awarding sickness allowance equivalent to his basic salary from April 27, 2012 to May 21, 2012,[20] public respondent NLRC was merely enforcing Section 20 (B) of the POEA-SEC which states that:

“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.”
(Emphasis supplied.)

In this case, it is admitted that petitioner Plata became ill during his term of employment with private respondents, while onboard the vessel. While petitioner Plata alleged in his petition that he was repatriated to the Philippines on April 12, 2012,[21] medical records submitted by no less than petitioner Plata himself show that he was admitted to the Khoo Teck Pvat Hospital in Singapore sometime on April 26, 2012,[22] while a Medical Certificate from the NGC Medical Specialist Clinic issued by the company-designated physician, Dr. Comising, indicates that he was repatriated to the Philippines on April 27, 2012.[23] Obviously, it would be physically impossible for petitioner Plata to have been repatriated to the Philippines on April 12, 2012 due to sickness when

he only fell ill and admitted to the hospital abroad sometime on April 26, 2012. Meanwhile, it is also established that petitioner Plata was declared fit to work as a seaman on May 21, 2012.[24] Hence, pursuant to Section 20(B) of the POEA-SEC, petitioner Plata is entitled to sick allowance equivalent to his basic wage covering the period from April 27, 2012 to May 21, 2012.

Vergara v. Hammonia Maritime Services, Inc.,[25] is illuminating in this respect. In Vergara, the Supreme Court explained:

As these provisions operate, the seafarer, upon sign-off from his vessel, must report to the company-designated physician within three (3) days from arrival for diagnosis and treatment.[26] For the duration of the treatment but in no case to exceed 120 days, the seaman is on temporary total disability as he is totally unable to work.[27] He receives his basic wage during this period[28] until he is declared fit to work or his temporary disability is acknowledged by the company to be permanent, either partially or totally, as his condition is defined under the POEA Standard Employment Contract and by applicable Philippine laws.[29] If the 120 days initial period is exceeded and no such declaration is made because the seafarer requires further medical attention, then the temporary total disability period may be extended up to a maximum of 240 days, subject to the right of the employer to declare within this period that a permanent partial or total disability already exists.[30] The seaman may of course also be declared fit to work at any time such declaration is justified by his medical condition. (Emphasis supplied.)

Clearly therefore, public respondent NLRC correctly awarded sickness allowance from April 27, 2012 to May 21, 2012 pursuant to the POEA-SEC and consistent with jurisprudence.

Petitioner Plata also contends that public respondent NLRC should have awarded him disability benefits. Such claim is incorrect.

Disability is intimately related to one's earning capacity.[31] It should be understood less on its medical significance but more on the loss of earning capacity.[32] The Court thus characterized permanent total disability as:

"... disablement of an employee to earn wages in the same kind of work, or work of a similar nature that she was trained for, or accustomed to perform, or any kind of work which a person of her mentality and attainment could do. It does not mean an absolute helplessness but rather an incapacity to perform gainful work which is expected to be permanent. Total disability does not require that the employee be absolutely disabled, or totally paralyzed. What is necessary is that the injury must be such that she cannot pursue her usual work and earn therefrom." [33] (Emphasis supplied.)

To be compensable, the illness contracted by the seafarer must be work-related or any sickness as a result of an occupational disease listed under Section 32-A of the POEA-SEC with the conditions set forth therein satisfied.[34] This notwithstanding, it has also been ruled that the list of illnesses/diseases in Section 32-A is not exclusive and does not preclude other illnesses/diseases not so listed from being compensable.[35] This is because the POEA-SEC cannot be presumed to contain all the possible injuries that render a seafarer unfit for further sea duties,[36] in view of Section 20 (B) (4) of the POEA-SEC which states that "[t]hose illnesses not listed in Section 32 of this Contract are disputably presumed as work-related." However, concomitant with such presumption is that the burden is placed upon the claimant to present substantial evidence that working conditions caused or at least increased the risk of contracting the disease in order to warrant payment of disability benefits.[37]

In this case, the illness of petitioner Plata is not work-related. In fact, the Medical Certificate from the NGC Medical Specialist Clinic issued by the company-designated physician, Dr. Comising, diagnosed petitioner Plata with Hypertension and Partner Relational Problem.[38] His Medical Certificate shows that petitioner Plata had

settled his issues with his wife and that he enjoyed the positive changes on her part.[39] Dr. Comising therefore concluded that petitioner Plata was psychologically fit to work as a seaman, and that his BP was controlled.[40] The finding of Dr. Comising that petitioner Plata was suffering from Partner Relational Problem deserves full faith and credence in light of the admission of petitioner Plata in his petition that when asked at Khoo Teck Pvat Hospital what triggered his symptoms, he merely mentioned family problems as a factor.[41] Petitioner Plata's subsequent allegation that the reason why he did not disclose his abusive supervisors as a factor was because he feared that the latter would find out about his complaint,[42] is a mere afterthought and deserves scant consideration. One must not be allowed to admit one thing and thereafter repudiate the same statement to serve his interests. Petitioner Plata must therefore bear the consequence of his admission before Singaporean hospital officials and before Dr. Comising of the probable root of his symptoms or illness, i.e., family problems and not harsh conditions at work nor harsh treatment from his supervisors.

In addition, this Court finds that the adverse working conditions described by petitioner Plata could not have caused nor aggravated his illness. The adverse working conditions he attributes to private respondents included long hours of work, exposure to varying temperatures of extreme hot and cold as he moved from the hot cooking area down to the cold storage room amidst harsh sea conditions, and emotional strain for being away from his family.[43] It must be pointed out that petitioner Plata was a 2nd or Assistant Cook. Surely, as a cook he must wake up early at dawn to be able to prepare food in the morning for those onboard the vessel. He needed to sleep late perhaps after he had finished cleaning the dining and kitchen area.[44] As a cook, he was also expected to get provisions and ingredients from the cold storage room, and at the same time spend time cooking in the warm kitchen.[45] In other words, these "adverse conditions" as petitioner Plata would put it, are but an integral part of any cook's day at work. In fact, the additional emotional strain of being away from family and sometimes, perilous sea conditions are assumed risks and conditions of every seafarer. If these "adverse conditions" are to be treated by this Court as the cause for petitioner Plata's alleged disability, then it follows that all seafarers employed as cooks would be entitled to disability benefits once they develop a stress-related syndrome because these conditions and risks are reasonably assumed by all seafarers in such line of duty.

Anent the allegation of petitioner Plata that the medical report submitted by Dr. Anastacio should prevail over the findings of Dr. Comising, it bears stressing that in determining the work-causation of a seafarer's illness, the diagnosis of the company-designated physician bears vital significance.[46] After all, it is before him that the seafarer must initially report to upon medical repatriation.[47] Nevertheless, the company physician's assessment does not evince irrefutable and conclusive weight in assessing the compensability of an illness as the seafarer has the right to seek a second opinion from his preferred physician.[48] While conflicting findings of the company's doctor and the seafarer's physician often stir suits for disability compensation, the POEA-SEC gives the parties the option of agreeing jointly on a third doctor whose assessment shall break the impasse and shall be the final and binding diagnosis.[49]

Unfortunately in this case, petitioner Plata did not resort to the third option of jointly engaging the services of an independent doctor provided in the POEA-SEC. In such a case, it has been held that the medical report shall be evaluated by the labor tribunal and the court, based on its inherent merit,[50] along with the other evidence presented by the claimant.

Corollarily, it is the oft-repeated rule that whoever claims entitlement to the benefits provided by law should establish his right to the benefits by substantial evidence or such relevant evidence which a reasonable mind might accept as adequate to justify a conclusion that there is a causal connection between the nature of his employment and his illness, or that the risk of contracting the illness was increased by his working conditions.[51] Any decision based on unsubstantiated allegations cannot stand as it will violate due process.

In this case, a claim for permanent total disability means concrete proof must be presented pertaining to the disablement of petitioner Plata to earn wages for the same kind of work, or work of similar nature that he was trained for or accustomed to perform, or any kind of work which a person of his mentality and attainment could do.[52] It does not mean absolute helplessness as it is not the injury which is compensated, but rather the incapacity to work resulting in the impairment of one's earning capacity.[53] The burden to prove entitlement to disability benefits, therefore, lies on petitioner Plata, to present evidence that he contracted his illness resulting to his disability during the term of his employment contract, with causal relation to his work, and the consequence of which renders him unable to perform the job he is accustomed to for more than 120 days.[54] In this respect, petitioner Plata miserably failed.

This Court quotes with approval the finding of public respondent NLRC which aptly held that:[55]

“We find that complainant failed to establish that his illness was work-related. Thus, complainant is not entitled to claim total permanent disability benefits.

Complainant based his claim for disability benefits on the undated Psychiatric Report issued by his own psychiatrist, Dr. Anastacio, who assessed his alleged disability as impediment Grade 1 (120%). However, records show that said report was not supported by such diagnostic tests and/or procedures as would adequately refute the normal results of those administered to complainant by the physicians at the Khoo Teck Puat Hospital and by NGC Medical Specialist Clinic, Inc.. Dr. Anastacio's justification for his assessment of impediment Grade 1 was merely anchored on the following general impressions:

'In view of the foregoing history and examination, a diagnosis of Generalized Anxiety Disorder is considered.

Generalized Anxiety Disorder is excessive anxiety and worry about several events or activities for most days for at least a six month period. The worry is difficult to control and is associated with somatic symptoms, such as muscle tension, irritability, difficulty of sleeping and restlessness. The age of onset is difficult to specify, most patients (sic.) with the disorder report that they have been anxious for as long as they can remember. The most effective treatment is one that combines psychotherapeutic, pharmacologic and supportive approach.

Nestor J. Plata has a mental disorder which limits his daily activities with some directed care. He is therefore permanently unfit for sea duties as a seaman in any capacity with a Grade 1 (120%) based on POEA contract.'[56]”(Emphasis supplied.)

In other words, except for the sweeping and general statements made by Dr. Anastacio, no causal relation was ever established nor explained to prove that petitioner Plata's condition was the result of or aggravated by his work as 2nd Cook. Indeed, awards for compensation cannot be made to rest on mere speculations and presumptions.[57] Therefore, coupled with the fact that petitioner Plata himself admitted attributing the symptoms of his illness to “family problems” and/or issues he had with his wife, this Court is more inclined to give credence to the finding of Dr. Comising that the condition is attributable to Partner Relational Problem and is therefore, not work-related.

As regards petitioner Plata's prayer for attorney's fees, this Court denies the same given that he is not entitled to disability benefits.[58]

Lastly, it should be borne in mind that the constitutional policy to provide full protection to labor is not meant to be a sword to oppress employers. Social justice does not mandate that every dispute should be automatically decided in favor of labor. Justice should be dispensed in light of established facts, the applicable law, and existing jurisprudence.[59] While it is true that out of its concern for those with less privilege in life, the Supreme Court was inclined, more often than not, toward the worker and upheld his cause in his conflicts with the employer, such favoritism, however, has not blinded the Court to the rule that justice is in every case for the deserving, to be

dispensed in the light of the established facts and the applicable law and doctrine.[60]

WHEREFORE, premises considered, the instant Petition for Certiorari is hereby DENIED and ordered DISMISSED. The assailed Decision dated March 24, 2014 and Resolution dated April 25, 2014 of the NLRC, Fifth Division, in NLRC NCR Case No. (M) 11-16243-12 NLRC LAC No. (OFW-M) 12-001136-13 are hereby AFFIRMED.

SO ORDERED.

Garcia, R.R., and Bueser, D.Q., JJ., concur.

[*] Spelled “Fafalios” in the NLRC Decision dated March 24, 2014; Rollo p. 135.

[1] Rollo, pp. 3-25.

[2] Rollo, pp. 135-145.

[3] Rollo, pp. 163-165.

[4] Rollo, pp. 144-145.

[5] Rollo, p. 165.

[6] Rollo, pp. 44-45.

[7] Rollo, pp. 46-56.

[8] Rollo, pp. 57-70.

[9] Rollo, pp. 71-79; 80-88.

[10] Rollo, pp. 91-103.

[11] Rollo, pp. 104-134.

[12] Rollo, pp. 135-145.

[13] Rollo, pp. 157-162.

[14] Rollo, pp. 146-156.

[15] Rollo, pp. 163-165.

[16] Rollo, pp. 11-12.

[17] Rollo, pp. 12-22.

[18] AGG Trucking v. Melanio Yuag, G.R. No. 195033, October 12, 2011.

[19] Solvic Industrial Corp. v. NLRC, G.R. No. 125548, September 25, 1998.

[20] Rollo, p. 165.

[21] Rollo, p. 8,

[22] Rollo, pp. 28-36.

[23] Rollo, p. 37.

[24] Id.

[25] Vergara v. Hammonia Maritime Services, Inc., G.R. No. 172933, October 6, 2008.

[26] Id. citing Section 20 [B] (3) of then Department Order No. 4, series of 2000 of the Department of Labor and Employment (the POEA Standard Employment Contract). Nota Bene: The same provision is currently found in the latest POEA-SEC, Memorandum Circular No. 10 (Series of 2010) “Amended Standard Terms and Conditions Governing The Overseas Employment of Filipino Seafarers on-Board Ocean-Going Ships”, Section 20 [A](3), paragraph 3.

[27] Id. citing Article 192 (c) (1), Labor Code.

[28] Id. citing Section 20 [B] (3) of then Department Order No. 4, series of 2000 of the Department of Labor and Employment (the POEA Standard Employment Contract). N.B.: The same provision is currently found in the latest POEA-SEC, Memorandum Circular No. 10 (Series of 2010) “Amended Standard Terms and Conditions Governing The Overseas Employment of Filipino Seafarers on-Board Ocean-Going Ships”, Section 20 [A](3), paragraph 1.

[29] Id. citing Rule X, Section 2, Rules and Regulations Implementing Book IV of the Labor Code.

[30] Id.

[31] Austria v. Court of Appeals, G.R. No. 146636, August 12, 2002.

[32] Id. citing Bejerano vs. ECC, 205 SCRA 598 (1992).

[33] Id. citing Gonzaga vs. Employees' Compensation Commission, 127 SCRA 443 (1984).

[34] 2010 Philippine Overseas Employment Administration-Standard Employment Contract for Seafarers (POEA-SEC).

[35] Maersk Filipinas Crewing, Inc./Maersk Services Ltd., et al. vs. Mesina, G.R. No. 200837, June 5, 2013.

[36] Id. citing Seagull Maritime Corp. v. Dee, 548 Phil. 660, 671-672 (2007).

[37] Id. citing Aya-ay v. Arpaphil Shipping Corp., 516 Phil. 628, 639-640 (2006).

[38] Rollo, p. 37.

[39] Id.

[40] Id.

[41] Rollo, p. 8.

[42] Id.

[43] Rollo, p. 14.

[44] Rollo, p. 6.

[45] Id.

[46] Supra note 36.

[47] Id.

[48] Id. citing Coastal Safeway Marine Services, Inc. v. Esguerra, G.R. No. 185352, August 10, 2011.

[49] Supra note 36.

[50] HFS Philippines, Inc. v. Pilar, G.R. No. 168716, April 16, 2009 citing Maunlad Transport, Inc. and/or Nippon Merchant Marine Company, Ltd., Inc. v. Manigo, G.R. No. 161416, 13 June 2008.

[51] Supra note 36 citing Magsaysay Maritime Corporation v. NLRC, G.R. No. 186180, March 22, 2010, 616 SCRA 376.

[52] Cabuyoc v. Inter-orient Navigation Shipmanagement, Inc. et al., G.R. No. 166649, November 24, 2006.

[53] Id. citing Bejerano v. Employees' Compensation Commission, G.R. No. 84777, January 30, 1992.

[54] See also Palisoc v. Easways Marine, Inc. et al., G.R. No. 152273, September 11, 2007 citing Remigio v. NLRC et al, G.R. No. 159887, 12 April 2006.

[55] Rollo, p. 143.

[56] Rollo, pp. 40-41.

[57] Daniel Ison v. Crewserve, Inc., G.R. No. 173951, April 16, 2012.

[58] See NYK-Fil Ship Management, Inc. v. NLRC, G.R. No. 161104, September 27, 2006.

[59] Magsaysay Maritime Corp. v. NLRC and Rommel Cedol, G.R. No. 186180. March 22, 2010.

[60] Philippine Rural Reconstruction Movement v. Pulgar, G.R. No. 169227, July 5, 2010.

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