

FILOMENO T. DORONILA, PETITIONER, VS. THE NATIONAL LABOR RELATIONS COMMISSION SIXTH (6TH) DIVISION, MAGSAYSAY MARITIME CORPORATION, [J]CSCS INTERNATIONAL NV AND BABY ARACELLI H. ...

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MACALINO, J:

The Case

In this Petition for Certiorari[1] under Rule 65 of the Rules of Court, Petitioner Filomeno T. Doronila (“Petitioner”) seeks the nullification of the October 30, 2012 Decision[2] (“Assailed Decision”) and the December 28, 2012 Resolution[3] (“Assailed Resolution”) of the National Labor Relations Commission (“NLRC”) Sixth (6th) Division in NLRC LAC (OFW-M) No. 05-000463-12. The dispositive portions of the assailed issuances read:

Assailed Decision

“WHEREFORE, premises considered, the Appeal is DENIED and the April 20, 2012 Decision is hereby AFFIRMED with Modification in that respondents are ordered to pay complainant his one month salary as termination pay.

SO ORDERED.”[4]

Assailed Resolution

“WHEREFORE, premises considered, the motion for reconsideration is DENIED for lack of merit.

SO ORDERED.”[5]

The Facts

Private Respondent Magsaysay Maritime Corporation (“Magsaysay”) is a domestic corporation duly licensed by the Philippine Overseas Employment Administration (“POEA”) to engage in the recruitment and placement of sea-based workers.[6]

On November 29, 2004, Magsaysay first employed Petitioner as a 2nd grill and roast cook in a cruise vessel.[7]

On August 17, 2009, Magsaysay rehired Petitioner on behalf of its foreign principal, Private Respondent CSCS International NV (“CSCS”). As evidenced by a POEA-approved Contract of Employment[8], Petitioner was engaged as a 2nd grill and roast cook of the cruise ship, Costa Europa Hotel (“Costa Europa”), with a basic monthly salary of €441.00 for a period of eight (8) months.

Prior to his deployment, Petitioner submitted himself to a Pre-Employment Medical Examination (“PEME”) and was declared fit for sea service by Magsaysay’s accredited physician. On September 4, 2009, Petitioner departed from the country to join his vessel.[9]

On February 26, 2010, the Costa Europa crashed into the pier of Sharm el-Sheikh, Egypt and sank.[10] Thus, Petitioner was signed off on March 2, 2010 and was repatriated to the Philippines.[11]

Sometime thereafter, Petitioner sought to be redeployed for sea duty. After undergoing a PEME[12] on May 21, 2010, however, Petitioner was declared unfit for sea duty on June 9, 2010 due to “inferior wall ischemia, slight cardiomegaly and hypertension with medications.”

On October 11, 2011, Petitioner filed before the NLRC NCR Arbitration Branch a Complaint[13] for disability benefits and sickness pay with claims for attorney's fees and moral and exemplary damages. The Complaint, docketed as NLRC NCR (OFW-M) Case No. 10-15490-11, impleaded Private Respondents Magsaysay, CSCS and Magsaysay's owner/manager/president, Baby Araceli C. Hadloc (collectively, “Private Respondents”).

In his Position Paper[14], Petitioner asseverated that he performed a stressful job on board the Costa Europa, rendering long hours of work with only a few hours of sleep. In addition to the demands of his job, Petitioner averred that he had to deal with sudden changes of temperature from the cold storage to the hot grilling machine of the Costa Europa. According to Petitioner, he suffered dizziness, headache, shortness of breath and chest pains in addition to trauma after his repatriation, which prompted him to consult Dr. Rogelio M. Ramirez (“Dr. Ramirez”) in his Sta. Mesa, Manila clinic. In a medical certificate[15] dated March 5, 2010, Dr. Ramirez recommended that Petitioner undergo a series of laboratory examinations, to wit: chest x-ray, ECG, fasting blood sugar, urinalysis, cholesterol and uric acid. Then, Petitioner avowedly reported to Magsaysay to request for financial assistance but was instead advised by the latter to re-apply for employment.

Petitioner claimed that his illnesses are work-related because in a medical certification[16] dated August 23, 2011 prepared by Dr. Ramon A. Reyes (“Dr. Reyes”) of the Seamen's Hospital, his illnesses, namely, coronary artery disease and essential hypertension, were pronounced as work-oriented. As he was not financially supported by Magsaysay, he prayed for the award of total disability benefits, sick wages, moral and exemplary damages and attorney's fees in his favor.

On the other hand, Private Respondents in their Position Paper[17] disavowed any liability to Petitioner by invoking Section 20 (B) of the POEA Standard Employment Contract (“POEA-SEC”), which requires that the work-related injury or illness be suffered by the seafarer during the term of his contract. Private Respondents asserted that Petitioner was repatriated not for a medical condition but due to a vessel lay-up, which terminated Petitioner's employment in accordance with Sec. 18[18] of the POEA-SEC. They pointed out that Petitioner's illnesses were diagnosed two (2) months after his contract of employment had ended and are thus non-compensable.

In his Reply[19], Petitioner posited that the fact that he suffered the symptoms of his illnesses three (3) days after his repatriation is a clear indication that he acquired such illnesses during the term of his contract. Furthermore, he insisted that had the vessel been not laid up, he would surely have suffered the same symptoms and illnesses on board the Costa Europa. Lastly, Petitioner excused himself from not undergoing a post-employment medical examination by the company-designated physician within three (3) days from his return because he was not medically repatriated.

After Private Respondents' submission of their Reply[20] reiterating their firm stance that Petitioner's illnesses are not compensable, the Labor Arbiter rendered a Decision[21] dated April 20, 2012, decreeing as follows:

“WHEREFORE, premises considered, judgment is hereby rendered DISMISSING the complaint and other claims for lack of merit.

SO ORDERED.”[22]

The Labor Arbiter observed that there is no evidence or report of Petitioner's illness or medical referral while he was on board the vessel, and validated Private Respondent's position that Petitioner's contract ended on March 2, 2010 when he was repatriated due to ship lay-up. The Labor Arbiter further held that if Petitioner suffered illnesses after his repatriation according to his own medical certificate, the same are no longer compensable for the said illnesses were acquired outside the term of his employment.

On appeal[23] by Petitioner to the NLRC, the April 20, 2012 Decision of the Labor Arbiter was affirmed with modification, ordering Private Respondents to pay Petitioner his one (1) month salary as termination pay pursuant to Sec. 23[24] of the POEA-SEC. In addition to the reasons advanced by the Labor Arbiter, the NLRC explained that Petitioner's failure to report for a post-employment medical examination by the company-designated physician within three (3) days from his repatriation barred his claim for disability benefits.

Upon the NLRC's denial of his Motion for Partial Reconsideration²⁵ in the Assailed Resolution dated December 28, 2012, Petitioner lodged the instant Petition before this Court.

The Issues

Petitioner anchors his Petition on the following grounds:

- “1. With all due respect, the NLRC Commission Sixth Division, committed grave abuse of discretion in promulgating the Decision dated October 30, 2012 affirming the Decision dated April 20, 2012 of the Labor Arbiter dismissing the case and the Resolution dated December 20, 2012 denying Petitioner's Motion for Reconsideration.
2. That the assailed Decision dated October 30, 2012 and Resolution dated December 20, 2012 were rendered in total disregard of the facts and evidence on record, the applicable laws and jurisprudence on total disability benefits.”[26]

Whereas, Private Respondents maintain in their Comment[27] that no such grave abuse of discretion was committed by the NLRC.

The Ruling of this Court

The Petition lacks merit.

While Petitioner concedes that his contract was validly terminated due to the vessel's lay-up, he nonetheless maintains that such circumstance does not bar his claim for disability benefits. He contends that he could not have developed his illnesses within a short span of three (3) days from repatriation. As he was declared fit to work prior to his deployment, Petitioner postulates that there is no other conclusion than that he incurred his illnesses while on board the Costa Europa. He likewise justifies his failure to undergo a post-employment medical examination by the company-designated physician by arguing that he was not medically repatriated. Lastly, Petitioner advances the theory that his diet on board the Costa Europa, which consisted of fatty and processed products, lead to his hypertension; while the grilling and roasting of meats made him inhale all the fats which caused his coronary artery disease.

We are not persuaded.

Sec. 20 (B) of the POEA-SEC, which is deemed incorporated in every Filipino seafarer's contract, provides that to be compensable, an injury or illness: (1) must have existed during the term of the seafarer's employment contract; and (2) must be work-related. The oft repeated rule is that whoever claims entitlement to the benefits provided by law should establish his or her right thereto by substantial evidence.[28] In this case, Petitioner failed to prove by substantial evidence his entitlement to disability and sickness benefits.

In his pleadings, Petitioner admitted that the symptoms of his illnesses manifested only on March 5, 2010, or three (3) days after his repatriation on March 2, 2010. There was no showing, nay an allegation, of any medical complaint from him while still on board the vessel. Except for his bare allegations, Petitioner did not present any concrete proof or expert medical opinion to substantiate his claim that his illnesses were contracted during the term of his employment.[29] As Petitioner's contract was validly terminated due to ship lay-up on March 2, 2010, the illnesses he suffered beginning March 5, 2010 were clearly acquired by him outside the term of his contract with Private Respondents.

Contrary to his claim, the mandatory 3-day medical examination deadline embodied in Section 20 (B) par. 3[30] of the POEA-SEC applies to Petitioner even if he was not repatriated for medical reasons. In *Jebsens Maritime, Inc. v. Undag*[31], wherein the latter, who was diagnosed with hypertensive cardiovascular disease, atrial fibrillation and diabetes mellitus II about two (2) months from his repatriation due to expiration of contract on July 18, 2003, the Supreme Court declared that:

“Respondent claims that the 3-day mandatory rule is not applicable as it is only for those who were repatriated for medical reasons. This could only mean that he had no medical reason then. In his pleadings, he claimed that sometime in July 2003, he showed manifestations of a heart disease as he suddenly felt chest pains, shortness of breath and fatigability. He, however, failed to disclose when exactly in July 2003 that he felt those manifestations whether before or after his repatriation on July 18, 2003. If it was before the said date, he should have submitted himself to a medical examination three days after repatriation.” (Underscoring and emphasis supplied)

The Supreme Court further explained that the rationale behind the rule can easily be divined: within three days from repatriation, it would be fairly easier for the company-designated physician to determine if the illness was work-related or not. After that period, there would be difficulty in ascertaining the real cause of the illness. To ignore the rule would set a precedent with negative repercussions because it would open the floodgates to a limitless number of seafarers claiming disability benefits. It would certainly be unfair to the employer who would have difficulty determining the cause of a claimant's illness considering the passage of time. In such a case, the employers would have no protection against unrelated disability claims.

Moreover, Petitioner had nothing to support his claim that his illnesses are work-related other than the Medical Certification dated August 23, 2011 prepared by Dr. Reyes, which stated that his illnesses are work-related without however elaborating on how he arrived at such a conclusion.[32] Petitioner's own explanation as to how he developed his illnesses is insufficient to support his claim, for awards of compensation cannot rest on mere speculations or presumptions.[33]

Finally, if it were true that after his check-up with Dr. Ramirez, Petitioner allegedly sought financial support from Magsaysay, which instead advised him to apply for re-deployment, Petitioner should have immediately filed a Complaint against Private Respondents since they have denied him the disability benefits he claims. However, he filed the Complaint only on October 11, 2011, or one (1) year and seven (7) months after his repatriation, which yields an impression that the filing of his Complaint was a mere afterthought.

For his failure to establish the requirements for compensability, Petitioner cannot be granted the disability benefits and sickness allowances he claims. Neither is he entitled to the damages he prayed for. Thus, the assailed issuances must remain.

WHEREFORE, premises considered, the instant Petition is DENIED. The October 30, 2012 Decision and the December 28, 2012 Resolution of the National Labor Relations Commission Sixth (6th) Division in NLRC LAC (OFW-M) No. 05-000463-12 are hereby AFFIRMED.

SO ORDERED.**C E R T I F I C A T I O N**

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusion in the above decision was reached in consultation before the case was assigned to the writer of the opinion of the Court.

Villon, S.E., Chairperson and Corales P.B., JJ., concur.

[*] Also referred to as CSCC International NV in the pleadings.

[1] Rollo, pp. 3-23.

[2] Id., pp. 115-120.

[3] Id., pp. 127-129.

[4] Id., p. 119.

[5] Id., p. 128.

[6] Id., pp. 26-27.

[7] Id., p. 64.

[8] Id., p. 36.

[9] Id., p. 27.

[10] Id., p. 66.

[11] Id., p. 64.

[12] Id., p. 65.

[13] Id., pp. 24-25.

[14] Id., pp. 26-35.

[15] Id., p. 37.

[16] Id., pp. 38-39.

[17] Id., pp. 44-61.

[18] “B. The employment of the seafarer is also terminated when the seafarer arrives at the point of hire for any of the following reasons:

x x x

2. when the seafarer signs-off due to shipwreck, ship’s sale, lay-up of vessel, discontinuance of voyage or change of vessel principal in accordance with Sections 22, 23 and 26 of this Contract.” (Boldfacing supplied)

[19] Id., pp. 68-72.

[20] Id., pp. 73-79.

[21] Id., pp. 81-87.

[22] Id., p. 87.

[23] Id., pp. 89-100.

[24] "SECTION 23. TERMINATION DUE TO VESSEL SALE, LAY-UP OR DISCONTINUANCE OF VOYAGE

Where the vessel is sold, laid up, or the voyage is discontinued necessitating the termination of employment before the date indicated in the Contract, the seafarer shall be entitled to earned wages, repatriation at employer's cost and one (1) month basic wage as termination pay, unless arrangements have been made for the seafarer to join another vessel belonging to the same principal to complete his contract which case the seafarer shall be entitled to basic wages until the date of joining the other vessel." (Boldfacing supplied)

[25] Id., pp. 122-126.

[26] Id., p. 10.

[27] Id., pp. 133-144.

[28] Signey v. Social Security System, G.R. No. 173582, 28 January 2008.

[29] See Manota v. Avantgarde Shipping Corporation, G.R. No. 179607, July 24, 2013.

[30] "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." (Emphasis and underscoring supplied)

[31] G.R. No. 191491, December 14, 2011.

[32] See Andrada v. Agemar Manning Agency, Inc., G.R. No. 194758, October 24, 2012.

[33] Spouses Aya-ay v. Arpahil Shipping Corp., G.R. No. 155359, January 31, 2006.

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