

JULIUS P. BAJA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (SIXTH DIVISION), C-MAN MARITIME INC., CIEL SHIP MANAGEMENT SA AND/OR MR. GREGORIO F. ORTEGA, RESPONDENTS.

Ponente: DICDICAN, J.

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DICDICAN, J.:

Before this Court is a Petition for Certiorari[1] filed pursuant to Rule 65 of the Revised Rules of Court assailing, for having been rendered with grave abuse of discretion amounting to lack or excess of jurisdiction, the January 30, 2014 Decision[2] of the National Labor Relations Commission (NLRC), Sixth Division, in labor case docketed as NLRC LAC No. (OFW-M) 01-000003-14 (NLRC-NCR Case No.(M) 04-06004-13 which affirmed the October 8, 2013 Decision[3] of the Labor Arbiter dismissing the complaint for disability benefits and damages filed by herein petitioner Julius Porazo Baja (“petitioner”). Also assailed in this petition is the March 24, 2014 Resolution[4] of the same Commission which denied the Motion for Reconsideration filed by the petitioner.

The material and relevant facts, as culled from the record, are as follows:

On March 8, 2011, petitioner Julius Porazo Baja was hired by the private respondents C-Man Maritime, Inc., a local manning agency, with private respondent Gregorio F. Ortega as its President, and Ciel Shipmanagement SA, its foreign principal, under the following employment terms:

“Duration of Contract 9 Months

Position Trainee

Basic Monthly Salary US\$225.00

Hours of Work 40 Hours/Week

Overtime US\$133.00/Month fixed OT

Vacation Leave with Pay US\$45.00/Month

Allowance US\$17.00/Month

Point of Hire Manila, Philippines[5]”

Prior to his deployment, the petitioner underwent a series of medical examinations wherein he was found to be “fit to work” by the company designated physician.

On March 20, 2011, the petitioner departed Manila, Philippines to join his assigned vessel, MSC Granada.

However, barely a month after his deployment, herein petitioner submitted a duly signed Resignation Letter[6] which was addressed to private respondent Ciel Shipmanagement, Inc. and Captain A. Tomas, pertinent portion of which read as follows:

“I would like to ask in (sic) your good office that (sic) I want to resign from my job because the reason is that (sic) we have a family matters (sic) to settle and my presence is highly needed. Thank you so much for giving me a chance to work in your good company.

“Hoping that you won't hesitate to grant this letter of mine and once again thank you so much.”

On April 14, 2011, the petitioner disembarked from his assigned vessel. The petitioner was at the airport in Malaga, Spain to catch his flight back to the Philippines when he exhibited unusual behavior which necessitated his confinement at the Mental Health Unit of the Virgen dela Victoria Hospital[7].

Upon his arrival in the Philippines on May 9, 2011, the petitioner was examined by Dr. George Herman Y. Fernandez, the company designated physician, who, in turn, referred him to Dr. Ruben Encarnacion (“Dr. Encarnacion”), a clinical psychologist, for examination. Dr. Encarnacion, upon assessment of the petitioner's condition, recommended that he should undergo four to six sessions of psychotherapy and that a home leave to his province would be very healthy for him[8].

However, the petitioner never returned to Dr. Encarnacion or to the company-designated physician for further medical evaluation.

Two years later, or on April 12, 2013, the petitioner sought for a second medical opinion from Dr. Elias D. Adamos (“Dr. Adamos”), a physician and clinical psychologist at the Perpetual Succor Hospital in Sampaloc, Manila. From the medical report[9] prepared by Dr. Adamos, the petitioner's serious medical, mental and psychological condition was categorized as equivalent to Grade 1 under the Standard Contract of POEA, thereby making him permanently incapacitated to work as a seafarer.

Consequently, the petitioner filed a complaint[10] on April 22, 2013 with the Labor Arbiter against the private respondents for disability benefits, damages, and attorney's fees, alleging that he continued to suffer from his mental illness which rendered him unable to perform any work-related activity. Apparently, his condition disabled the petitioner from earning income as a seafarer, thus, he claimed to be entitled to medical assistance, disability compensation and benefits.

In the Complaint[11], the petitioner alleged that he was an all-around man while on board MSC Granada. He purportedly was made to perform the following kitchen-related duties: setting tables, serving food or waiting on tables, cleaning the dishes and the equipments, and preparing coffee and other beverages. He claimed that he was also the assistant of the chief cook and was in charge of the cleanliness and sanitation of the galley and the mess hall. He further alleged that he was tasked to transfer heavy provisions or items into the vessel such as meat, fruits, beverages as well as the condiments needed for cooking and was also made to fix the beds and clean the quarters of the officers of the vessel.

Despite his dedication to his work, the petitioner contended that he was not afforded with the respect due to him as a worker. He was allegedly made to sleep in the mess hall where his sleep had always been interrupted while his other co-employees had their own cabins or quarters. He claimed that he was oftentimes ridiculed and bullied around by the chief cook and his fellow messman which had caused him to suffer a mental breakdown. Such extremely stressful situation of constant fearfulness and lack of sleep had allegedly compelled him to request for repatriation.

The petitioner furthermore averred that, on his flight back to the Philippines, he failed to board the plane as he was trembling and was in fear that someone might kill him. He was then brought to Virgen dela Victoria Hospital in Malaga, Spain. His uncle then went to Spain for him and accompanied him on his flight back to the Philippines.

In denying their liability, the private respondents contended that the petitioner had no cause of action against them

since there was no record of any medical report or proof showing that he suffered from a work-related illness that he incurred while on board the vessel which rendered him permanently and totally disabled. The private respondents further averred that, even assuming that the petitioner was suffering from a permanent and total disability, his claim should still be denied because his failure to return to the company-designated physician or clinical psychologist for further examination was equivalent to medical abandonment.

After evaluating the evidences adduced by both parties, Labor Arbiter Remedios L.P. Marcos rendered a Decision dated October 8, 2013[12] dismissing the complaint for permanent disability benefits filed by the petitioner. The dispositive portion of the said decision is quoted herein as follows:

“WHEREFORE, premises considered, the instant complaint is hereby DISMISSED for lack of merit.

“ SO ORDERED.”

The Labor Arbiter ruled that the petitioner was not medically repatriated as he voluntarily resigned from employment due to family matters. Moreover, despite the recommendation by the clinical psychologist for psychotherapy sessions, the petitioner never returned from the province for further medical management which was tantamount to medical abandonment.

The Labor Arbiter likewise found that it was extraordinary for the petitioner to file the complaint for disability benefits only on April 22, 2013 or after more than two years from his last consultation with the company-designated physician. In the same vein, the declaration with respect to the petitioner's disability by his physician of choice cannot be given credence for being contrary to the mandatory procedures as laid down in the POEA-SEC.

Dissatisfied, the petitioner appealed from the decision of the Labor Arbiter to the NLRC.

On January 30, 2014, the NLRC, Sixth Division, promulgated the assailed Decision[13] affirming the decision of the Labor Arbiter, to wit:

“WHEREFORE, premises considered, the Decision dated October 8, 2013 is AFFIRMED.

“SO ORDERED.”

Petitioner filed a Motion for Reconsideration of the decision of the NLRC but the said motion was denied in its Resolution[14] dated March 24, 2014, viz:

“WHEREFORE, the instant motion for reconsideration is hereby DENIED for lack of merit.

“SO ORDERED.”

Hence, on June 2, 2014, the petitioner filed this instant Petition raising the following acts of grave abuse of discretion purportedly committed by the NLRC, to wit:

I.

THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DISMISSED THE PETITIONER'S CLAIM FOR TOTAL AND PERMANENT DISABILITY BENEFITS.

II.

THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN OMITTING THE AWARD OF DAMAGES AND ATTORNEY'S FEES IN FAVOR OF THE PETITIONER.

In a nutshell, the issue to be resolved in this instant petition is whether the private respondents are liable to pay to the petitioner his claim for permanent disability benefits.

The petitioner contended that the Labor Arbiter and the NLRC gravely erred when they dismissed his complaint for permanent disability benefits considering that, where an illness of an employee or worker occurred in the course of his employment, it is presumed that, under the law, such illness was directly caused by or arose out of the employment or was aggravated by the same. He further asserted that he was declared as mentally and psychologically fit before his embarkation and that it was the demeaning incidents which he experienced on board the vessel which were the cause of his mental illness that eventually led to his repatriation.

At the outset, it is well to note that, in resolving disputes on disability benefits, the fundamental consideration has been that the POEA-SEC was designed primarily for the protection and benefit of Filipino seamen in the pursuit of their employment on board ocean-going vessels[15].

The relevant statutory provisions on the matter of entitlement to disability benefits of seafarers are Articles 191 to 193 under Chapter VI (Disability Benefits) of the Labor Code, in relation to Rule X of the Rules and Regulations Implementing Book IV of the Labor Code. The provisions of the seafarer's contract, the employees' and the employer's Collective Bargaining Agreement (CBA), if there be any, and the Standard Employment Terms and Conditions Governing the Employment of Filipino Seafarers Onboard Ocean-Going Vessels are also binding.

Paragraph 6 of Section 20(B) of the 2000 POEA Amended Standard Employment Terms and Conditions Governing Filipino Seafarers on Board Ocean-Going Vessels (POEA-SEC)[16] provides as follows:

“Section 20 (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:

xxx xxx xxx

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 this Contract. Computation of his benefits arising from an illness or disease shall be governed by the rates and rules of compensation applicable at the time the illness or disease was contracted.”

Pursuant to the aforequoted provision, two elements must concur for an injury or illness of a seafarer to be compensable. First, the injury or illness must be work-related; and second, that the work-related injury or illness must have existed during the term of the seafarer's employment contract.[17]

A work-related injury or a work-related illness is defined as "injury(ies) resulting in disability or death arising out of and in the course of employment" and as "any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A of the POEA-SEC”.

In interpreting the said definition, for disability to be compensable under Section 20(B) of the 2000 POEA-SEC, it is not sufficient to establish that the seafarer's illness or injury has rendered him permanently or partially disabled. It must also be shown that there is a causal connection between the seafarer's illness or injury and the work for which he had been contracted[18].

The Supreme Court has likewise ruled that the list of illnesses/diseases in Section 32-A does not preclude other illnesses/diseases not so listed from being compensable[19]. The POEA-SEC cannot be presumed to contain all

the possible injuries that render a seafarer unfit for further sea duties[20]. This is in view of Section 20(B)(4) of the POEA-SEC which states that "those illnesses not listed in Section 32 of this Contract are disputably presumed as work-related".

Concomitant with such presumption is the burden placed upon the claimant to present substantial evidence that his working conditions caused or at least increased the risk of contracting the disease[21]. Substantial evidence consists of 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[22]. Only a reasonable proof of work-connection, not direct causal relation, is required to establish compensability of a non-occupational disease[23].

It need not be overemphasized that, in the absence of substantial evidence, working conditions cannot be accepted to have caused or at least increased the risk of contracting the disease, as in this case, a generalized anxiety disorder. Substantial evidence is more than a mere scintilla[24]. The evidence must be real and substantial, and not merely apparent, for the duty to prove work-causation or work-aggravation imposed by law is real and not merely apparent[25].

By petitioner's claim, he became depressed due to the frequent verbal abuse which he received from his Chief Cook and fellow messman within less than a month that he was on board the vessel. Aside from the petitioner's handwritten narration²⁶ that he informed the Ship Captain of the instances of verbal and emotional abuse which he had purportedly suffered under the chief cook and other co-workers, the petitioner failed to proffer concrete proof that, if indeed he was subjected to abuse, it directly resulted in his depression and mood disorder. The petitioner's resignation letter dated April 11, 2011 likewise proved otherwise, considering that his reason for his resignation was an urgent family matter which needed his presence. Veritably, we are in conformity with the observations of the NLRC as follows:

“Aside from his bare allegation, there is no evidence whatsoever to support his averments that he was the subject of bullying by the chief cook and his fellow messman, and that he did not have his own cabin which compelled him to sleep in the mess hall. There is no documentary proof to show that complainant reported the purported verbal abuse and harassment of the chief cook and his co-messman to the Ship Captain and Chief Mate. It is a settled rule that the one who makes a positive assertion must prove the same. xxx”

The foregoing notwithstanding, petitioner asserted that the company-designated physician never rendered any final disability assessment vis-a-vis his fitness to work. According to the petitioner, the private respondents never scheduled him for a follow through nor did his medical report indicate any schedule for his next check-up. For the petitioner, it was clear that it was the private respondents who adamantly refused to accommodate and assist him in his request for further medical treatment.

A fortiori, the initial examination on the petitioner indicated the possibility of a behavioral disorder[27]. The impressions of the clinical psychologist who was recommended by the private respondents' company-designated physician indicated that the petitioner exhibited transient situational reaction, hypomaniac type, due to identifiable work stressors. The clinical psychologist also indicated as follows:

“To rule out initial hypomanic episode of a possible Bipolar Mood Disorder”[28]

At any rate, a more precise identification or determination of the petitioner's illness could not be arrived at due to dearth of evidence. There was no assessment of the extent of the petitioner's disability made by the company-designated physician, as required by Section 20(B)(3) of the POEA-SEC, which provides:

“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.

x x x x

“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.”

In relation to this provision, we also refer to Section 2, Rule X of the Rules and Regulations Implementing Book IV of the Labor Code:

“SEC. 2. Period of entitlement – (a) The income benefit shall be paid beginning on the first day of such disability. If caused by an injury or sickness it shall not be paid longer than 120 consecutive days except where such injury or sickness still requires medical attendance beyond 120 days but not to exceed 240 days from onset of disability in which case benefit for temporary total disability shall be paid. However, the System may declare the total and permanent status at any time after 120 days of continuous temporary total disability as may be warranted by the degree of actual loss or impairment of physical or mental functions as determined by the System.”

Considering that the petitioner was still to undergo medical treatment, particularly psychotherapy sessions, the private respondents cannot be faulted for not issuing an assessment of the petitioner's disability or fitness for work at that time. In fact, as Dr. Encarnacion's Medical Report dated May 9, 2011 indicated, the petitioner was expected to return after three months for re-evaluation of his condition which date was still within the 240-day period as mentioned in the above provision.

As matters stood on May 9, 2011, when Dr. Encarnacion issued a medical report on the petitioner's condition and recommended that the latter take a home leave to his province in Leyte for three months, the petitioner was legally under temporary total disability since the 240-day period under Section 2, Rule X of the Rules and Regulations implementing Book IV of the Labor Code had not yet lapsed. This was likewise the underlying reason for the absence of Dr. Encarnacion's assessment as to the fitness of the petitioner to return to work. There was no assessment as of yet because the petitioner was and still needed to undergo psychotherapy treatment and re-evaluation by the company doctors, especially the clinical psychologist, within the 240-day maximum period provided under the above-cited rule. To reiterate, the petitioner was supposed to see the clinical psychologist for re-evaluation, but he did not honor the appointment.

We cannot, under these circumstances, blame the private respondents for claiming that the petitioner abandoned his treatment. The petitioner never offered any explanation for his failure to report to the clinical psychologist or to the company designated physician after his three-month furlough. Instead of reporting for re-evaluation, the petitioner waited for two years to pass before he filed a claim for permanent total disability benefits on April 22, 2013.

The ruling of the Supreme Court in the case of *C.F. Sharp Crew Management, Inc. v. Taok*[29] is applicable, to wit:

“Indeed, a seafarer has the right to seek the opinion of other doctors under Section 20-B(3) of the POEA-SEC but this is on the presumption that the company-designated physician had already issued a certification as to his fitness or disability and he finds this disagreeable. Under the same provision, it is the company-designated physician who is entrusted with the task of assessing a seafarer’s disability and there is a procedure to contest his findings. It is patent from the records that Taok submitted these medical certificates during the pendency of his appeal before the NLRC. More importantly, Taok prevented the company-designated physician from determining his fitness or unfitness for sea duty when he did not return on October 18, 2006 for re-evaluation. Thus, Taok’s attempt to convince this Court to put weight on the findings of his doctors-of-choice will not

prosper given his failure to comply with the procedure prescribed by the POEA-SEC.”

Very obviously, the petitioner failed to observe the procedure under POEA-SEC when he presented Dr. Adamos' certification to the Labor Arbiter without going through the procedure under the POEA-SEC. The petitioner, needless to say, prevented Dr. Encarnacion or the company designated physicians from determining his fitness or unfitness for sea duty when he did not return for re-evaluation.

While we commiserate with the petitioner, the absence of substantial evidence from which reasonable basis for the grant of benefits prayed for can be drawn leaves us with no choice but to deny his petition, lest an injustice be caused to the employer. Otherwise stated, while it is true that labor contracts are impressed with public interest and the provisions of the POEA SEC must be construed logically and liberally in favor of Filipino seamen in the pursuit of their employment on board ocean-going vessels, still the rule is that justice is, in every case, for the deserving, to be dispensed with in the light of established facts, the applicable law, and existing jurisprudence[30].

In view of insufficient evidence and particularly inconclusive medical findings, there is thus no factual basis for the ruling of compensability. Anent the issue of attorney's fees, this Court sees no reason why damages or attorney's fees should be awarded to the petitioner. It is obvious that he did not give the the private respondents' company-designated physician ample time to assess and evaluate his condition or to treat him properly for that matter. The private respondents had a valid reason for refusing to pay his claims, especially when they were complying with the terms of the POEA SEC with regard to his allowances and treatment.

All told, this Court concludes that the NLRC and the Labor Arbiter committed no grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the petitioner's claim for permanent and total disability benefits, damages and attorney's fees.

WHEREFORE, in view of the foregoing premises, the instant petition for certiorari is hereby DENIED.

SO ORDERED.

Ybañez, and Paredes, JJ., concur.

[1] Rollo, pp. 3-27.

[2] Ibid, Decision, pp. 29-38.

[3] Ibid, Decision, pp. 186-197.

[4] Ibid, Resolution, pp. 40-41.

[5] Ibid, p. 93.

[6] Ibid, p. 94.

[7] Ibid, p. 95.

[8] Ibid, pp. 109-110.

[9] Ibid, pp. 77-79.

[10] Ibid, pp. 46-47.

[11] Ibid, pp. 48-71.

[12] Ibid, Decision, pp. 186-197.

- [13] Ibid, Decision, pp. 29-38.
- [14] Ibid, Resolution, pp. 40-41.
- [15] Seagull Maritime Corp. v. Dee, 548 Phil. 660, 671-672 (2007).
- [16] Department Order No. 004-00, Series of 2000.
- [17] Jebsens Maritime, Inc. v. Undag, 662 SCRA 670
- [18] Magsaysay Maritime Corporation v. NLRC, G.R. No. 186180, March 22, 2010, 616 SCRA 362, 373-374.
- [19] Seagull Maritime Corp. v. Dee, 548 Phil. 660, 671-672 (2007).
- [20] Ibid.
- [21] Aya-ay v. Arpaphil Shipping Corp., 516 Phil. 628, 639-640 (2006).
- [22] Magsaysay Maritime Corporation v. NLRC, G.R. No. 186180, March 22, 2010, 616 SCRA 362, 373-374.
- [23] GSIS v. Besitan, G.R. No. 178901, November 23, 2011, 661 SCRA 186, 194.
- [24] Aya-ay v. Arpaphil Shipping Corp., 516 Phil. 628, 639-640 (2006).
- [25] Ibid.
- [26] Rollo, pp. 131-133.
- [27] Rollo, p. 95.
- [28] Ibid, p. 74.
- [29] G.R. No. 193679, July 18, 2012, 677 SCRA 296.
- [30] Klaveness Maritime Agency, Inc. v. Beneficiaries of the Late Second Officer Anthony S. Allas, G.R. No. 168560, January 28, 2008, 542 SCRA 593, 603.

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